

# A year we can all be proud of

By Lee S. Harris



CAOC and its members have won outstanding victories for consumers this year in the Capitol and in the courts. For Californians it is a year we can all be proud of, tempered only by storm clouds of regression spreading west from Washington D.C. While we have acted in California to stop retroactive immunity bailouts, enforce responsibility, stop harassment, protect children, assist medical patient safety, protect privacy and give victims a fair chance to receive justice, everything that we have accomplished and try to accomplish for consumers in California remains under attack by opponents of civil justice.

The legislative session has drawn to a close and our CAOC lawyer advocates, Nancy Drabble, Nancy Peverini, LeAnn Tratten, Jacquie Serna, and Saveena Takhar, have successfully led us through the Sacramento legislative minefield. We had six sponsored bills pass the Legislature. We have also confronted and defeated a host of bills that would have weakened our justice system and denied consumers an opportunity to secure fair resolution and reparations for injuries and grievances.

Most noticeably we worked with a coalition of victims and attorney members to defeat public utilities' attempts to gain immunity from devastation to homes and communities destroyed by wild fires caused by their equipment. In the process we also worked to secure safer and more responsible management practices. We also succeeded in protecting the rights of victims of lead paint poisoning from

attacks by those responsible for the problem.

The roadblocks to justice that we defeated also included contingency fee caps, policy-limit demand exemptions, construction defect claim waivers, joint-and-several liability distortion, advertising limits on lawyers highlighting hazards, termination of asbestos victim rights, misclassification of worker status to deny benefits and rights, and removal of wage theft protection (PAGA protections).

Our legislative victories include an end to nondisclosure agreements in settlements related to sexual assault, sexual harassment and sex discrimination involving California employers (SB 820 by Sen. Connie Leyva). Unfortunately, Gov. Brown saw fit to veto three other bills inspired by the #MeToo movement that would have helped victims of sexual assault and harassment: AB 3080 by Asm. Lorena Gonzalez Fletcher (stop forced arbitration), AB 1870 by Assembly Members Reyes, Friedman and Waldron (extend the time limit for FEHA sexual harassment and discrimination claims) and AB 1867 by Asm. Eloise Gómez Reyes (require large employers to keep records of sexual harassment complaints for 10 years).

We were also successful in getting a landmark web data protection and privacy bill passed by the Legislature and signed by the governor. The bill will protect consumers in data breach cases like the one involving Equifax by giving consumers a new private right of action when their stored data is abused. The legislation creates the nation's strongest protections for consumer personal data.

Another consumer victory was the bill we sponsored to protect victims of childhood sexual abuse. SB 1053 (Beall) was

passed by the Legislature and signed by the governor. It clarifies the statute of limitation that applies in public entity cases and prevents the courthouse door from being slammed shut on young victims.

CAOC also successfully sponsored a patient protection bill, SB 1448 (Hill), that was signed by Gov. Jerry Brown. It is designed to require doctors to notify their patients prior to the patient's first visit if the doctor has been placed on probation for a serious offense such as sexual misconduct or drug abuse.

Civil discovery practice is also likely to be improved. AB 2230 (Berman), which was signed by the governor, should help practitioners by giving a judge the option to require a concise outline of the discovery issues in dispute instead of requiring a full separate statement of facts. The measure also includes a judicially requested increase in the time allowed for a court to rule on new trial motions from 60 days to 75 days.

The outstanding results that we achieved in the Legislature have been matched by the incredible consumer victories obtained by our members for their clients. We will have a chance at our annual conference in November to honor members who have won landmark courtroom victories obtaining justice for consumers. Some of the memorable results include obtaining justice for a coach fired for advocating for women athletes, helping a heart surgery patient left in vegetative state after the surgeon left the operating room early, holding a sheriff's department accountable for a sexual predator on the force, making school buses safer for students after a tragic death, improving auto safety by fighting for a woman seriously injured

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# Sometimes it's just hard

By Sharon J. Arkin

Sharon Scott – our wonderful, what-would-we-do-without-her managing editor – asked me to submit my Editor's Message for this edition, and sent along a gentle reminder when I didn't send it in as promptly as usual. But, much as I love CAOC and the Forum, sometimes it's just hard. Hard to fight through the infuriating politics of this era. Hard to fight through judges who just don't seem to understand the law. Hard to fight through doing the hard work of the plaintiffs' bar when things are busy in your personal life. And as I get older, of course, it's hard to keep up the fight when you're tired, discouraged and have health issues.

And that's where I was this week. After taking some drubbings from bad appellate decisions rendered in cases I worked on and after just being tired and not feeling physically well (which was entirely my own fault), the last thing I could face was writing an upbeat, powerful, meaningful,

or even simply readable, editor's message for the Forum.

So here I am: Debbie Downer. And we all go through days, sometimes weeks, like this.

But just thinking about all of you – our members, our lobbying staff, our support staff, our officers and the chairs of our various committees and caucuses – makes me shake off the megriums and realize how lucky I am – how lucky we all are – to be surrounded by like-minded people fighting every single day for our clients and even for those who are not our clients, but who deserve justice nonetheless. And sometimes we lose the battles, but we have yet to lose the war. Given the shift in the federal judiciary, we are likely to lose even more battles in the future. But, thankfully, being in California state court, we will have a better chance than attorneys elsewhere in our nation, to protect civil justice and the rights of those we represent.

What is perhaps the most heartening of all is how initiatives started by various members over the last decade have fundamentally changed the composition of our organization. As I edit the Forum, both the legal articles and the news reports of various committees and local trial lawyer associations, I see so many new attorneys, so many people of diversity, so many high-energy, enthusiastic attorneys taking on important roles in our organization. I feel confident in the next generation of CAOC's leaders because they are strong, enthusiastic, vital and aware. We're in good hands, my friends. ■

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## President's Message

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by a defective car seat and improving safety for school children by revealing a bus company's negligence in a tragic bus stop accident.

Our legislative and courtroom achievements are continually imperiled by anti-consumer forces at the national and state level. As soon as the governor signed the data protection bill, critics began lobbying to pass federal legislation to take away our hard-fought victory. Likewise, our

victories for consumers on wildfire immunity and to protect victims of lead paint have been attacked on a national as well as state level by the corporate PR machine. Meanwhile, several of our other legislative victories remain under siege by foes trying to kill bills on the governor's desk.

The opposition to civil justice in California is led by the same regressive forces that have worked on the federal level to thwart justice. When the Trump Administration announced efforts to separate immigrant children from their parents, I spoke out as CAOC President and said "Some things

are just wrong." I noted then what is true now: Consumer attorneys fight every day to help families heal from tragic family losses.

Efforts to weaken consumer justice violate the most basic values that we fight to uphold. I am proud of what we have achieved so far, and just like the examples of our individual attorneys who have moved mountains for their clients and our lawyer advocates who have achieved tremendous legislative results, I know that by working together we can continue to move California. ■