

LEGISLATIVE LAW

The Times, They are A-Changin'

by **Lea-Ann Tratten**

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Change is in the air. And change isn't always good, but it often presents opportunity. In *Citizens United v. Federal Elections Commission*, the U.S. Supreme Court struck down restrictions on corporate spending in political campaigns. Corporations are people too, or so it goes. Given the realities of political donations, the real effect is to elevate the status of corporations above people. To some politicians, corporations are now more important than their constituents. Those politicians masquerade as "moderates" but there is nothing moderate about their positions: they are corporatists, showing allegiance not to a political party or to their constituents, but rather to the Wall Street titans. On its face, in California the *Citizen's* case brings little change to our state legislative races. Since the voters approved campaign finance reform in November 2000, corporations and people have stood on equal footing in terms of California political campaign finance limitations. That change has led to the proliferation of "independent expenditure" campaigns in which unlimited amounts of money are used to run an independent political race, wholly changing the dynamics of that race. A 2009 report from the California Fair Political Practices Committee ("FPPC") chronicles how campaign spending in California has skyrocketed since then, with state and legislative candidates raising more than \$1 billion. See, *The Billion Dollar Money Train*, A report by the California Fair Political Practices Commission, April 2009. Just this March the FPPC released another chilling report: *Big Money Talks - California's Billion Dollar Club*. Not surprisingly, PhRMA, Phillip Morris and the Chamber of Commerce count amongst the highest of the Billion Dollar Club. Collectively our foes outspent us more than 30 to 1, shelling out more than \$650 million dollars in the past decade to influence voters and legislators. The report says it simply: "The reality in politics is that money talks. Sometimes money shouts."

The real impact of the Supreme Court decision on California politics may be that as overt corporate campaign donations become the norm on the federal level, more corporations also start playing on the state level. And as overt corporate contributions become the norm, the amounts given at the state level continue to increase.

According to FCCP's "*Big Money Talks*" report, the Consumer Attorneys of California rounded out the list of top contributors at the 25th spot. [We should note that the report does not include contributions from individual donors, an important power base for Consumer Attorneys.] Yet CAOC successfully pounded back eight corporate power grabs introduced in the extraordinary session. How do we do it?

First, we are right. Despite the hysteria created over a phony litigation "crisis," voters know that, at the end of the day, the civil justice system is the last, and sometimes only, protection against corporate greed. Even well-intentioned regulators cannot provide the protection afforded to

ordinary citizens through the civil justice system. One need only look to the fiscal crisis to see that our downfall is not lawsuits, but unmitigated corporate greed.

Second, we have a well-tuned political program that is dedicated to electing legislators to office who work in the interest of the people, and not for large corporate interests. With the continuing influx of corporate money, identifying favorable candidates and targeting races in which opportunity exists is more critical than ever, and we must keep building on past efforts.

In fact, the U.S. Chamber of Commerce intends to make the most of the gift handed them by the Supreme Court. See, "*U.S. Chamber of Commerce now a political force*", Thomas Hamburger, March 15, 2010. According to the Denver Post: "The U.S. Chamber of Commerce is building a large-scale grassroots political operation that has begun to rival those of the major political parties, funded by record-setting amounts of money raised from corporations and wealthy individuals. The chamber has signed up about 6 million individuals who are not chamber members and has begun asking them to help with lobbying and, soon, with get-out-the-vote efforts in upcoming congressional campaigns. The chamber's expansion into grassroots organizing — coupled with a large and growing fundraising apparatus that got a lift from Supreme Court rulings — is part of a trend in which the traditional parties are losing ground to well-financed and increasingly assertive outside groups. The chamber is certainly better positioned than ever to be a major force on the issues and elections it focuses on each year, analysts believe." Chilling.

But Consumer Attorneys of California is one step ahead. We and our allies, the California Nurses Association and the California League of Conservation Voters, teamed up through the California Alliance to build a grassroots program to identify and persuade voters who are aligned with our values: Consumer Protection, Civil Justice, Environmental Safety and Affordable and Safe Health care. Building on a door-to-door canvas launched late last year, the Alliance has identified nearly 10,000 voters (with a goal of 16,000) in two legislative districts who have signed on as members of the Alliance and who are dedicated to preserving and fighting for our values.

Why is this important? As corporate money pours in and voters become increasingly cynical about politicians, political parties will continue to diminish as the "brand validators" that voters turn to in electing people who share their values. We've already seen this, as the number of "decline to state" voter registrations continue to increase. Voters will increasingly search elsewhere for information to identify candidates to support. The California Alliance will help win elections by building "brand loyalty," as political parties continue to appear to serve only narrow special interests. And equally important, this army of voters will be kept informed of what their elected leaders are doing in Sacramento, so they are accountable to people and not narrow corporate interests.

Proposition 11. Corporate money isn't the only force bringing change. A redistricting panel, which some critics worry may end up consisting of predominantly white males with little or no relevant experience, will oversee the redrawing of legislative districts as a result of 2008's voter-approved Proposition 11. Research shows that with increasing frequency people are living in more homogenous communities than in the past — communities in coastal districts more closely resemble each other than those in the central valley. Urban voters hold little in common with

voters in rural districts. If the charge of the redistricting panel is to create more competitive districts, we are likely to see more gerrymandered districts than before.

Proposition 14. On the June primary ballot is Proposition 14 which, if passed, will create a top-two vote-getter open primary. The two candidates getting the most votes will be the candidates in the fall election regardless of party affiliation. Propositions 11 and 14, combined with big moneyed interests, will have an increasing amount of power in influencing voters. Since Proposition 14 eliminates party identification in both primaries and general elections, issue-based campaigns (which already seem increasingly rare) will all but deteriorate into personality driven campaigns that carry the risk of further alienating voters. Brand loyalty will become more important as voters search for trusted voices in the over-charged static of an election.

Change is ahead and we have an opportunity to drench the corporate interests in June 2010. Once again San Diego will showcase a classic showdown between corporate interests and those who support people. Assembly Member Mary Salas and former Assembly Member and insurance executive Juan Vargas are facing off to fill Senator Denise Ducheny's senate seat, which she is vacating due to term limits. Both are good people. In many cases, both voted to support consumers.

But a glaring difference arises when issues chosen by the insurance industry arise. Assembly Member Salas stood firm against the insurance industry in her vote to support Medi-Cal recipients who are injured by another and as a result must receive medical care. Mary Salas supported SB 93 (Corbett) that would have confirmed a Medi-Cal patient's right to full damage recovery in a personal injury action. Assembly Member Vargas took a different turn and sat out a vote on a similar bill, SB 399 (Escutia). As a result, the euphemistically titled Civil Justice Association of California ("CJAC") is already running a campaign for Vargas against Salas. The Chamber and its ilk are reportedly turning their vast energy and resources to elect someone they believe will better reflect their corporate interests in the 40th Senate District.

We have a duty to stand up for the legislator who will continue to stand up for the interests of all Californians: Mary Salas.

This scenario is playing out all over the state. Corporate interests are targeting Betsy Butler, who is running to replace Assembly Member Ted Lieu. Assembly Member Noreen Evans, an attorney, budget chair, and member of the Assembly Judiciary Committee, will face corporate money in her race for the Senate, again, because of her steadfast support of consumers.

We need to use our strength and our voices to counter the corporate megaphone and do our part to inform citizens about real choices in legislative races.

