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FOIA MARKER

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Record Group/Collection: Dan Quayle Vice Presidential Records
Collection/Office of Origin: Deputy Chief of Staff's Office
Series: Porter, Richard W., Files
Subseries: Subject Files

OA/ID Number: 21806
Folder ID Number: 21806-004

Folder Title:
Texas

Stack:	Row:	Section:	Shelf:	Position:
G	34	6	6	6

Withdrawal/Redaction Sheet (George Bush Library)

Doc. No. / Type	Subject/Title	Date	Restriction	Classification
01. Report	Biographical Information: Vice President's Visit to Beaumont, Texas; contains Personally Identifiable Information. (10 pp.)	03/05/92	(b)(6)	

Page 1 of 1

Collection:

Record Group: Quayle Vice Presidential Records
Office: Deputy Chief of Staff's Office
Series: Porter, Richard, Files
Subseries: Subject Files
WHORM Cat.:
File Location: Texas

Pinksheet Number: RML16275
OA/ID Number: 21806-004
Date Closed: 8/26/2025
FOIA/Sys Case #: 2025-0878-F
Re-review Case #:
P-2/P-5 Review Case #:

LAW OFFICES
McCAMISH, MARTIN & LOEFFLER
A PROFESSIONAL CORPORATION

1200 REPUBLIC OF TEXAS PLAZA
175 E. HOUSTON
P.O. BOX 2999
SAN ANTONIO, TEXAS 78299-2999
(512) 225-5500
TELECOPIER (512) 225-1283

SUITE 2060
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AUSTIN, TEXAS 78701
(512) 322-5500
TELECOPIER (512) 322-5515

SUITE 300 - EAST
555 13TH STREET, NW
WASHINGTON, D.C. 20004
(202) 637-6850
TELECOPIER (202) 637-6861

MEMORANDUM

TO: Thomas K. Fleener
FROM: James Jonas
DATE: November 5, 1991
RE: Private reception following the Bush-Quayle dinner on
October 31, 1991.

=====

As requested, the following names and addresses are provided:

James Jonas 5520
P.O. Box 2999
San Antonio, TX 78299-2999

Russell and Terry Davis 5522
115 Paseo Encinal
San Antonio, TX 78212

Sharon Jordan 9578
608 Bartlett
Laredo, TX 78040

Gary, Jesse and Lisa Jacobs 9579
P.O. Box 59
Laredo, TX 78042

Brian and Tina Weiner 5519
2 Lazy Hollow
San Antonio, TX 78230

John Zachry 5523
7603 Shady Lane
San Antonio, TX 78209

James and Nancy Gordon 5521
600 Travis Street, Suite 2045
Houston, TX 77002-2912

Laura Beverly 5517
2460 Peach Tree Rd. NW, Apt 607
Atlanta, GA 30305

These individuals were part of the reception held in Tom and Nancy Loeffler's suite. If you have any additional questions, please feel free to contact me at (512) 322-5500.

List Name: Loeffler, Prr Recp. 10/31/91.

Cont.: Attended private reception in Tom & Nancy Loeffler's
suite after the BQ 90 dinner in Houston, TX (10/31/91).

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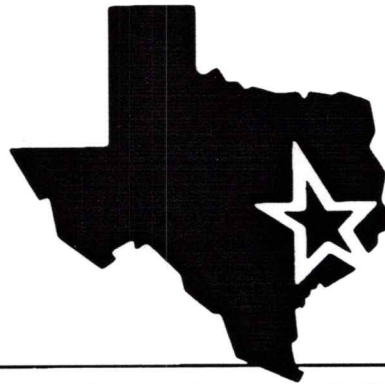
List Name: Loeffler, Prr Recp. 10/31/91.

Cont.: Attended private reception in Tom and Nancy Loeffler's
suite after the Blair dinner in Houston, TX (10/31/91).

**VICE PRESIDENTIAL VISIT
BEAUMONT, TEXAS
MARCH 5, 1992**

BIOGRAPHICAL INFORMATION

PREPARED BY:



Beaumont Chamber of Commerce

450 Bowie Street
Beaumont, TX 77701

Withdrawal/Redaction Sheet

(George Bush Library)

Document No. and Type	Subject/Title of Document	Date	Restriction	Class.
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P-2/P-5 Review Case #:		Disposition Date:	
AR Case #:		MR Case #:	
AR Disposition:		MR Disposition:	
AR Disposition Date:		MR Disposition Date:	

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P-2 Relating to the appointment to Federal office [(a)(2) of the PRA]
 P-5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]



**EXECUTIVE OFFICES
SAN ANTONIO, TX 78288**

FAX NO.: (512) 498-0299

TELEFAX TRANSMISSION INFORMATION SHEET

DATE: March 3, 1992

MESSAGE FOR: JOHN L. HOWARD

LOCATION: Counsel to the Vice President - White House

FAX NO.: 202-456-7044

=====

FROM: JOHN R. COOK

DIVISION: CHIEF COMMUNICATIONS OFFICER

OFFICE PHONE NO.: (512) 498-0949

=====

COMMENTS: Please see attached per your request.

TOTAL NO. OF PAGES TRANSMITTED (including this page): 19

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The Best Paid Trial Lawyers

Lawyer/firm	Location	Estimated 1988 income (\$millions)	Estimated 1987 income (\$millions)	Law school	Age
Gilbert (Buddy) Low/Organ, Bell & Tucker	Beaumont, TX	8.5	3.0	Univ of Texas	56
Frederic Levin/ Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell	Pensacola, FL	7.5	5.0	Univ of Florida	52
Philip Corboy/Corboy & Demetrio	Chicago, IL	7.0	5.7	Loyola Univ	65
P. Scott Baldwin/Baldwin & Baldwin	Marshall, TX	6.0	4.0	Univ of Texas	60
Harry Lipsig/Lipsig & Zelmsen	New York, NY	6.0	6.0	Brooklyn Law	87
Pat Maloney/Law Offices of Pat Maloney & Associates	San Antonio, TX	6.0	6.0	Univ of Texas	65
Jack Olender/Law Offices of Jack Olender & Associates	Washington, DC	6.0	6.0	Univ of Pittsburgh	54
Thomas Demetrio/Corboy & Demetrio	Chicago, IL	5.0	3.8	ITT-Chicago Kent College of Law	42
Don Riddle/Riddle & Williams	Houston, TX	5.0	5.0	Univ of Houston	51
Leonard Ring/Leonard Ring & Associates	Chicago, IL	4.8	4.8	De Paul Univ	66
Eugene Pavaon/Pavaon & Gifford	Chicago, IL	4.5	2.0	Northwestern	56
Sheldon Schlesinger/Sheldon J. Schlenger	Ft Lauderdale, FL	4.5	4.5	Univ of Miami	59
Guy Allison/Allison & Huerta	Corpus Christi, TX	4.0	4.0	Washington Univ	57
A. Robert Zell/Zell & Zell & Materna	Detroit, MI	4.0	2.1	Univ of Detroit	55
Bob Gibbins/Gibbins & Winkler	Austin, TX	3.7	3.7	Univ of Texas	55
Robert Montgomery Jr/Montgomery & Larmoyeux	W Palm Beach, FL	3.7	3.0	Univ of Florida	59
Ned Good/Law Offices of Ned Good	Pasadena, CA	3.5	3.5	Univ of S Calif	61
Tom Anderson/Thomas T. Anderson & Associates	Indio, CA	3.2	2.5	Univ of San Francisco	61
Robert Conason/Gair, Gair & Conason	New York, NY	3.2	2.8	New York Univ	57
Robert Clifford/Robert A. Clifford & Associates	Chicago, IL	3.0	2.3	De Paul Univ	38
Tom Moore/Kramer, Dillot, Tessel, Duffy & Moore	New York, NY	3.0	3.0	Fordham	47
Nat Ozmon/Anen, Ozmon, Lawin & Associates, Ltd.	Chicago, IL	3.0	2.8	Northwestern Univ	64
William Shernoff/Shernoff, Scott & Bidart	Claremont, CA	3.0	3.0	Univ of Wisconsin	51
Don Bowen/Helm, Fletcher, Hogan, Bowen & Saunders	Houston, TX	2.8	2.5	Univ of Texas	45

Low is the only plaintiff attorney in an old-line defense firm. Served as local counsel for Vinson & Elkins in ETSI antitrust case against 5 railroads, which resulted in a verdict of \$1.3 billion. A 1988 settlement with 4 of the railroads yielded \$285 million. His take: \$12.5 million. He splits his contingency fees with his firm. Represented T. Boone Pickens in 1979 Cines Service hostile takeover.

Levin earned \$500,000 a year as Gulf Power Co.'s general litigation counsel. 1983-89. Won a \$5 million verdict in one day this May for the death of a young man. His TV show, "Law Line," has made him a local celebrity. Counsel for boxer Roy Jones Jr. Member of Inner Circle of Advocates.

Corboy is one of the best-known big-money negligence lawyers in the country. He boasts having lost only one case in 17 years (it was overturned on appeal). Turns down 19 out of 20 requests for representation in medical malpractice. Member of Inner Circle of Advocates.

Baldwin started asbestos litigation in U.S. with 1978 case against Pittsburgh Corning, which settled for \$20 million. One of lead counsel in 1987 asbestos case against a dozen companies, which settled for \$125 million. Firm's staff of 15 includes two pilots for his private plane. Member of Inner Circle of Advocates.

Lipsitz is considered the "king of torts" in New York. Started new firm earlier this year after bitter rift with his two former partners, who claim the firm will now enjoy a more "equitable distribution" of the profits. Currently suing Mike Tyson on behalf of Mitch Greene for \$25 million for assault and battery. Greene is also suing Tyson for "failure to fight." Reflects on his long career: "I've wrecked enough lives to feel wrecked myself."

Maloney processes over 1,000 cases a year. Partners are his wife and kids. Active in organizing Texas Supreme Court election campaigns on behalf of the plaintiff bar. Was embroiled in recent scandal involving Texas Supreme Court justice C.L. Ray, in which he donated money to the judge's campaign and received preferential treatment in return. Member of Inner Circle of Advocates.

Olander is the "king" of medical malpractice in D.C. Mayor Marion Barry declared Feb. 18, 1987 to be "Jack Olander Day" in recognition of his "philanthropic support" for D.C. city counsel officials. He gave the "Jack Olander Peacemaker Award" in 1988 to Gorbachev and Reagan. A recent "60 Minutes" special focused on the damage his large verdicts have done to the medical community in D.C. Member of Inner Circle of Advocates.

Demetrio is Philip Corboy's partner and heir apparent. 1989 president of Illinois Trial Lawyers Association. Active in ATLA. He and Corboy have together made at least \$8 million to \$10 million a year in each of the last 8 years.

Riddle has handled over 150 railroad crossing cases, and has lost only one. Won \$8.5 million in 1987 in a medical product liability case, after which plaintiff died. In a separate case he expects to win \$10 million to \$15 million for the family of the deceased client, bringing their total award to about \$20 million. If the second case succeeds his total take will be at least \$6.5 million.

Ring was responsible for setting up the ATLA political action committee in 1973-74. Specializes in precedent-setting cases that expand defendants' liability. Until summer 1989 was chairman of the ATLA committee that proposes and fights legislation in Congress. Chairman of Tort and Insurance Practice Section of the ABA. Member of Inner Circle of Advocates.

Pavalon was 1987-88 ATLA president, is current president of the Roscoe Pound Foundation, ATLA's "think tank." Settled a wrongful death auto case against General Telephone for \$20.3 million in 1988. His take from the case: \$6.7 million.

Schlesinger is one of the biggest medical malpractice specialists in Florida. Won a \$5 million product liability verdict in 1982 against Toyota, arguing that a fuel tank design defect killed three people in a rear-end collision. It was the only judgment ever won against Toyota. Refers to himself as "Jack the Giant Killer" and "the Equalizer." Member of Inner Circle of Advocates.

Allison made more money in a 1988 case against General Motors than GM had paid him in the 25 years he represented it, between 1962 and 1987. Defends medical insurers. Brought case in 1988 against Circle K stores charging them with illegally selling liquor to a drunk "customer." The transactions were staged. Settled case for an undisclosed amount in February. Owns a 4,500-acre cattle ranch near Portland, Tex.

Zell specializes in divorce cases, for which his fees are determined in part by the result obtained. Contingency fees in divorce cases are in violation of ABA rules. Represented Cristina Ford, wife of Henry Ford II, in 1980 divorce. Member of Inner Circle of Advocates.

Gibbins is current vice president of ATLA. Settled 1988 legal malpractice case against Vinson & Elkins for "failure to advise" businessmen in antitrust law. Amount of suit: \$31.2 million in damages. Settlement is under gag order. Should make \$5 million in 1989.

Montgomery specializes in medical malpractice. Got the first \$10 million verdict in Florida in a single injury case. Lawyer for Kathleen DuRoss Ford, widow of Henry Ford II. Split with his former partner Christian Searcy (on list) over financial disagreements. Member of Inner Circle of Advocates.

Good's boutique firm specializes in aviation and minor accidents. Settles 50 cases a year, half of which come in at over \$500,000. Owns and pilots a 7-seat turboprop airplane. Member of Inner Circle of Advocates.

Anderson won a punitive damage verdict of \$147 million in the 1988 Technical Equities fraud case. Some defendants settled previously for \$60 million. The verdict is still pending. His take so far: \$1 million. Represents 160,000 claimants in a class action fraud suit against evangelist Jim Bakker and associated accounting firm. If successful, he hopes to win \$1,000 for each claimant, or \$160 million. Member of Inner Circle of Advocates.

Conason is lead counsel in the oldest plaintiff firm in New York, founded by Harry Gaur in 1915. Specializes in medical malpractice. Won \$6.5 million in March of 1989 for family of a client killed by a narcotics undercover agent. Member of Inner Circle of Advocates.

Clifford started his career with a 10-year apprenticeship at the Chicago firm of Philip Corboy (also on list). Represents three passengers in the DC-10 Sioux City airplane crash of July 1989.

Moner has taken on the mantle of recently deceased firm founder, Charles Kramer, one of founders of medical malpractice in New York. Recently won a \$2.5 million legal malpractice judgment against another medical malpractice lawyer. Member of the Inner Circle of Advocates.

Ozman is a major architect of the Structural Work Act of Illinois, an act that expands liability claim rights for construction workers.

Shermoff specializes in "insurance bad faith law." Won \$4.5 million verdict over a \$48 disputed medical claim. Helped found with Ralph Nader the National Insurance Consumer Organization. Obtained a \$56 million refund for doctors who claimed they were overcharged on malpractice premiums. Author of "Payment Refused," a handbook on insurance "bad faith."

Designated counsel for United Transportation Union, Bowen handles over 400 Federal Employers' Liability Act cases for railroad employees, about 300 of which are in hearing loss litigation. FELA cases produce 45% to 50% of firm's income. Partners on list: George Pletcher and Michael Saunders.

The Best Paid Trial Lawyers

Lawyer/firm	Location	Estimated 1988 income (\$millions)	Estimated 1987 income (\$millions)	Law school	Age
Edward Swartz/Swartz & Swartz	Boston, MA	2.8	2.8	Boston Univ	55
Paul Duet/Dut, Smith & Caballero	Baton Rouge, LA	2.7	2.5	Louisiana State Univ	46
Wayne Fisher/Fisher, Gallagher, Perrin & Lewis	Houston, TX	2.7	2.5	Baylor	52
Melvin Belli/Belli, Belli, Brown, Monzone, Fabbro & Zacharia	San Francisco, CA	2.5	2.5	Berkeley	82
Frank Branson/Law Offices of Frank L. Branson	Dallas, TX	2.5	2.5	SMU	44
Bill Colson/Colson, Hicks, Eidson, Colson & Matthews	Miami, FL	2.5	2.5	Univ of Miami	64
Leonard Deen/Deen & Grimm	Providence, RI	2.5	2.5	Harvard	60
Mike Gallagher/Fisher, Gallagher, Perrin & Lewis	Houston, TX	2.5	2.3	Univ of Texas	50
John Hayes/Hayes & Power	Chicago, IL	2.5	2.5	De Paul Univ	58
Joseph Power Jr/Hayes & Power	Chicago, IL	2.5	2.5	Loyola Univ	36
Michael Saunders/Helm, Fletcher, Hogan, Bowen & Saunders	Houston, TX	2.5	2.3	Harvard	44
Christian Searcy/Searcy Denney Scarola Barnhart & Shipley	W Palm Beach, FL	2.5	2.5	Stetson Univ	41
J.B. Spencer/Spencer Payne Maxington & Needle	Miami, FL	2.5	2.0	Univ of Miami	66
W. James Krutner/W. James Krutner, Attorney at Law	Houston, TX	2.4	2.0	Univ of Texas	69
James Thomas Demas/Demas & Burke	Chicago, IL	2.3	2.3	De Paul Univ	54
James Duffy/Kramer, Dillof, Tesel, Duffy & Moore	New York, NY	2.3	2.3	Brooklyn Law	53
Jim Forbes/Forbes, Turner & Berry	Houston, TX	2.3	2.3	Univ of Houston	50
Bruce Wallrup/Wallrup, Shelby, Beaman, Melodie, Kelly, Echeverria & Link	San Francisco, CA	2.3	2.3	Berkeley	75
Albert Huerta/Allison, Huerta, Hastings & Allison	Corpus Christi, TX	2.2	2.2	St. Mary's	45
Windle Turley/Law Offices of Windle Turley	Dallas, TX	2.2	2.2	SMU	50
Robert Begam/Lengeman, Begam, Lewis & Marks	Phoenix, AZ	2.0	2.0	Yale	61
Jim Bottardo/Bottardo Law Firm	San Jose, CA	2.0	2.0	Stanford Univ	71
James Beerwick/Bearwick & Tebin	San Francisco, CA	2.0	2.0	UC Hastings	4
William Edwards/Edwards & Perry	Corpus Christi, TX	2.0	2.0	Univ of Virginia	5
Ted Feldman/Law Offices of Theodore H. Friedman	New York, NY	2.0	2.5	Harvard	5
David Perry/Edwards & Perry	Corpus Christi, TX	2.0	2.0	Univ of Texas	4
Ivan Schneider/Schneider, Kleinick & Weitz	New York, NY	2.0	2.0	Brooklyn Law	
Harvey Weitz/Schneider, Kleinick & Weitz	New York, NY	2.0	2.0	Brooklyn Law	
George Fletcher/Helm, Fletcher, Hogan, Bowen & Saunders	Houston, TX	1.8	2.0	Noctre Dame	



Swartz has crusaded against "killer toys" since the mid-1960s. Author of "Toys That Don't Care," "Toys That Kill," "Slaughter By Product." Takes on a few business litigation cases, for which he charges a contingency fee/bounty fee hybrid. Member of Inner Circle of Advocates.

Due specializes in maritime disasters. Won a \$4.5 million settlement in a "wrongful death" case against Dune Electric Membership Corp.

Fisher traditionally specializes in product design and manufacturing liability cases as well as medical malpractice. He has recently gotten into the lucrative areas of antitrust and asbestos litigation. Former president of the State Bar of Texas. Member of Inner Circle of Advocates.

Belli is the original "king of torts." One of the first lawyers in Valdez after the oil spill, he gathered 400 clients there. He and partner Richard Brown were fined \$5,000 in 1988 for filing on behalf of a plaintiff in the Dupont Plaza Hotel fire case who had died several years before the fire.

Brannon was one of the pioneers of the Video Settlement Brochure, a videotape designed to eliminate negotiation with the defense in settlements. In 1985 won a \$15 million settlement for a brain-damaged lawyer. Member of the Texas Supreme Court rules advisory committee.

Colman was the first to win a verdict against Ford in a Pinto gas tank case in 1975. Won the first million-dollar medical malpractice verdict in the U.S. in 1967. The firm has recently gone into asbestos litigation. Member of Inner Circle of Advocates.

Daed has won or settled over 25 sports helmet cases, including one for \$4.3 million in 1983. In 1986 he won a \$20 million "wrongful death" verdict against Goodyear for the family of soccer driver Mark Donohue, who was killed in an accident while going 175mph. Has handled many "women-related" cases: DES, IUD and the PHL. Currently suing the U.S. Golf Association and Scotland's Royal & Ancient Golf Club for over \$100 million in an antitrust and "slander of products" case on behalf of Ping golf clubs maker Karsten Manufacturing. Member of Inner Circle of Advocates.

Callagher is partner of Wayne Fisher. Very active in politics, serves as special counsel to the Texas Senate on product liability. One of the few Republicans in the plaintiff bar. Specializes in chemical plant and oil refinery explosion cases.

Hayes won a \$27 million verdict against Syntex in 1985 for a brain damage case. Member of Inner Circle of Advocates.

Power won \$6.5 million verdict in 1986 case for brain damage to child struck by a car. Claims he has never lost a case. Largest settlement: \$8 million in medical malpractice case in 1984. His take: \$2 million.

Sounders specializes in medical malpractice. In 1988 won a \$16.2 million verdict against two doctors for brain damaged child. Two other doctors, the hospital and the anesthetic machine manufacturer settled for undisclosed amounts. Partners on list: George Fletcher and Don Bowen.

Senary specializes in multimillion-dollar baby brain damage cases. Largest verdict: \$10.5 million in 1984.

Spence pioneered million-dollar medical malpractice in Florida. Settled 12 "wrongful death" cases against Arrow Air for a total of \$15 million in 1988. His take: \$6 million. Took 6 months off in 1988 and spent over \$300,000 to fight constitutional amendment that would have put caps on damages. Member of Inner Circle of Advocates.

Kramer worked with Joe Jamail in Texaco-Pennzoil litigation as legal and appellate adviser. One of the most prominent high-stakes appellate lawyers, he represents both plaintiffs and defendants in multimillion-dollar personal injury and commercial litigation. Charges on average \$450 to \$500 an hour for defense work, and usually gets 5% to 8% of the final award for plaintiff work.

Dennis specializes in medical malpractice and product liability cases. Won a \$2.7 million award against Navistar International Transportation Corp. (formerly International Harvester) for "defectively designed" farm equipment. Member of Inner Circle of Advocates.

Duffy is partner of Tom Moore (on list) and is the other "big winner" in the firm. Specializes in medical malpractice, especially brain damaged baby cases. Firm closed 69 cases representing \$80 million in 1988 and has as much as \$7 million invested in cases at any one time.

Perdue, the king of medical malpractice in Houston, won a \$16.5 million verdict in a brain damage case in 1989; brings in several settlements per year in the \$1 million to \$3 million range.

Former president and founding member of Inner Circle of Advocates. Walkup is one of the grandfathers of personal injury litigation in California. Member of Inner Circle of Advocates.

Partner to Guy Allison. Huerta specializes in workers' compensation.

Tarley is founder and sole owner of one of the largest personal injury firms in the country, with 25 lawyers and a staff of 125. Usually works on cases worth more than \$2 million. High overhead costs keep his personal take down. Lead counsel for plaintiff steering committee of the Delta 191 crash suit, worth more than \$150 million. Major player in the attempt to make airbags in cars mandatory.

Begun started with Cravath, Swaine & Moore. Specializes in product liability. His 1987 novel "Fireball" was inspired by the 1973 Kingman, Ariz. railroad tank car explosion. As lead counsel in that case, he ultimately settled it for over \$20 million in 1979.

Boecardo won one of the first multimillion-dollar awards for quadriplegia: \$3.6 million in 1970. Successful in real estate, owns ranches and airplanes. Member of Inner Circle of Advocates.

Boerwick started as a clerk for Bruce Walkup (also on list) in 1967. In 1988 won "the highest federal judgment ever" for a baby brain damage case at a U.S. Army hospital: \$8.9 million. Also boasts "the biggest brain damage settlement ever": \$8.7 million in 1986. His take: \$2 million.

Edwards was special counsel to the Texas Senate in 1987. Won a \$64.5 million verdict in 1985 in paraplegia case, settled for \$5 million.

Friedman is the husband of New York State Supreme Court Justice Eve Preminger. Was tried for, and later, in 1988, acquitted of bribing witnesses to lie in a wrongful death suit against New York City. Inner Circle of Advocates member.

Former president of Texas Trial Lawyers Association. Perry specializes in auto design product liability cases. In 1983 won \$107 million verdict against Ford for death of one person (\$100 million was for punitive damages, which were later reduced to \$12.5 million and ultimately settled).

One of the most successful personal injury litigators in New York. Partner of Harvey Weitz. In 1988 Schneider won a \$40 million verdict for a construction worker who was rendered paraplegic from a fall. Has 6 verdicts in excess of \$10 million.

Partner of Ivan Schneider. Weitz won a \$33.3 million verdict from the City of New York for a child who was rendered quadriplegic on a city playground.

Fletcher is senior partner at the first plaintiff law firm in Houston, started in 1944. Between January 1987 and present the firm closed roughly 700 cases, representing recoveries of approximately \$120 million. Partners on list: Don Bowen and Mike Saunders.

'Lawsuit abuse' campaign pits business vs. lawyers in Valley

By Joel Williams
Associated Press

WESLACO — Personal injury lawyers aren't too fond of the Rio Grande Valley Chamber of Commerce these days.

The business group's offshoot "Citizens Against Lawsuit Abuse" (CALA) has undertaken a \$20,000-a-month advertising campaign with billboards proclaiming "Lawsuit Abuse Costs Us Jobs," and a television spot suggesting a key employer nearly had to shut down because of a lawsuit.

In the courtrooms of Brownsville and Edinburg, plaintiffs' lawyers in civil cases ask prospective jurors what they know and think about the billboards and television spots.

"That means that our campaign is working, that our public education campaign is working," said Chamber President Bill Summers.

Tommy Jacks, president of the Texas Trial Lawyers Association, has a different conclusion: "Jury tampering."

"They've got those billboards up there so the jurors can't drive to the courthouse without passing one," he said.

The advertising, and a related legislative lobbying effort, claim that multimillion-dollar judgments harm the business climate and scare away industry and its jobs. Consumers end up paying more for just about everything, Summers said, because insurance companies usually pay lawsuit damages and then charge businesses higher rates.

During the current legislative session, Summers has been lobbying in Austin on behalf of bills that would limit lawsuit damages in various ways.

Some attorneys say the CALA campaign is turning into a business-vs.-lawyers battle and an attack on the public's right to seek damages under the civil justice system.

"Every objective study that has been conducted in recent years has shown that the myth of lawsuit

'We believe it has begun to hurt the economy and something needs to be done about it.'

— Larry Milner,
Texas Chamber of Commerce

abuse is just that, a myth," Jacks said.

Edinburg attorney Ramon Garcia said CALA is trying to reverse a centuries-old tradition of punitive damages that dates back to English common law. Garcia says one of his largest victories was a 1987 case in which he helped a businessman win a \$59 million award from Texas Commerce Bank-McAllen in a dispute over releasing loan collateral. The case later was settled privately for a smaller amount.

"They (CALA) are trying to use scare tactics to directly or indirectly do away with our civil justice system," Garcia said.

The effort could spread to the rest of the state, via the Austin-based Texas Chamber of Commerce. Texas Chamber President Larry Milner said his organization will meet Wednesday and Thursday and will consider launching a similar statewide campaign.

"There is more litigation today, more lawyers that are suing folks today, than is necessary for a progressive, dynamic economy," Milner said. "We believe it has begun to hurt the economy and something needs to be done about it."

CALA's television commercial portrays "lawsuit abuse" as a plague on the land, responsible for lost jobs, foreclosed homes and failed businesses with padlocks sealing their doors.

One image in the gloomy TV ad refers to the "near closure" of the Rio Grande Valley Sugar Growers mill in Santa Rosa, allegedly because of a lawsuit.

Two former employees won awards last year totaling about

\$2.6 million after they sued, alleging the mill fired them because they had filed workers' compensation claims.

Jack Nelson, president and general manager of Rio Grande Valley Sugar Growers Inc., said the company came close to bankruptcy because of the case.

As an alternative to fighting it out in an appeals court, the mill and the plaintiffs later negotiated a smaller settlement.

Summers said CALA believes there are many cases in which people should receive compensation for the actual amount that someone's negligence or malice has harmed them.

One of CALA's legislative allies is Sen. Eddie Lucio, D-Brownsville, who has filed two bills that would restrict civil damages in various ways. One of the bills would award half of punitive damages to the state, rather than the plaintiff.

Last November, Lucio used substantial support from Valley business leaders to defeat incumbent Democratic Sen. Hector Uribe. Lucio, a former school teacher, portrayed attorney Uribe as a politician controlled by contributions from trial lawyers.

Lucio said the Valley, with its high poverty and unemployment, is seen as a profitable place to file a lawsuit against a business. If given a choice, plaintiffs' attorneys will sue through the Valley's courts, he said. Attorneys often receive about one-third of the amount that juries award their clients.

"For some reason they believe that our people in the Valley are an easy ground to win big damages," Lucio said.

CALA Chairman Gonzalo Sandoval and Summers said they had no statistics to show that damages are any different from other areas of the state.

"It seems like the atmosphere down here is worse than anywhere else," said Sandoval, an executive with Central Power and Light and chairman-elect of the Valley Chamber. "There's a perception throughout the state that this is a good place to file a lawsuit."

State Secrets

Edited by Paul Burke

Ill Served

THE LONG AND BITTER war between business interests and plaintiffs' lawyers has taken a new turn in South Texas, a region that has a reputation as a plaintiff's paradise. Last November the Weslaco-based Rio Grande Valley Chamber of Commerce started a campaign to convince potential jurors that big jury verdicts were causing the Valley to lose jobs. The group formed an organization called Citizens Against Lawsuit Abuse (CALA), sent out an appeal for funds to 15,000 area businesses, and received enough money to fund a \$20,000-a-month advertising campaign. In December billboards began to carry the message LAWSUIT ABUSE—GUESS WHO PICKS UP THE TAB—YOU DO. Those were followed by radio and TV spots warning of loss of jobs, rising medical costs, and other dire consequences. A newsletter carried a regular column called "Horror Stories" (a typical example: A woman sued a Harlingen restaurant because she hadn't been warned that the carryout soup she had bought might spill and burn her while she was driving).

Has CALA's strategy worked? Chamber officials say one judge told them privately that plaintiffs have lost nine consecutive jury trials in his court. An Edinburg plaintiffs' attorney tried to subpoena the records of contributors to CALA, but a judge quashed the subpoena in late May. And in another late-spring development, the Texas

Chamber of Commerce followed the Valley's lead by starting Texans Against Lawsuit Abuse and sending out a plea for funds. In the first two weeks, the mailer brought in \$33,000.

Henry II?

HERE'S A NAME TO KEEP in mind: Roger Perez, newly elected to the San Antonio City Council. Perez is already being touted—or, in some cases, taunted—as the next Henry Cisneros. It's not just that he's young (31), well educated (University of Texas undergraduate and law schools), and from the same downtown and near West Side district that Cisneros once represented. The real eye-opener is that Cisneros' wife, Mary Alice, is Perez's sister. Notwithstanding well-publicized marital difficulties in past years, Henry and Mary Alice were very much together in Perez's race. A skilled political operative in her own right, Mary Alice campaigned in senior citizens' centers, as she did last year for Ann Richards, while Henry, who now runs his own financial consulting business, walked door to door in his old district.

Perez's main opponent for the seat vacated by failed mayoral candidate María Berrizabal was Mike Garcia, a veteran community activist. Garcia won the endorsement of both San Antonio dailies—he had more experience and civic credits—but Perez had an unbeatable coalition of neighborhood leaders and businessmen who longed for the glory days of the Cisneros era. On



Texas business has a plan to tip the scales against big jury awards.

election day Perez led a field of six candidates with just over 49 percent of the vote, and he went on to beat Garcia in the runoff. Perez even sounds like Cisneros; he has picked up the ex-mayor's distinctive habit of emphasizing odd syllables in the middle of a sentence. But so far there is one big difference. Perez is very cautious about issues, preferring to talk about crime and neighborhoods instead of visions of greatness for San Antonio.

Job Benefits

HOUSE SPEAKER GIB Lewis spent the legislative session complaining that ethics is just a media-driven issue. If that's true, the media should have their driver's licenses revoked. News reports and editorials focused on derailing the gravy train of lobbyist-paid trips and meals for legis-

lators but overlooked one of the biggest sources of lobby influence: helping lawmakers earn a living when the Legislature is not in session. The lobby exercises influence in three ways—by supplying information, by establishing relationships, and by contributing to livelihood. The third is by far the most effective—and the least understood. But the demands for ethics reform (and ultimately, the ethics bill itself) primarily addressed the most unsavory aspects of relationships and left livelihood untouched. A provision to require lawmakers to disclose sources of income in excess of \$15,000 was dropped during final negotiations. Legislators who are lawyers are widely believed to have clients with strong legislative interests, but lawyer-legislators killed the disclosure provision on the grounds that it violated the attorney-client privilege.

Campaign targets high lawsuit awards

Valley ads seem to be influencing juries

By Bruce Hight
American-Statesman Capitol Staff

A New Jersey pipe company was worried when the City of McAllen sued for \$375 million because of a leaking sewer. After all, juries in South Texas have a reputation for giving large awards.

"Our big fear was that the jury would say, '\$375 million is ridiculous — so let's just give them \$10 million,'" said Marc Stanley, a Dallas lawyer representing J-M Manufacturing Co. "And \$10 million would have been ridiculous."

But after hearing the case in June, a jury said J-M Manufacturing was liable for only \$130,000 in damages. The verdict was a victory not only for the company but also, Stanley believes, for a campaign by the Rio Grande Valley Chamber of Commerce.

Under the banner of Citizens Against Lawsuit Abuse, the chamber is spending about \$12,000 a month on billboards and television and radio commercials to urge Valley residents to practice restraint in seeking and awarding legal damages.

While there are no statistics on the effects of the campaign, it apparently has succeeded enough to make juries think twice.

"In (jury selection) it was very clear that the jurors were aware of the campaign initiated by the chamber of commerce — they had seen the television commercials and heard the ads on the radio," Stanley said.

"And in response to questions by counsel and on the jury questionnaire, the jurors indicated a reluctance to impose punitive damages," he said.

State District Judge Menton Murray of Brownsville said he has "seen more verdicts go in the favor of the defendants over the time period that these guys have been pretty active."

Ray Thomas, a defense lawyer who has worked with the campaign, said he has "seen both in Cameron and Hidalgo counties where many of the jury verdicts that are coming down are either pouring plaintiffs out (rejecting their claims), or are coming back with judgments that are surprising both sides of the docket — surprisingly low."

The campaign has infuriated the Texas Trial Lawyers Association, whose members represent injured persons who sue insurance companies, big corporations and doctors and hospitals for damages.

The chamber has been "placing billboards so that if you're called for jury service at one of the courthouses in the Valley, you'll have to drive by one of their billboards in order to arrive at the courthouse," said Howard Nations, a Houston attorney and president of the trial lawyers.

Nine billboards in the Valley display messages such as "Lawsuit Abuse Could Cost You A Doctor" and "Lawsuit Abuse Costs Us Jobs."

The campaign, Nations said, is nothing less than "jury tampering."

Less vehement was Dana Lester, president of the Rio Grande Valley Trial Lawyers Association, who said the campaign has not hurt cases in which there was little doubt someone had been injured. But, she said, plaintiffs in "marginal cases" may be having a harder time winning a verdict.

At the same time, she said, potential jurors who might have leaned toward the defendant are more likely to be identified during jury selection and dismissed.

"We have stricken several jurors for cause because they just say, 'Yes, I agree with that (anti-lawsuit campaign) and I don't know that I can award any punitive damages,'" Lester said.

Bill Summers, president of the chamber, denied that the billboards were strategically placed to influence jurors. He also denied trial lawyers' suggestions that the campaign was financed by an insurance industry that's hurting from investment losses and trying to avoid paying legitimate claims.

During the case Stanley tried, the opposing attorney, Ramon Garcia, tried to force the chamber to reveal the names of its contributors. But state District Judge Raul Longoria blocked him.

Summers said the campaign has about 650 contributors and that he has refused to disclose their names for fear they might be harassed.

The debate over whether there are too many lawsuits over too many trivial claims has attracted attention at the highest levels.

Last month, Vice President Dan Quayle infuriated many lawyers — especially those who represent injured plaintiffs — by telling the American Bar Association that it is not healthy for the economy to have "18 million new lawsuits coursing through the system annually."

Nations said Quayle's figure was "an excellent example of the gross misinformation" that critics of the legal system give to the public.

Those 18 million suits in 1989 included divorce actions, commercial suits, small claims and debt collection cases, Nations said. The bottom line, he said, is that just 447,374 cases involved tort actions

— an injured party suing a defendant for damages.

But Quayle's stance was applauded by many business people, including those in the Rio Grande Valley who since November have been working to counter the Valley's reputation as a plaintiff's paradise.

"We were talking to potential companies about coming to the Valley and they said they wouldn't come because of the high cost of insurance and the threat of litigation," Summers said. "In 1990, 13 insurance companies either left the Valley or reduced their (coverage)."

The same complaints from business interests have been made elsewhere in the state, and the Texas Chamber of Commerce in May announced it would expand the Valley campaign statewide.

"What we're really concerned about is the mindset of the public," said Larry Milner, president of the state chamber. "It has little to do with the legal process per se."

(CONTINUED)

"People get into jury rooms and decide to stick it to insurance companies or big corporations or government or somebody else, when instead they are in reality hurting themselves with higher insurance premiums they have to pay themselves, the higher cost of products and the loss of jobs in the community," Milner said.

Milner said the statewide campaign is still in the money-raising stage. One aspect of the Valley campaign that could be seen in a statewide effort is a message to people who usually try to get out of jury service.

Valley juries have not been representative of the community, Thomas said, "because it was very easy for business people, doctors and teachers to duck jury service."

The campaign, which Thomas has worked for, has talked to various community groups, urging people not to duck jury duty.

"Sure enough, a lot more of the juries are now much more representative of the community, and that may in and of itself be one of the reasons why some of the verdicts have come out the way they've come out recently," Thomas said.

The Valley campaign will last at least another year, Summers said, and it could get rougher.

Chamber officials are considering the legal ramifications of starting something similar to the Crime Stoppers program in which anonymous sources could report instances of fraudulent insurance claims.

And, he said, the chamber is researching local court records of the past three years to get a statistical fix on just what is happening in each Valley court on lawsuits and judgments. Businesses could use that information in election campaigns against judges they deem too pro-plaintiff.

NOV 23 1991

Plaint: 'I received a letter from Henry B. Gonzalez Jr.'



**Roddy
Stinson**

The Complaint Desk is open:

PLAINT: "I was involved in an accident in which my truck was heavily damaged. Fortunately, neither I nor the man I hit was hurt."

"Within a few days, I received a letter at my home from the 'Law Offices of Henry B. Gonzalez Jr.'"

"Mr. Gonzalez informed me: 'Because of your recent accident, you can make a claim for damages. You have two choices. You can choose to handle your claim alone . . . Your best choice is to consult with an experienced Texas trial lawyer who can protect your rights.'"

"After warning me about the 'seasoned insurance adjusters' and assuring me I was 'no match' against 'the huge insurance cor-

porations,' he urged me to contact his law firm immediately 'for a free consultation.'"

"He didn't even ask if anyone was hurt. It seemed he was mainly interested in suing the insurance company."

"Insurance rates are escalating, and insurance companies are leaving Texas. Could this be one reason why?"

— **Richard S. Thompson,**
San Antonio

— I have received several complaints about the letters that Gonzalez sends to citizens who have been involved in accidents.

It would be intriguing to know how many letters he sends out, what kind of response he receives, what percentage of the settlements he takes as payment, etc.

Unfortunately, Henry B. Jr. has refused to return calls from this column. And a woman who indicated she worked for Gonzalez said the trial lawyer would have "no comment."

Take that.

DEC 01 1991

Blame trial lawyers for insurance costs

My goodness! Ann Richards and Richard Reeves, side by side Nov. 12 on the Viewpoint Page, decrying the high cost of medical insurance. And both of them will come to the same conclusion: a national health insurance plan. Isn't that a refreshing solution?

Neither of these two will ever suggest an investigation to find the cause of the prohibitive cost of health insurance. That's because the cause of this crisis is the same cause for the escalating cost of doing business in every aspect of our economy: trial lawyers. The American Bar Association is the third political party in this country, and it holds a vast majority of seats in every legislative body.

Over the past 30 or more years, there have been only two kinds of legislation put on the books. One kind raised taxes, and the other kind creates litigation. You'd be hard-pressed to identify anything else.

Ask any small businessman or struggling young professional about the advantages of "being your own boss." More and more of these people are opting out rather than be faced with all the liabilities of being independent. Nobody's exempt.

In Canada, medical liability insurance rates are a pittance compared to the United States because the Canadians have effectively rid themselves of frivolous lawsuits by disallowing contingency retainers, show-cause hearings and forcing the loser in a suit to bear the legal expense of the winner.

Richards and Reeves have in the past lauded the Canadian national health insurance program, but they never refer to the confiscatory taxes in that country required to fund it and, more importantly,

they have not mentioned the one aspect of the Canadian approach which would have a positive effect on health care costs which I have just outlined.

Richards certainly will never make such a suggestion because her largest contributors are trial lawyers. Syndicated columnists like Reeves won't make such a suggestion because he lives in a little ivory tower, inundated with a lot of wonderfully idealistic concepts which don't work in real life.

In San Antonio, law firms are among the 10 largest dollar-generating businesses, yet they produce nothing! They don't create jobs. They don't create cash flow for the community. The only beneficiaries of their profession are themselves.

How many times have you heard how a "client" won a case and by the time the attorney took his or her fee and costs were deducted, the "winner" ended up with virtually nothing?

Once upon a time, the practice of law was an honorable profession, and there are still some practitioners who strive to retain that honor, but they are a diminishing minority.

-JACK MILTON
San Antonio

CARLOS GUERRA

Anti-lawyer group on phone-book tear



When San Antonio attorney Ronald A. Ramos ran an ad on the back cover of the Rio Grande Valley telephone directory, he never expected to find himself in the cross hairs of a national organization seeking to limit what it calls "lawsuit abuse."

The group, American Tort Reform Association, says litigation is jacking up the price of insurance, and greedy personal injury lawyers are the main culprits, the real reason America is losing its competitive edge.

It isn't quite that simple, of course, but it is much easier to villainize plaintiffs' lawyers than to tackle more complex problems.

The tort reform group found fertile ground in the Rio Grande Valley.

The Valley's Third World conditions provide a steady stream of injured parties. And, Valley juries are notorious for their generous awards to injured parties and their anti-insurance company

Please turn to GUERRA/A14

GUERRA/from A1
sentiments.

A local attorney who wished not to be named told me, "The Valley has a real 'bandit' undercurrent in the culture. Juries see this poor guy trying to get some compensation for some horror story he's gone through and they'll completely ignore the niceties of the judicial system and the judge's instructions.

"They'll see the little guy against the big rich insurance company and give the little guy as much as possible."

Ramos knew he was a target when he started receiving copies of his phone directory ad in the mail.

"Shortly after the ad came out," he says, "the... chambers of commerce started telling people to rip the covers off and mail them to me."

The phone book episode has brought the issue to light, though there have been billboards along Valley freeways condemning lawsuit abuse for some time.

Of about 600,000 phone books distributed, Ramos says he's only had a dozen covers returned, including several that had mustaches drawn on his photo.

Lawyers I contacted suggested the insurance industry was responsible for the campaign, though the tort reform association's literature carefully avoids mentioning insurance at all.

Lawyers make easy targets. Many people never see a lawyer unless they're in a legal jam, so people associate attorneys with unpleasantness.

A key issue is "contingent fee" contracts that allow people to hire lawyers contingent on the attorneys collecting their fees from the amounts awarded - if they win, and if anything is awarded.

These contracts, says Vincent Johnson, professor of law at St. Mary's University, are significant because they afford legal services to people who otherwise would not be able to afford attorneys, and since they were allowed around the turn of the century they have spurred complaints about excessive awards.

Advertising by attorneys, legalized only in recent years, also has contributed by educating consumers about their rights to collect from negligent parties when they are injured or suffer damages. More people know they can sue and are doing just that.

How attorneys on each side are

paid is important. Plaintiffs' attorneys are paid from what they collect.

However, these attorneys also bear the cost of prosecuting their clients' claims, and these can be exorbitant. They pay for expert witnesses and other costs out of their pockets, hoping to collect by winning.

Frequently, when their clients' injuries prevent them from working, they also provide them with monetary support.

So, the longer a claim goes unresolved, the more it costs the plaintiff's attorney. It is in their interest to settle a claim quickly, and the longer settlement takes, the greater the pressure to prevail, because if they don't win, they don't collect.

Delays also contribute.

Ramos notes that from the time a claim is filed, it will not get to court for a year and a half because of backlogged dockets. But once set, either side may seek to postpone.

Defending the insurance companies, on the other hand, are insurance defense firms that charge the carriers healthy hourly rates.

The more delaying legal maneuvers they make, the more they earn, and they will be paid whether they win or lose.

We have a system where insurance attorneys delay partly to increase plaintiffs' attorneys costs in an effort to wear them down into settling.

The increasing costs of litigation, according to the insurance industry, are to blame for our rising insurance bills. But if that were true, it would have shown in workers' compensation insurance.

The Texas Legislature limited workers' compensation insurance last year and virtually eliminated litigation in those cases.

We were told this would lower insurance costs, but as most employers will testify, insurance bills aren't lower, and in some cases they are higher.

What is substantially lower is the amount workers can expect as compensation for permanent disabilities.

Ramos also questions the role of litigation in stiffer insurance bills.

"Sure, some (insurance companies) have lost money, but a lot of their losses have been from bad investments in real estate."

Maybe now they're investing in advertising.

To leave a comment or question for Carlos Guerra, call LightLine at 554-0500 and enter category 2204.

San Antonio Express-News

TEXAS/

Valley residents blast law firm's ad

Covers ripped off telephone books

By Matt Flores
Express-News Staff Writer

Rio Grande Valley residents, upset over an advertisement for a San Antonio law firm on the back of their telephone directories, are ripping the covers from the books in a campaign to have the ad changed.

The full-page, color ad, which appears in the 1991-92 Southwestern Bell White and Yellow Pages telephone directory, was placed by the law firm of Ronald A. Ramos and lists a toll-free number for his San Antonio office.

Chamber protest

Several Valley business people have complained about the ad because the firm specializes in personal-injury lawsuits, which have been blamed as a primary cause of skyrocketing liability insurance premiums for businesses in the area, said an official of the Rio Grande Valley Chamber of Commerce, which is spearheading the protest of the ad.

Ramos did not return phone calls to his office Monday or Tuesday, but a secretary there acknowledged that the ad had sparked several complaints directed at the firm.

"The Valley has been portrayed as a lawsuit mecca," said Scott Alex, director of the economic development for the chamber.

Since the phone books were distributed last month, Alex said, the chamber has received five to six phone calls a day from business people, doctors and others complaining about the ad. The cham-

“ We think (the firm) used incredibly poor judgment . . . when you consider the Valley's reputation for . . . personal-injury lawsuits. ”

— Scott Alex,
chamber official

ber also receives about two or three written complaints a day about the ad, he said.

The phone books are distributed primarily in Cameron, Hidalgo and Willacy counties.

"We think (the company) used incredibly poor judgment, especially when you consider the Valley's reputation for having so many personal-injury lawsuits filed here," Alex said in a telephone interview from his Weslaco office.

Under Texas law, lawyers generally can advertise. However, guidelines are established by the State Bar of Texas, a spokeswoman for the agency said.

The ad said Ramos handles automobile accidents, railroad accidents and medical malpractice. Printed at the bottom of the ad are: "All types of accidents" and "No Fee Unless We Win."

Alex, who is spearheading a letter-writing and phone-calling campaign to Southwestern Bell Yellow Pages Inc., said insurance rates for businesses have risen dramati-

cally over the past three years as a result of malpractice and personal-injury suits.

He said whether a lawsuit has merit or is frivolous is not the issue.

"People don't feel like they get a fair shake in the courts down here because the lawsuits are so random," Alex said.

He said one Valley supermarket chain, Carl's Grocery Co., has had its insurance premiums adjusted from \$250,000 annually to nearly \$1 million in a one-year period.

"Personal-injury attorneys have in recent years gained a very bad reputation in all business circles. Every one of your advertisers are potential victims of these people, and they all should raise a howl of protest," says a form letter to Southwestern Bell Yellow Pages prepared by the chamber.

Several of the letters — accompanied by ripped covers — have reached Southwestern Bell's corporate headquarters in St. Louis, spokesman Don Fisher said.

Contract to run ad

"I understand that (the cover) is a controversial issue in the Valley, but we have a contractual obligation to run the ad," Fisher said in a telephone interview Tuesday.

"We regret that any of our customers are upset over them, but we don't make exceptions (in advertising) if they meet our guidelines," he said.

As an example, Fisher said the company does not run advertisements for businesses that are known illegal operations nor does the company run ads for escort services and massage parlors.

Physicians feeling vulnerable as targets of malpractice suits

By DAVE HARMON
and JOHN WEIMER
The Monitor

WESLACO — Dr. Armando Cuellar sat in his office, staring at a photograph of a young, dark-haired mother cradling her newborn baby.

After 36 years and about 16,000 birth deliveries, the Weslaco family practice physician has left the baby business.

"That was the last baby I delivered, and that was about 3 or 4 months ago," Cuellar said.

He remembers a time when doctors treated entire families — delivering babies, mending broken bones, even writing letters of recommendation for college-bound patients.

"Patients were very grateful when doctors treated them," he said. "When things went wrong, they felt it was an act of God."

Not anymore.

Less than a mile away, Dr. Elizabeth Krishnan bemoans the loss of Cuellar and the eight other Weslaco physicians who quit delivering babies this year, leaving her and two colleagues to share the load at Knapp Medical Center.

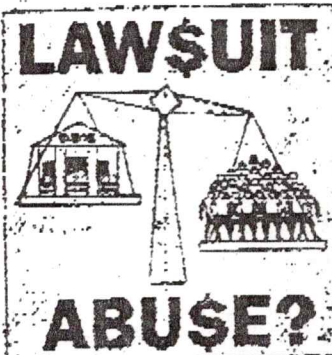
Where she once delivered five to 10 infants a month, Krishnan now handles 30 to 40 — and she can't find replacement obstetrician/gynecologists locally or through contracting companies.

"We have been trying to recruit physicians here," she said. "They can't come here because their (insurance) carrier will not cover ob/gyns to work in this area."

Another local physician, Dr. R.V. Reddy, discovered the Rio Grande Valley's reputation with insurance companies when he told his carrier of his plans to move from Wisconsin to Weslaco.

"They just dropped me like a cold turkey," the pediatrician said. "The man unofficially told me that it's because I moved down to South Texas."

Lawsuits, the doctors say, is the



culprit in these stories.

Lots of lawsuits.

According to statistics from the Texas Board of Medical Examiners, the McAllen area leads the state in the percentage of doctors who have been sued since 1978.

More than half of the area's doctors — 55 percent — have found their name on lawsuits during that period. In the Brownsville-Harlingen area, the number is 47.2 percent.

Cuellar said he practiced for three decades without a lawsuit before getting hit with six in as many years — all related to deliveries.

"It makes the physician wonder if he has lost the ability to take care of patients without being negligent," he said.

Attorneys contend that many doctors want immunity from lawsuits, which would prevent malpractice victims from receiving compensation.

Frank Herrera, perhaps the Valley's most visible personal injury lawyer, said the benefit of the doubt should go to the victims.

"Just because you're in an emergency situation doesn't mean they shouldn't be held liable," Herrera said.

"There has been an overreaction, certainly, from the doctors, and I understand they're frightened," said McAllen personal injury lawyer Steve Dietz, who has both sued and defended physicians.

"It's a devastating occurrence

LAWSUITS AGAINST PHYSICIANS			
Claims Closed and Amounts Paid by Location			
Location	No. of claims	Amounts paid by all defendants	Average amount paid per claim
Brownsville-Harlingen	211	\$6,118,719	\$44,662
Dallas-Ft. Worth-Arlington	4,078	\$141,328,529	\$46,444
Laredo	86	\$1,753,737	\$23,699
Lubbock	391	\$5,285,838	\$19,291
McAllen-Edinburg-Mission	392	\$11,092,079	\$40,926
Sao Antonio	1,571	\$34,159,805	\$28,708
Total Statewide	22,331	\$585,749,046	\$35,643

Percent of Physicians in Texas with Professional Liability Claims 1978-1991	
Brownsville-Harlingen	47.20%
Dallas-Ft. Worth-Arlington	32.93%
Laredo	47.45%
Lubbock	30.96%
McAllen-Edinburg-Mission	55.02%
Sao Antonio	29.95%
Total	37.11%

and I can appreciate how they feel about it, but my God, there's some terrible malpractice out there that needs to be addressed," he said.

Dietz added that taking doctors to court is difficult and expensive, which keeps lawsuit abuse to a minimum.

"It would be an absolute fool that would file a frivolous lawsuit," he said. "Doctors don't know how many times patients come to lawyers, and the lawyer says 'No, I don't think you have a legitimate claim — goodbye.'"

To ask members of the Valley medical community about lawsuits

is to open a floodgate of anger, frustration and despair from a group known for its cool professionalism.

"We all feel trapped," said Dr. Jim Biddle, a McAllen obstetrician. "We do the best we can and we still get burned — it's very frustrating."

Physicians who deliver babies say they are among the most vulnerable legal targets.

More than 65 percent of the state's obstetrician/gynecologists have been sued since 1978, accord-

See TARGETS page 12A

(Continued)

ing to the State Board of Medical Examiners.

"I feel like I'm walking on nails," Krishnan said.

Women who come to a hospital room in labor are considered emergencies, she said, "and you can't turn them away."

Dr. Roger Heredia, Knapp's chief of staff, said many of these women did not seek prenatal care and show up without a family doctor or medical records — and many have conditions such as diabetes or high blood pressure that could damage a fetus.

"Here they are in active labor, and are going to sue the doctor if something goes wrong," Heredia said.

More often than not, doctors say, the hospital will find its name with the physician's on the lawsuit.

For many, the wrongful death suit that resulted in a \$10.1 million judgement against Knapp brought their simmering to a boil.

"How should it be possible for a single individual to destroy the health care of an entire community?" asked Dr. Lawrence Gelman of McAllen.

The hospital later settled for \$2 million, but the question still hangs unanswered.

Dr. Kenneth Aberack said health care in the Valley is complicated because many people don't see a doctor regularly; they wait until the later stages of disease to seek help.

These patients are more difficult to diagnose, and often do not read the instructions on medication or follow doctors' directions, said Aberack, Mission Hospital's emergency room director.

Mistakes, doctors say, no longer are tolerated.

"I don't think it's the doctors doing more things wrong," Cuellar said. "I think it's the people knowing more about lawsuits and what they can get from them."

Aberack said attorneys are providing that knowledge.

"You have poorly educated people and hungry attorneys, and you put them together and get more malpractice suits," Aberack said.

And the awards keep growing, Cuellar said.

"We're getting a rash of attorneys that are thinking in terms of millions of dollars," he said.

While most doctors will admit that the medical profession makes mistakes, they contend that modern attorneys and juries do not take into account the complications and risks that come with scientific gray areas.

So they respond by using every available tool for every patient, a whether-it's-needed-or-not approach commonly known as "defensive medicine."

"You order more tests than you ordinarily would to cover yourself," Aberack said. "There's just

a lot of X-rays done that aren't necessary, but are done just for medical-legal reasons."

For example, the \$10.1 million award against Knapp stemmed from a woman who apparently died of a blood clot in her lungs.

Heredia said the hospital has since increased the number of lung scans it performs from 2 or 3 a week to 30 — with no increase in the number of abnormalities detected.

"Do you know how many tests we do these days?" Krishnan asked. "Ninety percent of them are unnecessary."

But doctors say they are needed to protect them during trials, where many believe they stand little chance of a fair decision.

Doctors say much of the problem can be attributed to patients' perception that they are suing a far-off, faceless insurance company, not their kindly family doctor.

But Dietz said he sees few doctors or professionals serving on juries to alter the outcome of cases.

He added that a Cameron County doctor who recently reported for jury duty was "the first doctor I've seen in 2 years."

Doctors may become much more visible in their battle against lawsuits, Gelman said.

"It's going to take physicians standing up and saying, 'That's it — we're not going to compromise,'" he said. "If you want \$5 million, you're not going to get a nickel. We'll go to jail — drop dead."

Burns said he has heard similar rumblings in the medical community.

"Some have talked about boycotts, some have talked about dropping out of programs altogether, some have talked about moving their practices to other parts of the country," he said.

Cuellar said he will continue his Weslaco practice, but wonders how many of the imperfect babies he has delivered will sue the 20-year statute of limitations to sue him for the circumstances of their birth.

A Dallas attorney recently requested the records for a baby girl he delivered 14 years ago — he hasn't received a follow-up call yet.

"I'm really not bitter about any of these things," he said. "But you wonder when the mail is going to bring a letter saying you're being sued."

SAN ANTONIO LIGHT

DEC 16 1991

Residents fight the way Valley is cloaked in suits



McALLEN (AP)

- The Rio Grande Valley's reputation as a haven for liberal lawsuit rulings has some residents concerned over the

state of litigation.

Among the sharpest critics are doctors who contend that opportunistic lawyers are flocking to the region quickly becoming known for its liberal judges, juries and multimillion-dollar judgments.

Major roads leading into the region are lined with billboards bearing slogans like "Fairness ... Yes! Greed ... No!" and "Lawsuit Abuse. Will it cost you your doctor?"

The signs, critics say, are designed to spur residents to challenge claims from high-profile lawyers who litigate in South Texas.

"On the whole, verdicts in South Texas will be higher than in a conservative area like Dallas," said Steve Dietz, a personal injury lawyer who has practiced in the Valley since 1976.

But lawyers like Frank Herrera, who works in South Texas from his office in San Antonio, say there is nothing special about the region.

"Just because a lawyer comes from here, it doesn't mean there's a (lawsuit abuse) problem in the Valley," he said.

But businesses and health-care providers are fearful the increasing number of high-dollar judgments in Valley courts will gobble up profits, jobs, and even entire

companies.

"I've never seen the level of litigation as we have here," said Bill Burns, who became the administrator at Rio Grande Regional Hospital in 1985 following jobs in Virginia, Nebraska, Idaho, and North Carolina.

Following a judge's \$10.1 million award to the family of a woman who died at Knapp Medical Center in Weslaco, Valley residents rushed to criticize the judge, the plaintiff's lawyer and the insurance company, while blasting the legal system at every turn.

The number of personal injury and workers' compensation claims filed in Cameron and Hidalgo counties has increased 138 percent from 1980 to 1990, according to state statistics.

Hidalgo County residents filed 2,218 injury lawsuits - or one for every 173 people - in fiscal year 1990, district court records show.

In November 1990, a group called Citizens Against Lawsuit Abuse (CALA) was formed to bring attention to negative impact the rising litigation has on the region.

"Our sole purpose is to promote business and jobs," said CALA Director Bill Summers. "And we think we are losing jobs from some lawsuits that shouldn't have been filed."

About \$160,000 has been donated to CALA since it was formed.

Valley businesses say excessive lawsuits jeopardize their future.

Also at risk is H&H Foods, one of the Valley's largest businesses.

CARLOS GUERRA

SAN ANTONIO LIGHT

DEC 21 1991

Attorney's letter ad raises ethical points



After a recent minor auto accident, the last thing S.J. Gregory expected was a letter from an attorney. Then the tantalizing, if not particularly well-written, missive arrived.

"We have good reason to believe that your recent injuries may be worth a large cash award," it opens. "You may also

have coming several other valuable benefits. These would include lost wages, medical expenses, a new car, a money award for pain, punitive damages, lifetime monthly checks and lump sum cash payments."

"It was like I'd won a sweepstakes," Gregory says.

The letter is typed on conservative, expensive stationery. It looks exactly like what it is, a letter from an attorney-at-law. Few would notice the final item in smaller type below the signature. It states, "This is an advertisement."

Gregory, ironically, is an insurance adjuster.

The "ad" is from the offices of local attorney Henry B. Gonzalez Jr. and is being sent to people involved in reported auto accidents. It urges the recipient to "Call me before you talk to anyone else about your accident," and notes that no money is required to hire Gonzalez, whose firm, according to the letter, "has collected millions of dollars for injured people just like you."

"We know how to increase the value of your claims," it states. "We know how to get maximum

cash in minimum time.

"Don't make a mistake that could cost you a fortune," it urges. No appointments are necessary and we are ready to "meet with you at your convenience, seven days a week, 24 hours a day."

And, it says in bold type, "we make house calls."

After a recent column about tort reform groups villainizing plaintiffs' attorneys, I received five calls from recipients of this letter and similar ones.

Attorneys were prohibited from advertising until the U.S. Supreme Court ruled it permissible in 1977. Until then, lawyers marketed their services by joining civic groups, handing out business cards and taking out - or causing to be published, as lawyers might say - dignified announcements in newspapers.

But advertising, the courts ruled, is commercial free speech that would increase open competition, and thus, lead to lower fees and better services. Initially, advertising was cautious, but as it has become more commonplace, ad techniques have become increasingly aggressive. Direct mail was ruled constitutional in 1988.

In 1989, lawyers dropped a hefty \$32 million in advertising, according to Time magazine.

Why? Because advertising works. Time reports that one attorney justifies his \$3 million TV ad budget with \$24 million in fees. Still, there are some rules, so don't expect to see TV ads with competing lawyers screaming "lower fees" and "better services," like some late-night television pitchman.

Vincent Johnson, ethics professor at St. Mary's School of Law, has kept close tabs with advertising practices. After seeing a copy of the Gonzalez letter, he concluded, "I wouldn't want to defend it because there are serious problems with it."

"Anytime you have a lawyer ad in Texas you trigger disclosure obligations under the rules of attorney conduct," Johnson says. "The clearest problem with this letter is that it doesn't provide information that must be disclosed concerning fees, the amount and that the client is liable for some of the costs in addition to fees. It gets into fees but not with the detail required."

"A second problem: The requirement in state law is that the advertisement must state who will be responsible for providing legal services. Unless Gonzalez provides all services, there is a problem."

Johnson also thinks the letter creates unjustified expectations: "because this letter so greatly accentuates the likelihood of recovery."

Yet another bothersome aspect of the letter is the phrase, "we have good reason to believe," the professor notes. "This may suggest a familiarity that the attorney does not have. What you have is communication that is false and misleading."

One caller said he'd received the letter and claimed there were no injuries in his accident. Johnson says, "Constitutionally it is permissible for attorneys to target mail, but you have to send it to the right persons."

The San Antonio Bar Association has reportedly received numerous calls about the Gonzalez letter. Jimmy Allison, director of the San Antonio Bar Association, did not return my calls Thursday and Friday.

Gonzalez said the letter is only one of several different letters his ad agency mails out. He also said the letter has not generated any serious complaints and he said he was unfamiliar with any complaints about it to the Bar.

He said he tries to clear advertising with the Bar before going forward with it. When informed of the points raised by Johnson, Gonzalez said he would have the language in the letter reviewed again next week for ethical and legal considerations.

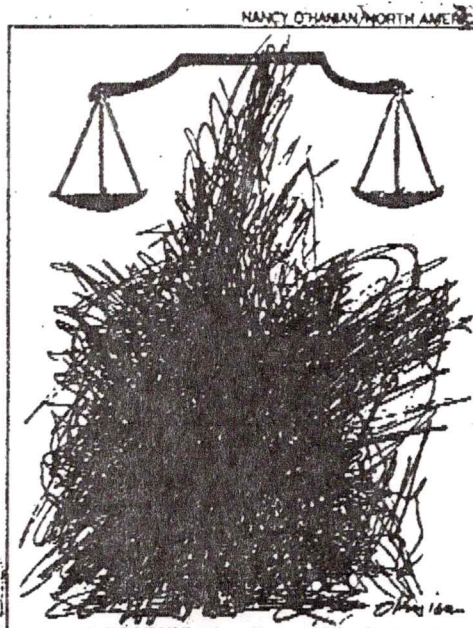
The insurance adjuster says she was shocked at the "unsolicited contact" by the attorney, with whose office she recently settled an accident claim.

"I thought of calling to see if he'd make a visit to try and sign me up in my office," she laughs, and says that after seeing the letter, her co-workers suddenly wanted to be lifelong friends so she "could pick up daily lunch tabs from my lifetime monthly checks."

To leave a comment or a question for Carlos Guerra, call LightLine at 554-0500 and enter 2204.

SAN ANTONIO LIGHT

DEC 22 1991



Liability awards choking struggling businesses

Beware, small businesses, citizens and honorable lawyers.

Business in American courts these days is like playing, "Can you top this?" There is no limit on the size of awards or the frivolity of the cases. The sue, sue, sue attitude costs us billions in lawyer fees and insurance premiums. It's actually a tax on most public and private activities, from Boy Scout camps to delivering babies.

Lawsuits and liability issues are clear and their economic impact in Texas has been devastating. Huge numbers of suits and absurd, large awards to plaintiffs drive the costs of liability insurance and workers' compensation off the scale. Businesses which cannot afford the coverage and thus elect to go without it risk lifetimes of business and professional development. Those that pay pass their cost to the consumer via goods and services.

The trend is that it is smarter to move operations to another state altogether. As many as 32,000 manufacturers in Texas are looking at out-of-state alternatives.

"Competing is just too risky! Why even try to build a better mousetrap? Let somebody else do it - and sue them." That shouldn't be America's philosophy or the way to better ourselves for a way to compromise differences.

JEFF STONER
San Antonio

McAllen Monitor
Jan. 19, 1992

□ MONITOR VIEW

Don't blame the messenger

One of the most satisfying characteristics of a free society is that a free flow of ideas is permitted. The Founding Fathers obviously thought this was crucial — why else would freedom of speech and press be in the first of the 10 amendments which make up the 200-year-old Bill of Rights?

Most everyone gives lip service to the idea of free speech and a free press, but obviously in practice not everyone is all that accepting of the right of people to express ideas which may conflict with their own views.

That seems to be somewhat the case with some of the supporters of Citizens Against Lawsuit Abuse. Southwestern Bell Telephone took a bad rap for accepting a full-page ad from a San Antonio personal injury attorney for the back page of its new directory. In fact, some angry phone subscribers ripped off the back covers and sent them to Bell in protest. Now *The Monitor* also is being criticized for accepting money to run an ad in which one of the attorneys in the Knapp Medical Center liability case offered a rebuttal to the wave of criticism that erupted over the original size of the damage award — \$10.1 million.

Whoa. Both Southwestern Bell and *The Monitor* are private businesses and both reap some of their income (*The Monitor* more than the phone company) from advertising. Would the CALA supporters advocate that Bell and *The Monitor* become censors, refusing to accept ads that might be contrary to their own philosophical beliefs? Carrying that farther, would we eventually make value judgments of products promoted in the ads and accept only those we decided were accurate? Would we decide that McDonald's hamburgers are better than Burger King's, or vice versa, and ban the ads of the one we deemed inferior? Isn't that supposed to be an

individual decision?

The Monitor will continue to accept ads so long as they are not libelous, in bad taste or are in some way a scam. We won't turn them down just because we disagree philosophically with their content, just as letters to the editor expressing views that conflict with our libertarian philosophy are not turned down. What would happen in this society if we reach a point where only the views of the majority are acceptable to be printed in newspapers and aired over television and radio?

Thank heavens attorneys can buy time on TV or radio or billboard space to declare something about winning "is knowing how to fight." If they were denied the right to get their message to the public, so would be others who might have views that conflict with the advertising medium. After all, there are on-off switches on both TV sets and radios and no one can make anyone read the contents of billboards.

Perhaps — as we have stated editorially — CALA is on the right track by seeking to limit the amount of punitive damages awarded in liability cases and to try and eliminate what some term "frivolous" lawsuits. There are, of course, two sides to this conflict. Trial lawyers argue it would be wrong to set an artificial cap which would apply in all damages cases. They argue it should be up to a jury of one's peers to determine how much, if any, compensation should be awarded.

Under the First Amendment, both the attorneys and CALA backers should have the right to freely express and seek support for those views. Those who disagree with either or both positions should have a right to challenge those opinions, either through letters to the editor or advertisements of their own. But it's non-productive to blame the messenger for the message.

Attending
Vice President Quayle Meeting
Thursday, March 5, 1992, 7:45 a.m.
Beaumont Hilton Hotel

Adams, Kent ✓
✓Babin, Brian
✓Bland, Roddy
✓Bradford, Mike
✓Bradshaw, Sandra
✓Burris, Gene
✓~~Cogliandro, Charles~~ ✓
✓Dooley, Rhew
✓Fannin, Marvin
✓Franklin, Jim
✓Glass, Charles
✓Gonsoulin, Dewey ✓
✓Harken, Tom
✓Hennigan, Tammy
✓Houseman, Tony
✓Kinsel, Joe Bob
✓LeBlanc, Richard
✓Lord, Evelyn
✓Moor, T.E., Jr.
✓Ohmstede, John
✓Perrett, George
Rogers, Vic ✓
✓Ruddy, Ken
✓Saleme, Christi
✓Sherron, Dick
✓Spindor, Calvin
✓Stanton, Lois Ann
✓Stiles, Mark
✓Stokes, James
✓Summers, Bill
✓White, Wilton
✓Yarbrough, Jim

McFall, Paul (no Bio)

George Christian
Austin, Texas
512-476-2113

Document Originally
Attached to
Following Page

TENNESSEE

CONVENES JANUARY 14 -- ADJOURNS IN APRIL

Mr. Charles Cato
President
Tennessee Association for Civil Justice Reform
c/o Tennessee Medical Association
2301 21st Avenue, South
P.O. Box 120909
Nashville, Tennessee 37212-0909
615-385-2100

Coalition President Charlie Cato expects no pro-active tort reform effort this year. TACJR will assume a defensive stance, but the opposition isn't expected to be active either due to state's major budget problems.

TEXAS

NO REGULAR SESSION

The Honorable Ralph Wayne
Executive Vice President
Texas Civil Justice League
401 West 15th Street
Suite 975
Austin, Texas 78701
512-320-0474

Mr. Bill Summers
Citizens Against Lawsuit Abuse
President
Rio Grande Valley Chamber of
Commerce
P.O. Box 1499
Weslaco, Texas 78596
512-968-3141

Texas will not hold a regular session this year. The Texas Civil Justice League mounted an impressive product liability reform campaign in 1991, which won House approval of HB 5 (Seidlits). Although the legislature adjourned without enacting HB 5, the TCJL confirmed its strong presence in Texas. The TCJL continues to seek support for the Texas Civil Justice League Education Fund which supports their grass roots efforts to pass civil justice reform legislation.

This year the TCJL has established the Texas Civil Justice League Political Action Committee, which hopes to support candidates for the legislature and the Texas Supreme Court. Alex Short will be Director of Political Education for TCJL PAC and he will be working to raise money for the 1992 primary as well as the general election.

Citizens Against Lawsuit Abuse (CALA) has had tremendous impact in the Rio Grande Valley of Texas. Their "Lawsuit Abuse" campaign, which has included area billboards, received so much public attention that potential jurors were being asked if they were aware

of the "Lawsuit Abuse" campaign. Bill Summers tells us that Citizens Against Lawsuit Abuse will not let up on their public education campaign in 1992.

CALA is putting up more "Lawsuit Abuse" billboards, issuing surveys, running a speaker's bureau and sponsoring television ads that include a hot line number to call and record information on insurance frauds or illegal solicitation by attorneys. CALA is building their public education campaign to keep up a fever pitch during the Spring primaries as well as the fall elections, so that the legislature will be primed on the issue when they return in January. CALA also hopes to prepare a punitive damages bill based on the recommendations of the President's Council on Competitiveness.

UTAH

CONVENES JANUARY 13 -- FEBRUARY 26

Mr. Leon Sorenson
Executive Vice President
Utah Medical Association
540 East 500 South
Salt Lake City, Utah 84102
801-355-7477

The Utah Medical Association is continuing its efforts to establish a pilot alternative dispute resolution (ADR) program approved by the House of Delegates in 1990. As you may recall, this pilot program was the result of a two-year study commissioned by the UMA in 1988. The UMA is seeking funding for the ADR project and is focusing its efforts on federal legislation that would provide funds for state projects. The UMA's greatest hope lies with the bill Senator Orrin Hatch introduced in 1991, S 489 or the "Ensuring Access Through Medical Liability Reform Act." S 489 would authorize \$5 million for ADR demonstration projects.

The UMA will also introduce a bill that would modify some of the provisions of the medical liability statutes providing for pre-trial screening panels. Currently, the decisions of these panels are non-binding and non-admissible in court. The UMA's proposal would make the panel's determination admissible in court, but not binding; increase the size of the board to include two doctors, two lawyers and one lay person; and allow oral arguments and the submission of written briefs. Additionally, plaintiffs or defendants receiving an adverse determination from the board and wishing to take the matter to court would be required to post a \$5000 bond, which the court may forgive.

VISIT OF THE VICE PRESIDENT

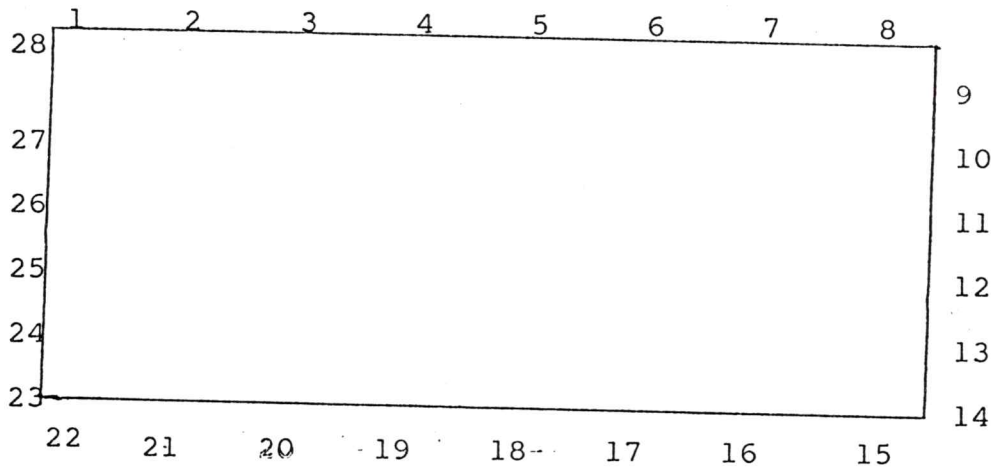
TO

BEAUMONT, TEXAS

MARCH 4 - 5, 1992

EVENT: CIVIL JUSTICE REFORM ROUNDTABLE AND PRESS AVAILABILITY

Civil Justice Roundtable



- | | |
|---|--|
| 1. Marvin Fannin
Manager, Sandoz Corp. | 16. Gene Burrus
Owner, Burrus Lumber Co. |
| 2. Joe Victorian
Owner, Jleeco, Inc. | 17. T. E. Moor, Jr.
Owner
T. E. Moor & Co. |
| 3. Kent Adams
Attorney, Adams & Duesler | 18. Richard LeBlanc
County Judge
Jefferson County |
| 4. Evelyn Lord
Mayor, City of Beaumont | 19. Ken Ruddy
Owner, Chevyland |
| 5. THE VICE PRESIDENT | 20. Wilton White
President, First City Bmt. |
| 6. Calvin Spindor
President, Parkdale Bank | 21. Joe Bob Kinsel
Owner, Kinsel Ford, Inc. |
| 7. James Stokes
President,
Beaumont Chamber of Commerce | 22. Vic Rogers
Rogers Brothers Investment |
| 8. Charles Glass
Vice President
Gulf States Utilities | 23. Dick Sherron
Physician
Beaumont, Texas |
| 9. Charles Cogliandro
Vice Pres. Calabrian Chem. | 24. Jim Franklin
Manager, Cargill Steel & Wire |
| 10. Mike Bradford
State District Judge
58th District Court | 25. Rhew Dooley
President, Dooley Tuckaberry Inc. |
| 11. Lois Ann Stanton
Attorney,
Orgain, Bell & Tucker | 26. Bill Summers
President, Rio Grande Valley
Chamber of Commerce s Machines |
| 12. John Ohmsted
Owner, Ohmstede Inc. | 27. Tom Harkin
Owner, Casa Ole |
| 13. Dewey Consoulin
Attorney, Mehaffey & Weber | |
| 14. Mark Stiles
State Representative & President
Transit Mix Concrete | 28. Tony Houseman
President, Houseman Companies |
| 15. Brian Babin
D.D.S.
Woodville, Texas | |

**Attending
Vice President Quayle Meeting
Thursday, March 5, 1992, 7:45 a.m.
Beaumont Hilton Hotel**

Adams, Kent
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Bland, Roddy
Bradford, Mike
Bradshaw, Sandra
Burris, Gene
Cogliandro, Charles
Dooley, Rhew
Fannin, Marvin
Franklin, Jim
Glass, Charles
Gonsoulin, Dewey
Harken, Tom
Hennigan, Tammy
Houseman, Tony
Kinsel, Joe Bob
LeBlanc, Richard
Lord, Evelyn
Moor, T.E., Jr.
Ohmstede, John
Perrett, George
Rogers, Vic
Ruddy, Ken
Saleme, Christi
Sherron, Dick
Spindor, Calvin
Stanton, Lois Ann
Stiles, Mark
Stokes, James
Summers, Bill
White, Wilton
Yarbrough, Jim

OFFICE OF THE VICE PRESIDENT
WASHINGTON, D.C.

DATE:

TO:

FROM: Richard W. Porter
Counselor to the Vice President

Answer copy
attached a judge
Lamar Univ. reports
Northern Tel. of reports

Frito Lay - Plano

TI - Richardson

Exxon - under constr.

Plano High School - Big, new in
last 10 years

Beaumont - John Tower went to H.S.
Lamar Univ. - Labor/mgmt center
VP Bush speaker when it opened

Elvis Mason
(214) 754-2100

Rich Galen (214) 750-199



FAX TRANSMISSION

TO: Hon. John Howard

DATE: 3-3-92

FROM: Tex Lezar

TIME: 3:48 pm

Number of pages being sent including this sheet: _____

953-0192

**Please contact (214) ~~841-8223~~ if there is a problem
with this transmission. Fax # (214) 871-9015.**

John - Here's:

- 1) My next column, which will run in Beaumont this week or weekend
- 2) Alfaro info from Texas Civil Justice League
- 3) Texas Public Policy Foundation info re lawsuit abuse (Note: G.W. Bush is on our Board of Advisors)

The Hidden Costs of Lawyers
by Tex Lezar*

Question: How many lawyers does it take to change a light bulb?

Answer: How many can you afford?

Those who hire lawyers to seek justice quickly learn how expansive and expensive that search becomes -- at least, for the clients. Nevertheless, the lawyers' fees -- staggering as they have become in America -- are only one part of the lawyers' cost.

The American legal system may be costing this society as a whole more than we can afford. Economist Michael E. Porter's best seller The Competitive Advantage of Nations demonstrates that innovation is the key to successful competition in global markets. It also concludes, however, that America suffers a competitive disadvantage because of its product liability laws.

Our legal system also inhibits the kind of technological innovation that has made life safer for our citizens. In the last decade, the number of products liability suits filed in federal courts alone increased by 1000 percent -- a tenfold increase. As a Washington Legal Foundation study concludes, one result has been the abandonment of new products -- especially medical innovations. That study also concludes that the hobbling of American innovation has made, at best, only marginal contributions to product safety.

According to Dr. Peter W. Huber -- the author of Liability: The Legal Revolution and Its Consequences -- our legal liability system, in effect, now imposes a direct tax upon us all equal to some \$115 billion a year, through the growing cost of liability insurance. The indirect costs are, however, even more dramatic. One study has found, for example, that doctors spend an additional \$3.50 in an effort to avoid further costs (practicing "defensive medicine") for every \$1.00 in direct tax our tort liability system imposes upon them.

For the past two generations, the cost of personal injury litigation in America has increased at a rate four and one-half times as great as overall economic growth. As a share of our economy, America spends five times as much as its major industrial competitors. And that gap is widening.

All this to compensate individuals for injuries they have suffered -- and, of course, to pay the lawyers on both sides of all disputes. But how much ends up in the clients' pockets? According to the Rand Corporation, less than half. According to others, only about 15 percent of the massive amounts America spends on injury litigation reaches the clients.

At last, a growing movement seeks to impose legal restraints upon the costly mischief wrought by too many lawyers today. Many of those proposals -- and especially the Bush Administration's proposed Fairness Rule, which would require the losing side to pay the winning side's legal expenses -- make sense.

Something more basic also makes sense. Educate the public to the hidden costs of our legal system. We -- the Public -- sit on juries. We are the ones who are moved by eloquent lawyers to make awards far beyond rational compensation for injuries. We are the ones who serve on juries like the one in Galveston earlier this year that awarded punitive damages (\$530 million) twenty-five times greater than the actual loss (\$20 million).

We Texans obviously need a lot of educating. In 1985 a Texas jury set the still-standing national record for a verdict: over \$10 billion. Since 1989, four of the ten highest awards -- from \$100 million to more than \$1 billion -- have been made by Texas juries. Little wonder that a 1989 article identified six Texans among the ten highest paid trial lawyers in America.

The public needs a reminder of who pays the ultimate legal bills. We all do -- in higher insurance, in the failure of business to take a risk for the sake of innovation, in rising prices, in doctors who leave their practices, in jobs lost to foreign competitors.

The Texas Public Policy Foundation has recently created the Center for Lawsuit Reform to educate the public and to provide research on the activities of Texas's lawyers and our legal system. Inspired by the Citizens Against Lawsuit Abuse effort by the Rio Grande Chamber of Commerce, we believe that better informed juries will make better decisions. Indeed, as Texas Monthly noted, the educational efforts of Citizens Against Law Suit Abuse may already have had an impact on jury awards in the Valley. By fostering further research on the costs and effects of lawsuit abuse in Texas, the Foundation's Center for Lawsuit Reform hopes to encourage the Valley educational campaign -- as well as a statewide effort by the Texas Chamber itself. Already the cities of San Antonio and Corpus Christi have begun similar educational efforts. Ensuring that jurors are fully informed can be the first step to greater integrity to our legal system.

* Tex Lezar, an attorney in Dallas, is President of the Texas Public Policy Foundation. He is also Editor of the forthcoming book A Conservative Agenda for the States.

Overview of Alfaro

In March 1990 the Texas Supreme Court ruled 5 to 4 in the *Alfaro* case that a 1913 statute had abolished the long-standing *forum non conveniens* doctrine in personal injury cases. This means that a foreigner who receives personal injuries anywhere in the world has an absolute right to bring a damage suit in Texas for his injuries if the defendant can be served with process here. The result will be that the Texas courts will soon be clogged with suits by foreigners for injuries that have no connection with Texas.

No other state in the United States has such a rule; every other state requires that foreigners' lawsuits be brought in an appropriate jurisdiction such as the country in which the injury occurred or the country in which the plaintiff resides.

Although the Texas court split 5 to 4 on the issue, 5 of the judges said that they believe Texas should have the *forum non conveniens* rule. One of the 5 judges who voted to abolish the rule said that he thought foreigners should not be able to bring such suits but that he thought the result was required by a 1913 statute, and he specifically invited the Legislature to change the rule. It is now time for the Legislature to respond to this invitation.

Everyone knows that U.S. courts - and particularly the Texas courts - are more generous in awarding damages for personal injuries than any other courts in the world, and the effect of the Texas court's ruling will be that foreigners who are injured anywhere in the world will be coming to Texas and clogging the Texas courts in an effort to collect Texas-size damages. Of particular concern are cases like those arising out of the 1984 Bhopal accident in India in which thousands of Indian residents were injured and the 1988 explosion of the Piper Alpha oil platform off the coast of Scotland in which hundreds of Scottish workers were injured. American lawyers will sign up those plaintiffs and bring these cases in the United States if they possibly can. Most U.S. jurisdictions have held that cases like these must be brought in India or Scotland, but the Texas court has now held that these plaintiffs have an absolute right to bring suit in Texas. As a result, for example, two Bhopal cases have been brought in Texas on behalf of thousands of Indian plaintiffs, and Texas is destined to become the forum of choice for any such disasters that occur in the future.

This new Texas rule will have an extremely detrimental effect on economic development in Texas. These foreign personal injury cases may be brought in Texas only against defendants that can be served in process in Texas, and any company that does any business in Texas may be served with Texas process. Shortly after the *Alfaro* decision was rendered, an eminent British lawyer wrote an article in the LONDON FINANCIAL TIMES pointing out that "an English resident struck in London by a vehicle driven by another English resident can now sue the driver's English employers in Texas, if the employers carry on business in, or have contacts with, Texas." His advice to

businessmen was to minimize their contacts with Texas or to abandon the state altogether. Lawyers all over the world, including those in other states in the United States, are giving their clients the same advice.

Because of legal technicalities, this unique Texas rule will act as a particular deterrent to companies that are thinking about locating their headquarters or other substantial operations in Texas. If a company does business in Texas but does not have substantial enough operations in Texas for it to be considered to have a principal office in Texas, it may be able to remove a foreigner's case brought in a Texas state court to a federal district court, and the federal court will apply the federal *forum non conveniens* rule and order the case dismissed. Obviously, under these circumstances a company that has substantial foreign operations is not likely to move its headquarters to Texas.

In recent years many large companies have moved their headquarters from locations in other parts of the country to Texas, thereby creating thousands of new jobs for Texas. However, no such move has been announced since the Texas court announced its decision in the *Alfaro* case. There is no doubt that as long as the *Alfaro* rule remains in effect, large companies will be unlikely to move their headquarters to Texas, and those who are located here will consider moving their operations out.

Bills in both the House and Senate would change the rule in the *Alfaro* case to restore the *forum non conveniens* doctrine in all cases, including cases that are now pending, so that our courts would have the discretion to require that personal injury cases be brought in an appropriate jurisdiction.

ALFARO: The Case and its Economic Implications for Texas

1. What is *Alfaro*?

At common law, the doctrine of *forum non conveniens* permits a court to decline to hear a case if convenience and justice would be better served by trying a case elsewhere. In *Dow Chemical Co. v. Alfaro*, 786 S.W.2d 674 (Tex. 1990), the Texas Supreme Court - by a 5-4 vote - held that the Texas Legislature had abolished the doctrine in Texas for death and personal injury cases by a 1913 statute, although such implied repeal had gone unobserved by Texas courts for the intervening 80 years.

2. What are the implications for Texas companies?

Under *Alfaro*, if a company is doing business in Texas, it can be sued here by any foreign plaintiff for any activity anywhere in the world. And a Texas court cannot decline to hear the case.

3. Is this a common result in other states?

No. The great majority of other states - including all the major economic states - and the federal courts apply the *forum non conveniens* doctrine. At the time of the Texas decision, only Alabama, Louisiana, and Mississippi had rejected the doctrine but all three have since changed their practice.

4. Are some Texas companies more adversely affected than others?

Yes. Companies headquartered in Texas or having their principal place of business here could not remove a case to federal court. Other companies might be able to do so. Thus, we are punishing those we have enticed to locate headquarters and operations in Texas.

5. Doesn't *Alfaro* create an incentive for companies not to move to Texas or to leave if they have come?

Yes. The respected London Financial Times on July 9, 1990 quoted a barrister advising English and European companies that "it may be prudent to move operations to another state altogether."

6. If *Alfaro* will cost Texas jobs and job creation opportunities, are there - on the other hand - Texas plaintiffs who will benefit from the decision?

No. It only applies to foreign plaintiffs. The only Texans who would profit would be plaintiffs' attorneys.

7. Are these miscarriages of justice real or theoretical?

Very real. The Costa Rican plaintiffs in *Alfaro* had their case dismissed in California and Florida before it was accepted in Texas. Shortly after *Alfaro* was decided, a lawsuit involving 3,000 Filipino plaintiffs was filed in Texas based on a shipping accident off the coast of a Philippine island. Two Bophal cases were filed.

8. What can be done?

Texas employers must repeal *Alfaro* legislatively or pay a heavy price in loss of jobs in this state.

State Senate race gets attention



BARTA & BENNETT

— because of its effect on the balance of power in the Senate.

The race pits Betty Denton, a Democratic state representative for 14 years, and David Sibley, a former Waco mayor and oral surgeon turned lawyer. The district includes part of southwest Dallas County, and other neighbor counties, such as Ellis, Navarro and Henderson.

Currently, there are eight Republicans in the 31-member Senate. Republicans need 11 votes to block legislation from being considered. Ms. Denton has campaigned that Democrats need the extra margin that she can provide. Lt. Gov. Bullock, a Democrat, apparently agrees. He has urged other senators and lobbyists to contribute to the Denton campaign. "Be generous," said the senate's presiding officer — who has tremendous influence over the movement of legislation affecting those same lobbyists.

Republicans have responded in kind. Sen. Gramm has sent a letter to voters urging Mr. Sibley's election, saying the election could "swing the Texas Senate in a more conservative direction."

GOP state senators joined with some Dallas heavyweights recently at a Highland Park fund-raiser, which included George W. Bush, the president's son. Some who attended complained that state GOP chairman Fred Meyer had commented that it was "just another Senate race," since it still wouldn't give Republicans the one-third they need to block legislation.

"Important" but not "crucial," was the way Mr. Meyer put it. When you get down to a difference of two or three votes in the Senate, remarked one Republican, every one is crucial.

SPEAKER RACE: Although House

Speaker Gib Lewis insists he told the Fort Worth Star Telegram only that he might serve another 10 years or he might retire next year, fellow House members fixed quickly on the interview as another sign the five-term speaker is going to hang 'em up — perhaps at the end of this session.

The most active candidate to date is House Appropriations Committee chairman Rep. Jim Rudd, D-Brownfield, who has been systematically courting house freshmen of both parties at private dinners ostensibly intended to seek out fresh views on tax and spending matters.

The three top contenders at the moment are Mr. Rudd; Rep. James Hury, D-Galveston, chairman of the Ways and Means (tax writing) Committee; and Rep. Bruce Gibson, D-Godley, the Intergovernmental Relations Committee chairman who has been busy trying to work out compromises on school finance and on judicial selection.

REMEMBER ALFARO: That is the battle cry for what may be the sleeper issue of the 72nd legislative session. Last year, the Texas Supreme Court, in a 5-4 decision, ruled that a company with facilities in Texas could be sued in a Texas court for torts committed anywhere in the world.

The case in point was Dow Chemical vs. Alfaro. The Supreme Court held that a suit brought by Costa Rican plaintiffs for personal injury suffered from handling pesticides banned in the U.S. The defendant, Dow Chemical, asked that the case be dismissed under a legal doctrine known as forum non conveniens, i.e., the Texas court was not a convenient place to go to trial.

Those advocating the legal status quo suggest that justice demands foreign plaintiffs have a U.S. court available, and assert that the legal doctrine involved is time-honored and right. Those favoring legal changes to prevent such suits in the future fear Texas courts will become clogged with suits filed by foreigners, and that companies will avoid doing business in Texas in order to avoid being sued in Texas courts. These forces believe the suits must be filed in foreign courts where the alleged damage occurred.

Passing legislation to reverse the court

decision is among the highest priorities for business in the 72nd session, and the issue is considered one of the best bets for a business victory.

Leading the charge is a reconstituted "Jobs for Texas" organization that led the fight during last year's many special sessions for worker comp reform. Lewis Austin, the just-retired chief executive officer of Brown & Root, will be back as chairman.

Some believe the Jobs for Texas group will come to be around long after the Alfaro battle is history. There has long been talk of creating a state equivalent of the Business Round Table, the national top CEO group.

Gov. Ann Richards' operatives have been surprisingly receptive to the business view, and a number of House members who normally lean to the trial lawyers see the issue as a chance to win some points with business. However, both of the two House committees to which the legislation would likely go, Judicial Affairs and Judiciary, have hostile chairmen and generally hostile majorities.

OTHER BUSINESS MUSCLE: Last session, the Dallas and Fort Worth chambers of commerce joined together for the first time on some legislative goals. The marriage worked, so this year local chamber leaders decided to enlarge the family.

The result has been the North Central Texas Coalition of Chambers, which so far includes 29 chambers of commerce in the metroplex. They found that legislators sit up and take notice when confronted by strength in numbers. The problem comes in finding issues on which so many groups can agree. The chambers were able to agree only on some rather general goals regarding public education and a more specific position statement urging the Legislature to mandate stronger product liability reforms.

Leaders of the coalition say, however, the chambers will be in a position to react quickly to proposed legislation as a result of the communications network.

Carolyn Barta is editor of Viewpoints, and Scott Bennett is an editorial writer and columnist for The Dallas Morning News.

Eliminating contingency fees would rein in greedy lawyers

The hidden costs of America's lawyers are paid by us all in diminished production, innovation and competition. In the last two decades, we have spent more and more on lawyers. From our earliest days, however, Americans have been skeptical that justice could be bought by hiring lawyers.

The first lawyer to arrive in the young American colonies didn't last long. Jailed for scandalous behavior, he was shipped out of Massachusetts. The second lawyer also came unwisely to Massachusetts — and distinguished himself by becoming the first American lawyer to be disbarred.

By 1641 Massachusetts had enough its "Body of Liberties" prohibited paying anyone to plead a case. Similar restraints applied in 17th century South Carolina, Connecticut and Pennsylvania. Virginia law put it well: "Whereas many troublesome



suits are multiplied by ... attorneys who have more intended their own profit and their inordinate lucre than the good and benefit of their clients, he it therefore enacted that all mercenary attorneys be wholly expelled."

Long experience has shown America that lawyers are at best a mixed blessing. In Texas the concern about lawyers remains widespread today. Recent polling done by the Gallup Organization for the Texas Public Policy Foundation showed how seriously concerned most Texans are about plaintiffs' lawyers — those who earn their

living by suing others. Nearly four out of five Texans believe that judges should not be allowed to accept campaign contributions from plaintiffs' lawyers. An even higher percentage of Texans agree that plaintiffs' lawyers should not be allowed to try a case before a judge to whom they have made a campaign contribution.

According to 79 percent of our fellow Texans, the desire by plaintiffs' lawyers to earn large fees has caused the number of lawsuits filed to increase. And nearly nine in 10 of us believe frivolous lawsuits are a serious problem.

Most Texans are correctly concerned about the role in stirring up lawsuits played by contingency fees — the arrangement that gives plaintiffs' lawyers a piece of the action up to 50 percent when they win.

Over 80 percent of Texans surveyed strongly disagree with the current system allowing plaintiffs'

lawyers to get a substantial part of an injured person's recovery. In addition, nearly eight in 10 Texans believe judges should be required to limit lawyers to reasonable fees, such as 15 percent of an injured person's recovery.

There are many reforms that would improve our legal system — such as, placing substantive limits on tort liability and punitive damages and procedural limits on the discovery process. Limiting or eliminating contingency fees would, however, strike at the heart of the monster.

For example, why can't doctors charge a percentage of future earnings when they cure patients of life-threatening illnesses? Walter Olson — the author of the Texas Public Policy Foundation reprint "Sue City" — suggests that contingency fee arrangements have been shunned by doctors because they would create too great a temptation to

The chance for astronomical fees might cause doctors to falsify tests or results in order to earn for themselves the benefit of a miraculous cure. Doctors are instead compensated on a basis that encourages the same degree of honest effort in all cases. Are lawyers less likely to be led astray by greed than doctors?

If lawyers couldn't charge contingency fees, would clients with deserving cases be unable to find a lawyer? Most of the rest of the world does not seem to have that problem. Elsewhere, lawyers are quite happy to await their normal hourly fee until the winning conclusion of what they consider a good case.

That's because the laws of almost every other country award the winner of a lawsuit his reasonable attorneys' fees. Of course, a greedy lawyer would want more than the hundreds of dollars per hour charged by many lawyers.

But what is the social value of a greedy lawyer — and why should society promote greed on the part of individuals who earn their fees using the power of the state to compel testimony and cooperation from others? Why shouldn't the defendant, who must also pay lawyers, recover his fees from a losing plaintiff? That's how it's done elsewhere.

What if lawyers couldn't charge a piece of the action and the winning party — whether plaintiff or defendant — always recovered attorneys' fees? Those cases considered good by lawyers would be brought. Bad cases would be discouraged. Lawyers would still earn handsome fees. Instead of a lawyer's taking an outrageous bite out of the client's recovery, however, the client would receive more of his recovery. What's wrong with all that — other than that it would rein in greedy lawyers?

Tex Lezar of Dallas is a lawyer.

a bonanza for lawyers

In notes he made for a lecture on law in 1850, Abraham Lincoln counseled: "Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses and waste of time." Traditionally, the American bar took those words to heart. Lawyers went to trial only as a last resort. In recent years, however, lawyers urge litigation to vindicate so-called "rights." This interest in promoting litigation has enriched lawyers beyond even their wildest dreams of not many years ago.

A well-researched but very readable book published just this month discloses how this nightmare became so real almost overnight. In "The Litigation Explosion: What Happened When America Unleashed the Lawsuit," Walter Olson explains the litigation explosion. And he chronicles the costs to society — in products not produced, in the practice of defensive medicine, in the decline of American competitiveness, and in an increased contentiousness in American society. The new contentiousness in American life fueled by the litigation explosion has reached even many of our most respected relationships — such as between parents and children and between doctors and patients.

Appealing to a good example — the fight to guarantee African-Americans those basic rights so frequently denied to them in our history — legislators, judges, and other lawyers began adding to law during the 1960s a veritable treasure chest of other more amorphous "rights" that have nothing to do with the just cause of African-Americans. Nevertheless, lawyers went to court to vindicate all manner of newly found "rights."

Unfortunately, too few jurists heeded the counsel a decade ago of Dallas' own federal appellate Judge Patrick E. Higginbotham: "In a day when innumerable special interests that have lost in the political arena knock at the courthouse door as claimants of civil rights, ought not judges be careful... I have the discomforting vision of Martin Luther King standing at an airport entrance enjoining to striking air traffic



controllers singing 'We Shall Overcome.'"

To vindicate the new found "rights," lawyers began systematically to dismantle many of the legal and social obstacles that had restrained lawyers throughout our history. The ethical, procedural, and substantive rules of American law were changed within less than three decades to promote the kind of free-wheeling litigation the rules had historically discouraged.

The American Bar Association's ethical canon No. 28 had long forbidden lawyers to stir up litigation. They could not seek out clients and drum up business. Beginning with a five-to-four decision in 1977, the U.S. Supreme Court itself opened the gates by giving lawyers a constitutional right to advertise. As Walter Olson notes, that opinion officially reversed the traditional view that litigation should be discouraged. During the next decade, lawyers were also authorized to stir up lawsuits by soliciting cases against specific defendants and by sending uninvited letters seeking the business of persons believed to have legal interests in need of protection.

Last, the substantive rules of law were muddled and made less certain. Attacks upon clear wrongs were replaced in court by disputes over uncertain rights. The law became so unclear that no one with insurance or property — that is, anyone worth suing — can judgment-proof his actions by exercising even the highest degree of care.

In a dramatic social revolution, the evil of litigation became an end in itself. Lawyers grew rich. But sober second looks — such as Walter Olson's new book — raise deeply disturbing questions.

Tex Lezar is a Dallas lawyer and president of the Texas Public Policy Foundation.

Lawyers a plague on U.S. business

A decade ago, the dean of Harvard Law School himself lamented the proportion of "gifted" young Americans absorbed by the business of law — higher than in any other industrialized country. "The net result," he warned, "is a massive diversion of exceptional talent into pursuits that often add little to the growth of the economy, the pursuit of culture, or the enhancement of the human spirit." As a lawyer, I viewed that statement in 1981 as a strong condemnation of my profession.

In the 10 years since, however, both my own experience and a growing body of academic evidence have convinced me that the dean's condemnation was not strong enough. If the only problem with lawyers was that they didn't add much to the nation's well-being, America could still thrive. Unfortunately, the modern business of lawyering actually impedes progress. It has decisively damaged our economy, corrupted our culture, and sapped the innovative spirit of America.

The American tort liability system is a creation of our lawyers — and it showers benefits upon lawyers even if it doesn't always benefit society as a whole. The costs to society may, however, be even larger than the benefits to individual lawyers.

Our system of enriching lawyers — especially those who sue and those who defend — in an effort to promote safety and compensate injured consumers inhibits the very competitiveness essential to economic success. In approximately the last decade, the number of products liability suits filed in federal courts alone increased by 1000 percent — a tenfold increase. As a recent Washington Legal Foundation study concludes, one result has been that new products — especially medical innovations — have not gone forward.

According to Dr. Peter W. Huber of the Manhattan Institute — author of the book "Liability: The Legal Revolution and Its Consequences" — our tort liability system, in effect, imposes a direct tax upon us all equal to \$80 billion a year, an amount as great



as the total profits of this country's top 200 corporations. The indirect costs are, however, even more dramatic. One study has found, for example, that doctors spend an additional \$3.50 in an effort to avoid further costs (practicing "defensive medicine") for every \$1 in direct tax our tort liability system imposes upon them.

For the past two generations, the cost of personal injury litigation in America has increased at a rate four and one-half times as great as overall economic growth.

This explosion of litigation has clearly benefitted one group of Americans — our lawyers. Starting salaries for new lawyers in large law firms top \$80,000 a year in New York — and \$60,000 in Dallas and Houston. Forbes magazine found that dozens of corporate lawyers earn million dollar salaries — more than the CEOs of many large corporations. But the plaintiffs' contingent fee lawyers — those who collect a percentage as high as 40 to 50 percent of what they "win" for their clients — occupy a class all to themselves. According to Forbes, at least two dozen of these contingent fee lawyers took home \$4 million or more in 1988.

How much ends up in the clients' pockets? According to the Rand Corporation, less than half. According to others, only about 15 percent of the massive amounts America spends on injury litigation reaches the clients.

Is it any wonder that the number of lawyers grows at a rate of some 35,000 a year and reached nearly three-quarters of a million by 1989? More importantly: Can America afford more lawyering?

Tex Lezar, a Dallas lawyer and president of the Texas Public Policy Foundation, was previously President Reagan's Assistant U.S. Attorney General in charge of legal policy.

Juries swallowing pseudo-science provided by 'experts'

In his 1988 book "Liability," Peter Huber warned America about the dangerous economic consequences of the litigation explosion. His new book — "Galileo's Revenge" — warns of one weapon in the trial lawyer's bag of tricks, the expert witness.

The highly paid "experts" hired by trial lawyers sometimes rely upon "junk science" to testify in support of the lawyer's case. The use of experts is, however, a growth industry. A supplement to the "Texas Lawyer" this past summer devoted more than 60 pages to a "Directory of Expert Witnesses & Consultants."

What is "junk science?" It is speculation masquerading as scientific fact. It is an opinion doubted by many — if not most — other scientists working in the same field. And hardly a day passes in America without a judge allowing some jury to consider "junk science." Millions —

survey, some 40 percent of adults think that "some numbers are especially lucky for some people."

History overflows with examples of the vagaries of scientific certainty. In 1859, the British scientist and president of the Royal Society Lord Kelvin observed:

"Heavier-than-air flying machines are impossible." That same year, Thomas Alva Edison said that the "possibilities of the aeroplane ... have been exhausted." And in 1901, Wilbur Wright himself told his brother Orville: "Man will not fly for 50 years." Two years later, the Wright brothers flew.

If doubted by most scientists, should a theory be allowed into court? Should we invite the jury to judge the theory and determine the financial consequences? Should something more be required of scientific testimony — such as that the theory be generally accepted by scientists who work in the field?

Many American adults are unable to distinguish superstitious from science.

The August 1991 Report of the President's Council on Competitiveness addresses these concerns. It concludes that the "uncontrolled use of expert witnesses has led to longer trials, more expensive litigation, and reduction in the quality of expert testimony in many cases. It has also allowed 'junk science' to tarnish the legal process." The council recommends that expert testimony be allowed only if it is "based on widely accepted theories." Based upon the efforts of a working group chaired by U.S. Solicitor General Ken Starr, this recommendation deserves widespread support.

Peter Huber's book is filled with real examples of the dangerous results of "junk science" in the courtroom. In one case cited by Huber, "With the backing of 'expert' testimony from a doctor and police department officials, a soothsayer who decided she had lost her psychic powers following a CAT scan persuaded a Philadelphia jury to award her \$1 million." In other cases, juries have returned verdicts based upon all kinds of false technical opinions.

So compelling are the junk science horror stories that the federal courts are themselves beginning to recognize the need for reform. For example, the judge in the soothsayer case threw out the verdict — but only after a trial in which the testimony was admitted. The federal reform effort, as Huber notes, reached a "turning point" five years ago through the effort of Dallas Judge Patrick Hugginbotham of the U.S. Court of Appeals for the

Fifth Circuit. In a 1986 opinion Judge Hugginbotham criticized the "let-it-all-in approach" a cautioned trial judges: "It is time to take hold of expert testimony in federal trials."

More recently, the Fifth Circuit has adopted the very type of reform subsequently urged by the President's Council on Competitiveness. Until the 1970s that in had governed the admission of expert testimony in most courts. If the U.S. Supreme Court affirms the Fifth Circuit's recent decision on appeal, we would turn to the rule requiring that expert evidence be based upon generally accepted science.

That could signal the beginning of an end to the litigation explosion. If so, Peter Huber would deserve the thanks of an American people. His book should be read by everyone concerned about America's future.

Tex Lezar of Dallas is a lawyer.



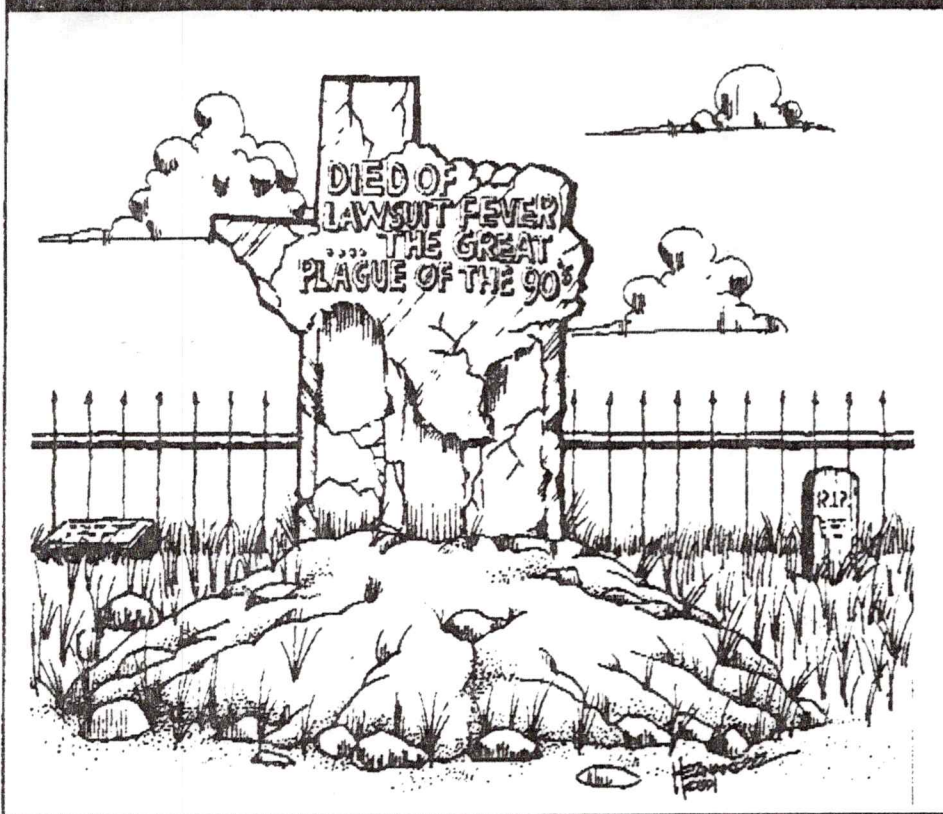
TEX LEZAR

or billions — of dollars can turn upon the jury's conclusions.

The current state of scientific literacy in America should cause everyone concern about allowing juries to assess "junk science." Nearly one-third of America's high schools today fail even to offer a course in physics. More than 40 percent of 11th graders in public school are not taking a science course — and 20 percent of 17-year-olds think the radio, the phonograph and the telephone were invented after 1950.

Many American adults are unable to distinguish superstition from science. According to one

THE ONCE GREAT TEXAS BUSINESS ECONOMY



The Texas Public Policy Foundation is a non-profit, research and education corporation recognized by the IRS. All contributions are tax deductible.

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In This Issue

TPPF Launches New Center
For Lawsuit Reform

New TPPF Video Documents
Impact of Texas Lawsuit Abuse

Lawsuit Reform Goals

Reduce the number of lawsuits.

Reduce the number of frivolous lawsuits.

Decrease the size of multimillion dollar lawsuits.

Create a business climate that is attractive and conducive to job creation.

Create a political environment that is favorable to electing government officials who will vote for meaningful tort reform.

TPPF Report

A Publication of the
Texas Public Policy
Foundation, Fall 1991
Vol III, Issue IV

TPPF Launches Center For Lawsuit Reform

Guided By The Wisdom Of Lincoln

Citing five major goals (upper left, this page) in lawsuit reform for Texas, the Texas Public Policy Foundation has formed the **Center for Lawsuit Reform**. As a special project of TPPF, the Center For Lawsuit Reform will join a mounting state-wide movement to reform and eliminate abuse in the the Texas civil justice system by educating the general public as to the economic and social effects of unjustified lawsuits and excess verdicts. "Our main objective", said TPPF president **Tex Lezar of Dallas**, "is to bring about a changed mindset in the way that Texans view civil litigation."

Lezar adds that raising the awareness of the public is an essential first step in bringing about needed change and reform. "Before the legislative and political processes can kick in, the people have to fully understand the problem and want change . . . and a key part of the information we pass on to the public at large has to be how our state's liability crisis affects them personally and on a daily basis."

The problems surrounding issues are clear and their impact devastating to the economy.

**Inside . . . New TPPF
Video Documents
Texas Lawsuit Abuses**

lawsuit and liability in Texas has been Excessive numbers of suits and far too many outrageously large awards to plaintiffs have driven the costs of liability insurance and workman's comp off the scale. Many Texas businesses simply cannot afford the coverage any longer and thus elect to go without it, risking whole lifetimes of business and professional development. Those that can pay, pass their costs to the consumer in the form of higher prices on goods and services. Everyone pays.

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses and waste of time."

Abraham Lincoln
1850

Continues Inside . . . Page 2

Lawsuits & Lawyers

RECENT QUOTES

A small company in Virginia that made driving aids for handicapped people went out of business because it couldn't afford the liability insurance. Too risky. Hardly anyone makes gymnastics equipment anymore. Too risky. We've virtually stopped making light aircraft in this country; the biggest cost is the product liability. Too risky. One day, we're going to wake up and say, "The h--- with it—competing is just too risky!" Why even try to build a better mousetrap? Let somebody else do it—and then sue them.

Lee Iacocca
Chairman, Chrysler Corporation

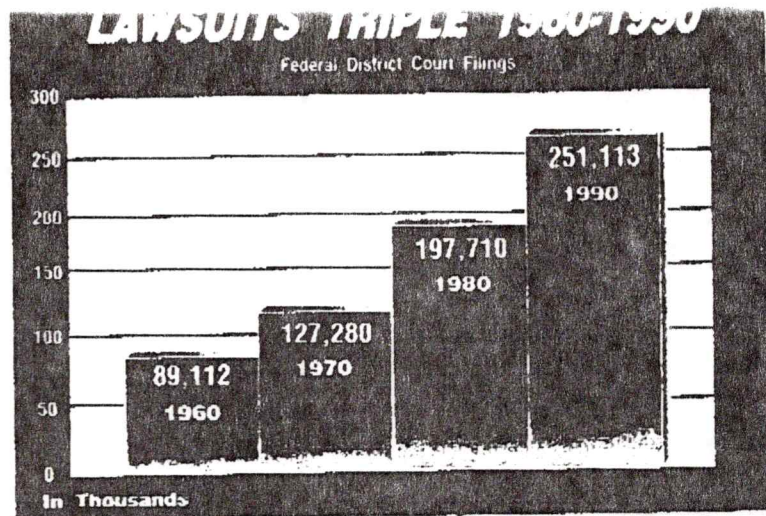
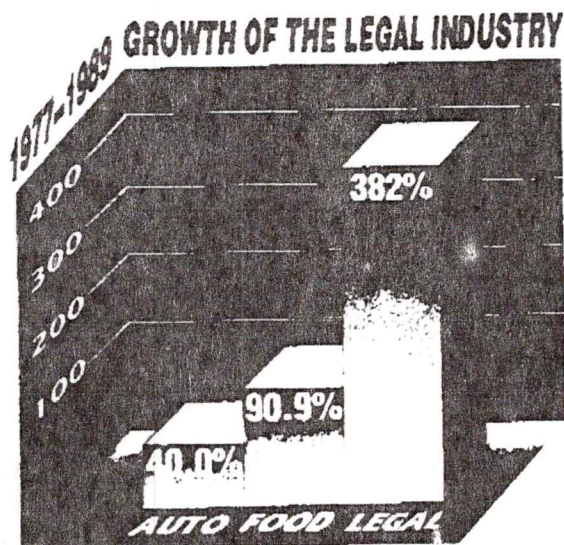
In pointing out that only a few lawyers stand to gain if Texas is made the "counthouse of the world", Justice Hecht quoted the observation by Lord Denning, "As a moth is drawn to light so is a litigant drawn to the United States. If he can get the case into their courts, he stands to win a fortune."

The London Financial Times

I'm a lawyer and I've received many of the coveted honors of my profession. Yet I'm sick at heart about what lawyering is doing to America. Many became lawyers to do good—but too many have done too well only for themselves.

In a more and more competitive world, America's lawyers are dragging this nation down economically. One study of 55 countries over 15 years found a strong positive correlation between the number of engineering students and economic growth—and a "negative effect of lawyers on economic growth."

Tex Lezar
President TPPF, Former
U.S. Assistant Attorney General



Center For Lawsuit Reform...Continued From Page 1

In Texas, the lawsuit/liability problem has gotten so out of hand that many businesses have elected to close or have moved to other states. Additionally, new businesses looking to locate in Texas see the problem quickly and elect to pass. One conservative estimate puts our losses in new business investment at \$8 billion dollars and 79,000 jobs so far. The trend continues, and a recent article in the London Financial Times concluded by saying "it might be prudent to move operations to another state altogether." Indeed, a more recent poll by the Texas Civil Justice League, shows that as many as 3,200 manufacturers in Texas are looking at out of state alternatives. At risk are more than 340,000 jobs.

These and other disturbing trends will be at the heart of the important message the Center for Lawsuit Reform will take to the people of Texas. "Our job now is to educate and inform and we are confident that, once armed with knowledge, the

"Our job now is to educate and inform, and we are confident that, once armed with knowledge, the people of this state will demand change"

people of this state will demand change", said Lezar. "There is just simply too much at stake here. We are losing jobs and businesses, we are losing out of state investment when our economy desperately needs it, and we are burdening an already overtaxed people with the "hidden tax" of having to pay for excessive liability costs. It cannot be allowed to continue."

To differentiate itself from other efforts also getting underway in the state, the Center for Lawsuit Reform will make extensive use of television, radio, and print media. Its first major thrust will feature a TPPF produced video entitled "In Your Court, Texas" (see accompanying story).

New Video Documents Texas Lawsuit Crisis

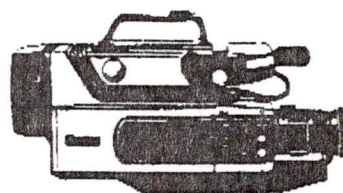
TPPF's Center For Lawsuit Reform (see related story, front page-this issue) will produce a broadcast quality video tape documenting civil litigation abuse in Texas and highlighting its impact on the state's economy. Entitled "In Your Court, Texas", the video represents the Center's initial effort to reach the people of Texas with the facts about lawsuit abuse in our state and how it affects all of us.

"Our immediate objective", says Fritz Steiger, Foundation CEO and Executive Vice President, "is to use the video, as broadly as possible, to inform and educate the people of our state about this critically important issue. Our longer term goal is to see their level of awareness elevated to the point that the demand for change results in tort reform; but our first job is to bring useful and factual information about the issue to the people."

The idea for such a video grew out of a successful campaign sponsored by the Rio Grande Valley Chamber of Commerce. Using billboard and Radio/TV spots the Valley Chamber was able to influence jurors to be more practical in making plaintiff awards. Valley businesses have been particularly hardhit by lawsuits and workman's comp costs.

The Center for Lawsuit Reform, seeking a broad grassroots exposure, intends to have the video shown in as many of the state's 21 major media markets as possible. "Of course", says Steiger, "we are somewhat limited by budgetary constraints, but we have high hopes that the importance of this issue and the quality of our production will attract funding and sponsors in key markets around Texas." To augment television production, and to promote it, a shorter twelve minute version has already been developed for use at public meetings, executive presentations, employee education programs, schools and universities, civic clubs and other organizations. Also in the works are a number of 30 and 60 second public service spots and advertisements.

The video itself focuses first on lawsuit abuse pointing to several plant closings and a number of businesses that have been severely impacted by rising insurance premiums and workman's comp costs. It also features a segment depicting how the litigation crisis has devastated medical practices in Texas and businesses that have been deterred from locating in Texas because of the crisis. (For a summary see side bar this page).



In Your Court, Texas

Highlights

An increasing number of businesses are closing or leaving the state because the cost of liability coverage and workman's comp has become prohibitively high. Among those mentioned in the video are Glaxo Corporation and Ditto Corporation.

\$8 billion dollars and 79,000 jobs in new business (out of state) investments in Texas have been lost because of the lawsuit and insurance crisis. "... it might be prudent to move operations to another state altogether" proclaims the London Financial Times.

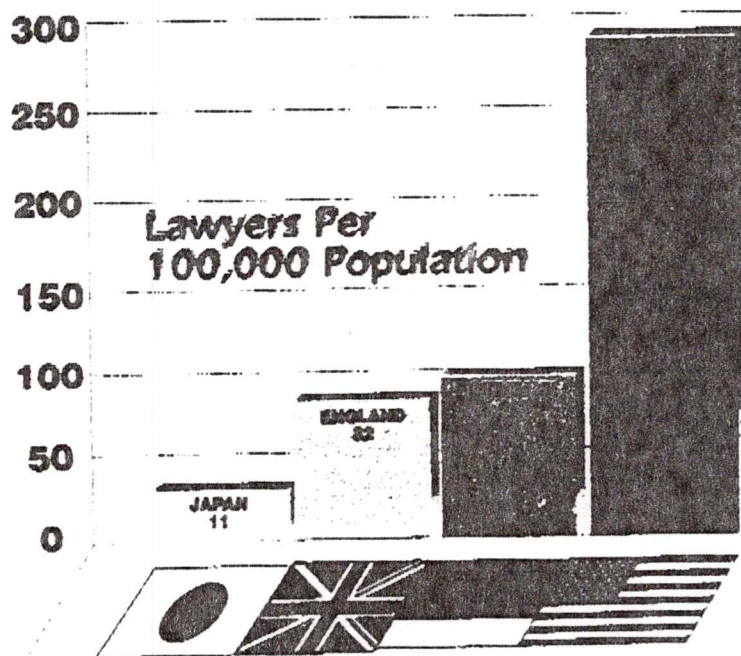
11,900 Texas manufacturers report some 30,000 layoffs caused in large part by ever increasing liability costs.

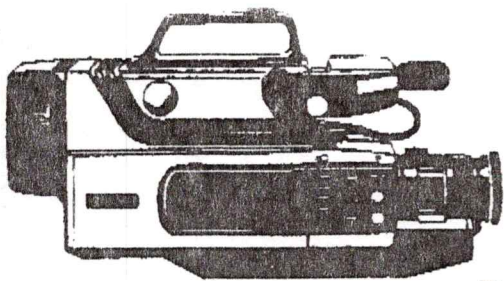
3,200 manufacturers say they are considering additional layoffs because of the crisis. An additional 340,000 workers could be effected.

2/3 of all Texas obstetricians have quit delivering babies because malpractice claims have doubled.

Projected Audiences

PUBLIC TELEVISION
COMMERCIAL AND CABLE TELEVISION
INDUSTRY AND TRADE ASSOCIATIONS
CLUBS AND ORGANIZATIONS
EMPLOYEE EDUCATION PROGRAMS
CUSTOMER AWARENESS PROGRAMS
CHURCHES AND CIVIC GROUPS
HIGH SCHOOLS AND UNIVERSITIES
PUBLIC & LAW LIBRARIES
VIDEO STORES AND MOVIE THEATERS





Presenting

The Texas Public Policy Foundation
Video On Lawsuit Abuse And Reform

In Your Court, Texas

*"It might be prudent to move operations
to another state altogether."*

THE LONDON FINANCIAL TIMES

Tragically . . . but true, Texas' lawsuit and liability crisis has reached such epic proportions that even foreign press coverage can offer such dismal advice. Abuse of civil litigation did not occur overnight. Indeed, the first million dollar lawsuit was filed in 1962. But by 1971 fourteen million dollar plus suits were filed and the curve has risen dramatically since. Today our court systems are jammed with pending litigation.

In addition, experts such as Peter Huber of the Manhattan Institute point to horrendous costs passed to the consumer. In fact, says Huber, today's consumer is paying \$80 billion in direct costs and \$300 billion in indirect costs for lawsuit abuse.

In Texas, the impact of out-of-control litigation has devastated the medical professions. So much so that two thirds of the obstetricians and a third of the OB/GYNs have quit delivering babies. Their malpractice claims have doubled and their insurance claims have tripled. Other businesses and professions are hard hit as well (see sidebar, right).

*The time has clearly come for change, and with
the production and marketing of "In Your Court
Texas" we can restore our state's economy and
enact meaningful tort reform.*

CENTER FOR LAWSUIT REFORM
Doing Something About The Texas Liability Crisis

A PROJECT OF THE TEXAS PUBLIC POLICY FOUNDATION

TEXAS LOSES 30,000 JOBS
DUE TO SKYROCKETING
LIABILITY COSTS

3,200 TEXAS BUSINESSES MAY
LEAVE THE STATE, MORE
THAN 340,000 JOBS AT RISK

LIABILITY CRISIS SCARES AWAY
\$8 BILLION IN OUT OF STATE
INVESTMENT. . . 79,000 JOBS

LIABILITY AND WORKMANS COMP
COSTS SOAR AS MUCH AS 500%.
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MESSAGE FOR: JOHN L. HOWARD

LOCATION: Counsel to the Vice President - White House

FAX NO.: 202-456-7044

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FROM: JOHN R. COOK

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The Best Paid Trial Lawyers

Lawyer/firm	Location	Estimated 1988 income (\$millions)	Estimated 1987 income (\$millions)	Law school	Age
Gilbert (Buddy) Low/Organ, Bell & Tucker	Beaumont, TX	8.5	3.0	Univ of Texas	56
Frederic Levin/ Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell	Pensacola, FL	7.5	5.0	Univ of Florida	52
Philip Corboy/Corboy & Demetrio	Chicago, IL	7.0	5.7	Loyola Univ	65
F. Scott Baldwin/Baldwin & Baldwin	Marshall, TX	6.0	4.0	Univ of Texas	60
Harry Lipsig/Lipsig & Zelmsen	New York, NY	6.0	6.0	Brooklyn Law	87
Pat Maloney/Law Offices of Pat Maloney & Associates	San Antonio, TX	6.0	6.0	Univ of Texas	65
Jack Olender/Law Offices of Jack Olender & Associates	Washington, DC	6.0	6.0	Univ of Pittsburgh	54
Thomas Demetrio/Corboy & Demetrio	Chicago, IL	5.0	3.8	IIT-Chicago Kent College of Law	42
Don Riddle/Riddle & Williams	Houston, TX	5.0	5.0	Univ of Houston	51
Leonard Ring/Leonard Ring & Associates	Chicago, IL	4.8	4.8	De Paul Univ	66
Eugene Pavalon/Pavalon & Gifford	Chicago, IL	4.5	2.0	Northwestern	56
Sheldon Schlesinger/Sheldon J. Schlesinger	Ft Lauderdale, FL	4.5	4.5	Univ of Miami	59
Guy Allison/Allison & Huerta	Corpus Christi, TX	4.0	4.0	Washington Univ	57
A. Robert Zell/Zell & Zell & Materna	Detroit, MI	4.0	2.1	Univ of Detroit	55
Bob Gibbins/Gibbins & Winekler	Austin, TX	3.7	3.7	Univ of Texas	53
Robert Montgomery Jr/Montgomery & Larmoyeux	W Palm Beach, FL	3.7	3.0	Univ of Florida	59
Ned Good/Law Offices of Ned Good	Pasadena, CA	3.5	3.5	Univ of S Calif	61
Tom Anderson/Thomas T. Anderson & Associates	Indio, CA	3.2	2.5	Univ of San Francisco	61
Robert Conason/Gair, Gair & Conason	New York, NY	3.2	2.8	New York Univ	57
Robert Clifford/Robert A. Clifford & Associates	Chicago, IL	3.0	2.3	De Paul Univ	38
Tom Moore/Kramer, Dillol, Tessel, Duffy & Moore	New York, NY	3.0	3.0	Fordham	47
Nat Ozmon/Anen, Ozmon, Lewin & Associates, Ltd.	Chicago, IL	3.0	2.8	Northwestern Univ	64
William Shernoff/Shernoff, Scott & Bidart	Claremont, CA	3.0	3.0	Univ of Wisconsin	51
Don Bowen/Helm, Fletcher, Hogan, Bowen & Saunders	Houston, TX	2.8	2.5	Univ of Texas	45

Low is the only plaintiff attorney in an old-line defense firm. Served as local counsel for Vinson & Elkins in ETSI antitrust case against 5 railroads, which resulted in a verdict of \$1.3 billion. A 1988 settlement with 4 of the railroads yielded \$285 million. His take: \$12.5 million. He splits his contingency fees with his firm. Represented T. Boone Pickens in 1979 Citicorp hostile takeover.

Levin earned \$500,000 a year as Gulf Power Co.'s general litigation counsel. 1983-89. Won a \$5 million verdict in one day this May for the death of a young man. His tv show, "Law Line," has made him a local celebrity. Counsel for boxer Roy Jones Jr. Member of Inner Circle of Advocates.

Corboy is one of the best-known big-money negligence lawyers in the country. He boasts having lost only one case in 17 years (it was overturned on appeal). Turns down 19 out of 20 requests for representation in medical malpractice. Member of Inner Circle of Advocates.

Baldwin started asbestos litigation in U.S. with 1978 case against Pittsburgh Corning, which settled for \$20 million. One of lead counsel in 1987 asbestos case against a dozen companies, which settled for \$125 million. Firm's staff of 15 includes two pilots for his private plane. Member of Inner Circle of Advocates.

Lipsig is considered the "king of torts" in New York. Started new firm earlier this year after bitter rift with his two former partners, who claim the firm will now enjoy a more "equitable distribution" of the profits. Currently suing Mike Tyson on behalf of Mitch Greene for \$25 million for assault and battery. Greene is also suing Tyson for "failure to fight." Reflects on his long career: "I've wrecked enough lives to feel wrecked myself."

Maloney processes over 1,000 cases a year. Partners are his wife and kids. Active in organizing Texas Supreme Court election campaigns on behalf of the plaintiff bar. Was embroiled in recent scandal involving Texas Supreme Court justice C.L. Ray, in which he donated money to the judge's campaign and received preferential treatment in return. Member of Inner Circle of Advocates.

Oleander is the "king" of medical malpractice in D.C. Mayor Marion Barry declared Feb. 18, 1987 to be "Jack Oleander Day" in recognition of his "philanthropic support" for D.C. city counsel officials. He gave the "Jack Oleander Peacemaker Award" in 1988 to Gorbachev and Reagan. A recent "60 Minutes" special focused on the damage his large verdicts have done to the medical community in D.C. Member of Inner Circle of Advocates.

Demetrio is Philip Corboy's partner and heir apparent. 1989 president of Illinois Trial Lawyers Association. Active in ATLA. He and Corboy have together made at least \$8 million to \$10 million a year in each of the last 8 years.

Riddle has handled over 150 railroad crossing cases, and has lost only one. Won \$8.5 million in 1987 in a medical product liability case, after which plaintiff died. In a separate case he expects to win \$10 million to \$15 million for the family of the deceased client, bringing their total award to about \$20 million. If the second case succeeds his total take will be at least \$6.5 million.

Ring was responsible for setting up the ATLA political action committee in 1973-74. Specializes in precedent-setting cases that expand defendants' liability. Until summer 1989 was chairman of the ATLA committee that proposes and fights legislation in Congress. Chairman of Tort and Insurance Practice Section of the ABA. Member of Inner Circle of Advocates.

Pevalon was 1987-88 ATLA president, is current president of the Roscoe Pound Foundation, ATLA's "think tank." Settled a wrongful death auto case against General Telephone for \$20.3 million in 1988. His take from the case: \$6.7 million.

Schlesinger is one of the biggest medical malpractice specialists in Florida. Won a \$5 million product liability verdict in 1982 against Toyota, arguing that a fuel tank design defect killed three people in a rear-end collision. It was the only judgment ever won against Toyota. Refers to himself as "Jack the Giant Killer" and "the Equalizer." Member of Inner Circle of Advocates.

Allison made more money in a 1988 case against General Motors than GM had paid him in the 25 years he represented it, between 1962 and 1987. Defends medical insurers. Brought case in 1988 against Circle K stores charging them with illegally selling liquor to a drunk "customer." The transactions were staged. Settled case for an undisclosed amount in February. Owns a 4,500-acre cattle ranch near Portland, Tex.

Zeff specializes in divorce cases, for which his fees are determined in part by the result obtained. Contingency fees in divorce cases are in violation of ABA rules. Represented Cristina Ford, wife of Henry Ford II, in 1980 divorce. Member of Inner Circle of Advocates.

Gibbins is current vice president of ATLA. Settled 1988 legal malpractice case against Vinson & Elkins for "failure to advise" businessmen in antitrust law. Amount of suit: \$31.2 million in damages. Settlement is under gag order. Should make \$5 million in 1989.

Montgomery specializes in medical malpractice. Got the first \$10 million verdict in Florida in a single injury case. Lawyer for Kathleen DuRoss Ford, widow of Henry Ford II. Split with his former partner Christian Searcy (on list) over financial disagreements. Member of Inner Circle of Advocates.

Good's boutique firm specializes in aviation and minor accidents. Settles 50 cases a year, half of which come in at over \$500,000. Owns and pilots a 7-seat turboprop airplane. Member of Inner Circle of Advocates.

Anderson won a punitive damage verdict of \$147 million in the 1988 Technical Equities fraud case. Some defendants settled previously for \$60 million. The verdict is still pending. His take so far: \$1 million. Represents 160,000 claimants in a class action fraud suit against evangelist Jim Bakker and associated accounting firm. If successful, he hopes to win \$1,000 for each claimant, or \$160 million. Member of Inner Circle of Advocates.

Conason is lead counsel in the oldest plaintiff firm in New York, founded by Harry Gair in 1915. Specializes in medical malpractice. Won \$6.5 million in March of 1989 for family of a client killed by a narcotics undercover agent. Member of Inner Circle of Advocates.

Clifford started his career with a 10-year apprenticeship at the Chicago firm of Philip Corboy (also on list). Represents three passengers in the DC-10 Sioux City airplane crash of July 1989.

Monroe has taken on the mantle of recently deceased firm founder, Charles Kramer, one of founders of medical malpractice in New York. Recently won a \$2.5 million legal malpractice judgment against another medical malpractice lawyer. Member of the Inner Circle of Advocates.

Ozmon is a major architect of the Structural Work Act of Illinois, an act that expands liability claim rights for construction workers.

Shermoff specializes in "insurance bad faith law." Won \$4.5 million verdict over a \$48 disputed medical claim. Helped found with Ralph Nader the National Insurance Consumer Organization. Obtained a \$56 million refund for doctors who claimed they were overcharged on malpractice premiums. Author of "Payment Refused," a handbook on insurance "bad faith."

Designated counsel for United Transportation Union. Bowen handles over 400 Federal Employers' Liability Act cases for railroad employees, about 300 of which are in bearing loss litigation. FELA cases produce 45% to 50% of firm's income. Partners on list: George Pletcher and Michael Saunders.

The Best Paid Trial Lawyers

Lawyer/firm	Location	Estimated 1988 income (\$millions)	Estimated 1987 income (\$millions)	Law school	Age
Edward Swartz/Swartz & Swartz	Boston, MA	2.8	2.8	Boston Univ	55
Paul Due/Due, Smith & Caballero	Baton Rouge, LA	2.7	2.5	Louisiana State Univ	46
Wayne Fisher/Fisher, Gallagher, Perna & Lewis	Houston, TX	2.7	2.5	Baylor	52
Melvin Belli/Belli, Belli, Brown, Monzone, Fabbro & Zacharia	San Francisco, CA	2.5	2.5	Berkeley	82
Frank Branson/Law Offices of Frank L. Branson	Dallas, TX	2.5	2.5	SMU	44
Bill Colson/Colson, Hicks, Eidson, Colson & Matthews	Miami, FL	2.5	2.5	Univ of Miami	64
Leonard Deen/Deen & Grinn	Providence, RI	2.5	2.5	Harvard	60
Mike Gallagher/Fisher, Gallagher, Perna & Lewis	Houston, TX	2.5	2.3	Univ of Texas	50
John Hayne/Hayne & Power	Chicago, IL	2.5	2.5	De Paul Univ	56
Joseph Power Jr/Hayne & Power	Chicago, IL	2.5	2.5	Loyola Univ	36
Michael Saunders/Helm, Fletcher, Hogan, Bowen & Saunders	Houston, TX	2.5	2.3	Harvard	44
Christian Seary/Seary Denney Scarola Barnhart & Shipley	W Palm Beach, FL	2.5	2.5	Stetson Univ	41
J.B. Spencer/Spencer Payne Masington & Needle	Miami, FL	2.5	2.0	Univ of Miami	66
W. James Kronzer/W. James Kronzer, Attorney at Law	Houston, TX	2.4	2.0	Univ of Texas	69
James Thomas Deane/Deane & Burke	Chicago, IL	2.3	2.3	De Paul Univ	54
James Duffy/Kramer, Dillot, Tessei, Duffy & Moore	New York, NY	2.3	2.3	Brooklyn Law	53
Jim Purdue/Purdue, Turner & Berry	Houston, TX	2.3	2.3	Univ of Houston	50
Bruce Walling/Walling, Scriby, Beaman, Melodie, Kelly, Echeverria & Link	San Francisco, CA	2.3	2.3	Berkeley	75
Albert Huerta/Allison, Huerta, Hastings & Allison	Corpus Christi, TX	2.2	2.2	St. Mary's	45
Windle Turley/Law Offices of Windle Turley	Dallas, TX	2.2	2.2	SMU	50
Robert Begam/Lengerman, Begam, Lewis & Marks	Phoenix, AZ	2.0	2.0	Yale	61
Jim Boccia/Boccia Law Firm	San Jose, CA	2.0	2.0	Stanford Univ	78
James Beckwith/Beckwith & Tebin	San Francisco, CA	2.0	2.0	UC Hastings	44
William Edwards/Edwards & Perry	Corpus Christi, TX	2.0	2.0	Univ of Virginia	51
Ted Friedman/Law Offices of Theodore H. Friedman	New York, NY	2.0	2.5	Harvard	5
David Perry/Edwards & Perry	Corpus Christi, TX	2.0	2.0	Univ of Texas	4
Ivan Schneider/Schneider, Kleinick & Weitz	New York, NY	2.0	2.0	Brooklyn Law	5
Harvey Weitz/Schneider, Kleinick & Weitz	New York, NY	2.0	2.0	Brooklyn Law	5
George Fletcher/Helm, Fletcher, Hogan, Bowen & Saunders	Houston, TX	1.8	2.0	Notre Dame	4



Swartz has crusaded against "killer toys" since the mid-1960s. Author of "Toys That Don't Care," "Toys That Kill," "Slaughter By Product." Takes on a few business litigation cases, for which he charges a contingency fee/hourly fee hybrid. Member of Inner Circle of Advocates.

Due specializes in maritime disasters. Won a \$4.5 million settlement in a "wrongful death" case against Dine Electric Membership Corp.

Fisher traditionally specializes in product design and manufacturing liability cases as well as medical malpractice. He has recently gotten into the lucrative areas of antitrust and asbestos litigation. Former president of the State Bar of Texas. Member of Inner Circle of Advocates.

Belli is the original "king of torts." One of the first lawyers in Valdez after the oil spill, he gathered 400 clients there. He and partner Richard Brown were fined \$5,000 in 1988 for filing on behalf of a plaintiff in the Dupont Plaza Hotel fire case who had died several years before the fire.

Bramson was one of the pioneers of the Video Settlement Brochure, a videotape designed to eliminate negotiation with the defense in settlements. In 1985 won a \$15 million settlement for a brain-damaged lawyer. Member of the Texas Supreme Court rules advisory committee.

Colson was the first to win a verdict against Ford in a Pinto gas tank case in 1975. Won the first million-dollar medical malpractice verdict in the U.S. in 1967. The firm has recently gone into asbestos litigation. Member of Inner Circle of Advocates.

Denoef has won or settled over 25 sports helmet cases, including one for \$4.2 million in 1983. In 1986 he won a \$20 million "wrongful death" verdict against Goodyear for the family of racecar driver Mark Donohue, who was killed in an accident while going 175mph. Has handled many "women-related" cases: DES, IUD and the PILL. Currently suing the U.S. Golf Association and Scotland's Royal & Ancient Golf Club for over \$100 million in an antitrust and "slander of products" case on behalf of Ping golf clubs maker Karsten Manufacturing. Member of Inner Circle of Advocates.

Callagher is partner of Wayne Fisher. Very active in politics, serves as special counsel to the Texas Senate on product liability. One of the few Republicans in the plaintiff bar. Specializes in chemical plant and oil refinery explosion cases.

Hayes won a \$27 million verdict against Syntex in 1985 for a brain damage case. Member of Inner Circle of Advocates.

Power won \$4.5 million verdict in 1986 case for brain damage to child struck by a car. Claims he has never lost a case. Largest settlement: \$8 million in medical malpractice case in 1984. His take: \$2 million.

Saunders specializes in medical malpractice. In 1988 won a \$16.2 million verdict against two doctors for brain damaged child. Two other doctors, the hospital and the anesthesia machine manufacturer settled for undisclosed amounts. Partners on list: George Fletcher and Don Bowen.

Senacy specializes in multimillion-dollar baby brain damage cases. Largest verdict: \$10.5 million in 1984.

Spencer pioneered million-dollar medical malpractice in Florida. Settled 12 "wrongful death" cases against Arrow Air for a total of \$15 million in 1988. His take: \$6 million. Took 6 months off in 1983 and spent over \$300,000 to fight constitutional amendment that would have put caps on damages. Member of Inner Circle of Advocates.

Krenner worked with Joe Jamail in Texas-Pennsylvania litigation as legal and appellate adviser. One of the most prominent high-stakes appellate lawyers, he represents both plaintiffs and defendants in multimillion-dollar personal injury and commercial litigation. Charges on average \$450 to \$500 an hour for defense work, and usually gets 5% to 8% of the final award for plaintiff work.

Duggan specializes in medical malpractice and product liability cases. Won a \$2.7 million award against Navistar International Transportation Corp. (formerly International Harvester) for "defectively designed" farm equipment. Member of Inner Circle of Advocates.

Duffy is partner of Tom Moore (on list) and is the other "big winner" in the firm. Specializes in medical malpractice, especially brain damaged baby cases. Firm closed 69 cases representing \$80 million in 1988 and has as much as \$7 million invested in cases at any one time.

Perdue, the king of medical malpractice in Houston, won a \$16.5 million verdict in a brain damage case in 1989, brings in several settlements per year in the \$1 million to \$3 million range.

Former president and founding member of Inner Circle of Advocates. Walkup is one of the grandfathers of personal injury litigation in California. Member of Inner Circle of Advocates.

Partner to Guy Allison. Hoera specializes in workers' compensation.

Tatley is founder and sole owner of one of the largest personal injury firms in the country, with 25 lawyers and a staff of 125. Usually works on cases worth more than \$1 million. High overhead costs keep his personal take down. Lead counsel for plaintiff steering committee of the Delta 191 crash suit, worth more than \$150 million. Major player in the attempt to make airbags in cars mandatory.

Beggs started with Cravath, Swaine & Moore. Specializes in product liability. His 1987 novel "Fireball" was inspired by the 1973 Kingman, Ariz. railroad tank car explosion. As lead counsel in that case, he ultimately settled it for over \$20 million in 1979.

Boccardo won one of the first multimillion-dollar awards for quadriplegia: \$3.6 million in 1970. Successful in real estate, owns ranches and airplanes. Member of Inner Circle of Advocates.

Boerwick started as a clerk for Bruce Walkup (also on list) in 1967. In 1988 won "the highest federal judgment ever" for a baby brain damage case at a U.S. Army hospital: \$8.9 million. Also boasts "the biggest brain damage settlement ever": \$8.7 million in 1986. His take: \$3 million.

Edwards was special counsel to the Texas Senate in 1987. Won a \$64.5 million verdict in 1985 in paraplegia case, settled for \$5 million.

Frishman is the husband of New York State Supreme Court Justice Eve Preminger. Was tried for, and later, in 1988, acquitted of bribing witnesses to lie in a wrongful death suit against New York City. Inner Circle of Advocates member.

Former president of Texas Trial Lawyers Association. Perry specializes in auto design product liability cases. In 1983 won \$107 million verdict against Ford for death of one person (\$100 million was for punitive damages, which were later reduced to \$12.5 million and ultimately settled).

One of the most successful personal injury litigators in New York. Partner of Harvey Weitz. In 1988 Schneider won a \$40 million verdict for a construction worker who was rendered paraplegic from a fall. Has 6 verdicts in excess of \$10 million.

Partner of Ivan Schneider. Weitz won a \$33.3 million verdict from the City of New York for a child who was rendered quadriplegic on a city playground.

Fletcher is senior partner at the first plaintiff law firm in Houston, started in 1944. Between January 1987 and present the firm closed roughly 700 cases, representing recoveries of approximately \$120 million. Partners on list: Don Bowen and Mike Saunders.

'Lawsuit abuse' campaign pits business vs. lawyers in Valley

By Joel Williams
Associated Press

WESLACO — Personal injury lawyers aren't too fond of the Rio Grande Valley Chamber of Commerce these days.

The business group's offshoot "Citizens Against Lawsuit Abuse" (CALA) has undertaken a \$20,000-a-month advertising campaign with billboards proclaiming "Lawsuit Abuse Costs Us Jobs," and a television spot suggesting a key employer nearly had to shut down because of a lawsuit.

In the courtrooms of Brownsville and Edinburg, plaintiffs' lawyers in civil cases ask prospective jurors what they know and think about the billboards and television spots.

"That means that our campaign is working, that our public education campaign is working," said Chamber President Bill Summers.

Tommy Jacks, president of the Texas Trial Lawyers Association, has a different conclusion: "Jury tampering."

"They've got those billboards up there so the jurors can't drive to the courthouse without passing one," he said.

The advertising, and a related legislative lobbying effort, claim that multimillion-dollar judgments harm the business climate and scare away industry and its jobs. Consumers end up paying more for just about everything, Summers said, because insurance companies usually pay lawsuit damages and then charge businesses higher rates.

During the current legislative session, Summers has been lobbying in Austin on behalf of bills that would limit lawsuit damages in various ways.

Some attorneys say the CALA campaign is turning into a business-vs.-lawyers battle and an attack on the public's right to seek damages under the civil justice system.

"Every objective study that has been conducted in recent years has shown that the myth of lawsuit

'We believe it has begun to hurt the economy and something needs to be done about it.'

— Larry Milner,
Texas Chamber of Commerce

abuse is just that, a myth," Jacks said.

Edinburg attorney Ramon Garcia said CALA is trying to reverse a centuries-old tradition of punitive damages that dates back to English common law. Garcia says one of his largest victories was a 1987 case in which he helped a businessman win a \$59 million award from Texas Commerce Bank-McAllen in a dispute over releasing loan collateral. The case later was settled privately for a smaller amount.

"They (CALA) are trying to use scare tactics to directly or indirectly do away with our civil justice system," Garcia said.

The effort could spread to the rest of the state, via the Austin-based Texas Chamber of Commerce. Texas Chamber President Larry Milner said his organization will meet Wednesday and Thursday and will consider launching a similar statewide campaign.

"There is more litigation today, more lawyers that are suing folks today, than is necessary for a progressive, dynamic economy," Milner said. "We believe it has begun to hurt the economy and something needs to be done about it."

CALA's television commercial portrays "lawsuit abuse" as a plague on the land, responsible for lost jobs, foreclosed homes and failed businesses with padlocks sealing their doors.

One image in the gloomy TV ad refers to the "near closure" of the Rio Grande Valley Sugar Growers mill in Santa Rosa, allegedly because of a lawsuit.

Two former employees won awards last year totaling about

\$2.6 million after they sued, alleging the mill fired them because they had filed workers' compensation claims.

Jack Nelson, president and general manager of Rio Grande Valley Sugar Growers Inc., said the company came close to bankruptcy because of the case.

As an alternative to fighting it out in an appeals court, the mill and the plaintiffs later negotiated a smaller settlement.

Summers said CALA believes there are many cases in which people should receive compensation for the actual amount that someone's negligence or malice has harmed them.

One of CALA's legislative allies is Sen. Eddie Lucio, D-Brownsville, who has filed two bills that would restrict civil damages in various ways. One of the bills would award half of punitive damages to the state, rather than the plaintiff.

Last November, Lucio used substantial support from Valley business leaders to defeat incumbent Democratic Sen. Hector Uribe. Lucio, a former school teacher, portrayed attorney Uribe as a politician controlled by contributions from trial lawyers.

Lucio said the Valley, with its high poverty and unemployment, is seen as a profitable place to file a lawsuit against a business. If given a choice, plaintiffs' attorneys will sue through the Valley's courts, he said. Attorneys often receive about one-third of the amount that juries award their clients.

"For some reason they believe that our people in the Valley are an easy ground to win big damages," Lucio said.

CALA Chairman Gonzalo Sandoval and Summers said they had no statistics to show that damages are any different from other areas of the state.

"It seems like the atmosphere down here is worse than anywhere else," said Sandoval, an executive with Central Power and Light and chairman-elect of the Valley Chamber. "There's a perception throughout the state that this is a good place to file a lawsuit."

State Secrets

Edited by Paul Burke

Ill Suited

THE LONG AND BITTER war between business interests and plaintiffs' lawyers has taken a new turn in South Texas, a region that has a reputation as a plaintiff's paradise. Last November the Weslaco-based Rio Grande Valley Chamber of Commerce started a campaign to convince potential jurors that big jury verdicts were causing the Valley to lose jobs. The group formed an organization called Citizens Against Lawsuit Abuse (CALA), sent out an appeal for funds to 15,000 area businesses, and received enough money to fund a \$20,000-a-month advertising campaign. In December billboards began to carry the message LAWSUIT ABUSE—GUESS WHO PICKS UP THE TAB—YOU DO. Those were followed by radio and TV spots warning of loss of jobs, rising medical costs, and other dire consequences. A newsletter carried a regular column called "Horror Stories" (a typical example: A woman sued a Harlingen restaurant because she hadn't been warned that the carryout soup she had bought might spill and burn her while she was driving).

Has CALA's strategy worked? Chamber officials say one judge told them privately that plaintiffs have lost nine consecutive jury trials in his court. An Edinburg plaintiffs' attorney tried to subpoena the records of contributors to CALA, but a judge quashed the subpoena in late May. And in another late-spring development, the Texas

Chamber of Commerce followed the Valley's lead by starting Texans Against Lawsuit Abuse and sending out a plea for funds. In the first two weeks, the mailer brought in \$35,000.

Henry II?

HERE'S A NAME TO KEEP in mind: Roger Perez, newly elected to the San Antonio City Council. Perez is already being touted—or, in some cases, taunted—as the next Henry Cisneros. It's not just that he's young (31), well educated (University of Texas undergraduate and law schools), and from the same downtown and near West Side district that Cisneros once represented. The real eye-opener is that Cisneros' wife, Mary Alice, is Perez's sister. Notwithstanding well-publicized marital difficulties in past years, Henry and Mary Alice were very much together in Perez's race. A skilled political operative in her own right, Mary Alice campaigned in senior citizens' centers, as she did last year for Ann Richards, while Henry, who now runs his own financial consulting business, walked door to door in his old district.

Perez's main opponent for the seat vacated by failed mayoral candidate Maria Berriozabal was Mike Garcia, a veteran community activist. Garcia won the endorsement of both San Antonio dailies—he had more experience and civic credits—but Perez had an unbeatable coalition of neighborhood leaders and businessmen who longed for the glory days of the Cisneros era. On



Texas business has a plan to tip the scales against big jury awards.

election day Perez led a field of six candidates with just over 49 percent of the vote, and he went on to beat Garcia in the runoff. Perez even sounds like Cisneros; he has picked up the ex-mayor's distinctive habit of emphasizing odd syllables in the middle of a sentence. But so far there is one big difference. Perez is very cautious about issues, preferring to talk about crime and neighborhoods instead of visions of greatness for San Antonio.

Job Benefits

HOUSE SPEAKER GIB Lewis spent the legislative session complaining that ethics is just a media-driven issue. If that's true, the media should have their driver's licenses revoked. News reports and editorials focused on derailing the gravy train of lobbyist-paid trips and meals for legis-

lators but overlooked one of the biggest sources of lobbyist influence: helping lawmakers earn a living when the Legislature is not in session. The lobby exercises influence in three ways—by supplying information, by establishing relationships, and by contributing to livelihood. The third is by far the most effective—and the least understood. But the demands for ethics reform (and ultimately, the ethics bill itself) primarily addressed the most unsavory aspects of relationships and left livelihood untouched. A provision to require lawmakers to disclose sources of income in excess of \$15,000 was dropped during final negotiations. Legislators who are lawyers are widely believed to have clients with strong legislative interests, but lawyer-legislators killed the disclosure provision on the grounds that it violated the attorney-client privilege. ☐

CURIOSES
KX-TV
NEWSLETTER

Sept. 30, 1991

Campaign targets high lawsuit awards

Valley ads seem to be influencing juries

By Bruce Hight
American-Statesman Capitol Staff

A New Jersey pipe company was worried when the City of McAllen sued for \$375 million because of a leaking sewer. After all, juries in South Texas have a reputation for giving large awards.

"Our big fear was that the jury would say, '\$375 million is ridiculous — so let's just give them \$10 million,'" said Marc Stanley, a Dallas lawyer representing J-M Manufacturing Co. "And \$10 million would have been ridiculous."

But after hearing the case in June, a jury said J-M Manufacturing was liable for only \$130,000 in damages. The verdict was a victory not only for the company but also, Stanley believes, for a campaign by the Rio Grande Valley Chamber of Commerce.

Under the banner of Citizens Against Lawsuit Abuse, the chamber is spending about \$12,000 a month on billboards and television and radio commercials to urge Valley residents to practice restraint in seeking and awarding legal damages.

While there are no statistics on the effects of the campaign, it apparently has succeeded enough to make juries think twice.

"In (jury selection) it was very clear that the jurors were aware of the campaign initiated by the chamber of commerce — they had seen the television commercials and heard the ads on the radio," Stanley said.

"And in response to questions by counsel and on the jury questionnaire, the jurors indicated a reluctance to impose punitive damages," he said.

State District Judge Menton Murray of Brownsville said he has "seen more verdicts go in the favor of the defendants over the time period that these guys have been pretty active."

Ray Thomas, a defense lawyer who has worked with the campaign, said he has "seen both in Cameron and Hidalgo counties where many of the jury verdicts that are coming down are either pouring plaintiffs out (rejecting their claims), or are coming back with judgments that are surprising both sides of the docket — surprisingly low."

The campaign has infuriated the Texas Trial Lawyers Association, whose members represent injured persons who sue insurance companies, big corporations and doctors and hospitals for damages.

The chamber has been "placing billboards so that if you're called for jury service at one of the courthouses in the Valley, you'll have to drive by one of their billboards in order to arrive at the courthouse," said Howard Nations, a Houston attorney and president of the trial lawyers.

Nine billboards in the Valley display messages such as "Lawsuit Abuse Could Cost You A Doctor" and "Lawsuit Abuse Costs Us Jobs."

The campaign, Nations said, is nothing less than "jury tampering."

Less vehement was Dana Lester, president of the Rio Grande Valley Trial Lawyers Association, who said the campaign has not hurt cases in which there was little doubt someone had been injured. But, she said, plaintiffs in "marginal cases" may be having a harder time winning a verdict.

At the same time, she said, potential jurors who might have leaned toward the defendant are more likely to be identified during jury selection and dismissed.

"We have stricken several jurors for cause because they just say, 'Yes, I agree with that (anti-lawsuit campaign) and I don't know that I can award any punitive damages,'" Lester said.

Bill Summers, president of the chamber, denied that the billboards were strategically placed to influence jurors. He also denied trial lawyers' suggestions that the campaign was financed by an insurance industry that's hurting from investment losses and trying to avoid paying legitimate claims.

During the case Stanley tried, the opposing attorney, Ramon Garcia, tried to force the chamber to reveal the names of its contributors. But state District Judge Raul Longoria blocked him.

Summers said the campaign has about 650 contributors and that he has refused to disclose their names for fear they might be harassed.

The debate over whether there are too many lawsuits over too many trivial claims has attracted attention at the highest levels.

Last month, Vice President Dan Quayle infuriated many lawyers — especially those who represent injured plaintiffs — by telling the American Bar Association that it is not healthy for the economy to have "18 million new lawsuits coursing through the system annually."

Nations said Quayle's figure was "an excellent example of the gross misinformation" that critics of the legal system give to the public.

Those 18 million suits in 1989 included divorce actions, commercial suits, small claims and debt collection cases, Nations said. The bottom line, he said, is that just 447,374 cases involved tort actions — an injured party suing a defendant for damages.

But Quayle's stance was applauded by many business people, including those in the Rio Grande Valley who since November have been working to counter the Valley's reputation as a plaintiff's paradise.

"We were talking to potential companies about coming to the Valley and they said they wouldn't come because of the high cost of insurance and the threat of litigation," Summers said. "In 1990, 13 insurance companies either left the Valley or reduced their (coverage)."

The same complaints from business interests have been made elsewhere in the state, and the Texas Chamber of Commerce in May announced it would expand the Valley campaign statewide.

"What we're really concerned about is the mindset of the public," said Larry Milner, president of the state chamber. "It has little to do with the legal process per se."

(CONTINUED)

"People get into jury rooms and decide to stick it to insurance companies or big corporations or government or somebody else, when instead they are in reality hurting themselves with higher insurance premiums they have to pay themselves, the higher cost of products and the loss of jobs in the community," Milner said.

Milner said the statewide campaign is still in the money-raising stage. One aspect of the Valley campaign that could be seen in a statewide effort is a message to people who usually try to get out of jury service.

Valley juries have not been representative of the community, Thomas said, "because it was very easy for business people, doctors and teachers to duck jury service."

The campaign, which Thomas has worked for, has talked to various community groups, urging people not to duck jury duty.

"Sure enough, a lot more of the juries are now much more representative of the community, and that may in and of itself be one of the reasons why some of the verdicts have come out the way they've come out recently," Thomas said.

The Valley campaign will last at least another year, Summers said, and it could get rougher.

Chamber officials are considering the legal ramifications of starting something similar to the Crime Stoppers program in which anonymous sources could report instances of fraudulent insurance claims.

And, he said, the chamber is researching local court records of the past three years to get a statistical fix on just what is happening in each Valley court on lawsuits and judgments. Businesses could use that information in election campaigns against judges they deem too pro-plaintiff.

NOV 23 1991

Plaint: 'I received a letter from Henry B. Gonzalez Jr.'



**Roddy
Stinson**

The Complaint Desk is open:

PLAINT: "I was involved in an accident in which my truck was heavily damaged. Fortunately, neither I nor the man I hit was hurt."

"Within a few days, I received a letter at my home from the Law Offices of Henry B. Gonzalez Jr."

"Mr. Gonzalez informed me: 'Because of your recent accident, you can make a claim for damages. You have two choices. You can choose to handle your claim alone... Your best choice is to consult with an experienced Texas trial lawyer who can protect your rights.'"

"After warning me about the 'seasoned insurance adjusters' and assuring me I was 'no match' against 'the huge insurance cor-

porations,' he urged me to contact his law firm immediately 'for a free consultation.'"

"He didn't even ask if anyone was hurt. It seemed he was mainly interested in suing the insurance company."

"Insurance rates are escalating, and insurance companies are leaving Texas. Could this be one reason why?"

— **Richard S. Thompson,**
San Antonio

— I have received several complaints about the letters that Gonzalez sends to citizens who have been involved in accidents.

It would be intriguing to know how many letters he sends out, what kind of response he receives, what percentage of the settlements he takes as payment, etc.

Unfortunately, Henry B. Jr. has refused to return calls from this column. And a woman who indicated she worked for Gonzalez said the trial lawyer would have "no comment."

Take that.

San Antonio Express-News

TEXAS/

Valley residents blast law firm's ad

Covers ripped off telephone books

By Matt Flores
Express-News Staff Writer

Rio Grande Valley residents, upset over an advertisement for a San Antonio law firm on the back of their telephone directories, are ripping the covers from the books in a campaign to have the ad changed.

The full-page, color ad, which appears in the 1991-92 Southwestern Bell White and Yellow Pages telephone directory, was placed by the law firm of Ronald A. Ramos and lists a toll-free number for his San Antonio office.

Chamber protest

Several Valley business people have complained about the ad because the firm specializes in personal-injury lawsuits, which have been blamed as a primary cause of skyrocketing liability insurance premiums for businesses in the area, said an official of the Rio Grande Valley Chamber of Commerce, which is spearheading the protest of the ad.

Ramos did not return phone calls to his office Monday or Tuesday, but a secretary there acknowledged that the ad had sparked several complaints directed at the firm.

"The Valley has been portrayed as a lawsuit mecca," said Scott Alex, director of the economic development for the chamber.

Since the phone books were distributed last month, Alex said, the chamber has received five to six phone calls a day from business people, doctors and others complaining about the ad. The cham-

"We think (the firm) used incredibly poor judgment . . . when you consider the Valley's reputation for . . . personal-injury lawsuits."

— Scott Alex,
chamber official

ber also receives about two or three written complaints a day about the ad, he said.

The phone books are distributed primarily in Cameron, Hidalgo and Willacy counties.

"We think (the company) used incredibly poor judgment, especially when you consider the Valley's reputation for having so many personal-injury lawsuits filed here," Alex said in a telephone interview from his Weslaco office.

Under Texas law, lawyers generally can advertise. However, guidelines are established by the State Bar of Texas, a spokeswoman for the agency said.

The ad said Ramos handles automobile accidents, railroad accidents and medical malpractice. Printed at the bottom of the ad are: "All types of accidents" and "No Fee Unless We Win."

Alex, who is spearheading a letter-writing and phone-calling campaign to Southwestern Bell Yellow Pages Inc., said insurance rates for businesses have risen dramati-

cally over the past three years as a result of malpractice and personal-injury suits.

He said whether a lawsuit has merit or is frivolous is not the issue.

"People don't feel like they get a fair shake in the courts down here because the lawsuits are so random," Alex said.

He said one Valley supermarket chain, Carl's Grocery Co., has had its insurance premiums adjusted from \$250,000 annually to nearly \$1 million in a one-year period.

"Personal-injury attorneys have in recent years gained a very bad reputation in all business circles. Every one of your advertisers are potential victims of these people, and they all should raise a howl of protest," says a form letter to Southwestern Bell Yellow Pages prepared by the chamber.

Several of the letters — accompanied by ripped covers — have reached Southwestern Bell's corporate headquarters in St. Louis, spokesman Don Fisher said.

Contract to run ad

"I understand that (the cover) is a controversial issue in the Valley, but we have a contractual obligation to run the ad," Fisher said in a telephone interview Tuesday.

"We regret that any of our customers are upset over them, but we don't make exceptions (in advertising) if they meet our guidelines," he said.

As an example, Fisher said the company does not run advertisements for businesses that are known illegal operations nor does the company run ads for escort services and massage parlors.

McALLEN (TX) MONITOR
December 16, 1991

Physicians feeling vulnerable as targets of malpractice suits

By DAVE HARMON
and JOHN WEIMER
The Monitor

WESLACO — Dr. Armando Cuellar sat in his office, staring at a photograph of a young, dark-haired mother cradling her newborn baby.

After 36 years and about 16,000 birth deliveries, the Weslaco family practice physician has left the baby business.

"That was the last baby I delivered, and that was about 3 or 4 months ago," Cuellar said.

He remembers a time when doctors treated entire families — delivering babies, mending broken bones, even writing letters of recommendation for college-bound patients.

"Patients were very grateful when doctors treated them," he said. "When things went wrong, they felt it was an act of God."

Not anymore.

Less than a mile away, Dr. Elizabeth Krishnan bemoans the loss of Cuellar and the eight other Weslaco physicians who quit delivering babies this year, leaving her and two colleagues to share the load at Knapp Medical Center.

Where she once delivered five to 10 infants a month, Krishnan now handles 30 to 40 — and she can't find replacement obstetrician/gynecologists locally or through contracting companies.

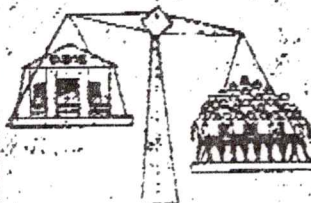
"We have been trying to recruit physicians here," she said. "They can't come here because their (insurance) carrier will not cover ob/gyns to work in this area."

Another local physician, Dr. R.V. Reddy, discovered the Rio Grande Valley's reputation with insurance companies when he told his carrier of his plans to move from Wisconsin to Weslaco.

"They just dropped me like a cold turkey," the pediatrician said. "The man unofficially told me that it's because I moved down to South Texas."

Lawsuits, the doctors say, is the

LAW\$UIT



ABUSE?

culprit in these stories.

Lots of lawsuits.

According to statistics from the Texas Board of Medical Examiners, the McAllen area leads the state in the percentage of doctors who have been sued since 1978.

More than half of the area's doctors — 55 percent — have found their name on lawsuits during that period. In the Brownsville-Harlingen area, the number is 47.2 percent.

Cuellar said he practiced for three decades without a lawsuit before getting hit with six in as many years — all related to deliveries.

"It makes the physician wonder if he has lost the ability to take care of patients without being negligent," he said.

Attorneys contend that many doctors want immunity from lawsuits, which would prevent malpractice victims from receiving compensation.

Frank Herrera, perhaps the Valley's most visible personal injury lawyer, said the benefit of the doubt should go to the victims.

"Just because you're in an emergency situation doesn't mean they shouldn't be held liable," Herrera said.

"There has been an overreaction, certainly, from the doctors, and I understand they're frightened," said McAllen personal injury lawyer Steve Dietz, who has both sued and defended physicians.

"It's a devastating occurrence

LAWSUITS AGAINST PHYSICIANS

Claims Closed and Amounts Paid by Location

Location	No. of claims	Amounts paid by all defendants	Average amount paid per claim
Brownsville-Harlingen	211	\$6,118,719	\$44,662
Dallas-Ft. Worth-Arlington	4,075	\$141,328,529	\$46,444
Laredo	86	\$1,753,737	\$23,609
Lubbock	391	\$5,285,838	\$19,291
McAllen-Edinburgh-Mission	392	\$11,091,079	\$40,926
San Antonio	1,571	\$34,159,805	\$28,708
Total Statewide	22,334	\$585,749,046	\$35,643

Percent of Physicians in Texas with Professional Liability Claims 1978-1991

Brownsville-Harlingen	47.20%
Dallas-Ft. Worth-Arlington	32.93%
Laredo	47.45%
Lubbock	30.96%
McAllen-Edinburgh-Mission	55.02%
San Antonio	29.95%
Total	37.11%

and I can appreciate how they feel about it, but my God, there's some terrible malpractice out there that needs to be addressed," he said.

Dietz added that taking doctors to court is difficult and expensive, which keeps lawsuit abuse to a minimum.

"It would be an absolute fool that would file a frivolous lawsuit," he said. "Doctors don't know how many times patients come to lawyers, and the lawyer says 'No, I don't think you have a legitimate claim — goodbye.'"

To ask members of the Valley medical community about lawsuits

is to open a floodgate of anger, frustration and despair from a group known for its cool professionalism.

"We all feel trapped," said Dr. Jim Biddle, a McAllen obstetrician. "We do the best we can and we still get burned — it's very frustrating."

Physicians who deliver babies say they are among the most vulnerable legal targets.

More than 65 percent of the state's obstetrician/gynecologists have been sued since 1978, accord-

See TARGETS page 12A

(Continued)

SAN ANTONIO LIGHT

DEC 16 1991

Residents fight the way Valley is cloaked in suits

**MCALLEN (AP)**

- The Rio Grande Valley's reputation as a haven for liberal lawsuit rulings has some residents concerned over the

state of litigation.

Among the sharpest critics are doctors who contend that opportunistic lawyers are flocking to the region quickly becoming known for its liberal judges, juries and multi-million-dollar judgments.

Major roads leading into the region are lined with billboards bearing slogans like "Fairness . . . Yes! Greed . . . No!" and "Lawsuit Abuse. Will it cost you your doctor?"

The signs, critics say, are designed to spur residents to challenge claims from high-profile lawyers who litigate in South Texas.

"On the whole, verdicts in South Texas will be higher than in a conservative area like Dallas," said Steve Dietz, a personal injury lawyer who has practiced in the Valley since 1976.

But lawyers like Frank Herrera, who works in South Texas from his office in San Antonio, say there is nothing special about the region.

"Just because a lawyer comes from here, it doesn't mean there's a (lawsuit abuse) problem in the Valley," he said.

But businesses and health-care providers are fearful the increasing number of high-dollar judgments in Valley courts will gobble up profits, jobs, and even entire

companies.

"I've never seen the level of litigation as we have here," said Bill Burns, who became the administrator at Rio Grande Regional Hospital in 1985 following jobs in Virginia, Nebraska, Idaho, and North Carolina.

Following a judge's \$10.1 million award to the family of a woman who died at Knapp Medical Center in Weslaco, Valley residents rushed to criticize the judge, the plaintiff's lawyer and the insurance company, while blasting the legal system at every turn.

The number of personal injury and workers' compensation claims filed in Cameron and Hidalgo counties has increased 138 percent from 1980 to 1990, according to state statistics.

Hidalgo County residents filed 2,218 injury lawsuits - or one for every 173 people - in fiscal year 1990, district court records show.

In November 1990, a group called Citizens Against Lawsuit Abuse (CALA) was formed to bring attention to negative impact the rising litigation has on the region.

"Our sole purpose is to promote business and jobs," said CALA Director Bill Summers. "And we think we are losing jobs from some lawsuits that shouldn't have been filed."

About \$160,000 has been donated to CALA since it was formed.

Valley businesses say excessive lawsuits jeopardize their future.

Also at risk is H&H Foods, one of the Valley's largest businesses.

CARLOS GUERRA

Attorney's letter ad raises ethical points



After a recent minor auto accident, the last thing S.J. Gregory expected was a letter from an attorney. Then the tantalizing, if not particularly well-written, missive arrived.

"We have good reason to believe that your recent injuries may be worth a large cash award," it opens. "You may also

have coming several other valuable benefits. These would include lost wages, medical expenses, a new car, a money award for pain, punitive damages, lifetime monthly checks and lump sum cash payments."

"It was like I'd won a sweepstakes," Gregory says.

The letter is typed on conservative, expensive stationery. It looks exactly like what it is, a letter from an attorney-at-law. Few would notice the final item in smaller type below the signature. It states, "This is an advertisement."

Gregory, ironically, is an insurance adjuster.

The "ad" is from the offices of local attorney Henry B. Gonzalez Jr. and is being sent to people involved in reported auto accidents. It urges the recipient to "Call me before you talk to anyone else about your accident," and notes that no money is required to hire Gonzalez, whose firm, according to the letter, "has collected millions of dollars for injured people just like you."

"We know how to increase the value of your claims," it states. "We know how to get maximum

cash in minimum time.

"Don't make a mistake that could cost you a fortune," it urges. No appointments are necessary and we are ready to "meet with you at your convenience, seven days a week, 24 hours a day."

And, it says in bold type, "we make house calls."

After a recent column about tort reform groups villainizing plaintiffs' attorneys, I received five calls from recipients of this letter and similar ones.

Attorneys were prohibited from advertising until the U.S. Supreme Court ruled it permissible in 1977. Until then, lawyers marketed their services by joining civic groups, handing out business cards and taking out - or causing to be published, as lawyers might say - dignified announcements in newspapers.

But advertising, the courts ruled, is commercial free speech that would increase open competition, and thus, lead to lower fees and better services. Initially, advertising was cautious, but as it has become more commonplace, ad techniques have become increasingly aggressive. Direct mail was ruled constitutional in 1988.

In 1989, lawyers dropped a hefty \$32 million in advertising, according to Time magazine.

Why? Because advertising works. Time reports that one attorney justifies his \$3 million TV ad budget with \$24 million in fees. Still, there are some rules, so don't expect to see TV ads with competing lawyers screaming "lower fees" and "better services," like some late-night television pitchman.

Vincent Johnson, ethics professor at St. Mary's School of Law, has kept close tabs on advertising practices. After seeing a copy of the Gonzalez letter, he concluded, "I wouldn't want to defend it because there are serious problems with it."

"Anytime you have a lawyer ad in Texas you trigger disclosure obligations under the rules of attorney conduct," Johnson says. "The clearest problem with this letter is that it doesn't provide information that must be disclosed concerning fees, the amount and that the client is liable for some of the costs in addition to fees. It gets into fees but not with the detail required."

SAN ANTONIO LIGHT

DEC 21 1991

"A second problem: The requirement in state law is that the advertisement must state who will be responsible for providing legal services. Unless Gonzalez provides all services, there is a problem."

Johnson also thinks the letter creates unjustified expectation "because this letter so greatly accentuates the likelihood of recovery."

Yet another bothersome aspect of the letter is the phrase, "we have good reason to believe," the professor notes. "This may suggest a familiarity that the attorney does not have. What you have is communication that is false and misleading."

One caller said he'd received the letter and claimed there were no injuries in his accident. Johnson says, "Constitutionally it is permissible for attorneys to target mail, but you have to send it to the right persons."

The San Antonio Bar Association has reportedly received numerous calls about the Gonzalez letter. Jimmy Allison, director of the San Antonio Bar Association, did not return my calls Thursday and Friday.

Gonzalez said the letter is only one of several different letters his ad agency mails out. He also said the letter has not generated any serious complaints and he said he was unfamiliar with any complaints about it to the Bar.

He said he tries to clear advertising with the Bar before going forward with it. When informed of the points raised by Johnson, Gonzalez said he would have the language in the letter reviewed again next week for ethical and legal considerations.

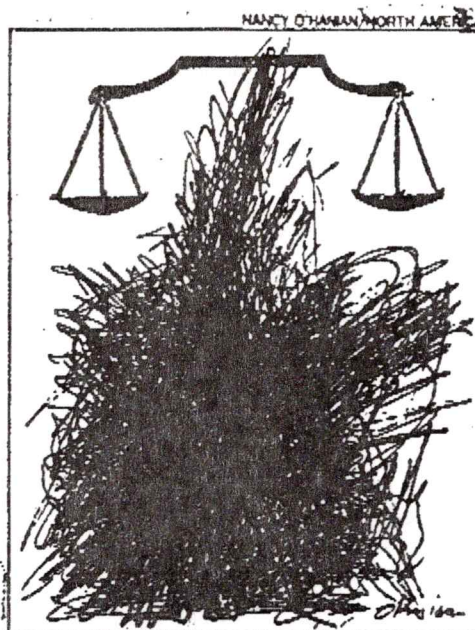
The insurance adjuster says she was shocked at the "unsolicited contact" by the attorney, with whose office she recently settled an accident claim.

"I thought of calling to see if he'd make a visit to try and sign me up in my office," she laughs, and says that after seeing the letter, her co-workers suddenly wanted to be lifelong friends so she "could pick up daily lunch tabs from my lifetime monthly checks."

To leave a comment or a question for Carlos Guerra, call LightLine at 554-0500 and enter 2204.

SAN ANTONIO LIGHT

DEC 2 2 1991



Liability awards choking struggling businesses

Beware, small businesses, citizens and honorable lawyers.

Business in American courts these days is like playing, "Can you top this?" There is no limit on the size of awards or the frivolity of the cases. The sue, sue, sue attitude costs us billions in lawyer fees and insurance premiums. It's actually a tax on most public and private activities, from Boy Scout camps to delivering babies.

Lawsuits and liability issues are clear and their economic impact in Texas has been devastating. Huge numbers of suits and absurd, large awards to plaintiffs drive the costs of liability insurance and workers' compensation off the scale. Businesses which cannot afford the coverage and thus elect to go without it risk lifetimes of business and professional development. Those that pay pass their cost to the consumer via goods and services.

The trend is that it is smarter to move operations to another state altogether. As many as 32,000 manufacturers in Texas are looking at out-of-state alternatives.

"Competing is just too risky! Why even try to build a better mousetrap? Let somebody else do it - and sue them." That shouldn't be America's philosophy or the way to better ourselves for a way to compromise differences.

-JEFF STUM
San Antonio

McAllen Monitor
Jan. 19, 1992

□ MONITOR VIEW

Don't blame the messenger

One of the most satisfying characteristics of a free society is that a free flow of ideas is permitted. The Founding Fathers obviously thought this was crucial — why else would freedom of speech and press be in the first of the 10 amendments which make up the 200-year-old Bill of Rights?

Most everyone gives lip service to the idea of free speech and a free press, but obviously in practice not everyone is all that accepting of the right of people to express ideas which may conflict with their own views.

That seems to be somewhat the case with some of the supporters of Citizens Against Lawsuit Abuse. Southwestern Bell Telephone took a bad rap for accepting a full-page ad from a San Antonio personal injury attorney for the back page of its new directory. In fact, some angry phone subscribers ripped off the back covers and sent them to Bell in protest. Now *The Monitor* also is being criticized for accepting money to run an ad in which one of the attorneys in the Knapp Medical Center liability case offered a rebuttal to the wave of criticism that erupted over the original size of the damage award — \$10.1 million.

Whoa. Both Southwestern Bell and *The Monitor* are private businesses and both reap some of their income (*The Monitor* more than the phone company) from advertising. Would the CALA supporters advocate that Bell and *The Monitor* become censors, refusing to accept ads that might be contrary to their own philosophical beliefs? Carrying that farther, would we eventually make value judgments of products promoted in the ads and accept only those we decided were accurate? Would we decide that McDonald's hamburgers are better than Burger King's, or vice versa, and ban the ads of the one we deemed inferior? Isn't that supposed to be an

individual decision?

The Monitor will continue to accept ads so long as they are not libelous, in bad taste or are in some way a scam. We won't turn them down just because we disagree philosophically with their content, just as letters to the editor expressing views that conflict with our libertarian philosophy are not turned down. What would happen in this society if we reach a point where only the views of the majority are acceptable to be printed in newspapers and aired over television and radio?

Thank heavens attorneys can buy time on TV or radio or billboard space to declare something about winning "is knowing how to fight." If they were denied the right to get their message to the public, so would be others who might have views that conflict with the advertising medium. After all, there are on-off switches on both TV sets and radios and no one can make anyone read the contents of billboards.

Perhaps — as we have stated editorially — CALA is on the right track by seeking to limit the amount of punitive damages awarded in liability cases and to try and eliminate what some term "frivolous" lawsuits. There are, of course, two sides to this conflict. Trial lawyers argue it would be wrong to set an artificial cap which would apply in all damages cases. They argue it should be up to a jury of one's peers to determine how much, if any, compensation should be awarded.

Under the First Amendment, both the attorneys and CALA backers should have the right to freely express and seek support for those views. Those who disagree with either or both positions should have a right to challenge those opinions, either through letters to the editor or advertisements of their own. But it's non-productive to blame the messenger for the message.