

INSIGHT

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OP-ED

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Toxic torts and new opportunities

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Special to The Star

Alabamians are very familiar with former Chief Justice Roy Moore's efforts to erect and maintain a monument to the Ten Commandments within the rotunda of the Alabama Judicial Building, something that ultimately cost him his job.

They are far less familiar with his participation in a court decision that unfairly denied due process to literally thousands of Alabama citizens that have been exposed to toxic substances — an action that was decidedly non-Christian.

On Sept. 14, 2001, the Alabama Supreme Court issued its decision in *Hinton vs. Monsanto*, a case in which people exposed to polychlorinated biphenyls (PCBs) sought "medical monitoring." The court held that in Alabama, people who have been exposed to toxic substances have no right to file a lawsuit before they are sick — even for the cost of being monitored by physicians. It then declared that Alabama law "provides no redress for a plaintiff who has no present injury or illness." Moore concurred in the result.

Had he taken the time to study the relevant cases, Moore would have realized that the state Supreme Court had previously ruled that a toxic tort victim is injured — for the purposes of the statute of limitations — at the time of exposure rather than at the time

a disease is diagnosed.

Consequently, failure to file a case within two years after exposure, even if no illness has yet manifested itself, would result in the case being forever barred. And because most toxic exposures do not result in disease or death for 20, 30 or even 40 years, toxic tort victims rarely become ill or die while the statute of limitations is still open.

Thus, Moore missed the opportunity to overturn a long-standing injustice. Instead, by concurring in the result in the *Hinton* case, he joined his associate justices in effectively ruling that most Alabama citizens should never be able to recover compensation for disease or death caused by exposure to a toxic substance.

While the *Hinton* decision had tangible effects, Moore's actions in placing a granite monument in the Alabama Judicial Building was, at best, a ritual recognition of Old Testament law. But scripture repeatedly warns us that God desires justice, love and mercy more than ritual. For example, Isaiah 58:6 admonishes us, "Is not this the kind of fasting I have chosen: to loose the chains of injustice?" and Isaiah 10:1-2 warns "Woe to those who make unjust laws, to those who issue oppressive decrees, to deprive the poor of their rights and withhold justice from the oppressed of my people, making widows their prey and robbing the fatherless."

It is sad that a man professing obedience to the

Lord failed to heed these admonitions or recognize his God-given opportunity to reverse a terrible injustice.

When viewed in the light of the *Hinton* decision, the Alabama Judicial Building with Moore's granite Decalogue was nothing more than a "whitewashed tomb," which looked "beautiful on the outside but on the inside [was] full of dead men's bones and everything unclean." Matthew 23:27 (NIV).

Fortunately, legislation to correct the injustice created years ago by the Supreme Court and perpetuated by Moore and his associate justices will soon be introduced in the state Legislature. Concerned citizens should urge their legislators to pass the long-needed legislation, and they can do just that by signing the petition at the Alabama Legal Reform Foundation's Web site, www.AlabamaLegalReform.org.

Now is the time for Christians to stand up for justice and insist that Alabama refrain from depriving the poor of their rights and withholding justice from the oppressed among God's people, making widows their prey and robbing the fatherless. Alabama's toxic tort victims deserve their day in court.

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