

## Remarks in a Discussion on Class-Action Lawsuit Reform February 9, 2005

*The President.* Carlos, thank you. Thank you all. Not so fast, Senator. Carlos, thanks. I appreciate your service, Carlos. Thanks for agreeing to be the Cabinet Secretary. Thanks for leaving the private sector to come to Washington and bring your family here to serve our country. You're going to be—he's going to be a great Secretary. And for those of you here who work in the Commerce Department, you're lucky to have him as a boss. Welcome.

I appreciate my friend Orrin Hatch joining us. Senator Hatch, thanks for coming. Senator Hatch and Senator Cornyn from the great State of Texas are leaders when it comes to legal reform. I want to thank you for being here. Congressman Bob Goodlatte from the great State of Virginia is with us as well. We're honored three Members took time out to come and hear this, what I think is a vital discussion about how to make America the best place in the world to do business. Welcome, glad you all are here.

I want to thank the entrepreneurs who are here, the small-business owners and the association members, people who care about legal reform. I appreciate you coming. I also want to thank our panelists. We're going to have an interesting discussion about why we need to do something about class-action lawsuits. That's what we're here to discuss.

I do want to put it in the larger context, though, about why we even ought to take on this issue. As Carlos said, lawsuits are—a litigious society is one that makes it difficult for capital to flow freely. And a capitalist society depends on the capacity for people willing to take risk and to say, "There's a better future, and I want to take a risk toward that future." I'm deeply concerned that too many lawsuits make it too difficult for people to do that.

And so I've called upon Congress to work with the administration on legal reform, whether it be to reform the asbestos litigation issue, or medical liability reform to make sure medicine is cost-effective to our citizens, or whether it be class-action reform. Legal reform is part of a larger agenda to make sure this economy of ours continues to grow.

We're seeing good growth now. As you know, last month, in the month of January, this country created 146,000 new jobs. The national unemployment rate is down to 5.2 percent. This is all progress. But it's important for the Congress to work with the administration to keep this progress going. And so legal reform is part of a strategy for economic vitality and growth.

So is a disciplined budget part of that strategy. I submitted a budget earlier this week. I'm not surprised some people are yelling about it already. But it is a budget that is lean and effective and says we'll spend money on programs that work. And I look forward to working with Congress to get that budget passed.

It is time for Congress to pass an energy bill. We've been debating it for too long, and now is the time for action. And I'm confident we can get it done. I believe that Congress has heard the message from the people that, let's work together to encourage conservation and renewable sources of energy, and let's spend money wisely on new technologies, why don't we promote clean and safe nuclear power—all aimed at not only protecting our environment but, at the same time, making us less dependent on foreign sources of energy. So my call to Congress again, like I did a week ago today, was, let's stop the debate on energy and get a bill to my desk to show the American people that we can respond.

We'll continue to open up markets for goods overseas and, at the same time, enforce our trade laws. Carlos is going to be a part of the enforcement mechanism of our trade laws. We opened up markets to 12 countries over the past 4 years through new free trade agreements in countries like Australia and Singapore. And over the next 4 years, we'll continue to open up markets.

And the reason I believe that it's important is because when we're good at something, we ought to make it easier to sell what we're good at overseas and create new customers for U.S. entrepreneurs and farmers and ranchers. Given a level playing field, this country can compete with anybody, anytime, anywhere. And so we're going to continue to work with Congress to advance good trade policy.

We'll work on things like simplifying the Tax Code, reasonable, wise immigration reform, good health care policy, as well as taking on the tough task of strengthening the Social Security system for younger generations to come.

Now, I understand some have been listening closely to this debate, and I want to make two points about Social Security before we get to the subject at hand. One is, we have a problem. For those of you in Washington who say we don't have a problem, all you've got to do is look at the facts. We don't have enough people paying into the system to take care of baby boomers like me who are living longer and longer and longer and are going to be promised more benefits. We've got more people who are going to be receiving benefits over time, with fewer payers into the system. And those who are receiving benefits will live longer and will receive more money. That says we've got a problem.

It is a funding problem. In the year 2027, the Federal Government is somehow going to have to come up with \$200 billion more than the payroll tax to make sure we fulfill the promise. And the problem gets worse and worse. Starting in 2018,

which isn't all that far away, 13 years away from now, the system goes into the red. That means more money coming out of Social Security than going in.

Some in our country think that Social Security is a trust fund; in other words, there's a pile of money being accumulated. That's just simply not true. The money—payroll taxes going into the Social Security are spent. They're spent on benefits, and they're spent on Government programs. There is no trust. We're on the ultimate pay-as-you-go system. What goes in comes out. And so, starting in 2018, what's going in—what's coming out is greater than what's going in. It says we've got a problem. And we'd better start dealing with it now. The longer we wait, the harder it is to fix the problem.

Secondly, if you're a person who is retired or near retirement, nothing will change. There is enough money. You're in good shape. I know there are some who have heard talk about Social Security around the country here, saying, "Oops, he's going to take away my check." That's not going to happen. I don't care what the rhetoric is, what the mailings say, what the TV ads say, you're in good shape. It's the younger workers who ought to be asking the Members of the Congress and the President of the United States, "What are you going to do to fix the problem?"

And I'm looking forward to working with Congress to fix the problem. All ideas are on the table except running up the payroll tax. And I'm convinced by setting aside partisan politics and focusing on what's right for younger Americans, we can do the job that people expect us to do here in Washington, DC.

We're here to talk about class-action lawsuit abuse. And we've got some experts here to help us understand what class-action lawsuits are all about and how best to affect good public policy. Look, there is a bill working its way through the Senate now, and I want to thank both Republicans and Democrat Members of the Senate for

working on that bill. My call to them is to listen to the experts. And we're about to hear from two—actually three—two people who have studied the issue and one who has actually lived with it.

It is important, for the sake of this country and for the sake of our economy, to have a fair answer to a problem that is escalating. The problem is, people are filing suits all over the country in a State courthouse that's affecting people in other States. And oftentimes businesses are getting drug into it or people are getting drug into it that are unaware they're getting drug into it. And if they are getting drug into it, when there's finally a settlement, they don't get much. And the people—the lawyers get a lot.

And so we've worked with Congress to come up with a reasonable solution. And they've come up with a reasonable solution that says interstate class actions ought to be conducted in the Federal court. And my call to the Senate today is to get that bill done as quickly as possible so we can get it to the House and get it to my desk. And the Senate has got to pass the bill on the floor without amendment. They need to pass a clean bill, one that makes sense for the American people.

I have asked, and Walter Dellinger has kindly agreed to come. He is a practicing attorney. He is a professor. He's so good at being an attorney, he's teaching others how to be an attorney at Duke University, if I'm not mistaken. He was telling me today—I don't know if you know this or not; this falls in the "small world" category—and if our mutual friend is listening on C-SPAN, it will blow his mind we're talking about him—but I was raised in Midland, Texas, and the fellow who lives across the street from him in North Carolina's father was the baby doctor for my three little brothers. [Laughter] Now, how about that for small world? Tell Rodin hello.

Walter Dellinger. I will.

*The President.* Walter, why are you interested in the issue? He's actually served in Government for the previous administration. He represents the spirit needed to have good legal reform, and that is the bipartisan spirit. And tell us why you're here, and give us your interest in the subject.

[At this point, Mr. Dellinger, chairman of the appellate practice, O'Melveny & Myers LLP, and Douglas B. Maggs Professor of Law, Duke University, made brief remarks.]

*The President.* Tell people what a class action is.

*Mr. Dellinger.* Well, a class action—the idea of class action started when we realized that often there were many people that had small—the same small injury. If I cheat a million people out of \$10 apiece, I ought not be able to sit back and think, "Well, they'll never be able to sue me because it's \$10 apiece." So if they're really common questions of law and you can resolve the whole dispute in one action, it's a very effective way of doing it.

[Mr. Dellinger made further remarks.]

*The President.* So in other words, a class-action lawsuit that is tried at a State level means you could be doing business in California but be sued in Illinois court.

*Mr. Dellinger.* That's right. And one of the problems is that you sometimes have, in one of these State class actions, a State court judge making law for the whole country, making law for DC or for California, for Arizona, sitting right in West Virginia or in Illinois, when he's not elected by these other people.

[Mr. Dellinger made further remarks.]

*The President.* Let me stop you. Before we get to how it does it, why is it more fair to be in the Federal court, in your judgment? I think people need to understand why the remedy is going to make the system more fair to them. I mean, I agree with you completely that there needs

to be a judicial system that honors people who have been harmed. We want the system to be fair. If you get hurt, you ought to have access. And yet, on the other hand, we understand the cost of frivolous lawsuits, people just filing lawsuits for the sake of filing lawsuits, forcing people to settle even though there's no merit to the lawsuit.

But explain why going from a State court to a Federal court, in your judgment, would be fair. He actually testified on the bill, so, I mean, you talk about an expert; we're beyond just somebody who theorizes, we're somebody who went in and front—dared go to the Halls of the Senate and testified. How did Senator Cornyn treat you?

*Mr. Dellinger.* They did very well. *[Laughter]* And Senator Hatch.

*[Mr. Dellinger made further remarks.]*

*The President.* It sounds fair to me. I mean, it sounds reasonable. I think if somebody is out there wondering whether or not this is a reasonable proposal, it's reasoned to use the Federal courts for what they were intended to be used for, which is adjudicate disputes among the States, for example. Anyway, why is this fair, beyond moving to the Federal court? I interrupted you before. You were saying this bill is particularly fair because—

*Mr. Dellinger.* Well, because it still allows these cases to proceed under the standards we've developed for where you can try cases involving people from different States. You get into Federal court, and if some of the harmful amendments that are being suggested are defeated so that you get a clean bill sent to you, the Federal courts will do what they've always done. They look at a case involving multiple States, and they say, "Can we fairly try this? Are these State laws sufficiently alike that we can try this in one lawsuit?" If they're not, then you can bring those suits back in a single State. Everybody in Pennsylvania can bring a lawsuit in Pennsylvania courts. But you can't do it for multiple States if you just tell judges, "You can pick

the law of one State, whether people in other States like that law or not."

And you're going to hear this afternoon some very telling examples of what's gone wrong when one State makes law for the whole country without the rest of the country being able to participate. People in Texas and North Carolina don't get to vote for who's the State court judge in Illinois, and we don't get to vote on what the law should be in those other places. And this is precisely designed for that.

*[Mr. Dellinger made further remarks.]*

*The President.* Great job. Thanks for coming. Appreciate you taking time.

He mentioned—he said they're trying to amend the bill. That's code word for they're trying to weaken the bill. They're trying to make the bill not effective. That's why I called for a clean bill and Walter called for a clean bill as well. And I'm confident that the Senate will hear that call and get a good piece of legislation off the floor. Then we'll move it to the House, and then it will get to my desk quickly, and we'll show progress, working together.

By the way, I repeat, this is a bill that is cosponsored with Republicans and Democrats. It's a good piece of legislation.

Larry Mirel—what do you do, Larry?

*Lawrence H. Mirel.* I'm the commissioner of insurance, securities, and banking for the District of Columbia.

*The President.* Right around the corner.

*Mr. Mirel.* Right around the corner—right across the street.

*The President.* Right across the street. Well, that's good. So that seems like an unusual connection. Here you are, sitting next to the President talking about class-action lawsuit, and it seems like you're really not involved with the law, but are you?

*Mr. Mirel.* Yes, indeed. And let me explain and add to what Walter said before. My job—I'm actually a State official, and my job is to protect the people of my jurisdiction, the District of Columbia, and in particular those who buy insurance. And

I worry about that, and I take that seriously. I implement the laws of the District of Columbia, as passed by the Council and approved by the Congress.

[Mr. Mirel made further remarks.]

*The President.* They settled because—not necessarily because of the merits of the lawsuit; they settled for threat of loss. In other words, it's kind of like a lottery sometimes when the system isn't balanced right.

*Mr. Mirel.* Right. I'll give you some examples of it. The first one settled \$7.5 million to the attorneys who brought the suit, nothing for the class members. Those class members are all over the United States, including people in the District of Columbia, everybody who bought a policy from that company. The second one settled for \$10 million to the lawyers, nothing to the plaintiff class—

*The President.* I'm beginning to get the picture of why there was 34 filed. Slowly but surely, the settlements are getting bigger. Anyway—

*Mr. Mirel.* Even the Association of Trial Attorneys objected to that one. So they went back, and they gave something now to the members of the class. What is it? A hundred dollars off your next life insurance policy that you buy from that company.

*The President.* If it's still around.

*Mr. Mirel.* That's right. And the lawyers walk off with \$10 million. Seven cases were settled. The total payout so far is \$40 million. And nothing has gone to trial, and that's the real evil.

[Mr. Mirel made further remarks.]

*The President.* See, it's interesting. What he's saying is, is that he has said—he's doing his job in the District, and yet a lawsuit that affects people in the District begins to redefine what you've laid out as what is fair.

*Mr. Mirel.* That's exactly right. I'll give you another simple example. There's a case in Los Angeles Superior Court claiming

that one of our very largest companies, State Farm, which is a mutual company, has too much in reserves and should give that reserves back to its members. Well, what I do for a living is make sure the companies that sell insurance in this jurisdiction, including State Farm, have enough reserves.

*The President.* —enough reserves. [Laughter]

*Mr. Mirel.* Right. And the notion that a jury of laypersons in the Los Angeles County Court can overturn my decision—

*The President.* Do your job better than you can—yes.

*Mr. Mirel.* That's the part that I have problems with.

*The President.* It's an interesting situation, isn't it, and it's one that really goes back to what Walter was talking about as far as the Framers' view of how a fair system ought to work. If I were someone who was out there wondering whether or not we were making the right decision, I would go back and harken back to the papers of the Founding Fathers, when they talked about adjudicating disputes like this, so that in this case, a jury doesn't make the decisions for the good folks in Washington, DC—a jury afar.

We've also got with us Alita. Are you ready to go? All right, how many kids do you got?

*Alita Ditkowsky.* I have two children.

*The President.* They don't happen to be here—are they?

*Ms. Ditkowsky.* Yes, they are.

*The President.* I can see them. How old are they?

*Ms. Ditkowsky.* Marissa is 10, and Jessica is going to be 9 in 2 weeks—

*The President.* Going to be 9.

*Ms. Ditkowsky.* —3 weeks.

*The President.* Fabulous. Well, happy birthday-to-be. Got Mom up here on stage. Pretty cool, huh? [Laughter] Where do you live?

*Ms. Ditkowsky.* I live in Commack—Commack, Long Island.

*The President.* State? New York?

*Ms. Ditkowsky.* New York.

*The President.* Not everybody knows where Commack is. Of course, I did. [Laughter] So why are you here? No—

*Ms. Ditkowsky.* Well, Mr. President—

*The President.* Give us your story. This is a very interesting tale.

*Ms. Ditkowsky.* Okay. Well, first, I would never believe in a million years I'd be talking to you face to face, and I would never believe that I'd be talking to you about my TV set. [Laughter] But here goes.

*The President.* This is being recorded on film, so you can play it back just to prove it actually happened. [Laughter]

[*Ms. Ditkowsky, class-action member, Thomson Consumer Electronics lawsuit, made further remarks.*]

*The President.* I'm going to stop you there. So you open up the mail—

*Ms. Ditkowsky.* Right.

*The President.* —and somebody sends you a coupon.

*Ms. Ditkowsky.* Correct.

*The President.* —meaning that you were a party to a lawsuit.

*Ms. Ditkowsky.* Exactly.

*The President.* —but you didn't know you were the party to the lawsuit.

*Ms. Ditkowsky.* Had no clue.

*The President.* Interesting isn't it? Whew. [Laughter] First, I'm glad I wasn't the Thomson salesman, you know? [Laughter] So you get the—what, you get a \$50—

*Ms. Ditkowsky.* A \$50 rebate if you make a purchase of \$100 or more.

[*Ms. Ditkowsky made further remarks.*]

*The President.* So therefore, there should have been a recourse. I mean, a just society is one in which she buys the TV that is a lousy product, and there's a warranty, and there's some protections for a consumer. They ought to reward her those protections.

*Ms. Ditkowsky.* And as a consumer of this product, we sent out a warranty card that said if there's a problem with the TV, the company is supposed to notify us.

*The President.* Right. And so the TV company was wrong, and the verdict was guilty, and you got \$25.

*Ms. Ditkowsky.* I got a \$50 rebate—

*The President.* Fifty dollars.

*Ms. Ditkowsky.* —to go buy a new TV from them.

*The President.* Yes, I know. So it made you even hotter.

*Mr. Dellinger.* Why did you get such a bad deal?

*Ms. Ditkowsky.* Well, as I was going to tell the President, that I just found out that the lawyer in this case, who took this case to a very small court in Madison County, Illinois—

*The President.* Oh, yes, I've been there. [Laughter]

*Ms. Ditkowsky.* Madison County. I am going to—

*The President.* It is the most—there are more lawsuits filed in Madison County, Illinois, than anywhere in the country, I think. I mean, I went there to talk about legal reform in Madison County, Illinois. There are—people are filing lawsuits there all the time. You had your case heard in Madison County. I cannot believe it. Anyway, keep going.

*Ms. Ditkowsky.* Well, apparently this lawyer—and nowhere is it in the fine print of this little \$50 coupon that this lawyer got \$22 million.

*The President.* We've got a problem.

*Ms. Ditkowsky.* Twenty-two million dollars. I'm still left with a broken TV. He got \$22 million. Where is the justice in this?

*The President.* Yes, and that's exactly why—thank you. We're all here because we want the system to be fair. The economy depends upon a fair legal system. People's faith in the system, our country depends upon a fair legal system. And what we're highlighting here is the system isn't

fair. And the positive news is, in this town, people have come up with a fair solution that will treat people with respect and give them justice when they need it and, at the same time, hold people to account when they need to be held to account, without affecting our capacity to grow our economy. Fairness is all we ask for.

The scales of justice need to be balanced, and they're not balanced today. And so good people from around the country, including Walter and Larry, have come to the Halls of Congress to help balance those scales. And fortunately, there are good Senators and fair Congressmen who understand that all we seek is balance. And now is

the time for the United States Congress to balance the scales when it comes to class-action lawsuits, to do their duty to make this country as good a country as it can possibly be.

I want to thank our panelists for coming. I hope you've enjoyed this as much as I have. I'm honored that you would take time and stay over from getting back home to help explain the need for this country to act on this important issue.

Thank you for coming. God bless.

NOTE: The President spoke at 1:31 p.m. at the U.S. Department of Commerce.

### **Statement on a Supplemental Appropriations Request To Support the Areas Recovering From the Indian Ocean Earthquake and Tsunamis *February 9, 2005***

More than 6 weeks have passed since the tsunami took over 150,000 lives in one of the world's worst natural disasters. Thanks to the immediate and effective response of the U.S. military and the U.S. Agency for International Development, the United States, working with other members of the international community, was able to prevent additional loss of life and to deliver relief to those in need.

I will seek \$950 million as part of the supplemental appropriations request to support the areas recovering from the tsunami

and to cover the costs of relief efforts to date. This amount includes an additional \$600 million above my initial commitment of \$350 million. We will use these resources to provide assistance and to work with the affected nations on rebuilding vital infrastructure that reenergizes economies and strengthens societies.

I appreciate the efforts of former Presidents Bush and Clinton to raise private donations in the United States, and we are grateful to all of those who have donated money to help those in need.

### **Remarks in a Discussion on Strengthening Social Security in Raleigh, North Carolina *February 10, 2005***

*The President.* Thank you all for coming. Thanks for coming. Okay. Thanks for the warm welcome. We got a lot of work to do here. [Laughter]

*Audience member.* [Inaudible]

*The President.* Yes, thanks. Okay. Listen, we're here to talk about an important subject. And I want to thank some of our