

March, 2007

Attached to this letter is a pending bill in the Illinois Legislature that, if passed, will greatly impact civil trial practice throughout the state. The Illinois Trial Lawyer's Association (ITLA) the plaintiff's bar in Illinois, has worked with a state senator to propose this legislation. If passed as written, the effect of this legislation would be to remove all persons from the calculation of joint and several liability except those persons that are parties to the lawsuit at the time that the case goes to trial.

The issue of whether settling defendants are included in the calculation of a jury's verdict has been the subject of some debate. A recent 2006 case held that settling defendants are still defendants that should be placed on the verdict form. Once on the verdict form, the jury apportions liability among the parties. Once the verdict is reached, the judge then performs a calculation based on the defendants that are in the case and those defendants that previously settled or were dismissed from the case. This calculation determines whether an individual defendant is jointly or severally liable.

With this proposal, any defendant that has settled or been dismissed **for any reason** will be excluded from this calculation. As you can see, this proposal will have far ranging effects for all civil litigation. The Illinois Association of Defense Trial Counsel is currently in negotiations with ITLA and the sponsoring senator to determine if a compromise can be reached. Unfortunately, this proposal has been passed through committee and should come up for a full vote in the next few weeks.

For your information, you can access the status of the bill by following the following link or typing it into your web browser.

<http://www.ilga.gov/legislation/BillStatus.asp?DocNum=1296&GAID=9&DocTypeID=SB&LegId=29374&SessionID=51&GA=95>

If you have any questions about this bill, please contact Bill or myself.

Very truly yours

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