

JUNE / JULY 2005 PRESIDENT'S COLUMN

“DON'T STOP THINKING ABOUT TOMORROW”

by Robert J. Francavilla

Robert Francavilla is CASD's President for 2005. He is a partner in the firm of Casey, Gerry, Schenk, Francavilla, Blatt & Penfield where he practices all aspects of personal injury and wrongful death litigation. Mr. Francavilla was formerly the Tort Law Column Editor of Trial Bar News and is a frequent lecturer at legal seminars and San Diego Inn of Court. He has received CASD's Outstanding Trial Lawyer award on three occasions. He may be reached by e-mail at: rjf@cglaw.com.

By now, all of us have breathed a collective sigh of relief because the fee cap initiative sponsored by the pharmaceutical industry has gone away. The fact that it has gone away is due, in no small part, to the masterful negotiations of my law partner, David S. Casey, Jr., and CAOC President, Sharon Arkin. Sharon has proven that it pays not only to be smart, but also to be respected for her integrity. David continues to amaze me with his ability to take a politically charged situation and bring people together to talk and negotiate as intelligent human beings, finding some common ground to unify interests rather than let them separate us. Our thanks go out to both of these people who epitomize the term “Consumer Attorney.”

The fee cap initiative is gone. For now. If past initiative battles and potential fee cap initiatives have taught us nothing else, it is that our opponents are extremely powerful, well funded and politically connected. The trick to beating them is to be prepared before they strike again. We cannot always rely on the political clout of our statewide organization and people like David S. Casey, Jr. to make our problems disappear.

Instead, we need to begin preparation for the attack on the tort system by other big business entities, insurance companies and others -- because it is certain to come in short order. The most important and effective way for us to begin preparation is to unify and raise money to protect consumer rights. Sure, being asked to give money hurts, but not nearly as badly as it will if a fee cap initiative passes. So, how can we all get together and give in a way that (1) doesn't hurt so much and (2) insures that the tort system remains intact so we can continue to help those harmed by the acts of the very individuals and entities seeking to crush us?

One way to do it is to set up a program whereby all of us contribute money on a monthly basis beginning now! This will enable everyone to participate in the fight to protect the tort system without being forced to take a series of large unmanageable financial hits. I know, giving money for a threat yet to be filed or arise in another forum is certainly not something that any of us would voluntarily line up and choose to do. Unfortunately, there is no other solution to protecting the tort system. If we simply go back to our old lives and bump along as though nothing happened or will happen, we are going to be caught off guard and in trouble.

I love what I do as a plaintiff's trial lawyer. I look forward to every day that I get to go into the office or into the courtroom to fight for and speak for those who can neither fight for nor speak for themselves. If we simply go on believing everything is okay, one day doing what we love, doing what we do best, will be nothing more than a distant memory.