

## Bill # 5

### The Tort Access and Accountability Act

**WHEREAS:** “Th[e] tort reform movement has invested millions of dollars into a campaign to create hundreds of think-tanks, public relations, polling and lobbying firms – the propaganda machine of reckless companies seeking to escape the law<sup>1</sup>; and

**WHEREAS** For many today, the law is not accessible, save for large corporations and desperate people at the low end of the income scale charged with serious criminal offences<sup>2</sup>; and

**WHEREAS** tort law is essentially protective, its most general point and first priority is to protect subjects and social interests from harm. It does so by imposing duties of harm-prevention and backing them with a battery of remedies.<sup>3</sup>

#### **THEREFORE HER MAJESTY, BY AND WITH THE ADVICE AND CONSENT OF THE YOUTH PARLIAMENT OF MANITOBA ENACTS AS FOLLOWS:**

---

- 1 As of 01 January 2012, the Government of Canada shall create the Legal Access and Welfare [LAW] system to ensure that every Canadian citizen has reasonable access to a Canadian civil court for the purpose of increasing the accountability of corporation in Canada.
  - (1) **LAW** shall define access as:
    - (a) competent and available legal representation;
    - (b) timely delivered court hearings; and
    - (c) due process of law carried out in full.
  
- 2 All member of the Canadian Bar Association shall be required to provide legal services at a **LAW** approved legal center.
  - (1) Members must provide at least 500 hours or 50% of annual billed hours to **LAW**; whichever is greater.
  - (2) Where possible, **LAW** will use existing community legal service centers and where necessary and reasonable to do so, will create new legal service centers to better serve the community.
  - (3) Attorneys, while working for **LAW** shall be paid, according to a fee schedule, varying in accordance with the services provided.
  - (4) Attorneys who do not comply with **LAW**'s regulations may be subject to:
    - (a) fines not in excess of \$ 10,000;
    - (b) letter of reprimand; or
    - (c) the suspension or the revocation of an individual's licence to practice law in Canada.

---

<sup>1</sup> Ralph Nader. (2008) Defend, Restore and Strengthen the Civil Justice System. *Nader Gonzalez 08*. Retrieved December 13, 2011, from <http://www.votenader.org/issues/tort-system/>

<sup>2</sup> David Johnston. (August 15, 2011) The Legal Profession in a Smart and Caring Nation: A Vision for 2017. *LawStudents.ca*. Retrieved December 13, 2011, from <http://lawstudents.ca/forums/topic/25518-governor-generals-cba-speech/>

<sup>3</sup>Sheinman, Hanoch. (2003). <http://www.jstor.org/berlioz.brandonu.ca/stable/pdfplus/3505134.pdf> “Tort Law and Corrective Justice” *Law and Philosophy*, Vol. 22, No. 1 (2003), pp. 21-73

- 3 Any individual earning less than \$128 800 annually may access legal advice and services, free of charge, at any **LAW** approved legal center.
- 4 The right of all Canadians to sue for damages or give evidence in a court of law shall supersede any contractual agreements to the contrary.
  - (1) This includes but is not limited to:
    - (a) binding arbitration agreements;
    - (b) non-disclosure agreements; and
    - (c) terms of employment contracts
  - (2) No contractual agreement shall be considered binding unless made after seeking the legal advice of an attorney.
- 5 The question of a cap on damages shall be submitted for review by the Supreme Court of Canada under section 53 of the Supreme Court Act.
  - (1) It is the opinion of this House the judicially imposed cap on damages is contrary to the interests of justice and should be abolished.