

Send in the lawyers

WHO NEEDS GOOD GOVERNMENT?

AT LEAST since the Great Tobacco Torts of the 1990s, hiring lawheads who'll go for the Deep Pockets has been an essential function of public finance-in this ever litigious society. Or, rather, sharp lawyering has become confused with good government. If the lawsuit is won, expect the politician who filed it to run for higher office within the year. If the lawsuit fails, well, nothing ventured, nothing gained. It's all done on spec anyway. Excuse us, a Contingency Basis.

To quote Baker Butler, the Nevada County judge, in Wednesday's paper: "If they don't get anything, it's not going to cost anything, and if we do, we might get a little money." It doesn't get much blunter, or greedier, than that. The law, as Gentle Reader has long since begun to suspect, has been reduced to a wager.

The "they" Judge Butler was referring to are the attorneys hired by six counties to sue pharmaceutical companies for selling certain kinds of cold medicines in Arkansas. The legal theory/wild swing is that the drug companies knew the medicine was being used to produce methamphetamine and did nothing to prevent it. To quote the lawsuit, those companies "knowingly sold far in excess of the amount necessary for any legitimate use." Hey, stranger cases have been made at the plaintiff's bar.

By now, every county in the state has been invited to join the suit-it's Free Money!-and Attorney General Dustin McDaniel says he just might get the State of Arkansas involved, too. He's "eagerly watching" the case, and adds: "If they're able to demonstrate some of the things they allege, if they have evidence to prove some of the claims they made, it's going to be a substantial case." And if frogs had wings

Yes, General McDaniel, this will be a substantial case . . . if the plaintiffs have a shred of evidence. But in cases like these, evidence may not be necessary. The goal here isn't necessarily to win at trial, but to negotiate a nice big fat settlement. The lawyers get their huge commission, the counties or even the state might get a few extra dollars, and Big Pharma avoids both the risk, however unlikely, of a damaging judgment and a heap of bad press. And the politicians get bragging rights. Everybody wins! Except perhaps the dignity of the law.

Call it the Elliott Spitzer School of Public Finance and Self-Aggrandizement: The drug companies can make the case go away with some cash-no admission of guilt is required-and they get off the hook. Call it a deal they can't refuse. Any resemblance between this way of practicing law and legalized extortion is more than coincidental.

Just to eliminate any doubt about the motive for this kind of litigation, note that Independence County, which filed the lawsuit, didn't do so because sheriff's deputies had uncovered evidence of drug companies running meth labs. Instead, after a round of budget meetings, the county's pols realized their jail needed money. So they decided to do something about it. Raise taxes? Cut expenses? Heck, no. How old-fashioned. How quaint. How ethical. That's not how governance is done these days. Doing Something About It has come to mean filing a lawsuit against the deepest pockets around.

METH IS a huge problem in Arkansas, and we don't doubt that the cost of housing meth users and makers in the Independence County lockup is significant. It's the same at county jails all over the state. But thanks to legislation passed in 2005, which put the offending cold medicine behind the counter, the number of meth labs being found has been cut in half. Meth remains a big problem, but not as big as it used to be. Yet instead of continuing to find practical ways to fight this menace, local government has realized what a money-maker it has in the link between meth and cold medicines. Why, here is just the solution to local fiscal problems, and maybe the state's, too! Eureka!

How many meth users will stop using the drug if this lawsuit succeeds? Will it actually do anything to combat drug abuse? Those questions are irrelevant. The object of the suit isn't law enforcement, it's to get drug companies to finance government. Justice ain't got a thing to do with it.

Now we wouldn't put it past some Evil Drug Company to profit from the meth trade. Big Pharma isn't known for taking a loss in the name of responsibility. But to blame those companies for selling a legal product in Arkansas is . . . well, more than a bit much. To quote a justice of the peace in Pulaski County-Allen Kerr-suing the drug companies for selling cold medicine is "the same thing as suing Remington Arms for selling guns that kill people."

Goodness, it's hard to believe in this day and sleazy age that local officials like Allen Kerr still exist and, when they object to these widely accepted and perfectly legal tactics, they're actually listened to. Diogenes, get that lantern over to Pulaski County, Arkansas! We've found you an honest man-and one who's listened to! Congratulations, Pulaski County Quorum Court! Something else to all those officials, state and local, who look at the law and see only a gravy train.