

Mayhem in Madison County

Not many Americans have heard of Madison County, Illinois, hard by the Missouri border. But the place is still probably costing you money. According to a recent study by the Manhattan Institute, it is a perfect example of the way our runaway tort system has become a national economic problem.

Courts in Mississippi and Texas have long been trial-lawyer favorites, and forum shopping is as old as the law. But the study shows how certain American counties are now also bidding to become magnets for class-action suits that can force entire industries to change practices and raise prices across the country.

As recently as 1998, Madison County (pop. 259,000) saw only two class-action suits. But only two years later 39 were filed, and in 2001 the number rose to 43. The county ranks behind only Cook (Chicago) and Los Angeles Counties in the total number of class actions filed anywhere in the U.S.

Nearly all were cases involving national issues and non-Madison County defendants. About 75% were filed by two plaintiffs' firms, Freed & Weiss, of Chicago, and its Madison County spinoff, the Lakin Law Firm. As of October, 157 class-action cases were pending in Madison County court.

Lawyers love these small county courts because they are much more willing to certify a nationwide legal "class" of alleged victims, the basis for a class-action suit. Federal judges are far more skeptical of class claims, perhaps because they've seen how this legal tool has been abused. But even a single state judge can impose new industry practices that have national impact.

Genuine tort victims deserve their day in court, but class actions have become one of the great modern legal scams. The lawyers who bring the suits make a mint, while the court-approved settlements award the actual victims only pennies or coupons. In one classic case, lawyers sued on behalf of buyers of Milli Vanilli records, claiming they were defrauded by the lip-synching duo's claim that they sang their own songs. Class members received the windfall of between \$1 and \$3 each, while the lawyers took home \$875,000.

We believe in federalism, and normally we'd defer to state courts. But the Constitution gives Congress the power to "regulate commerce . . . among the several states," and forum-shopping for class actions now has damaging nationwide economic consequences.

Madison County suits have hit the Wyndham hotel chain for charging guests with an energy fee, Tyson Foods "for maximizing the amount of infused water" in chicken packages, Blue Cross & Blue Shield for not reimbursing doctors enough, as well as financial service and auto insurance companies, and even the NCAA for being part of a conspiracy to evade gambling laws. Every part of the U.S. economy is a potential target.

All of this is why the House of Representatives passed a bill earlier this year (by 233 to 190) requiring that any class action worth more than \$2 million, or with nationwide implications, be heard in federal court. The bill died in Tom Daschle's Senate, along with every other sensible reform idea. But next year Republicans will run the Senate, and an early order of business ought to be reining in the tort abuses of places like Madison County.