

PRESIDENT'S MESSAGE

by

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I am very proud to be the new president of the San Francisco Trial Lawyers Association. The organization was founded on the principle that unselfishly sharing ideas and information will make its members better lawyers and benefit our clients. Many great lawyers, judges, and justices have been members, and the list of past presidents reads like a “who’s who” of courtroom heavyweights.

Membership in SFTLA demonstrates a devotion and commitment to the practice of the law. Our current membership totals 675, and by continuing to provide excellent MCLE programs, social events, and other member benefits including health insurance and internet listserv forums to exchange information and ideas, we will continue to grow. During this next year we will continue our commitment to diversity. We will reach out to law schools and the legal community to attract new members with varying backgrounds and experiences because we all benefit by understanding our differences.

For those who value democracy this last year has been difficult. An intellectually challenged myopic hypocritical ideologue president was re-elected on the strength of a misleading and dirty smear campaign despite intentionally lying to the World about WMD in Iraq and causing the deaths of thousands, lying about the cost of the invasion and occupation, totally mismanaging the economy, eliminating environmental protections, and alienating the world. Republicans gained seats in both the House and the Senate too. They will continue to push legislation that favors corporations over individual rights. They will

continue to try to erode the 7th Amendment right to jury trial. Despite the undisputable statistical evidence that there is no litigation explosion, the myth is repeatedly pushed by the corporate-owned mainstream media, resulting in the general populace believing they should vote away their right to civil justice and compensation. Caps on damages, elimination of joint liability to the benefit of the tortfeasor and the detriment of the innocent tort victim (a drastic reversal of sound public policy!), a federal no-fault auto system, and caps on contingent fee agreements, and more, are all on the table this year. Last year federal medical malpractice “reform” that would have capped non-economic damages was stopped in the senate, but it will be back. As will other drastic and unfair “tort reform”.

In California our “Governator” has established a committee named The California Performance Review (“CPR”) for the purpose of studying state government and developing proposals both to streamline government and better provide services to the people. Unfortunately, a recommendation of the commission in its report is to (1) cap the state’s tort liability at \$1 million per claim regardless of the victim’s actual loss, (2) shield all defendants from joint liability for economic damages by allowing juries to be instructed that if they find the defendant even marginally liable it may have to pay all the plaintiff’s economic damages, with the hope that juries will be deterred from finding fault, thereby depriving the plaintiff of just compensation, and (3) amend the design immunity statute in the Government Code to mandate that a judge and not jury decide the factual applicability of the immunity, with the hope that the largely conservative judiciary will protect the state, and other public entities, from an award of damages.

This legislation is misguided and unnecessary. According to the CPR report

California pays \$123 million annually in tort claims and the changes would reduce state pay-outs by approximately \$23 million or 19 %. The Governor's '04-'05 budget summary lists general fund expenditures of \$76 billion. Thus the effect of the legislation would be to victimize an already victimized plaintiff by depriving her of needed compensation while providing a minuscule savings to the state less than .001% of projected expenditures. A person rendered quadriplegic due to a dangerous condition of state property with economic damages exceeding \$15 million dollars as determined by a jury would get \$1 million in compensation.

This is unthinkable!

The Governor is expected to support these changes, and if the legislature stands up and does the right thing, he will surely take it to the people who will be subjected to a barrage of misleading political ads which, if not effectively countered, will once again result in people tragically eliminating their rights for no purpose at all. And you can be sure that contingency fee caps will be next.

For the sake of preserving the Constitutional rights of our clients and families to access to civil justice it is imperative that we all become involved in the efforts to fight these continuing, wrong, and fraudulent efforts at so-called "reform". Each of us has our own comfort level of participation, and that should be respected, but whether it is contributions of money to candidates or causes, active support of candidates or causes, fund raising, we must commit to involvement. I believe that membership in Consumer Attorneys of California is important because it works diligently and effectively at the state level to defeat legislative efforts at tort reform and pro-corporate candidates, and

proactively at passing good laws and getting good people into the legislature. Membership in the Association of Trial Lawyers of America is important too, especially over these next four years, because this organization has been effective in Congress. And I believe membership in the Center For Justice & Democracy (centerjd.org), Public Citizen (citizen.org), and Trial Lawyers for Public Justice is crucial as well, so the war to preserve the 7th Amendment right to jury trial and dispel the myth of a need for “tort reform” can be fought nationally. These organizations are established, energetic, and effective. There is strength in numbers for a variety of reasons.

During this next year please renew your commitment to your clients and practice by renewing your SFTLA membership, and help us expand by finding new members. Come to the MCLE programs, use the listserv, enjoy the wonderful social events. And, I urge everyone to join, and encourage others to join the other larger crucial organizations. That’s a level of involvement I hope everyone can be comfortable with, because only with your support can the state-wide and national organizations continue to fight the good fight and work to protect our Constitutional rights to civil justice.