The following article quoted Tom Kline about legislative passage of the Pennsylvania Fair Share Act. Below are excerpts from the article:

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By Ben Present
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Now that the Fair Share Act has passed, bringing sweeping changes to the state's joint and several liability common-law doctrine, several plaintiffs lawyers across the state converged on a similar notion: The proponents of the FSA had no idea what they had just done.

The trial lawyers, whose practices will almost undoubtedly be forced to reject certain cases under the new law, noted that perhaps the champions of tort reform failed to fully grasp what they sought and succeeded to pass.

While large corporations and insurance companies reap the benefits of the bill, some lawyers said small businesses and doctors, who are said to be beneficiaries of the FSA, could join the plaintiffs in bearing its burden.

… Thomas R. Kline of Kline & Specter said the pool of cases in which a victim can recover damages is now significantly slimmer.

"The first change will clearly be in case selection where an overwhelming tortfeasor's conduct will dwarf that of a lesser but much more solvent tortfeasor, but a tortfeasor nonetheless," Kline said. "Yet there now will be no potential source of recovery for the victim of both."

If a case is determined strong enough to withstand trial under the new law, lawyers said, the goal will be presenting a fact pattern before the jury that implicates the deep pockets.

Kline (said) his approach would involve "strategies which create focus on individual solvent defendants" while "eliminating from the fact finder's province the defendants who aren't solvent."

… Trial lawyers have not given up hope on examining the statute's constitutionality, and the issue of joint and several liability reform has died on such grounds before.

In 2006, the state Supreme Court held a prior version of the Fair Share Act as unconstitutional. The court affirmed lower court rulings that Act 57 of 2002 violated the single-subject provision in Article III, Section 3 of the state constitution because the law also contained language to require the collection of DNA samples from felony sex offenders.

But the single-subject provision does not consider the constitutionality of the actual statute. Rather, the bill died on procedural grounds. With the bill now signed by Gov. Tom Corbett, attorneys said they are not banking on a court overturning the measure, but they haven't lost hope.

… Strategic considerations will need to reach beyond picking a good jury. Kline pointed to a case he tried earlier this year, *Richardson v. Kolsun* , as a possible way of "creatively reacting to the effective abrogation of joint and several liability." The facts were developed long before the law was changed, but Kline said the case has applicability moving forward.

In the case, Kline and his client, the widow of a man who died at Chestnut Hill Hospital, opted to sue the hospital rather than the doctor who treated her husband after he died. In settlement negotiations, Kline said he secured the contribution claim from the hospital against the doctor.

Whereas a plaintiff might have "cast a wide net" of defendants before, it will be this type of approach — suing the large institution first and picking up claims against less solvent defendants second — that could prevail in the FSA era, Kline said.

Several lawyers and judges noted it would be about a year or longer before the new law starts applying to civil cases in this state.