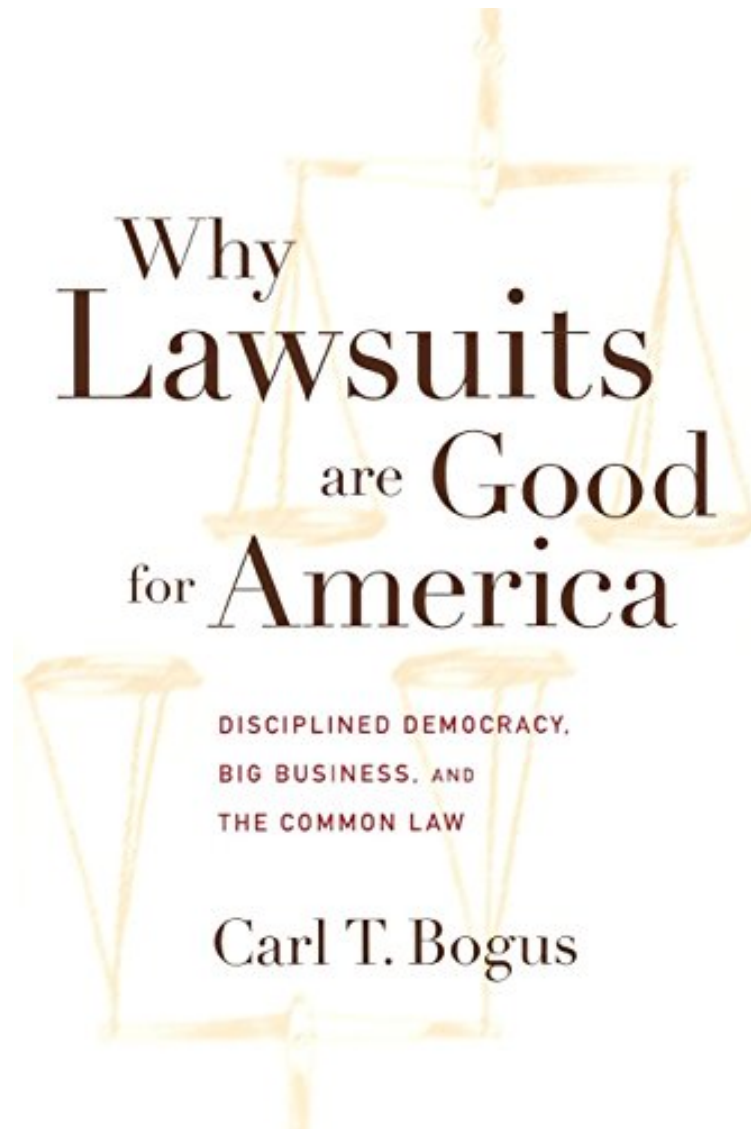


[FREE] Why Lawsuits are Good for America: Disciplined Democracy, Big Business, and the Common Law (Critical America)

## Why Lawsuits are Good for America: Disciplined Democracy, Big Business, and the Common Law (Critical America)

*Carl T. Bogus*

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**Carl T. Bogus : Why Lawsuits are Good for America: Disciplined Democracy, Big Business, and the Common Law (Critical America)** before purchasing it in order to gage whether or not it would be worth my time, and all praised Why Lawsuits are Good for America: Disciplined Democracy, Big Business, and the Common Law (Critical America):

10 of 13 people found the following review helpful. Disciplined Democracy By Dale Golden The author's central argument is that product liability lawsuits are an essential vehicle for enabling citizens to impose societal values on powerful corporations. The market can't do this because the profit motive can encourage corporate behavior that unfairly imposes business's costs on the public. Government regulation is often hamstrung by the pressures powerful competing interests bring to bear on the political process. But, combined with important safeguards built into the judicial process, juries bring diverse life experiences, societal mores, and a gut-level sense of fairness to important issues that impact citizens' lives. The common law enables the community to extract information from hard-to reach places and to provide a democratic check on the powerful. I would say the author made his case. 10 of 19 people found the following review helpful. A Must Read By Jerry Bosch This book does a great job of describing and defining the two distinct roles of our civil justice system - (1) to compensate victims and (2) to regulate conduct. This book could not be more timely a read for those interested in casting an educated vote in the 2002 elections. President Bush, supported by big business, as tried more than once during the past year to pass federal legislation to give corporate america a free ride. This book explains why "tort reform" is so important to big business and why they are willing to spend so much to put politicians in office that will trade the public's constitutional rights for campaign contributions. After spending the first few chapters with a historical perspective on our jury system and debunking more than a few rumors started by the tort "deformers" the author turns to his focus on the area of products liability. This section may be a little over the heads of those that have no experience with the legal system. Notwithstanding, I think even the basic reader will understand from the authors examples the grip corporate america has on our government. I think the author does a good job of supporting his words with facts and this book has a wealth of statistical information for anyone who finds themselves entrenched in the war on our civil justice system. I wish I had enough money to buy a copy for every politician I know. 4 of 6 people found the following review helpful. A Keeper Book By Thompson J. McCullough This well-written book helps debunk any assumption that the title "Why Lawsuits Are Good For America" may contain an oxymoron. Mr. Bogus describes a common law system that is very recognizable to those of us who practice law in America today. Jurors take their responsibilities very seriously. Jurors are fully capable of finding facts and applying nuanced statements of the law and crafting reasoned verdicts. Keep this book in your library and refer to it when you hear others fretting about whether jurors can handle emotional or big dollar cases.

Judging by the frequency with which it makes an appearance in television news shows and late night stand up routines, the frivolous lawsuit has become part and parcel of our national culture. A woman sues McDonalds because she was scalded when she spilled her coffee. Thousands file lawsuits claiming they were injured by Agent Orange, silicone breast implants, or Bendectin although scientists report these substances do not cause the diseases in question. The United States, conventional wisdom has it, is a hyperlitigious society, propelled by avaricious lawyers, harebrained judges, and runaway juries. Lawsuits waste money and time and, moreover, many are simply groundless. Carl T. Bogus is not so sure. In *Why Lawsuits Are Good for America*, Bogus argues that common law works far better than commonly understood. Indeed, Bogus contends that while the system can and occasionally does produce wrong results, it is very difficult for it to make flatly irrational decisions. Blending history, theory, empirical data, and colorful case studies, Bogus explains why the common law, rather than being outdated, may be more necessary than ever. As Bogus sees it, the common law is an essential adjunct to governmental regulation essential, in part, because it is not as easily manipulated by big business. Meanwhile, big business has launched an all out war on the common law. Tort reform measures designed to make more difficult for individuals to sue corporations one of the ten proposals in the Republican Contract With America, and George W. Bush's first major initiative as Governor of Texas. And much of what we have come to believe about the system comes from a coordinated propaganda effort by big business and its allies. Bogus makes a compelling case for the necessity of safeguarding the system from current assaults. *Why Lawsuits Are Good for America* provides broad historical overviews of the development of American common law, torts, products liability, as well as fresh and provocative arguments about the role of the system of disciplined democracy in the twenty-first century.

From Publishers Weekly Is the American jury system out of control, imposing crushing, undeserved verdicts on corporate defendants? This view is powerfully advocated by associations of manufacturers and the right wing, but the author finds it mistaken. Bogus (*The Second Amendment in Law and History*), associate professor at Roger Williams University School of Law, debunks the horror stories about irrational punitive-damage awards, finding that in nearly all instances the defendant's conduct bordered on the despicable and that, in any event, trial or appellate judges often reduced the verdicts to a small fraction of the stupendous amounts originally awarded. Bogus contends that the judicial system, though imperfect, is not fundamentally broken and serves an important regulatory purpose. He examines the history of the jury system from its origins in England, where juries are rarely impaneled today in civil cases, and the U.S., where the court traditionally defers to the jury's reaction to the evidence. Bogus explores products-liability law back to Justice Benjamin Cardozo's paradigm in the 1911 *MacPherson v. Buick Motor Co.*, which states, "We have put aside the notion that the duty to safeguard life and limb... grows out of contract and nothing else," concluding that,

by creating incentives for manufacturers to improve product safety and forcing information out into the open, products liability serves a valuable social function. This book, although a work of advocacy, maintains a fair-minded and dispassionate tone and refrains from distracting hyperbole. Bogus's convincing, sustained argument will make a useful contribution to an important national debate. Copyright 2001 Cahners Business Information, Inc. From Library Journal

The author of numerous articles on such topics as product liability and gun issues, Bogus (Roger Williams Univ. Sch. of Law) argues that "lawsuits are good for America because the common law," fashioned by courts and juries, "serves an essential regulatory function." Awards in lawsuits (and he focuses largely on product liability suits) are a form of deterrence that serve not primarily to compensate victims but to make officials and organizations change behavior. Chapters cover misrepresentations of lawsuit awards and settlements by media and politicians, the history of lawsuits and common law, the role of the judicial branch of government, auto safety and product liability lawsuits, and more. Particularly interesting are Bogus's discussions of media, politics, and tort reform, how the judiciary moderates jury decisions, and the development of product liability law. Of the many books on torts and product liability, only this one presents a general argument for the tort system's benefiting U.S. democracy. This is fairly challenging reading but very fruitful for scholars, students, and other informed patrons with an interest in public policy. Mary Jane Brustman, SUNY at Albany Libs. Copyright 2001 Reed Business Information, Inc. A classic demonstration of why democracy and citizen participation are crucial to fair, effective, accountable governance. This book is essential reading for every citizen.

-Scott Harshbarger, President of Common Cause A sorely needed corrective to the ceaselessly negative, factually distorted tirades aimed at the torts system by those seeking to prevent victims from shifting the costs of accidents to responsible wrongdoers.

-Joseph A. Page, Georgetown University Law Center Why Lawsuits are Good for America is lively, provocative, and well researched. Professor Bogus does an excellent job of debunking lawsuit "horror stories" that have been promoted by some academics and all too many politicians. This ambitious book makes a persuasive argument that juries are not out of control, but rather play an important role in American government. Anyone who has heard of the McDonalds hot coffee case should read this book.

-Ross Cheit, Brown University With gripping tales and careful analysis, Carl Bogus demonstrates that some of the greatest public safety innovations in the last century, such as dramatic improvements in automobile safety, were spawned not through legislation or regulation, but through private lawsuits demanding corporate accountability. More effectively and engagingly than anything I have read in some time, Why Lawsuits Are Good for America challenges what we thought we knew about tort law and makes clear why we should care.

-Jon D. Hanson, Harvard Law School An intellectual triumph. Carl Bogus not only debunks the political mythologies of tort reform but rises eloquently to the defense of centuries of American common law. The unsung citizen jury has found a lucid champion in Professor Bogus, who tells a gripping story about the history of civil justice in our nation. This is a stirring and visionary work.

-Jamin B. Raskin, American University