**Trump and tort reform**

By Gregory L. Bentley

**President’s Message**

As we enter the Era of Trump, storm clouds swirl across America’s policy landscape. The future of civil justice is no exception. A marathon tort reform fight seems inevitable.

There is talk of the Trump Administration limiting product liability lawsuits and punitive damages, rumblings of an assault on fair recovery by asbestos victims and full-throttle promotion of forced arbitration. The Consumer Financial Protection Bureau is a likely target of our new president, and the Trump Justice Department almost certainly will do all it can to reverse regulatory and consumer gains made during the Obama Administration.

Donald Trump may have campaigned to help “the little guy,” but in his chest beats the heart of an unvarnished corporate capitalist. It seems likely that in the end, he will embrace civil justice-related policies that favor CEOs over the needs of average consumers.

Fortunately, California stands as a bulwark on this perilous landscape. Our state has a long history of embracing consumer protections and guarding legal rights while rejecting corporate attempts to undercut the spirit of the Seventh Amendment and the contemporary practice of contingency fee law.

I’m not suggesting we won’t face a fight right here on the left side of the Sierra Nevada. Corporate tort warriors in California are already grabbing Trump’s coattails with gusto.

Just days after Trump’s surprising triumph in November, a prominent business lobbyist pushed an opinion piece onto the pages of the Daily Journal. It was a virtual tort-war manifesto, brimming with limitations on the civil justice system, from product liability to worker rights. In particular, the corporate sector and its Sacramento lobbyists seem intent on igniting passions in the high-tech industry, likely hoping to kindle a wildfire of anti-tort passions in the statehouse.

Thankfully, we have Consumer Attorneys of California standing guard on behalf of our clients, our practices and the constitutional legal rights of all Californians.

Year in and year out, our advocates in Sacramento fight as many as two dozen tort-reform bills, which pop up like toadstools each spring in the Legislature.

We’ve seen the California Chamber of Commerce and the ironically named Civil Justice Association of California stand behind measures that would weaken corporate accountability and fatten the bottom line, typically dressed up as business-friendly policy proposals meant to help struggling mom and pops.

We’ve seen big-time PR campaigns kicked into gear by the U.S. Chamber, the American Legislative Exchange Council and the Koch Brothers in a bid to limit liability for the worst corporate actors. They’ve spent heavily to foist focus-group-tested scare tactics onto an unsuspecting public, putting a happy face on an effort that really is all about lowering the cost of doing business and limiting industry’s exposure to accountability.

Last year, there were 21 such bills introduced at the state Capitol. Business groups pushed measures attempting to limit class action lawsuits and punitive damages as well as legislation that sought to neuter the Private Attorney General Act, undercut construction defect lawsuits, and target the state’s lemon law and eight-hour workday.

As it has every year, CAOC killed them all.

For this, we all owe a debt of gratitude to our Sacramento advocates, CEO and Chief Lobbyist Nancy Drabble and Legislative Director Nancy Peverini as well as Legislative Counsel Jacqueline Serna and Associate Staff Counsel Saveena Takhar. Political Director Lea-Ann Tratten helps set the table for success by leading our organization’s efforts to identify and back effective, pro-consumer candidates for the Legislature.

While many of us were crestfallen by the Trump victory, CAOC scored big victories in the general election, most notably the triumph of trial lawyer Eloise Reyes over an Assembly incumbent, Cheryl Brown. We were delighted to help unseat Brown, who earned the nickname “Chevron Cheryl” for her willingness to do the oil industry’s bidding on important climate legislation.

A key in this coming year will be how these new lawmakers – most of them at the start of likely 12-year legislative careers – will govern. Will we see a progressive shift? Or will the statehouse see a resurgence of the so-called “mod caucus,” corporate Democrats willing to toe the line for Big Business and put profits ahead of people?

Either way, I feel confident our leadership team in Sacramento can defend us well against any coming assaults.

It’s a different story on the federal front, of course, with Trump ascendant and business-friendly Republicans in control of both houses. We all must step up with our sisters and brothers from other states to join with our advocacy arm in Washington, the American Association for Justice, to fight back relentlessly for the next four years.

Some actions, such as Trump’s pick for the U.S. Supreme Court, will be an inevitable setback for civil justice. But there will be battles that can be won. I hope you’ll join me and other trial lawyers in what truly could become the greatest struggle of our lifetimes – for the future of our democracy.

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