

PRESS RELEASE

WRF on Front Line in Fight to Enhance Civil Justice in Mississippi

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Washington, DC—A new Harrispoll and economic study demonstrating systemic failures in Mississippi's state legal system has prompted an initiative by the United States Chamber of Commerce to push for civil justice reforms in the state that provide more protection to the business community. To analyze the situation, the U.S. Chamber turned to Bert W. Rein, senior partner at the nationally recognized Washington, DC law firm of Wiley Rein & Fielding LLP. Rein's study concluded that the state's civil judicial process lacks the basic elements of constitutional "due process" for business defendants. This analysis comes on the heels of a recent victory in another Mississippi matter handled by WRF on behalf of the U.S. Chamber. WRF Election Law attorney Jan W. Baran secured a favorable ruling for the U.S. Chamber in a federal appeals matter regarding disclosure regulations of campaign "issue ads" in a Mississippi judicial election.

This week the U.S. Chamber of Commerce released the WRF civil justice analysis which cites the state system's failure in key areas, including:

- The legal rules employed to assess liability against business defendants.
- The lack of reasonable opportunity for business defendants to develop and present their factual and legal defenses.
- The protection of those defendants from verdicts rendered by predisposed jury pools and unsupervised by the state judiciary.

Yesterday, the U.S. Chamber launched an ad campaign in Mississippi citing the WRF report and other independent studies to raise awareness of the significant legal risks of doing business in the state.

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Practice Areas

Election Law & Government Ethics
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Other information related to the U.S. Chamber's initiative in Mississippi—including the WRF study—is available at .

Rein, who led the analysis efforts, explained, "The Chamber directed us to look behind the perceptions to determine whether they were coincidental or whether both perceptions and verdicts could be traced to systemic flaws in the Mississippi judicial system. We found, unfortunately, that the state judicial system violates due process norms at every stage of its proceedings."

In conducting the study, WRF used recognized baseline standards of the "due process" guaranteed under the U.S. Constitution. Articulated in a number of U.S. Supreme Court decisions, the standards include objective and ascertainable standards of liability, a reasonable relationship between liability standards and damages assessed, a fair opportunity to be heard in trial and appellate courts, and judicial control over the inflammable passions of lay juries.

Rein noted that the systemic flaws are limited to Mississippi's own legal system and do not surface in the U.S. courts operating within the state: "The federal courts there, even though they are required to apply Mississippi state law in many cases and draw from the same basic jury pool, have not seen the repeated, outrageous verdicts that have come to characterize the state court system in recent years." Last year, a federal appellate court called Mississippi "a mecca for plaintiffs' claims against out-of-state businesses."

WRF's analysis cites approximately 20 different areas of concern, including:

- *Effective bars to disproving causation* -In physical injury cases, the state has no procedural rule allowing defendants to obtain court-supervised examinations of the allegedly injured patient, and the patient's own medical records are ordinarily shielded from discovery as well.
- *Truncated time for discovery* -The state rules on discovery allow only 90 days for the process to be completed and trial courts rarely allow for additional time, regardless of the complexity of the case.
- *Virtually unlimited joinder of parties and claims* -The state Supreme Court last year upheld the joinder of almost 1,400 plaintiffs in a case of alleged fraud last year, even though the facts involved multiple, separate and unrelated cases-and the Mississippi justices themselves raised the question of whether "misjoinder" threatened the defendant's constitutional right to a fair trial.