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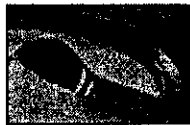
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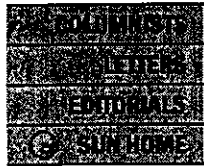


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Editorial: Settlements should not be secrets

LAS VEGAS SUN

March 24, 2003

Senate Minority Leader Dina Titus, D-Las Vegas, is sponsoring legislation that would prevent courts from keeping secret those settlements that involve public hazards. Supporting Titus' legislation are the Nevada Trial Lawyers Association and the Nevada Press Association, of which the Sun is a member. It is in the public interest to ban secret settlements that involve products that could harm or even, in some instances, kill people.

But don't tell that to some business groups, including retailers, manufacturing companies and drug makers. John Sande III, a Reno attorney who represents the drug maker Pfizer, asserts that "The system is not broken. The courts can address this on a case-by-case basis." Despite Sande's reasoning, the problem is that judges have been all too willing to agree to secrecy provisions in settlements sought by both the plaintiffs and defendants.

This isn't some esoteric issue. People die because of these needless secrets. Federal regulators say there have been 271 deaths and more than 800 injuries linked to accidents involving Ford Explorer sport-utility vehicles that used Firestone tires. The public didn't know soon enough about the tire's tread-separation problems because of secret settlements between the victims and Firestone. We've also learned in recent years about secrecy settlements that have prevented the public from finding out about incompetent doctors and sexually abusive clergy. The later the public finds out about such incidents, the greater the chance for individuals to become victims.

Legislation to ban secret settlements involving public hazards was advocated in 2001, the last regular session of the Nevada Legislature. But business groups fought the proposal and won. It's not Nevada is blazing new ground. As the Nevada Press Assn noted, 17 states already have similar types of laws. The fact the courts are supposed to be open. And, especially when

EXHIBIT I Senate Committee on Judiciary

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Monday, March 24, 2003
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EDITORIAL: Hazardous secrets

State Sen. Dina Titus, D-Las Vegas, tried in 1991, and again in 2001, to open up to public scrutiny Nevada court settlements involving public hazards.

Now her proposal is back again, as Senate Bill 251. And again, representatives of some large corporations and business groups are lobbying against the proposal, arguing that unscrupulous attorneys might be guided to bring new lawsuits if allowed to review past settlements -- that they might even assert the recorded payoffs represent admissions of culpability by defendants who chose to settle.

And that, in turn, might actually make defendants less willing to settle, they contend.

But note the bill would apply only in cases where the claim of damages concerns a "public hazard." If a private company wants to request secrecy as a condition of agreeing to settle some unique, individual claim, it would still be free to do so.

But by sealing settlements in cases where the same hazard may yet claim other victims -- as in the Firestone Tire case and various asbestos suits -- court-ordered confidentiality can actually keep future victims in the dark, spreading more death and serious injuries, proponents note.

"We have seen all too often recently that when corporations are allowed to keep their actions secret from the public ... lives can be devastated and people can be injured and killed," Sen. Titus said Thursday, in urging the Senate Judiciary Committee to move the measure forward. "What we're weighing here is the public interest and the right to know," testified the Nevada Trial Lawyers Association's Matthew Sharp.

Indeed, that must be the deciding factor. Public scrutiny is necessary to make sure the court system is working properly. And those who might face the same hazard in future deserve a chance to hear both sides of such an issue presented in open court.



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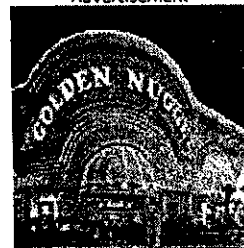


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Friday, December 20, 2002
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EDITORIAL: Secret settlements

OPINION

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In a unanimous ruling handed down Wednesday, the Nevada Supreme Court decided that Las Vegas attorney Richard "Tick" Segerblom had the right to defend himself against charges leveled by a public official.

Mr. Segerblom has filed a series of complaints against the employment disciplinary policies of the Clark County School District. In one, he represented teacher Muin Mustafa, who was suspended from his position in 1994 after he was accused of molesting one of his students. Mr. Mustafa was never prosecuted and indeed won back his job.

But Mr. Mustafa, a Palestinian, later filed a lawsuit against the school district alleging discrimination based on his ethnic origin. The district ended up settling the case -- after spending more than half a million dollars in legal fees -- but the terms of the agreement were sealed.

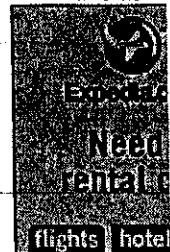
The high court became involved due to the remarks of then-assistant superintendent Edward Goldman, who's still employed by the school district. Mr. Goldman alleged that Mr. Segerblom was harassing the district by filing frivolous lawsuits. When those comments became public, Mr. Segerblom -- in an effort to rebut Mr. Goldman's allegations -- released the terms of Mr. Mustafa's confidential settlement to the Review-Journal.

The justices correctly ruled that Mr. Segerblom didn't violate the settlement agreement because he had the right to defend his reputation against the charges. The district and Mr. Goldman, the court said, "through their own conduct, implicitly waived their right to assert the confidentiality of the agreement."

But one member of the court, Chief Justice Bill Maupin, identified the primary issue: The confidentiality of the settlement in the first place.

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When the district settles such lawsuits secretly, it uses taxpayer dollars to rectify the screw-ups of public employees. By demanding confidentiality, the district avoids incurring any incentive to encourage its employees to behave properly -- and makes it virtually impossible for the public to ensure that those at fault are held accountable.

If the school district continues to resist disclosure in these cases, the Legislature should step in and mandate it.

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