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RE.: KEY FINDINGS FROM A SURVEY OF ILLINOIS BUSINESS DECISION MAKERS REGARDING PERCEPTIONS OF LAWSUITS

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Public Opinion Strategies recently completed a survey of Illinois business decision makers regarding their attitudes toward the general business environment and specifically their perceptions of lawsuits in their state.¹ Overall, the survey found that executives at Illinois businesses overwhelmingly view frivolous lawsuits as a serious problem in their state, say the problem is only increasing, and therefore three-quarters say the state needs new laws to protect businesses from frivolous or unfair lawsuits.

Among the specific findings of the survey are the following:

- Illinois business executives view frivolous lawsuits as a serious problem. Fully 89% say “the number of frivolous lawsuits” is a serious problem, with a near majority (47%) viewing it as a “very serious problem.” Concern extends across different business sectors, including a stunning 95% of industrial/manufacturing sector business owners and decision makers who say this is a problem. The view that this is a serious problem also crosses party lines among these corporate decision makers. A large majority, 93% of both Republicans and unaffiliated/Independents, and 85% of Democrats say this is a serious problem. Literally in every demographic and attitudinal group, Illinois company executives echo the refrain that frivolous lawsuits are a serious problem.

¹ *Public Opinion Strategies conducted this survey of N=200 business decision makers throughout Illinois (margin of error \pm 6.93%). Interviews were structured so that the overall sample is proportionally appropriate for size of company as determined by number of employees for that state. We also conducted an additional 50 interviews among decision makers at companies with 100 or more employees. All individuals interviewed are at companies with three or more employees and indicated that they are either the owner/responsible for running the business, a person responsible for financial decisions or responsible for legal matters at the company. Interviews were collected during business hours March 31-April 14, 2008. The survey was conducted on behalf of the U.S. Chamber of Commerce Institute for Legal Reform.*

- Furthermore, this concern is clearly not just an abstract notion. Business decision makers told us frivolous lawsuits affect their own business on a number of different levels:
 - Thirty-seven percent (37%) say “The threat of frivolous lawsuits being filed against your company” is a serious problem affecting their own company. This increases to a significant 49% among companies with 100 or more employees.
 - Greater than one out of every two business decision makers (53%) has made a business decision *primarily* to avoid a potential lawsuit.
 - Conversely, 84% say the threat of a lawsuit is a factor in the business decisions their company makes.
 - Indeed, 15% have been sued in the last two to three years, and another 18% say their company has been threatened with a lawsuit. *This is dramatically higher among the largest companies in Illinois, as fully 39% have been sued in the last few years alone, and an additional 31% say they have been threatened with civil litigation.*
- The concerns of business decision makers are seen most vividly in specific experiences they recounted during the interview. A few examples of how lawsuits are affecting their company, their employees and their customers are provided here:

“We’re afraid. We’re afraid to do a lot of things and we’re paying an awful price for insurance just so that if someone does file a lawsuit that we’re covered. It’s costing us dollars in terms of insurance and worry about everything that we do. We have passed on some products because of the exposure we were afraid we’d receive. We have had to do several things that the insurance company requested that we wouldn’t normally have done in terms of product and providing product to the customer relating to instructions and operating and so forth. We’ve had to increase cost somewhat because we’ve had to do extra things in that way.” – Business decision maker in an industrial/manufacturing company with 3-9 employees

“A frivolous lawsuit could actually put a small business out of business in a heartbeat and they need to recognize that. Without small businesses in our economy, we’re in deep trouble. I realize that extremely large corporations are necessary, but it’s the mom and pop operations that keep our country going. Well some of these frivolous lawsuits are just ridiculous. They’re so ignorant that a blind man could see that they are uncalled for.” – Business decision maker in a retail company with 3-9 employees

“I think that the amount of time that you as a business have to invest in dealing with a frivolous lawsuit takes away from your ability to offer a quality product to your customers. The stress that comes along with that is not healthy for the business. The money and increase in expenditure that has to go into that particular pot versus where money could be spent on improving the quality of service.” – Business decision maker in an education related company with 3-9 employees

“I think Illinois is a very litigious state. I know that Southern Illinois in particular is really troublesome when it comes to lawsuits. I think the amount of lawsuits raises the costs of doing business here significantly. We are all in the position of covering our butts around here and buying an awful lot of insurance. I think it sets the tone here in Illinois. I consider Illinois to be a less than business friendly state, not just because of lawsuits but taxes and other things as well. In regards to lawsuits, I think we are at a handicap versus some other states because of the tendency to sue in this state. If I need to go do some work downtown in Chicago, for example, I have to have insurance in some buildings as high as five hundred dollars to just pick up something, put it in an elevator, bring it downstairs, and put it in a truck. So, you are talking about an additional cost to me to have the insurance that allows me to do that, just to enter a building. I am sure this is because of lots of people being sued for something that has happened. This is going to raise the cost of insurance.” –Business decision maker in a computer/software company with 3-9 employees

- Illinois company executives tell us they do not see this concern going away. Nearly six-in-ten (59%) say the number of frivolous lawsuits against companies in their state has increased in the past three to five years (21% say it is about the same and a mere 3% think it has decreased). A solid majority sees this trend continuing, as 61% think the number will increase in the next three to five years (just 6% predict the number of frivolous lawsuits against companies will decrease, while 26% say it will stay about the same).
- Thus, it is no surprise the vast majority of Illinois business decision makers desire change. Three-quarters (74%) say Illinois “needs to pass new laws to protect business from frivolous or unfair lawsuits.” A majority of every size company’s executives believe the state needs new laws rather than already has enough – a significant call for government action from this fairly conservative audience. Not surprisingly, support for new laws to protect businesses from frivolous lawsuits is higher among those who say their company has been sued in the last few years (88% support new laws), but still stands at 72% even among those whose company has not been directly affected.
- Similarly, three quarters (75%) say there ought to be change to the current lawsuit system (rating change as 51-100 on a scale where 100 means significant change and 0 means no change at all to the lawsuit system).

In summary, it is clear Illinois business decision makers view frivolous lawsuits as a serious problem and that they are individually being affected in numerous ways by this issue. They overwhelmingly call for action to protect businesses from frivolous lawsuits and desire change on this front.

ADDENDUM

The 15% of Illinois business decision makers who indicated they had been sued in the last two to three years were provided the opportunity to describe their most recent experience: *“Thinking about the most recent case, very briefly can you tell me what issues the allegations centered on and what impact that had on your company?”* Some of the more descriptive comments are provided as examples of what state business owners and decision makers said they are facing when it comes to lawsuits.

“The issue was that there was a pilot error that caused an accident and it has cost this company quite a bit of money and it will increase our insurance premium. An aircraft crashed two months after we worked on it. The work we did on it wasn’t even related to the accident. We were sued and had to bring in legal counsel to defend us. The whole case is still pending right now. Our insurance company has a million dollar reserve on it and it’s more than likely to affect our premiums going forward. The accident occurred in really bad weather. The pilot should not have been flying the airplane below minimum standards and the aircraft crashed. The NTSB report came out and ruled that pilot error, but you cannot enter that into a court of law.” – Business decision maker in Transportation/Utility/Communications, 250-499 employees

“As far as what impact, it was all financial. As far as what issues or the allegations, the allegations were basically that we had an insurance agency accuse us of trying to take their clients. Obviously, competition is legal. The lawsuit went away, but because of that frivolous lawsuit it actually cost us twelve thousand dollars in legal fees to make it go away because our justice system is so screwed up that it would allow somebody to literally sue someone else for competing for the same business. It should have never been allowed in the first place. That’s why I put it at eighty when you asked me earlier. That’s the same as telling Wal-Mart that they can’t advertise for the same products as Kmart because they’re the same. Because of how screwed up our justice system is I was sued. It cost us twelve thousand dollars in legal fees, because of that exact thing.” – Business decision maker in Financial Services, 3-9 employees

“We are real estate brokers. After we sold one industrial building, we did not get paid for our commission. The owner of the building did not pay us commission. Cooperating broker sued us because they didn’t get the commission from us. But we didn’t get the commission from the owner, so we had no money to pay the commission to the cooperating broker. Cooperating broker means broker who brings the buyer. We are leasing agents. We couldn’t pay the broker who brought the buyer because the owner of the building didn’t pay us. We were sued by this broker who brought the buyer. Impact is we decided that we’re not going to do business with the small business owners. We are going to be just with the big companies with established names. Big companies would not do such a thing. The small business owner sold the building and split the money between two partners and just disappeared into thin air. We can’t get the money from them, but we still have to pay money to the broker who brought the buyer. That was a big loss for us.” – Business decision maker in Service Industry, 3-9 employees

“They had a great deal of impact on my company. Well, it was a contractor that owed us money and a great deal of money and he denied that he did. He finally ended up filing bankruptcy and kind of sticking us for the whole thing. Really nothing. It kind of brings up old memories and I don’t like to say anything about it. It’s done and over with now. We kind of pick up our toys and start all over again. It had a great deal of impact on my company. Cash flow, absolutely. Caution, it has made a lot of other customers reluctant to give out credit so readily.” – Business decision maker in Retail/Wholesale, 3-9 employees

“Most recent issues were probably workers compensation, and it had a financial impact. Workers compensation that someone claims that they had a certain injury due to work, that wasn’t caused by work. Someone had hurt themselves in an accident in another state and then tried to claim something from work for losing time. We end up paying legal fees and higher rate for workers compensation insurance. So it has a financial impact and a time impact. It costs us time and money. I think they claimed they had some injury with their back or something. When we got an investigator, they were in collusion with some doctor that was signing something. Now the doctor is indicted. There’s a lot of fraud in the system. Not to say that things don’t happen. Certainly you want to pay and try and keep someone healthy and take care of them, but every time you turn there is someone maybe trying to abuse the system.” – Business decision maker in Industrial/Manufacturing, 20-49 employees

“It centered on a fraudulent employee injury and it’s going to cause an increase in our insurance rates or the next three years. Even though it was proven fraudulent, they still sued and the insurance company settled and now we have to pay about thirty percent more for our worker’s comp insurance.” – Business decision maker in Industrial/Manufacturing, 50-99 employees

“The issue revolved around vacation pay...There was no basis in fact. We had an employee that left our employment with a computer, so we sued her in small claims court for the return of the computer. She countersued us for vacation and sick time. It actually came out that we had overpaid her on vacation and sick time.” – Business decision maker in Transportation/Utility/Communications, 3-9 employees

“It was a fight. We’re being sued by the person that was hurt. Five thousand dollars minimum had to go out for a lawyer, and we’re being sued for fifty thousand. That’s a lot of money to put out. We’re broke and can hardly pay the bills.” – Business decision maker in Service Industry, 3-9 employees