

# Texas Civil Justice League



The Advocate

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## Imported Lawsuits Have to Go

by Ron Kessler, Vice President, Texas Civil Justice League



It seems that in our efforts to reform our state's Texas civil justice system, every time we plug one leak another two spring up someplace else.

That is certainly the case with the *forum non conveniens* problem. In 1993 the Texas Legislature partially restored a trial judge's discretion to dismiss lawsuits that should be tried in other forum, whether that be another state or another country. Unfortunately, there were some very big exceptions in that bill.

One of the exceptions is for litigation related to exposure to products containing asbestos. Only one other state has a limitation like this, and when Texas put it in place in 1993, the number of claims filed in Texas courts began to skyrocket. Since then the number of asbestos-related claims has doubled every year. There are now nearly 40,000 of them pending in district courts around the state.

Just the other day we heard about a new lawsuit with more than 4,000 plaintiffs. Approximately 99% of these claims are from outside Texas—Alabama, Oregon, Washington, and other states. Texas is the end of the pipeline for these lawsuits, and they're coming in under the 1993 law.

The TCJL, Texas Association of Defense Counsel, Texas Association of Business and Chambers

of Commerce, Texans for Lawsuit Reform, and other groups are working together on proposed legislation to plug the leak. Here's what we think needs to be done:

- Eliminate the exemptions in the current *forum non conveniens* statute. Allow judges to dismiss non-resident claims that are still pending when the law is passed. Clear the backlogs choking our courts and send these cases back to where they came from.

- For cases filed in the future, require non-residents to file their claims within the statute of limitations of their home jurisdiction, as well as within the Texas statute. Claims now pending wouldn't be affected by this, but let's make sure no one can take advantage of our longer limitations period in the future.

- If a non-resident wants to sue here and a judge wants to hear it, that's fine. But let's make sure that Texas citizens aren't standing in line behind non-resident claimants in their own courthouses. Require judges to try Texas claims first, non-resident claims last.

Texas law should be consistent with other states, fair and balanced, and not subject to abuse. The current *forum non conveniens* law does not meet this test in any way, shape, or form. It is in the best interests of the citizens of this state for imported lawsuits to be sent home.