

Make No Mistake About It — What Happens in Sacramento Does Not Stay in Sacramento

by Joel R. Bryant

Although it is said that what happens in Las Vegas stays in Las Vegas, the same is definitely not true when it comes to Sacramento. No, this article is not about a bachelor party gone awry. Instead, it is about the daily battles waged against California consumers by our adversaries and how none of us can afford to lose these battles.

It only takes the passage of one bill in the California Legislature to drastically limit or eliminate entirely our clients' rights and threaten our livelihood. It is disconcerting that we work so hard to improve our skills in the courtroom so we can become better advocates for our clients, yet we spend so little time, effort and money when it comes to preserving consumer rights in Sacramento. The problem is none of us have enough time to do it all. Between keeping abreast of the ever changing laws, working to improve our trial skills, representing our clients to the best of our abilities on a daily basis and spending time with family and friends, there is rarely time left for us to get heavily involved in other things such as politics and politicians. Fortunately, there is an organization that has our best interests at heart and fights our adversaries in Sacramento every day. Consumer Attorneys of California ("CAOC") is our first line of defense in Sacramento and at the ballot box to protect consumer legal rights.

Just as we fight daily to represent consumers against insurers and big business, CAOC does the same at the State Capitol. Just as we represent consumers in the courtroom, often when no one else can or will, against more powerful, better funded opponents, CAOC does the same in Sacramento.

A good way to see the impact of CAOC's efforts in recent years is to take a look at the pro-consumer legislation CAOC sponsored which passed, the anti-consumer legislation which CAOC helped defeat and the initiatives which our powerful adversaries concocted but which never made it to the ballot because of CAOC's efforts.

Anti-Consumer Initiatives Blocked

How would you like it if our contingent fees were capped at 10 or 15%? In 2005, the Pharmaceutical Research and Manufacturers of America introduced an initiative that would have done just that.

How would you like it if class action lawsuits were barred in California? In 2007, the California Chamber of Commerce and The Civil Justice Association of California ("CJAC", more like the Civil Injustice Association) filed an initiative that would have done so.

How would you like it if a jury's ability to award punitive damages against companies who put dangerous products on the market was severely limited? In 2006, Chevron and CJAC filed an initiative that would have done just that.

Fortunately, a combination of strategic counter-initiatives and astute negotiations by CAOC kept these measures from ever appearing on the ballot.

Pro-Consumer Legislation Passed

As you might imagine, getting pro-consumer legislation passed while the Terminator was governor was difficult due to his propensity to veto pro-consumer laws. However, over the past few years, CAOC was instrumental in getting the following laws enacted:



Joel R. Bryant is CASD's President for 2011. He is a partner in the law firm of Green Bryant & French, LLP, where he represents elders and their families in both nursing home abuse and financial elder abuse litigation. Additionally, he represents individuals in probate, personal injury and employment litigation. Joel received his Bachelor of Science degree in Finance, summa cum laude, from Arizona State University in 1987 and his Juris Doctor from University of San Diego School of Law in 1990. Joel is a two-time recipient of CASD's President's Award and has been on CASD's board of directors since 2001. He can be reached at jbryant@gbflawyers.com.

Continued on page 4

Expedited Jury Trials Act (AB 2294) —

This law will enable a summary, one-day jury trial for small cases. It will reduce the cost of these cases and should therefore give consumers with smaller claims a real chance to have their cases heard and resolved by a jury.

Social Host Liability (AB 2486) — This law changes the current absolute immunity for social hosts so that it is not applicable to adults who knowingly provide alcohol to minors in the home.

Medical Errors: Radiation Reporting (SB 1237) — This law increases patient safety with safeguards that will reduce the risk of over-radiation by establishing a quality assurance program and requiring notification of radiation deviations to the Dept. of Public Health, the physician, and the patient.

Peremptory Challenges (Code of Civil Procedure §170.6) — This law clarifies two conflicting time periods and makes 15 days applicable to all

peremptory challenges, thus avoiding traps for litigants.

Structured Settlements (SB 510) — This law assists all parties involved in structured settlements by providing clarity and consistency in the court approval of structured settlement purchases.

Anti-Consumer Legislation Defeated

During the last few years, CAOC has been instrumental in defeating most, if not all, anti-consumer legislation in California. A few of the more significant bills that were defeated are:

Loser Pay in Medical Malpractice and False Claim Cases — SB 92 would have imposed a one-sided penalty on a patient and his or her attorney who unsuccessfully pursued a medical malpractice claim, and AB 2760 would have awarded prevailing defendants' fees in False Claim cases.

Employment and Wage, Hour and Meal Break Changes — SB 287 would have gutted California's meal break pro-

tections for workers. Numerous other bills such as AB 141, SB 187, SB 380, SB 665, SB 807, SB 908, and SB 1335 were defeated which would have limited wage and hour claims. AB 227 would have restricted penalties on employers who violate labor standards.

Limits on Contingency Fees — AB 2227 would have imposed strict limits on contingency fees.

Class Action Limits — AB 298, AB 1040, AB 2588 AND ABX8 38 would have severely restricted California's class action statute by making class certification orders immediately appealable.

Product Defect Limits — AB 2740, ABX8 40, SB 1017, and SBX8 69 would have limited product defect actions.

Punitive Damage and Public Entity Design Limits — During the budget process, the Terminator and his team tried to slip in a proposal which would limit punitive damages, extend MICRA caps to public

Continued on page 25

www.thegomezfirm.com

WE ARE NOT JUST IN SAN DIEGO. WE ARE A PART OF IT.

We are proud of our community partners.

2006 & 2010 TRIAL LAWYER OF THE YEAR*

LISTED AS BOTH SUPER LAWYER® & BEST LAWYER® IN AMERICA

2011 & 2010 SAN DIEGO METRO MOVER & SHAKER

The Gomez Law Firm

For more information:
Yolanda S. Walther-Meade, VP,
Business Development
858.504.0188 | yolanda@thegomezfirm.com
625 Broadway, Suite 1200 | San Diego, CA 92101

Find us on:

SAN DIEGO NATURAL HISTORY MUSEUM

entity design cases and eviscerate class actions. With CAOC's leadership, the proposal was defeated before the day was over.

Keeping Our Courts Open for Business

As we all have experienced, shutting the courts down even one day per month can result in a big case backlog in the trial court which delays our trial dates and, in doing so, delays our clients' access to justice. As the saying goes, "justice delayed is justice denied." As courts were being closed, insurance companies and other defendants seized the opportunity to refuse to settle cases. The delay in setting trials furthered their goal of winning a war of attrition, which many injured persons are ill-equipped to fight.

CAOC worked hard with the Judicial Council, defense counsel and judges to mitigate the severe budget cuts. CAOC successfully persuaded legislative leadership that court funding was crucially important to all Californians. As a result, the one day per month court closures ended in July.

For those of you who have had cases in Riverside in recent years, you will recall how trial of civil cases

ground to a halt in 2007. Trial in 4 to 5 years from filing was the norm. As a result of CAOC's sponsorship of SB 1630 several years ago and the hard work of numerous legislators and CAOC's staff, California assigned additional judges and civil court facilities to Riverside. The result has been that the waiting time for trial has dropped from five years to two.

What Can You Do to Help?

You might think we are safe for now because we have a democratic governor and democrats control both the state assembly and senate. Although it is true that we look to be in a better position than when the Terminator resided in the governor's mansion, the fact remains that our adversaries and their virtually unlimited financial resources will continue to exert influence in Sacramento and they will continue to try to chip away at consumer rights and our livelihood every opportunity they get. Make no mistake about it, we must remain vigilant. The moment we let our guard down, our adversaries will be waiting to seize the opportunity.

As trial lawyers representing consumers against insurance companies and big business, we will always be outspent by the foes of liberty and jus-

tice for all. Fortunately, CAOC has been very successful in preserving our clients' rights despite having significantly less financial resources than our adversaries. CAOC, however, needs all of our help. Each of us has to do our part for CAOC to be successful. They cannot do it alone. It is unfair for us to rely on others to carry our share of the water in Sacramento. There are two simple things you can do to get involved today.

First, set aside May 3 on your calendar and attend Lobby Day in Sacramento. Each year, members of CASD join attorneys from across the state in Sacramento to participate in CAOC's Lobby Day. This involves meeting face-to-face with many of the legislators whose decisions can greatly impact the rights of our clients and educating them as to why they should vote for or against certain pending legislation that can significantly impact our lives and the lives of the people we represent. Additionally, there are always several fun parties the night before and night of Lobby Day.

Second, join CAOC today if you are not already a member and join its Advocates Club. Information about CAOC and its Advocates Club can be found at CAOC.org. **TBN**

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