

## 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

- AT&T Services, Inc.
- centerpoint360
- UPS
- Bayer Corporation
- GlaxoSmithKline
- Energy Future Holdings
- Johnson & Johnson
- Coca-Cola Company
- 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](http://www.SourceWatch.org).

**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?**

& MEETINGS MO

Home → Model Legislation → Civil Justice

### Truth in Damages Act

Did you know that Victor Schwartz--a lawyer who represents companies in product litigation--was the corporate co-chair in 2011?

#### Summary

ALEC's model Truth in Damages Act allows the admission into evidence of proof of collateral source payments made or likely to be made as compensation for the same damages sought in the suit. The Act requires that such payments are to be considered in determining any award, and in reviewing awards for excessiveness.

#### Model Legislation

{Title, enacting clause, etc.}

**Section 1. {Title.}** This Act shall be known and may be cited as the Truth in Damages Act.

**Section 2. {Definitions.}** The following words, as used in this Act, shall have the meaning set forth below, unless the context clearly requires otherwise:

(A) "Collateral source" means a benefit paid or payable to the claimant or on his behalf, under, from, or pursuant to:

- (1) the United States Social Security Act;
- (2) any state or federal income replacement, disability, workers compensation, or other Act designed to provide partial or full wage or income replacement;
- (3) any accident, health or sickness, income or wage replacement insurance, income disability insurance, casualty or proper insurance including automobile accident and homeowners, insurance benefits, or any other insurance benefits, except life insurance benefits;
- (4) any contract or agreement of any group, organization, partnership, or corporation to provide, pay for, or reimburse the cost of medical, hospital, dental, or other health care services or provide similar benefits;
- (5) any contractual or voluntary wage continuation plan, or payments made pursuant to such a plan, provided by an employer or otherwise, or any other system intended to provide wages during a period of disability.

(B) "Claimant" means any person who brings a personal injury action, and if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if such an action is brought through or on behalf of a minor, the term includes the claimant's parent or guardian.

(C) "Damages" in this Act refer to economic losses paid or payable by collateral sources for wage loss, medical costs, rehabilitation costs, services, and other out-of-pocket costs incurred by or on behalf of a claimant for which that party is claiming recovery through a tort suit.

#### Section 3. {Admissibility of evidence.}

(A) In all tort actions, regardless of the theory of liability under which they are brought, the court shall allow the admission into evidence of proof of collateral source payments which already have been made or which are substantially certain to be made to the claimant as compensation for the same damages sought in the suit. Proof of such payments shall be considered by the trier of fact in arriving at the amount of any award, and shall be considered by the court in reviewing awards made for excessiveness.

(B) The trier of fact shall be informed of the tax implications of all damage awards. The trier of fact may hear evidence of the premiums personally paid by the claimant to obtain any collateral sources paid or payable.

#### Section 4. {Special damages findings required.}

(A) If liability is found in any tort action, regardless of the theory of liability, then the trier of fact, in addition to other appropriate findings, shall make separate findings for each claimant specifying the amount of:

- (1) any past damages for:

(a) medical and other costs of health care;  
(b) other economic loss; and  
(c) noneconomic loss;

(2) any future damages and the periods over which they will accrue, on an annual basis, for each of the following types of damages:

(a) medical and other costs of health care;  
(b) other economic loss; and  
(c) noneconomic loss.

(B) The calculation of all future medical care and other costs of health care and future noneconomic loss must reflect the costs and losses during the period of time the claimant will sustain those costs and losses. The calculation for other economic loss must be based on the losses during the period of time the claimant would have lived but for the injury upon which the claim is based.

**Section 5. {Severability clause.}**

**Section 6. {Repealer clause.}**

**Section 7. {Effective date.}**

Were your laws repealed?

*Adopted by the Civil Justice Task Force at the Annual Meeting in July, 2007. Approved by the ALEC Board of Directors, August, 2007.*

**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](http://www.PRWatch.org), [www.SourceWatch.org](http://www.SourceWatch.org), and now [www.ALECExposed.org](http://www.ALECExposed.org). For more information contact: [editor@prwatch.org](mailto:editor@prwatch.org) or 608-260-9713.

## Center for Media and Democracy's quick summary

This bill provides that, in assessing the amount of damages to award an injured plaintiff, evidence of payments made under insurance, Social Security, or disability/worker's compensation can be admitted into evidence to reduce the amount of damages owed. The idea is to reduce judgment awards against defendants.

It would overturn the "collateral source doctrine," a rule applied by many courts that prohibits evidence that a victim's damages will be compensated by other sources. The theory is that the corporation or person committing the injury should be liable for the full extent of their damages, and the fact that insurance paid doctor's bills should not be used to reduce the amount of damages owed. In addition, many insurance companies and other sources retain a lien on the individual's recovery, meaning that an injured person must pay back the insurer before he or she collects anything.

This bill also specifies that for wrongful death claims, noneconomic damages (i.e. damages for impact on "quality of life") are limited to only for time the claimant actually lived, as opposed to the time the plaintiff would have lived had the accident not happened.

Wisconsin specifically allows collateral source evidence in medical malpractice cases under Sect 893.55(7). Wisconsin Supreme Court holdings on admission of this evidence in other contexts and on noneconomic damages is unknown.