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Turzai Shocked by State Bar Association Attack on Fair Share Act *Harrisburg law firm resigns from state bar in protest*

HARRISBURG – The following statement from Majority Leader Mike Turzai (R-Allegheny) is in response to an “Action Alert” sent from the Pennsylvania Bar Association to its members urging opposition to the compromise legislation dealing with lawsuit abuses legislation in the Senate.

“The Fair Share Act is simple, reasonable and responsible legislation to help end lawsuit abuse and stop deep pocket frivolous lawsuits.

“The Fair Share Act is a necessity if we want to improve Pennsylvania’s economic and health care climate. Passage of this bill would send a strong message that Pennsylvania will no longer tolerate people who want to abuse the system for their own financial benefit; it restores fairness and balance to Pennsylvania’s judicial system.

“As a lawyer myself, I am proud of the Harrisburg law firm Thomas, Thomas & Hafer (TT&H) for taking a stand on behalf of all Pennsylvania residents and employers by resigning its membership to the Pennsylvania Bar Association.

“Pennsylvania already has one of the most hostile-to-business tax and regulatory environments in the country. Until today, I had not realized we had a hostile state bar association as well. I hope other lawyers and firms follow the example set by TT&H and resign their membership since, clearly, the bar association does not speak for all of its members.”

The Fair Share Act eliminates joint liability for defendants in civil cases found to be less than 60 percent liable and implements a system of comparative responsibility in which a defendant is responsible for paying only his fair share of the damages. That means if a party is responsible for 10 percent of the fault, that party would be accountable for paying only 10 percent of the total award. Under current law, the doctrine of joint and several liability establishes that a defendant

in a multi-defendant civil case may be required to pay damages associated with the actions of co-defendants.

Each year, according to the acting attorney general, the Commonwealth is sued several hundred times; currently, more than 1,300 tort cases are pending against the state. The majority of these cases involve the Pennsylvania Department of Transportation (PennDOT) where an uninsured, or under-insured, driver caused death or bodily injury. The plaintiffs are just looking for someone to pay, regardless of fault, Turzai said.

The current system of joint and several liability has a direct impact on Pennsylvania taxpayers who are left paying the share of others who are at fault.

House Bill 1 and Senate Bill 2, the Fair Share Act, uses the same compromise language as Act 57 of 2002, which passed in the 2001-02 session and was signed into law by Gov. Mark Schweiker. It was challenged in court by House Democrat leaders on procedural, not substantive, grounds. They wanted to stop the reform – and succeeded. Subsequently the Fair Share Act was again passed in 2006, but was vetoed by Gov. Ed Rendell who actually promised support.

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