Trustmark, the state's largest bank. (The jury award has since been reduced to $5.5 million.)

The case involved a man in Summit, Mississippi, 25-year old Ken Smith, and his father-in-law, J.W. Holmes. In 1987, Smith bought a new $9,200 Nissan Sentra, for which his father co-signed the loan. The loan was bought by Trustmark Bank. As is common, and commonsensical, Trustmark required that insurance be kept up for the automobile. After a few months, for whatever reason, Smith dropped his own coverage, which was obtained through Mississippi Farm Bureau Insurance Company, knowing that having car insurance was part of his agreement in obtaining the loan from Trustmark in the first place.

...resentment must wear masks when it appears in public...

In a perfectly legal move, Trustmark proceeded to purchase insurance to protect its interests in collateral because Smith had broken his contractual commitment. Called Collateral Protection Insurance (CPI), this type of policy is written to provide banks and other financial institutions a method to insure collateral to secure loans in cases such a Smith's where the borrower fails to maintain his own insurance. CPI is a standard practice, approved by the Insurance Departments of all 50 states.

(Coincidentally, court records indicate that the plaintiffs failed to maintain physical damage insurance for 41 months of the 60 month contract in question, as well as failing to maintain liability insurance 50 times out of the 60 payments.)

Furthermore, a series of notifications were sent out to Smith explaining that the lender requires insurance, and urging him to reinstate his own coverage. Additionally, the notices quoted the cost of the CPI premium and informed Smith that the cost of CPI plus interest would be added to the loan if he did not get his own insurance. Ross & Yerger, as producing agent for the CPI, searched for and provided the product. Trustmark selected National Underwriters to provide the coverage, and all steps and premiums were reviewed and approved by the Mississippi Department of Insurance. At every step, Trustmark and Ross & Yerger followed all laws and regulations. So: Why a lawsuit resulting in $38 million in damages against those two companies? Well, the bank rightfully repossessed the car which, however, still caused no injuries to anyone.

Smith claims he never received notification of the policies added to the loan, though twelve such notices were mailed to him over a four-year period. Eight of the notices were sent from the insurance company, and four were sent from Trustmark. In court, the plaintiffs testified that the address on the notices was correct. Yet, suspiciously, none of the twelve reached Smith. (Sounds more like a post office problem. Perhaps the Postmaster General can be sued by Smith as well!)

A fundamental, and ominous, trend is apparent in the Jones County lawsuit as well as most of the other outrageous cases brought against businesses. It is the populist view that big business is, by nature, exploitative, and that the "little guy" is at the mercy of the greed and callousness of the almighty corporation. The false equation of wealth with power was what the plaintiffs' attorney in the case, Lawrence Abernathy, put across to the jury and they obviously bought the rhetoric.

Contrary to this line of erroneous thinking, as noted by philosopher Leonard Peikoff, in a free-market system, every man must pay his own way. He can claim from others only what he has earned, in Peikoff's words, "as judged by the parties' mutual, uncoerced evaluations. As to the non-earners and non-traders, the system is fully as 'cruel' (i.e., as just) as its enemies say: it offers people no alibis, no welfare workers, no booty. Under capitalism, no man's achievements or troubles, whatever their nature or source, are assets or liabilities belonging to other men." [7]

In a market economy, which this country is tenuously clinging to in spite of over-regulation, the assets of a given business are, in fact, determined by the power of the consumer. In effect, every dollar is a vote, and one has numerous options in the marketplace. Incredibly, men in this country, due to media and academic influence, still believe the old Marxist saw that prosperity is gained only at the expense of the sweat of others. This economic myth has been exposed and exploded time and time again by such thinkers as Ludwig von Mises, Ayn Rand, and Henry Hazlitt, to name a few. But the ideological premise behind this myth still remains firmly entrenched in our culture. The premise is that of envy.

Author Robert Sheaffer, in his book, *Resentment Against Achievement*, notes that resentment, or envy, is a peculiar form of hatred felt by those who fail against those who succeed, by the unproductive against

the capable, but is rarely acknowledged as such so explicitly. Rather, Sheaffer points out, resentment must wear masks when it appears in public, such as in the Jones County case. To quote Sheaffer, "[Resentment] is sometimes disguised as the pursuit of 'social justice,' or the 'class struggle,' or perhaps 'divine morality'—all lofty sounding terms invented to mask the ugly reality of a mob outraged by the wealth earned by others." [8]

Interestingly, in an exquisitely perceptive passage worth quoting in its entirety, Sheaffer writes of the achievements and high standards of banks. This assessment surely applies to Trustmark: "...consider, for example, the great truthfulness required to become a successful bank....No one will deposit even one cent in any bank unless convinced of the utter trustworthiness of the person setting up and managing the account. The fact that people worry far more about the bank failing through unwise investment than about the banker absconding with the funds shows that everyone subconsciously realizes that far higher standards of honesty prevail in large banks than out in the street. Every banker must bend over backward to reassure depositors that their money will be available whenever they need it, for a bank literally has nothing if it does not have a reputation for scrupulous honesty. Many people enjoy repeating the popular notion that the wealthy are cheating vultures, while the poor are virtuous and honest. Yet anyone who doubts that the ethics prevailing among wealthy bankers and stockbrokers are vastly more honest than those of slum dwellers should avoid all financial institutions like the plague." [9]

Also implicit in cases such as the one in Jones County is the idea that luck, or getting even, is the best path to success, as opposed to hard work, talent, and responsibility. The lottery mentality is in abundant evidence all around us, especially in the personal-injury lawyers commercials that crowd the television screen during the daytime. The late author William A. Henry III, a lifelong Democrat, ironically, recounts in his recent book, *In Defense of Elitism*, a story that exemplifies this type of mindset: "Friends who have sat as jurors in personal injury cases have described to me the efforts of their fellows—especially the unemployed, housewives, and others without secure earned income—to vote lottery-size verdicts for piddling events. One recalls hearing a non-working wife say, 'We could change this person's whole life.' That was the speaker's rationale for urging a two-million dollar award to someone who lost a single joint of the little finger on the hand he doesn't even write with." Henry continues, "What troubles me is not just the cost or the moral corruption implicit in such cases, but the further erosion of personal responsibility in favor of the idea that life is luck." [10] Certainly Henry's trouble should be shared by the business community with jury decisions such as the one in Jones County. (Ironically, when businesses are forced to raise prices to cover and protect themselves from litigation costs, or make layoffs due to excessive settlements, the economically ignorant and envious screech even louder denunciations.)

Bad philosophy, specifically egalitarianism and class envy, is behind the litigation boom in the U.S.

Another serious result of the litigation boom could be the erosion of contractual agreement, a major basis for any business transaction. As Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit has noted: "I worry a great deal that it is almost impossible to enter into a transaction without running a serious risk of litigation. There is no deal that's litigation proof. There is no business arrangement you can enter that won't expose you to the risk of extensive costs, massive attorneys' fees, and many years of grief if a party on the other side is unhappy with the way things turn out....I believe punitive damages should be rare and unusual things, not means for letting the jury give you more than you deserve. And I believe a deal's a deal; if you signed on the dotted line, you should have to live with the consequences, good or bad....People suffer in litigation. It's a burden to deal with. It's a distraction. It diverts resources away from productive activities." [11]

Concurring with Kozinski's last point, Renee LeMaire, spokesperson for the Business Council of Alabama, says, "With punitive damages awards of these sizes, somebody has to pay. The costs either have to be passed on to the consumer or good and decent people have to lose jobs because their employers cannot afford to do business in Alabama." [12] Or anywhere else, for that matter. Also, as an editorial in *The Montgomery Advertiser* stated, "...the unbridled influence of the big plaintiff attorneys forces consum-