

Trial Lawyers as Defenders of Workers' Rights

Labor is prior to, and independent of, capital. Capital is only the fruit of labor, and could never have existed if labor had not first existed. Labor is the superior of capital, and deserves much the higher consideration." (Abraham Lincoln, Annual Message to Congress, 3 December 1861.) There is frequent tension between labor and capital. This tension often manifests in the struggle between the exercise of workplace civil rights and limitations on the exercise of those rights, which tends to benefit big business.

by: Jim lagmin, CASD President



Jim lagmin is a partner at Williams lagmin LLP. For nearly twenty years, Jim has represented only plaintiffs, primarily in catastrophic personal injury and employment cases. Jim has been a member of CASD since 2000 and is a four-time recipient of CASD's Outstanding Trial Lawyer award. Jim earned his Bachelor's degree at Loyola Marymount University and his Juris Doctorate at the University of San Francisco.

A fair wage and the just treatment of workers is vital to our democracy. Often, though, businesses increase profits by underpaying workers or engaging in unfair business practices, such as discrimination against certain groups or retaliation for protected activities. Workers are sometimes denied minimum wages, breaks, or are required to be "on-call" during their breaks. Employees are mistreated because of gender, religion, sexual orientation, ethnicity, disability and other attributes. These practices are not only bad for the individual employees, but also all law-abiding businesses, because they create a competitive disadvantage against responsible employers who play by the rules.

Consumer attorneys working on employment cases are an important, if sometimes the only, bulwark to the erosion of workers' rights. Both Congress and the California Legislature have repeatedly recognized the importance of encouraging attorneys to represent employment plaintiffs, often of limited means, by codifying attorney's fees provisions. (E.g., 29 U.S.C. § 216; 42 U.S.C. § 2000e-5, subd. (k); Cal. Labor Code § 1194; Cal. Gov. Code § 12965, subd. (b).) Significantly, these provisions allow Consumer Attorneys to take on meritorious cases regardless of value and to right the wrongs for low-wage workers, who are often the most vulnerable to exploitive employment practices. However, these law are not self-executing. The purpose of these attorney's fees statutes is not to encourage meritless litigation, but to help ensure that meritorious claims are heard, which inures to the public interest.

Continued on page 21

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Consumer Attorneys are so crucial to the protection of workers' rights that the California Legislature deputized them to enforce the Labor Code on behalf of the state through the Private Attorney General Act ("PAGA"). Although workers' ability to bring class actions is frequently restrained, PAGA has enabled California's Consumer Attorneys to bring representative actions to

promote justice and deterrence. Ten years after its 2004 enactment, PAGA had brought \$31 million in revenue to the state's Labor and Workforce Development Agency, which helps workers and businesses alike.

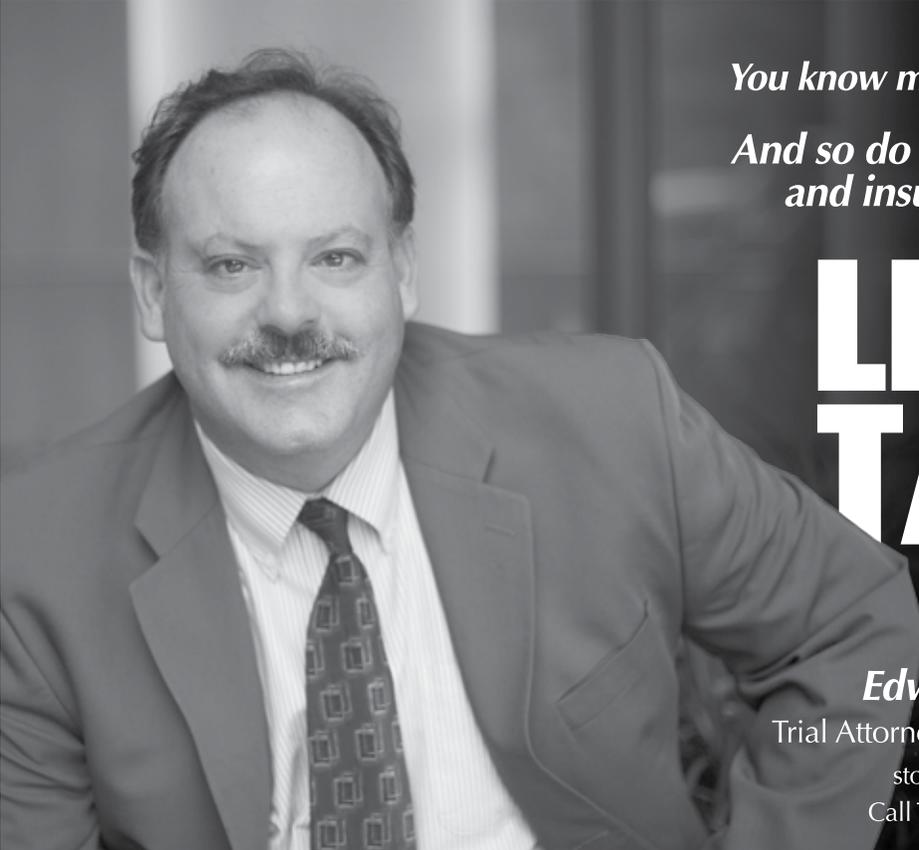
Consumer Attorneys' role in our democracy as the defenders of civil liberties and fundamental rights is shown time and again. I repeatedly hear of our members successfully

vindicating workers' rights. These victories establish that the law remains a noble profession and that Trial Lawyers must continue to fight to uphold our rights and freedoms.

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Member Accomplishment Information Sought

CASD members are urged to submit significant achievements about themselves or others to Dana Grimes, Editor-in-Chief of *Trial Bar News* (trialbarnews@gmail.com) for consideration for publication in our Member Accomplishments section. The achievement must involve representation of a client in a civil or criminal matter which was resolved by settlement, arbitration, mediation or trial verdict. The representation should involve difficult liability or damage issues, unique subject matter or defense, time constraints associated with preparation or presentation of the case and a successful result.



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And so do the defense attorneys
and insurance companies.*

LET'S TALK

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