In the second place, pain and suffering is the way to blow up a hundred dollar claim into a $500 claim. I think this is so commonplace that everybody knows about it.

Now one reason why we have pain and suffering damages and why the lawyers will fight, and I say justifiably fight, to save them, is because it is only through pain and suffering damages that you are even able to collect your money damage.

If you have a thousand dollar property damage, specific damage, and you have a third of that going to collection expense, you do not end up with a thousand dollars; you end up with $667, unless you are allowed to add on top of that the pain and suffering.

So the real function that the pain and suffering damages do is to pay the lawyers' fees.

Frankly, I think the pain and suffering of the plaintiff is a very odd way to measure lawyers' fees. I would suggest that when we decide what we want people to be paid, we should provide for the payment of the collection expense. The insurance company which refuses to pay a perfectly clear liability case should be liable for the collection expense as well.

I know very well some of the insurance people who will testify before you will say, "Our company does not do that. We tell our people to pay just claims off the bat," but there is no one with any experience who doesn't know that somehow the adjusters don't get the message. And because they are overworked or because they are trying to make a good record—they are trying to save over the reserve value of the claims—the fact of the matter is that they refuse to pay, or neglect to pay, small claims unless they are blown up with a pain and suffering addition to them.

Consequently, I say that as we eliminate pain and suffering we ought also to add a reasonable collection expense and that should have another side to it, too.

Where the claimant refuses to take a reasonable offer from the insurance company, they should be allowed to deduct from their eventual payment the cost of the defense which they have been put to by a man who litigates needlessly.

Now another element which urgently needs attention is the cutting out of small claims. Simply eliminate the payment of small claims and let people take care of them themselves, say, under a hundred dollars.

I grant this is a shocking sugestion, but I will say that to a large extent this is exactly what happens to most of us. Unless we want to tell the defendant that we have a bad back or we have excruciating headaches, the fact of the matter is that we bear our small claims.

Now because of the fact that it costs two dollars and a quarter per dollar of benefit to pay any claim through the negligence system, but it costs more proportionately for the small claims, frankly, we would all be better off if we paid our own small claims.

This is one of the places where we could get a very considerable saving in the administration of negligence liability.

I know your time is short. I think I will leave you with that brief highlighting of what seem to me to be some of the key problems which you face.