

## How the West Was Won: The 2010 Political Wrap-Up

To shamefully borrow from Dickens, “It was the best of times, it was the worst of times.” While the national scene was a disaster for those advocating for consumer protection, investor rights and health and safety, California was a bright spot. The state legislature has become more Democratic (even if some of those Democrats are “corporate Democrats,” carrying the water for big business and insurance companies). We now have a Democrat in the Governor’s office as well as every other statewide office.

CAOC played a historic role in these elections. It ran independent expenditure campaigns and raised more than \$4 million to elect pro-consumer leaders. Consumer Attorneys helped Californians buck the national trend in not only electing Democrats, but in sweeping out candidates backed by the Chamber of Commerce and the insurance industry. This election also demonstrated the success of CAOC’s new and innovative organizing and voter education effort that developed a progressive voter database that will also lay the groundwork for our future electoral campaigns. We now have a foundation to build from for the next four years and beyond.

Trial lawyers engage in electoral politics because they must. As always, the \$4.5 million CAOC raised was dwarfed by money spent by the Chamber of Commerce and the insurance industry, which spent \$5 million in just one race – the office of Insurance Commissioner – hoping to beat Dave Jones. We stopped them with just enough money to educate the voters about what was at stake.

### The Primary

CAOC’s primary political program is a legislative district focused program, grounded on vetting and electing legislative candidates who support the civil justice system. These are the people who do not gain support from insurance, oil and banking industries and who instead identify with helping working people, protecting the environment and holding corporations who hurt people accountable. They tend to be thought of as “progressives.” Most often, we get engaged in political action when one candidate is clearly a corporatist, backed by the Chamber of Commerce and the insurance industry. This year we beat them in each legislative race except for Juan Vargas and at the ballot box in Proposition 14.

In the 2010 primary, 20 safe Democratic seats were “open,” meaning the incumbent left office either due to term limits or because the legislator vacated the seat to run for another office. Of those seats, five were in the Senate and 15 were in the Assembly. CAOC supported 19 of the winning candidates who ultimately went on to win the seat in the general election. Eight of those races were hotly contested, where CAOC backed one candidate over others who were hostile to the civil justice system. With one notable exception, Juan Vargas, CAOC-backed candidates won all those races. Michael Allen, Roger Dickenson, Luis Alejo, Bob Wieckowski, Noreen Evans, Ben Hueso and Betsy Butler were tremendous candidates we were proud to fight for in the primaries and we look forward to their leadership in the legislature next year.

The 2010 primary also marked our debut into grassroots political organizing outside the trial lawyer family. Working with our allies at the California Alliance, we built a significant progressive electoral base in two Democratic districts this year: AD 20 (Freemont area) and AD 28 (Salinas/Watsonville). We built regular voter contact on progressive issues: health, the environment and

by Lea-Ann Tratten  
Column Editors: L. Tracee Lorens  
and Timothy Blood

Lea-Ann Tratten is the Political Director for  
the Consumer Attorneys of California.

She may be reached via email at:

LTratten@caoc.org.

Continued on page 6

civil justice. We then turned those voters out for progressive candidates Wieckowski and Alejo. We now have a significant electoral base to communicate with those legislators.

### The General

Our approach this year to the general election was a bit different from our usual general election year politics. First, we saw a promising slate of future leaders in this state who will do right by consumers in their new roles and will lay the foundation of leadership in this state for years to come: Gavin Newsom, Kamala Harris, Dave Jones. They are truly dedicated public servants who will carry the torch of justice for many years. We have developed strong relationships with these new officials. Our fundraising efforts focused on meet and greet events where our members could really get to know these people and show them who we are and the cause we fight for each day.

In addition to direct support, we maintained three independent efforts for candidates. We ran a GOTV ad in support of Jerry Brown and Gavin Newsom in the Spanish-language newspaper, *La Opinion*. We were alerted to efforts in Los Angeles to depress the Latino vote and we fought back with an inspirational ad urging voters to choose two voices for the future: Jerry Brown and Gavin Newsom.

Less than two weeks out we also stepped in to help fund the inde-

pendent effort launched by our labor allies in support of Kamala Harris. Harris was clearly suffering from Cooley's natural presence in Los Angeles and a last minute attack campaign funded by an out-of-state Republican group. Rather than launch our own effort, we elected to support both Harris and our labor allies by contributing to the Opportunity PAC campaign. CAOC has also helped fund the Democratic Party, which took part in monitoring the all important vote count in a race that wasn't decided until Cooley conceded more than three weeks after election day.

And our charge against the insurers continued with a successful last minute independent expenditure effort run through the California Alliance on behalf of Dave Jones and against the insurance industry candidate, Mike Villines. Polls showed that the \$5 million insurance industry campaign against Dave Jones began to erode his previously unassailable lead over Villines. We acted quickly to stop his precipitous fall and to alert voters about the insurance industry tactics. This campaign marked our first foray into a general election, constitutional office campaign. CAOC amassed \$500,000 in less than one week to fund a radio ad in the Los Angeles area to run the week preceding the election. Our ad saturated English and Spanish radio

in Los Angeles and was a significant factor in Dave's Election Day surge in Los Angeles.

Second, we faced enormous hurdles with the governorship. Seven years of Arnold Schwarzenegger's erratic leadership left many disillusioned. Bitter feelings lingered from the 1975 passage of MICRA despite Brown's later statements acknowledging its "arbitrary and cruel effect" on victims of medical negligence that only "enriched insurers". (See, STATEMENT OF FORMER CALIFORNIA GOVERNOR JERRY BROWN CONCERNING MICRA, June 13, 1993, objecting to incorporating MICRA provisions into Clinton's health care plan.) Nevertheless, it became clear that a Whitman administration would take aim at the disadvantaged and held little regard for the civil justice system. We believed it was incumbent upon us to work with Brown - all of us many years older and wiser than 35 years past.

Our leadership met with Brown before Labor Day when the campaign didn't have the funds to make the media buy necessary to fill a minimum campaign budget. Brown was at his intellectual best and his commitment to public service and to the disadvantaged showed through. His experience at the Attorney General's office in taking on the banks, insurers, and the health industry clearly shaped his thinking on the civil justice

Continued on page 27

## HUTCHINGS COURT REPORTERS

**Family Owned & Operated**

Court Reporters - Conference Rooms  
Video - Interpreters - Videoconferencing

- ✓ Modern, full-service facilities
- ✓ Complimentary food & beverage service
- ✓ Online scheduling & calendar review
- ✓ Imaging and online depositories
- ✓ Email transcript delivery
- ✓ Realtime and remote access
- ✓ CLE Presentations & Training

*Serving San Diego legal professionals since 1953*

24-Hour Worldwide Scheduling

800.697.3210

[www.hutchings.com](http://www.hutchings.com)

system. We left that meeting feeling that Brown was our only choice and he was a great choice. With two events in four weeks, our organization raised the money that made up one third of his campaign shortfall. Brown's old relationships with many trial lawyer legends such as Mark Robinson, Joe Cotchett, Wylie Aitken, Tom Brandi and Dave Casey are now cemented with our new leadership.

Third, we backed legislative leadership in their efforts to hold onto seats and, in one case, to build a Democratic majority. Our efforts focused primarily on supporting Darrell Steinberg and John Perez, rather than mounting individual legislative campaigns. That decision was a wise one as both were successful in holding onto seats and John Perez built his majority by one with the election of Dr. Richard Pan in Sacramento. And we helped give the majority new power in supporting Proposition 25, the majority vote initiative. Perez now has the largest Democratic majority in his caucus since 1974, during Brown's first term as governor.

Finally, the efforts of the California Democratic Party under the leadership of Chairman John Burton and Executive Director Shawnda Westly bore fruit as we saw a high turnout of Democrats unseen in prior non-presidential election years. We, along with traditional Democratic constituencies in labor and Democratic legislative leadership, helped finance these critical efforts.

### What Lies Ahead

A \$26 billion budget shortfall – nearly one-third of the overall state budget – greeted Brown within days of his victory. Legislative leadership has trimmed the budget to near critical levels and it is difficult to see a painless way out of this widening budget hole. Everything will be on the table and Brown, known for his austere approach to economics, will surely expect everyone to share the

pain. One of his first public statements since inheriting the budget fiasco was to ask legislators and interest groups alike to come to him with budget solutions. It isn't hard to see that the fiscal cloud will continue to hang over the California legislature. Passage of Proposition 25 (majority vote) and Proposition 26 (2/3rds vote for fee increases) will ensure that the Democratic majority will have to own this budget and the inevitable cuts.

Our electoral victories are short-lived and only take hold with follow through. Consumer Attorneys' legislative advocates will continue to develop relationships and educate our new legislative allies. We also need you to get engaged at the local level in developing your own relationships with elected officials. And you need to take it a step further. We have a relatively small membership of lawyers, but the people you represent number in the tens of thousands. They provide an important organizing force that should be harnessed to speak for the civil justice system.

We also must immediately plan for the future. Two ballot initiatives: Redistricting and Open Primary make 2012 an electoral mystery. In two years, incumbent legislators may find themselves gerrymandered out of their elected districts. While most do not expect a radical change in the number of Democrat vs. Republican seats, the character of those districts could change dramatically. Layered with open primary – the top two vote-getter advancement proposition – the incumbent edge could drop. Twenty Assembly seats (16 of those currently held by Democrats) and seven Senate seats (four currently held by Republicans) won't be defended by sitting lawmakers in 2012. Legislators up for reelection could face significant challenges from within their own party. Candidate recruitment becomes more critical, but until the new lines are drawn it is difficult to assess the viability of a

candidate. In this atmosphere, organizing efforts and coalition cooperation will become essential to our success. Those efforts take place in off-election years and our political program must shift from election-driven politics and fundraising to year-round development.

### Corporate Democrats Redux?

The rise of the Corporate Democrats occurred when the party held both houses of the Legislature. They faced the prospect of a Democratic governor who was sympathetic to progressive issues and, in order to block legislation, corporate interests backed Democrats who would vote with Republicans to block good consumer legislation. A manufactured insurance crisis and a brilliant physician organizing campaign allowed MICRA to be enacted when the Democratic Assembly majority hit 52.

We are a very different organization now. Our political program changed dramatically in response to the corporate takeover of the Assembly and we are now better positioned than ever to meet these challenges. And despite the obstacles presented by the "mods" in the early 2000s, CAOC promoted a tremendously successful legislative program: HMO liability, two-year statute of limitations and 75-day notice for summary judgments to name a few. We are now planning our short and long term political and legislative goals to ensure that the courtroom doors stay open so that your clients have a fair shot when they walk through those doors. **TBN**