

**THE ORANGE GROVE**

# Have the lawyers learned their lesson?

**D**id the lawyers learn any humility in the last election? They should have; contingency attorneys nearly lost their livelihood within a whisker.

Voters rejected three bold measures that would have changed the tort reform landscape. Propositions 200 and 202 were rejected because they were extreme proposals. But the drafters' passions are understandable. The wording for each proposition did not offer a measured response for thoughtful reforms.

The list of horror stories is endless with plaintiff attorneys abusing individuals and the business community. From the excess awards, to allowing criminals to claim damages when invading someone else's property, to suing a manufacturer for the product he produced 40 years before, the system cries out for reform.

Trial lawyers, now known as consumer attorneys, are the primary reason why so little has changed in tort law in the last 16 years.

Consumer attorneys raised prodigious sums of money to give to liberal Democrats in every election cycle for the last 16 years. When Willie Brown was king of the Assembly, he could count on his lawyer ideological foot soldiers to raise money and devote great resources in tight races against Republicans. Naturally, Republicans consider consumer

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attorneys as a key enemy. When the 1994 elections gave Republicans a chance to control the Assembly for the first time in decades, Republicans targeted consumer attorneys. If consumer attorneys supported a piece of legislation, no matter what, Republicans killed it. Just to mention consumer attorneys creates a visceral negative response from all Republican members.

This is no surprise and the lawyers earned it. Consumer attorneys have been dominated by left-wing Naderite thinking for the last two decades. Their lobbyists and staff members share the anti-business philosophy of Ralph Nader. He was their inspiration.

As the California population becomes more conservative and elects more Republicans, the days of this breed of consumer attorneys are numbered. Unfortunately, tort reform may result in extreme measures like pure no fault insurance and socialistic wage and price controls in the future.

Consumer attorneys are going to have to reconsider their options. They can hope for perpetual Democratic control over the legislature or consider transforming their organization into a trade association. As a trade association, they should learn to work with Republicans and the business community. Instead of

giving literally 99 percent of its political funds to Democrats, lawyers will have to start sharing their funds with Republicans on a more proportional basis. Otherwise, Republicans have every justification for continuing attorney bashing because they have nothing to lose.

Consumer attorneys are going to have to open the doors for rational discussion, including: capping punitive damage claims, shortening the timeline against product liability, supporting mandatory arbitration with smaller cases, considering a genuine bilateral loser-pays system for discouraging frivolous lawsuits, and ending abusive lawsuits against small companies and pension funds for alleged stock manipulation.

The ball is in the lawyers' court. Perhaps they have learned a lesson in humility or perhaps they are more arrogant than ever. This is a splendid opportunity for lawyers to appreciate the fact that a lot of people really hate them. Much of the hatred is based on lawyers' behavior to thousands if not millions of people over the years. If the lawyers are willing to sit down with the business community and Republican legislators and start some serious compromising, then we can have rational tort reform.

— Mr. Steel is an attorney in Newport Beach and treasurer of the California Republican Party.