MAY 22



"USA TODAY hopes to serve as a forum for better understanding and unity to help make the USA truly one nation."
—Allen H. Neuharth, Founder, Sept. 15, 1982

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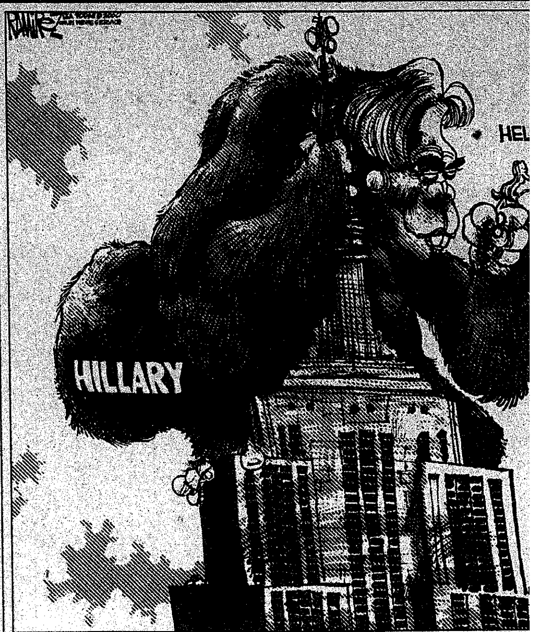



**Today's debate: Tobacco settlement**

# $6,700 an hour? Lawyers' tobacco-suit fees invite revolt

## Our view:

### But the wrong answer is emerging. Why punish consumers?

Five law firms representing Ohio hit the jackpot this month: a combined fee of $265 million for suing Big Tobacco in one of the many cases that helped forge the national tobacco deal.

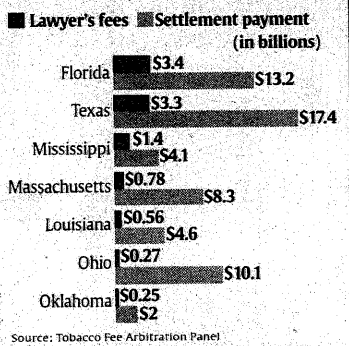
Big as it was, their windfall is but a small portion of the record-shattering fees awarded in the past 17 months to trial lawyers who sued the industry on behalf of the states. The lawyers' take so far: $10.4 billion.

Hard to fathom? Try this. The $575-million award for lawyers representing Louisiana works out to $6,700 an hour, according to an arbitrator's dissenting decision.

Louisiana wasn't close to setting records. In Texas, seven firms got a total of $3.29 billion. Florida doled out the biggest prize: Twelve firms split $3.4 billion.

**Suits offer big payoffs for lawyers**

Private lawyers representing 11 states in the lawsuits that led to the $246-billion national tobacco deal have walked away with mammoth fees of $10.4 billion so far. The top awards far outstrip any ever granted to trial lawyers.




Source: Tobacco Fee Arbitration Panel

By Julie Stacey, USA TODAY

There's more to come, as dozens of firms await their turn before an arbitration panel set up to decide fees in the huge settlement.

Even though the cost is paid by tobacco companies, limiting public sympathy, the obvious unfairness touches a nerve. It invites a dangerous backlash against the kind of innovative legal arrangements that finally allowed states to take on Big Tobacco.

For decades, the cigarette makers and their armies of lawyers crushed anyone who challenged them in court. But starting in 1994, when a handful of wealthy private lawyers combined their resources with the public muscle of state attorneys general, the power equation reversed. Tobacco lost.

Certainly, the lawyers who sued the industry early in a series of risky, pioneering cases deserve handsome reward. If they'd lost, they wouldn't have been paid anything.

But some winners of huge legal fees came to the battle late, when the risk was minimal and the document digging was done. And some who represented many states are being paid repeatedly for piggyback efforts.

These mega-paydays grow from a legal system that typically pays plaintiffs' lawyers under an all-or-nothing contingency strategy. The goal is to encourage lawyers to take on risky cases for people who can't afford to hire a lawyer on hourly rates. It gives injured parties at least some chance against companies that can outspend them 1,000 to 1.

But when the stakes move into the stratosphere — as they did when the tobacco industry settled for $246 billion — fees justified on a straight percentage become disconnected from the value of work done or risk taken.

The first mistake came when many state attorneys general, who should know better, negotiated fee contracts for straight percentages with no sliding scale for a huge recovery. The second came when some attorneys, lusting after mega-fortunes, insisted on holding the states hostage to those deals.

Now nasty feuding over the fat-cat fees is fueling outrage over the very legal partnerships that can benefit the public. Already, Texas has passed a bill making it far more difficult for the state to hire private lawyers. The U.S. Chamber of Commerce is lobbying for federal legislation that would not only limit states' ability to hire private counsel but also give added protection to industries.

Put those proposals in the context of tobacco, and the absurdity becomes obvious. Companies that lie about a product's danger, as the tobacco companies did, would be protected. Consumers would be harmed.

The national tobacco deal doesn't deserve such a sorry legacy. Nor do lawyers deserve lottery-size awards. Fees should be capped.

# Lawyers earned those fees

## Opposing view:

### They took the risks and won the results that benefit consumers.

By Dick Scruggs

The states' successful litigation against Big Tobacco, filed by state attorneys general in partnership with private lawyers, won settlements from the industry of more than

pay those fees on top, and the annual payments are less than what Big Tobacco traditionally pays to its own lawyers.

The leading critics of our fees, and of the contingency fees generally, are big corporate institutions, such as HMOs, cigarette makers and polluting industries, that have always enjoyed a financial mismatch against consumers and others hurt by their business abuses. They know, because they helped to create it, that the political branches of our

Let

# Biotech food firms

USA TODAY's story about how biotech food manufacturers "help" the Third World misses the point ("Biotech firm will help Third World harvest rice," News, Wednesday).

In my view, biotech food companies are not trying to help anyone. Instead, they are trying to dump unwanted and already rejected food and seed on unsuspecting, innocent Third World populations. They also want to make a profit in the process and, by cloaking their wares as "healthy," come across as benevolent technocrats.

This is an age-old corporate practice, much like the campaign for the powerful pesticide DDT a few years ago, when the United States rejected DDT's widespread use in the country. U.S. corporations continued to manufactu uct abroad, with hel from Washington. T other "safe" product USA that are no deemed healthy her sold for a profit abr

**Let's not forget**

USA TODAY's art netically engineere countries does a dis erywhere.

The dangers of cr dispersal and incre

# Tax Congress, too, on Social Security

It would be informative if articles concerning retirement plans and Social Security included a paragraph about the differences between the system enjoyed by members of Congress and that provided to the general public ("Social Security could be 'decisive issue,'" News, May 15).

The public should know that Congress determines the use and fate of Social Security funds, but it is free of the effects of its actions.

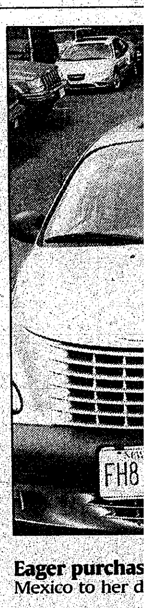
For example, members of Congress have a retirement plan, but they themselves do not contribute to it; the taxpayer does. Consequently, congressional retirement funds are taxed only once.

The public's Social Security funds, on the other hand, are taxed twice: once as a payroll tax and again when they are distributed as retirement payments.

Making the congressional retirement plan more equitable to that of the general public may improve the handling of Social Security funds and remove its onerous double tax.

Jack Van't Hof
Brookhaven, N.Y.

# IRA terrorism



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