

The LITIGATOR

VOLUME IV *Official Publication of the Capitol City Trail Lawyers Association* ISSUE 2

President's Message

BY: CRAIG SHEFFER, PRESIDENT 2005



Here we go again. 2005 will be no different from any other year in terms of tort victims' rights being attacked on a statewide basis here in California. This time, however, we are being attacked directly by way of a 20% contingency fee cap initiative, being sponsored by the pharmaceutical industry – among other behind-the-scene sponsors, I'm sure. If passed, the fee cap will result in our inability to assume the time and financial risk of taking on many otherwise viable injury cases. We, of course, will be perceived as a greedy "bad guys" for not taking the cases, while the insurers, product manufacturers and constituents of the Chamber will be the recipients of a windfall in terms of people being injured by those who act badly, with no economically viable recourse for the victims. The initiative is a bad idea and, if it passes, will be a devastating blow to those of us who really care about what we are currently able to do for tort victims. To defeat this initiative we must stand united, along with CAOC and our other coalition members, with one strong voice and effort in opposition. The voters must be informed and educated as to the devastating impact that a contingency fee cap would have on access to the courts for millions of Californians.

I am encouraged by the activity that I have seen on the list serve since the news of the initiative broke. It seems as if the threat of a 20% fee has caught your attention and lit the proverbial "fire" under many of you who we haven't heard from in a while. Your ideas

on how to defeat the initiative are all good, and have been passed along to CAOC for consideration; your offers to "mobilize" into action to battle the initiative will be accepted; and finally, your offers to become members of the CAOC Advocates Club are most welcome. This initiative will be expensive to fight, so we must all contribute.

On another note, our local educational program year is underway. The "Tort and Trial" seminar was attended by about 90 of you. It was an entertaining and beneficial program, and I am grateful to Craig Needham and Pat Becherer for sharing their time and insight with us again this year. The Tahoe Ski Seminar, which we are sponsoring along with CAOC, is shaping up nicely, and I hope to see you there. We are in the process of finalizing our calendar for the rest of the year for the Luncheon Programs, Problem Solving Clinics and Seminars. I am again asking for your assistance in providing us with topical ideas and instructional/speaking help. If you have ideas as to what you would

like to see presented in our programs, or if you would like to speak, please e-mail me or give me a call.

Finally, we need your help with the *Litigator*. You are all out there in the "trenches", fighting the good fight. We need your stories for the *Litigator*. Trial results, interesting settlements, "how to" items, and news items which would be of interest to plaintiff's lawyers, are all welcome. The articles needn't be fancy – just get us the information and we will do the rest. Items for the *Litigator* can be e-mailed to me at csheffer@dbbc.com.

Remember, we are strong, creative, resilient, and are on the "right" side. Let's stand together and gear up to battle this initiative because it is the right thing to do for California.



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Check out our web page at:
www.s-c-a.org.

How Mentoring Saved My Life

BY: DIANE MATTHEWS, CCTLA MEMBER

At some point in your life, did you have someone you could turn to, who took the time to teach you things you never thought you could master? Did someone believe you could achieve your goals, even when you had trouble believing in yourself? To whom did you turn when you just needed someone to talk to, to confide in, to help you find the “answers”? Where would your life be without these significant people?

You can be that person in someone else’s life. Volunteers In Parole, or VIP, is a nonprofit organization founded by attorneys 33 years ago so that members of our profession would have the opportunity to mentor men and women on parole.

Many parolees have the desire and ability to turn their lives around, but lack the strong support system necessary to help them achieve their goals. Even with family and friends to lend that support, it’s a very difficult challenge. A VIP mentor serves as a “touchstone” for the parolee, someone who can be there just to listen and provide encouragement and friendship. Research shows that having a VIP Mentor more than doubles a parolee’s chances for success! When

a parolee becomes a contributing member of society, everyone benefits: families reunify, the community benefits, and prison costs are reduced.

When I was first asked to become a VIP mentor for someone on parole, I didn’t have to give it any extra thought. The discovery of VIP was my opportunity to give back the mentoring I had received. My earliest mentors were in Girl Scouts but also included neighbors who took an interest in my when I was young, angry, scared and misdirected. When I was older, I had mentors in my professions. I now practice law with offices in Sacramento and San Francisco. My mentors helped me obtain the tools necessary to take a different path than my brother who ended up going to prison.

I would not expect everyone to be as zealous as I was. I realize some attorneys might have reservations. How much time does it take? Do I really want to get involved with a parolee? What if it doesn’t work out?

Mentoring for VIP takes no more time than any other casual friendship. These friendships prove to be a wonderful learning experience and foster tremendous growth – for both the parolees and the mentors. I have

been a VIP for over four years. My mentees have taught me about perseverance and courage in the face of adversity. Every one of my experiences have been rewarding.

One of my mentees gained back full custody of her daughter, after losing custody of four other children over the course of a decade. Many people thought she was a lost cause and they weren’t going to give her any more chances. But she worked tirelessly to fulfill the demands of the court, and undertook additional classes to better herself. All those people who didn’t believe in her, she proved them wrong!

Another mentee was labeled a “career criminal.” She successfully completed a recovery program, held a full time job, bought a car and became engaged to be married. She has now completely integrated into normal family life. She has recruited new attorneys to be mentors at Bridging the Gap and also shared her life story at high schools.



(If you are interested in learning more about VIP or becoming a mentor, please contact Angela Tillotson, VIP Sacramento Program Director at 916/324-4141, Ext. 259, or e-mail vipsacramento@earthlink.net)

Thank you to the following Sacramento Advocates Club members.

Because of YOUR Advocates Club commitment, consumers’ rights are being protected in our State Capitol, our courtrooms and our offices. Without YOU, big business would slap a permanent “gag order” on the plaintiffs’ bar.

GOLD

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Owen • Eliot M. Reiner • Gregory M. Stroup • Stewart M. Tabak • Kyle K.
Tambornini • Lea-Ann Tratten • Davey Turner • Jack Vetter

A listing of local Advocates Club members will run bi-monthly in this publication. We hope everyone associated with the plaintiffs’ bar will thank these members for their commitment to the protection of justice and consumer rights!

A minimum \$1.00 a day is less than a cup of coffee. We need our colleagues to understand that their clients’ rights are worth at least that. They’re glad YOU do!

With the tort reformers working to further erode punitive damages, cap government entity liability, go after the Americans with Disabilities Act, and expand MICRA to nursing homes ... we need more attorneys to join our fight!

If you would like information about how you can help protect consumers’ rights and help your practice, please call CAOC at (916) 442-6902 or get an Advocates Club application from our website at www.caoc.com.

Mentoring

BY: JACK VETTER, CCTLA BOARD MEMBER

Have you ever thought you might be able to use a second head working on a particular problem in a case? Have you had a “brilliant, innovative idea” that needed a reality check? Have you had a great theme for a case but wanted a “focus group” response from a lawyer and not just your secretary and your spouse? Have you ever signed up a case only to find out several months/hundreds of dollars/hours and hours of work and aggravation later that there is a problem you overlooked at the beginning? How would you like some free, valuable, legal analysis from another person who has agreed in advance to help? Would it be easier if that person had considerable experience in personal injury litigation and might have seen that exact issue before?

As the organizer of the Mentor Program I am amazed at how underused this resource is. I can only assume that it relates to two factors: reluctance to impose and a reluctance about admitting our limitations. The good news is that passing both hurdles can be readily accomplished with overwhelming rewards.

Some of the important reasons that CCTLA exists are to give and get training, education, and camaraderie. There are many very

accomplished attorneys who volunteered to give their time to provide a different viewpoint on an issue for a fellow member. Many know the value of a mentor because they themselves have a mentor in a different area of their practice. None of these people are overbearing or inclined to upstage you with the client or to “steal” away a case. They have agreed to help with the express understanding that they are there to help only.

The reluctance factor is probably the most difficult barrier to pass. You have and recognize the need but are reluctant to expose the mistakes, lack of insight, discovery weakness or timing desperation of the situation to another attorney. As another attorney being consulted on the case, the attorney client privilege extends to mentor communications as well. The mentors on the list are discreet and forgiving. They will take the situation as it is and see what angles can be employed to make it better.

The up side of mentoring is the relief of a lot of stress and tremendously improved results on the cases involved. The down side simply does not exist. Try it. Your client will like the results. Your bottom line will like it. You will like it.



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Recent Verdicts & Results

(This is a new column featuring items of interest – let us hear what you have to share)

- ☐ Congratulations to Chris Wood who won a \$321,000 verdict in the Greer case in Sac Superior. The carrier was Progressive, with a \$100,000 policy.



- ☐ Kudos also to Roger Dreyer and Carol Wiekowski for their verdict in the Servin case. Roger’s 75 year-old client was awarded \$6.1 million, and Carol’s client was awarded \$500 k for loss of consortium. The total pretrial offer was \$300k.



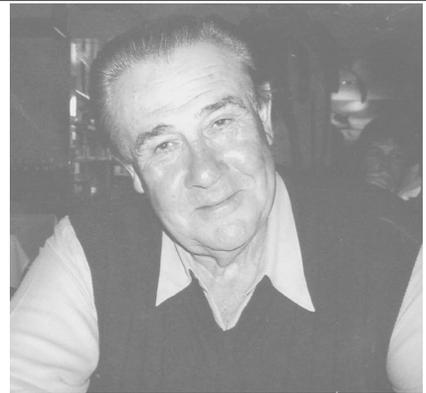
Please e-mail your verdicts, binding arb awards, or interesting settlements to csheffer@dbbc.com, for inclusion in The Litigator.



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Distorting Reality for Profit

By JILL TILFER, CCTLA BOARD MEMBER



The bottom line for corporations is the almighty dollar. Many corporations, to meet this goal, sacrifice the quality and safety of their product or service. Many corporations get rid of their older or disabled workforce regardless of productivity, because they are only looking for short term gains by cutting labor costs. Many corporations make misrepresentations to the public and ignore the law for profit. These irresponsible corporations see the trial lawyer and the Courtroom as the enemy. It is only in the Courtroom where an irresponsible corporation can be held accountable for the injuries they cause to the consumer. Therefore, the irresponsible corporations want to do away with lawsuits. And because of their greed, they will stop at nothing. Thus, the villanization of the attorney, the attack on the independence of the judiciary, the referendums, and the lies to the American public.

The concerted effort to do away with courtrooms is being sold to the American public as an effort to minimize the consumer's insurance costs, do away with frivolous lawsuits and stop greedy lawyers from taking advantage of the public. The drug industry is spearheading an initiative backed by other powerful corporations to cap all attorney fees on contingency cases to 20% and eliminate all referral fees. These corporations, including insurance companies, are betting on the assumption the public is shortsighted and will not see the ultimate repercussions if in fact an initiative is passed capping fees.

There is no mention in the fee initiative that many attorneys will stop practicing law on behalf of the consumer because the attorney can not making a living on a 20% fee. Only the rich will receive representation because only they will be able to afford attorneys by paying them on an hourly basis. The injured will be unable to make those responsible for their injuries accountable. The injured will have to pay for the injuries caused by other, and if they are unable, then the state, and thus public taxes will be paying for corporate crimes. Corporations will be free to pursue the almighty dollar without being concerned of safety, quality or if they are following the law. Without enforcement of the law, it will be as though laws do not exist.

The powerful yet irresponsible corporations could win this fight because they are going to spend millions of dollars

attempting to create a wedge between attorney and client playing on their assumption that the voters only look at the short-term. The sell will go something like this, "Don't the injured deserve more than 60 or 66% of any settlement or verdict. They are the one's who are injured. Why should wealthy trial lawyers make more money, it is the injured who need it". We, as trial lawyers, have a great responsibility to uncover the lies and deception

of the message, and the effect it will have in the long term.

The Courtroom is the only place where the smallest child's voice is as loud as the most powerful of corporations. In the Courtroom, David can slough Goliath, however, David needs to have a sling shot, that sling shot is the trial lawyer. As trial lawyers, we need to reach out, we need to stay united and we need to fund the educational efforts led by the Consumer Attorneys of California. Corporations do not have the best interest of the public at stake. They only have the interest of their pocketbook.

Why would a powerful corporation want a victim to receive a higher percent of a verdict or settlement. Humanitarian? I don't think so. The reason why is because they want to pursue profit, without responsibility. Irresponsible corporations will fire its older workers to replace them with younger workers who are less experienced because again the quality of the product is not is important, it is profit. Cut costs at all cost. That includes ignoring the safety of products. As has been done by the pharmaceutical companies, marketing products knowing full well the products can injure and even kill the public. If they curb people's right to trial and to trial lawyers, distort reality so that the consumer believes the enemy is the trial lawyer and not the corporation, they will succeed.

I am very proud to be a trial lawyer. I intend to fight and expose the irresponsible corporations' distortion of reality. Together, we can! We must consolidate our resources and network our ideas how to expose the distortions. Not only to fight the fee initiative, but also the efforts to attack the independence of the judiciary through the recall effort of Judge Loren McMaster. This is a call for all trial attorneys. We need your help.



Calendar of Events ...

(Capitol City Trail Lawyers Association's Upcoming Activities)

TUESDAY, MARCH 8, 2005

Q&A Luncheon • Time: 12 Noon

Location: Mexico 70 (6601 Folsom Blvd.) • CCTLA Members Only

MARCH 18-19, 2005

CAOC/CCTLA Annual Tahoe Ski Seminar, Lake Tahoe, NV

For details go to: www.caoc.org – “Tahoe Ski Seminar” or contact

CAOC at 442-6902

THURSDAY, MARCH 24, 2005

CCTLA Problem Solving Clinic

Topic: TBA • Speaker: TBA

Time: 5:30 to 7:00 p.m. • Sacto Courthouse, Dept. 2

CCTLA Members Only – \$25

FRIDAY, MARCH 25, 2005

CCTLA Luncheon

Topic: “How to Utilize Your Doctor in Your Soft Tissue Case and Win a \$50,000 Verdict”

Speaker: *Travis G. Black, Esq.*

Time: 12 Noon • Firehouse Restaurant

CCTLA Members Only – \$25

TUESDAY, APRIL 12, 2005

Q&A Luncheon • Time: 12 Noon

Location: Mexico 70 (6601 Folsom Blvd.)

CCTLA Members Only

THURSDAY, APRIL 28, 2005

CCTLA Problem Solving Clinic

Topic: “Discovery: Motions to Compel – When To Do It and How”

Speaker: *Stepehn M. Campora, Esq.*

Time: 5:30 to 7:00 p.m. • Sacto Courthouse, Dept. 2

CCTLA Members Only – \$25

Contact Debbie Keller at CCTLA
at 916/451-2366 for reservations
or additional information with regard
to any of the above seminars.

FRIDAY, MARCH 25, 2005

CCTLA Luncheon

Topic: TBA • Speaker: TBA

Time: 12 Noon • Firehouse Restaurant

CCTLA Members Only – \$25

TUESDAY, MAY 10, 2005

Q&A Luncheon • Time: 12 Noon

Location: Mexico 70 (6601 Folsom Blvd.) • CCTLA Members Only

FRIDAY, MAY 20, 2005

CCTLA Luncheon

Topic: TBA • Speaker: TBA

Time: 12 Noon • Firehouse Restaurant

CCTLA Members Only – \$25

THURSDAY, MAY 26, 2005

CCTLA Problem Solving Clinic

Topic: “Master of Trial: Time, Speed & Distance in an Auto Case”

Speaker: *Daniel E. Wilcoxon, Esq.*

Time: 5:30 to 7:00 p.m. • Sacto Courthouse, Dept. 2

CCTLA Members Only – \$25

TUESDAY, JUNE 14, 2005

Q&A Luncheon • Time: 12 Noon

Location: Mexico 70 (6601 Folsom Blvd.) • CCTLA Members Only

FALL 2005

CCTLA Seminar • Topic: “Liens Update” • Speaker: TBD

Time: 9:00 a.m. to 12:30 p.m.

Location: TBD

CCTLA COMPREHENSIVE MENTORING PROGRAM

The CCTLA Board has developed a program to assist new attorneys with their cases.

If you would like to receive more information regarding this program, or if you have a question with regard to one of your cases, please contact Jack Vetter @ 441-4441, Allan Owen @ 444-0321 or @ ajowen@saclaw.net, Christopher Whelan @ 635-5577, or Joseph Marman @ 721-3324.

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Name Change is Official

The Secretary of State's Office notified us in early February that our name change request, from Sacramento Consumer Attorneys to Capitol City Trial Lawyers Association, has been approved.

The name change was proposed by the Board of Directors and approved by a vote of the general membership at the Annual Holiday Reception and Meeting in December. We are now officially CCTLA.

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