

**By B. Keith Williams**

Thirteen Tennesseans are dead and more than 60 others are suffering from life-threatening meningitis. Survivors face an unimaginably painful, months-long or years-long battle against the dangerous fungus that is burrowing into their tissue and bones.

In most cases, the killer fungus was injected into their bodies — directly into their spinal columns — by for-profit medical clinics. These clinics bought cheap drugs from an out-of-state corporation that reportedly had no license to make and sell the drugs as they were doing.

Each day, new disturbing reports emerge: The out-of-state drug manufacturer had problems with unclean facilities as early as 10 years ago; there was “greenish black foreign matter” in vials of drugs made by the company; and there was visible filth in the factory, including mold, bacteria, “yellow residue” and “green residue” in supposedly sterile areas in its drug factory.

According to one government official, the company was warned years ago about the unsanitary conditions in its facility and chose to do nothing to fix it. While the filth was apparently contaminating their drugs and the drugs were being sold in Tennessee, the owners of the out-of-state company were reportedly living in multimillion-dollar homes in some of the wealthiest parts of the Northeast.

Tennesseans rightfully expect that anyone who kills or injures Tennesseans, particularly out-of-state corporations, will be held fully accountable for harm they cause in our state. Not so anymore in Tennessee. In 2011, by persuading their friends in the state legislature to pass the so-called Civil Justice Act of 2011, corporations and their special-interest lobbyists took from Tennesseans their constitutional right to hold wrongdoers fully accountable.

One important feature of the act removed from Tennessee juries is the right to hear all evidence in a case and decide for how much the wrongdoer should be held accountable. The judgment of our local juries has been kicked aside and replaced by government-imposed, arbitrary caps to damages. These caps apply in most legal cases, regardless of how much harm was caused or how badly the wrongdoer acted.

This new law ignored bedrock legal principles that date back more than 200 years. Moreover, the law ignored the Tennessee Constitution, which explicitly protects our fundamental right to a jury trial. The 2011 law protects wrongdoers such as the out-of-state pharmacy that reportedly sold the deadly contaminated drugs in Tennessee. Under Tennessee law, the out-of-state company could escape liability for the harm it caused.

During their sales pitch to Tennesseans in 2011 when they were pushing the new law, powerful corporate special interests and their highly paid lobbyists promised that in exchange for taking away Tennesseans' constitutional right to a jury trial, the risky new law would guarantee brand-new jobs — to the tune of hundreds every week! These special interests spent countless dollars putting billboards on the interstates and promoting bogus “studies” that supposedly backed up their incredible claims. But, instead of the promised jobs — the out-of-state pharmacy has created exactly zero new jobs in Tennessee — 13 Tennesseans are dead and more than 60 others are fighting for their lives.

Our legislature's risky experiment of protecting wrongdoers has failed. It is time to repeal the Civil Justice Act of 2011 and time to restore to Tennesseans their full constitutional rights.

*B. Keith Williams is an attorney with Lannom & Williams in Lebanon and represents the families of some Tennesseans affected in the meningitis outbreak.*