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DID YOU KNOW? Corporations VOTED to adopt this. Through ALEC, global companies work as “equals” in “unison” with politicians to write laws to govern your life. Big Business has “a VOICE and a VOTE,” according to newly exposed documents. **DO YOU?**

Civil Procedure Rule Equity Resolution

Summary

Among the many problems plaguing the current operation of the civil justice system is the abuse of the basic guidelines under which civil actions are pursued in the state court systems. The basic rules governing the civil justice system must be attuned to changing circumstances and must serve to thwart efforts to abuse such rules to gain undue advantage in pursuit or defense of a particular action. Because the rules of civil procedure generally fall under the purview of the judiciary system rather than the legislature, the Resolution for Civil Procedure Rule Equity is designed to assist state legislatures in expressing support for critical reform of civil procedure rules. The resolution calls upon the state judiciary to curb abuse in the rules of civil procedure by:

- (1) requiring that court pleading be accompanied by testimony as to the truth of facts and law asserted in such pleading;
- (2) prohibiting the claim of a specific compensatory damage award;
- (3) providing for enforceable sanctions to deter discovery abuse;
- (4) requiring that class action suits demonstrate merit prior to initiation; and
- (5) providing for written jury instructions patterned to particular classes of civil cases.

Model Resolution

A CONCURRENT RESOLUTION WHEREAS an efficient civil justice system promotes entrepreneurship and risk-taking by fostering a system whereby the liability associated with many risks may be estimated and managed through liability insurance; and

WHEREAS, the United States is currently enmeshed in a liability insurance crisis which has severely decreased the availability of adequate liability insurance to a broad range of professions and activities; and

WHEREAS, the liability insurance crisis has caused a curtailment of many goods and services which are vital to the health and welfare of millions of Americans; and

WHEREAS, the liability insurance crisis is attributable in part to abuses of the civil justice system; and

WHEREAS, some of these abuses contribute to awards that shock the conscience and exceed the properly compensable losses sustained by injured parties; and

WHEREAS, the civil justice system abuses include:

- (A) proliferation of ill-founded claims that would not have been filed if the attorney signing pleading setting forth such claims had been required to attest to the truth of the law and facts;
- (B) use of arbitrarily overstated damage claims designed to sensationalize cases, thereby prejudicing juries and contributing to excessive awards;
- (C) abuse of the discovery process to delay proceedings, conduct fishing expeditions, misinterpret requests, and take other actions intended to obstruct the efficient progress of lawsuits;
- (D) filing of frivolous class action suits in order to intimidate defendants into making excessive settlements or to uncover information which may serve as the basis for other litigation; moreover, much of the proceeds of these class actions are squandered on attorneys' fees and litigation expenses, and are not paid to the injured class; and
- (E) the practice of judges simply reading jury instructions in long, complex cases, almost inevitably leaving juries confused and more likely to make decisions based on emotional rather than legal or rational bases; and

WHEREAS, these abuses may be diminished or eliminated through appropriate amendments to the rules of civil procedure which govern the affairs of state or federal courts; now, therefore,

Was your state inserted?

NOW THEREFORE BE IT RESOLVED, by the Legislature of the State of [name of state], each house concurring, that this Legislature recommends that the civil rules drafting committee of the [name of the highest court] Court of this state amend the rules of civil procedure of such courts as follows:

- (A) amend Rule [rule number] in accordance with Federal Rule 11 which requires attorneys signing court pleading to attest to the truth of both the facts and law set forth in such pleading;
- (B) amend Rule [rule number] to require that the ad damnum clause contained in complaints and other pleading set forth a general allegation that the jurisdictional level of damages has been sustained instead of claiming a specific amount;
- (C) amend Rule [rule number] to limit discovery abuses by imposing additional sanctions for delay and by cloaking special masters with increased authority to control discovery processes;
- (D) amend Rule [rule number] in accordance with Federal Rule 23 governing class action suits and establish a mechanism

similar to a preliminary injunction proceeding whereby, before a class is certified, the moving party must demonstrate a likelihood that it will prevail on the merits; and

(E) amend Rule [rule number] regarding jury instructions to require adoption of patterned instructions made appropriate to particular classes of cases and a provision for written instructions to juries; and

BE IT FURTHER RESOLVED, that certified copies of this resolution be forwarded to the governor of the state and to the chief justice and clerk of the Supreme Court of the state.

ALEC's Sourcebook of American State Legislation 1995

ALEC EXPOSED

"ALEC" has long been a secretive collaboration between Big Business and "conservative" politicians. Behind closed doors, they ghostwrite "model" bills to be introduced in state capitols across the country. This agenda-underwritten by global corporations—includes major tax loopholes for big industries and the super rich, proposals to offshore U.S. jobs and gut minimum wage, and efforts to weaken public health, safety, and environmental protections. Although many of these bills have become law, until now, their origin has been largely unknown. With **ALEC EXPOSED**, the Center for Media and Democracy hopes more Americans will study the bills to understand the depth and breadth of how big corporations are changing the legal rules and undermining democracy across the nation.

ALEC's Corporate Board --in recent past or present

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- PhRMA
- Kraft Foods, Inc.
- Coca-Cola Co.
- Pfizer Inc.
- Reed Elsevier, Inc.
- DIAGEO
- Peabody Energy
- Intuit, Inc.
- Koch Industries, Inc.
- ExxonMobil
- Verizon
- Reynolds American Inc.
- Wal-Mart Stores, Inc.
- Salt River Project
- Altria Client Services, Inc.
- American Bail Coalition
- State Farm Insurance

For more on these corporations, search at www.SourceWatch.org.

About Us and ALEC EXPOSED. The Center for Media and Democracy reports on corporate spin and government propaganda. We are located in Madison, Wisconsin, and publish www.PRWATCH.org, www.SourceWatch.org, and now www.ALECExposed.org. For more information contact: editor@prwatch.org or 608-260-9713.

From CMD: This resolution adopts corporate rhetoric about lawsuit abuse without any acknowledgement of the way corporate defendants routinely abuse the discovery process to delay resolution of claims. It also attempts to have legislatures exert control over the independent judiciaries of the states by pressing judges to change court procedures. It also seeks, among other things, to prevent an injured American from filing a complaint that states an actual estimate of the true extent of the damages caused by a corporate defendant's actions.