

Let's not get too confident in 2019 – we still have a lot of work to do

By Mike Arias



While the 2016 election had most CAOC members frustrated, angry and sometimes discouraged or depressed, the recent elections have had quite the opposite effect. The Democratic Party retook the House of Representatives, and California has turned into the bluest of blue states. With a new governor who has proven to be a true ally to consumers, women, minorities and the LGBTQ community, hopes are high that we can accomplish a lot this coming year.

I do, however, have a serious word of caution: Nothing will happen unless we work hard – very hard. While Republicans in California may be a serious minority, business interests continue to throw millions upon millions into political battles. And while great strides have been made on the state legislative front, the courts continue to pose potential challenges in our fight for justice.

An example of this is mandatory arbitration. Two of Silicon Valley's largest entities, Uber and Lyft, recently agreed to end forced arbitration for sexual harassment claims made by passengers and employees. While I see the positive public relations this limited act brings Uber and Lyft, it still leaves consumers and employees without access to the courts for many other possible claims. As has

become increasingly clear, corporations will continue to use arbitration to limit consumers' access to the courts, silence employees, protect executives and limit liability. This past February in California, employees won another victory in *Muro v Cornerstone Staffing Solutions Inc.*, as the state Fourth District Court of Appeal ruled that the class waiver provision of a truck driver's employment contract was unenforceable and denied the defendant's motion to compel arbitration based on prior rulings and the Federal Arbitration Act (FAA). This ruling continues the trend of California state court decisions giving a broader reading to the FAA's transportation worker exception. But in *Epic Systems v. Lewis*, the Supreme Court of the United States handed down a severe blow to worker rights throughout the country. The Court ruled in a 5-4 decision that a business can prohibit employees from banding together in disputes over pay and conditions in the workplace. The *Wall Street Journal* estimated that this decision will have a negative impact on 25 million non-unionized employees throughout the country.

While some federal court and state court decisions will continue to be a challenge to our clients' rights, I am very hopeful that California's new governor and Legislature will prove friendlier on such issues as civil rights, worker's rights and consumer rights. This past November certainly saw a massive blue wave as well as a pink wave in California as women and progressives were voted into office in record numbers.

But we still have a lot of work to do. In the state Capitol, we are vastly outgunned by corporations, which year in and year out unleash an armada of hired lobbyists. PG&E, for example, is pushing hard to

shrink its liability exposure stemming from the catastrophic Northern California fires it is accused of unleashing because of poorly maintained high-power lines. Companies such as these don't limit their reach to any specific political party – they try to influence Democrats every bit as much as Republicans.

Nevertheless, I am confident that we can and will overcome corporate influence and continue to succeed as we have. We may be outspent, but we are never out-worked. Many of you know and appreciate the efforts of our CAOC staff and lobbyists – truly the best of any state trial lawyer association in the country. Combined with the time commitment, passion and effort exerted by so many of our fellow trial lawyers, we continue to prevail time and time again.

Despite our winning record, room for improvement remains. We need all trial lawyers throughout the state to commit to the cause of protecting our system of civil justice. This isn't a money issue – it's a time commitment issue. Over the next several weeks you will receive information on how you can help and be part of a trial lawyer community that is engaged and committed to ensuring our pro-civil justice successes continue both politically and legislatively.

As your CAOC President, I look forward to working with and for you in 2019. ■

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