

ROBERT CARNATHAN
Owner, Smith Staple and Supply Co., Inc.
House Judiciary Committee
Harrisburg, PA
Tuesday, May 14, 2002

My name is Bob Carnathan. I am the owner of Smith Staple and Supply Co., Inc. I operate a small nail and staple fastening business located just outside the City of Harrisburg.

I wish to share a true-life experience of the disastrous affects of joint and several liability. My goal is to make you aware of the impact this type of shotgun lawsuit can have on small, family businesses.

We're a small company. It's only my assistant and me. When one of us is out sick or attending a meeting, it gets even smaller.

I took over the business back in 1981. Over the last 21 years, we've operated in 2 locations; my home and our current location to which we moved in 1985. It's an office complex, just outside of the city. It's a good setting. We lease the space, our rent is affordable which includes maintenance of the facility and grounds.

My nightmare began about the time of the last major snowstorm in 1996. It was one of those really cold days. The parking lot was cleared of snow, but because it was so cold, an icy film covered the blacktop. Clearly, the wintry conditions required caution and common sense.

One of the tenants in the complex was walking across the parking lot from his car to the building. He was wearing wing-tipped shoes. As you can imagine, the slick soles of those wing-tipped shoes were no match for the slippery conditions. The tenant slipped and fell. He fell flat on his back and bumped his head, requiring medical attention. I understand the medical bills that resulted from his injury totaled about \$3,300.

About 4 months later, I was served with legal papers. The man who slipped and fell in the parking lot was suing me and every other tenant in the complex as well as the landlord and the developer for \$1.75 million.

As you can imagine, my first reaction was "Why am I being sued? I had nothing to do with this fall."

The lawyers for the insurance company told me that because he said he fell in front of my store window, his lawyers would try to include me in the lawsuit. I couldn't believe it was possible. After all, I am not responsible for the maintenance of the parking lot or the facility grounds. How could this be my fault?

The lawyers then told me it had nothing to do with fault. In fact, they said the goal of these types of shotgun lawsuits is to involve as many different insurance companies as possible

in the suit. That way, you could work out individual settlements with each, increasing the overall settlement.

After more than two years filled with meetings, teleconference calls, paper-hunting expeditions and other non-productive events that took valuable time away from my small business, my insurance attorney called with news that it was determined that my company had nothing to do with my neighbor's fall and my business was released from the lawsuit.

Three years after my release from the suit, this case was settled out of court.

If joint and several liability had been eliminated and replaced with proportionate liability as proposed in Senator Piccola's Senate Bill 1376, I likely would not have been included in this lawsuit.

Proportionate liability requires defendants to pay damages proportionate to their fault in an accident. By reducing the search for the "deep pocket," a responsible plaintiff's attorney likely would have recognized that my involvement only was that my business was located in the office complex.

Thank you for the opportunity to submit testimony to this committee. I hope you have a clearer understanding of the impact of lawsuit abuse on family business.

#