

Autophagy of the Lawyers

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Body

A campaign adviser to the Democrats, Berkeley professor George Lakoff, believes that liberals should start defending trial lawyers. "These are 'public protection attorneys,' " Mr. Lakoff recently told the state-subsidized broadcasting arm, PBS. "They are protecting the public from corporations and professionals who are either negligent or unscrupulous, and they're the last line of defense we have." Well, we say, if anyone in America - perhaps under the spell of Senator Edwards - actually thinks that trial lawyers have the public's well-being at heart, let them come to watch internecine warfare among trial lawyers in New York.

A Great Neck-based firm, Parker & Waichman, is suing a Manhattan firm, Napoli Bern, over the proper distribution of lucrative attorneys' fees. Parker & Waichman sent its clients, who had been allegedly harmed by the diet drug Fen-Phen, over to Napoli Bern, which negotiated a reported billion-dollar settlement with drug maker Wyeth in 2001. Parker & Waichman now accuses Napoli Bern of directing larger shares of the settlement to itself and its own clients. Under a referral agreement between the two firms, Parker & Waichman stood to get 40% to 50% of the attorneys' fees in its cases.

"They defrauded my clients and they defrauded me out of tens of millions of dollars," Jerrold Parker of Parker & Waichman told The New York Sun. "They're going to get fried."

Meanwhile, another class-action suit has been launched against Parker & Waichman on behalf of clients who didn't know they were being farmed out to other firms. It's a violation of New York law for a firm to collect attorneys' fees for cases on which they did no work. "They're spending tons of money advertising for mass tort cases," said the lawyer who brought the suit, A. Jude Avelino, according to a report by our Josh Gerstein in The New York Sun. "They're doing a really great job of warehousing cases and they're getting hundreds and thousands of cases and they're farming them out without doing any work." Mr. Avelino, it turns out, is a former employee of Napoli Bern and the brother-in-law of a Napoli Bern partner, Paul Napoli.

As Mr. Gerstein reported in Wednesday's number, the rival lawsuits threaten to expose a world in which the claims of the allegedly injured are treated as mere commodities, to be bought and sold to the highest bidder. "They're starting to eat each other," quipped a Los Angeles attorney, Thomas Moore, who often defends pharmaceutical companies. Biologists call this process "autophagy." It's when a cell cannibalizes and feeds upon itself.

Trial lawyers have been feeding on the public for long enough. According to the latest report from Tillinghast-Towers Perrin, American tort costs are equivalent to an additional 5% tax on wages. The tort system costs \$230 billion a year, which translates to \$809 per person. "When viewed as a method of compensating injured parties, the U.S. tort system is highly inefficient, returning less than 50 cents on the dollar to the people it is designed to help and returning only 22 cents to compensate for actual economic loss," reads the report. In other words, it would be a blessed relief for the American taxpayer if the trial lawyers started cannibalizing each other and left the rest of us alone.