

Doing Our Job Well

I know I'm Pollyannaish. But for me, it's the best way to go through life as a plaintiff's lawyer. I actually believe justice prevails, the courts get it right and our political system serves the people and the common good rather than the narrow, moneyed special interests.

But I'm not naive. We live in an imperfect world, so justice usually prevails, but not always. Over time society trends towards greater justice, but at times society can be viciously unjust. Overall courts get it right, but not every time. And the political system serves the people and the common good in the long run, but not always at the moment.

This is the stuff of humanity, and as plaintiffs' lawyers we take center stage. We have the privilege of representing people against those who act greedily, carelessly, insensitively, maliciously and corruptly. While we may not win every case, if we do our job well, we greatly increase our chances.

So what does it take to do our job well? Certainly it means honing our lawyering skills. But as a plaintiff's lawyer, it means doing much more than just focusing on what happens in the courtroom. The courtroom, after all, is the end of the process. Without the right rules and laws, we may never get to the courtroom or once in, may not be able to do our job. Unlike many other types of lawyers, we work on a broad, expansive stage where politics, societal debates and courtroom skill intersect, whether or not we chose to acknowledge it. To do our job well, we must represent our clients on the full stage, and not just a corner of it.

Take the issue of same-sex marriage, a dramatic example of how lawyers doing plaintiff's work sharply and swiftly bent the arc of time towards justice. Seemingly overnight, court decision after court decision held that bans on same-sex marriage were unconstitutional, culminating in the remarkable Supreme Court decision, *Obergefell v. Hodges*. *Obergefell* didn't just happen. It

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was the result of a carefully planned and executed litigation strategy. In the end, courts did what courts are supposed to do – protect the individual from injustice. But the courts could not have done it without a case to adjudicate and lawyers doing plaintiff's work well.

Consider the result in *Obergefell* if the rules were a little bit different. Consider if the pleading standards were heightened, or more restrictive standing requirements applied, or the remedies were curtailed. What if no private right of action existed? Any guess as to the fate of the case if it was subjected to a forced arbitration clause? If any of these existed, *Obergefell* would never have happened.

Pick an area where litigation has led to improvements through increased accountability and increased public awareness, such as product liability, consumer protection, civil rights, securities fraud, elder abuse, construction defect, etc.

Without those cases, the resulting improvements likely would not have occurred. But all of these types of cases are under attack in legislatures throughout the country. The attacks focus on the little details – the types of details that prevent stories from ever being told.

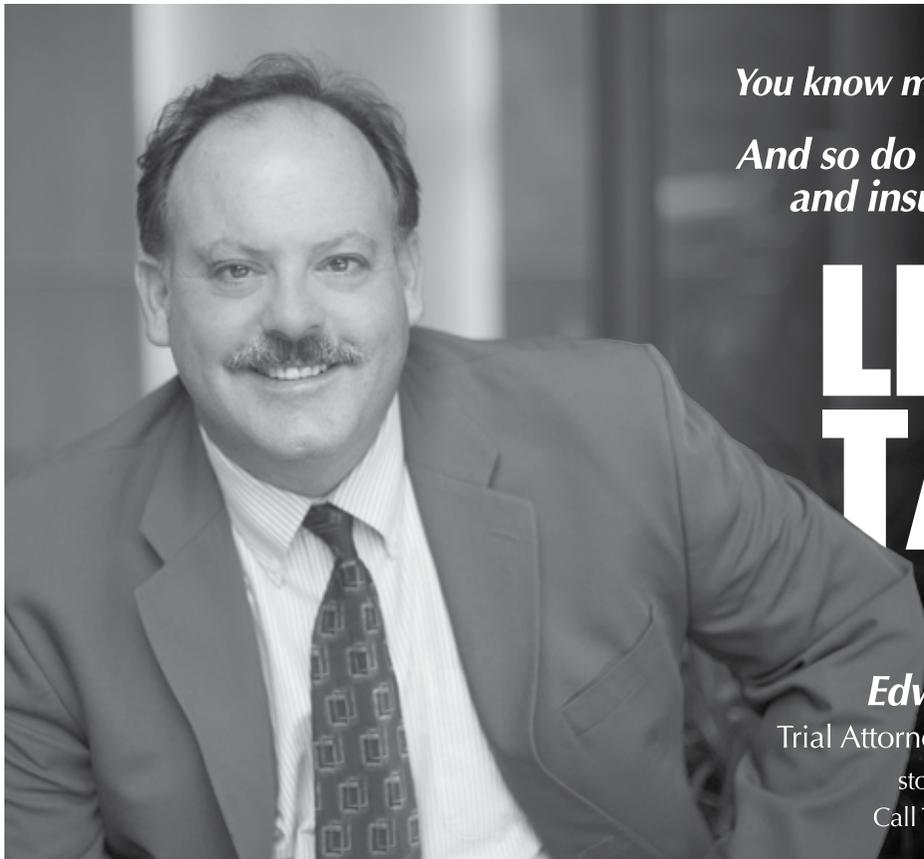
The moneyed special interests - the large corporate interests - have become increasingly adept at backing candidates that are more inclined to pass rules and raise hurdles that deny people their day in court. In California, the "moderate" Democratic caucus owes its existence to corporate bank-rolling of campaigns to elect this type of candidate.

This is why, to do our job well, we need to practice not just in the courtroom, but in the political arena, too. We need to contribute to campaigns, participate in the political process and educate policy makers.

We know we can do it. Despite a record number of corporate

Democrats in the California legislature, no affirmatively damaging legislation has passed, although a lot has been introduced. Many corporate Democrats, when faced with an actual bill, find they cannot, in good conscience, vote the way their corporate patrons want them to vote. But we will lose the war if we do not fight back harder than ever before.

By doing our best, we can fulfill our obligation to make the world a bit more just. Let's do it! **TBN**



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And so do the defense attorneys
and insurance companies.*

LET'S TALK

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