

Accomplishments 2003

Led the 100-plus member coalition that stopped plaintiffs' lawyer bills (SB 122/AB 95) that would have expanded the remedies allowed under California's Unfair Competition Law. These lawyers tried to add a dangerous "disgorgement" provision to allow a plaintiff to make punitive damage-sized demands from a defendant without the procedural safeguards that apply under civil liability law. A private lawyer could have filed an action demanding that a business give up all revenue in any way related to the activity claimed to be unfair.

Led a large coalition that stopped a plaintiffs' securities lawyer bill (SB 766) that would have redefined securities fraud to allow civil actions following any mistaken public statement about a company made by officers, directors, executives, or accountants of a publicly traded company.

Led the coalition that stopped plaintiffs' lawyer bill (SB 331) to extend toxic tort liability for an indefinite period of time and won amendments to render the bill harmless.

Helped defeat a plaintiffs' lawyer-supported proposal (SB 219) to eliminate immunity currently available to public agencies for injuries resulting from vehicular pursuits by allowing a jury to second guess a peace officer's decisions in complying with policies on vehicular pursuits.

Defeated a last minute plaintiffs' lawyer "gut and amend" proposal (SB 494) to drastically inflate their contingency fees by manipulating the medical costs a health care provider can recoup from a patient's personal injury lawsuit.

Helped block every major assault on the right to freely contract to settle disputes by arbitration, including winning a veto of a bill (AB 1715) that would have prohibited arbitration agreements for employment disputes.

Helped stop two additional proposals to expand securities litigation (SB 325 & SB 396) that would have extended the statute of limitations for securities fraud and forced insurers to be held liable for a loss caused by intentional securities fraud.

Stopped proposals or removed provisions to expand civil liability on a variety of theories in more than one dozen other bills addressed by the Legislature.

Published 31 email editions of the *Weekly Wrap-Up* legislative bulletin produced exclusively for CJAC members.

Guided extensive polling, legal research, and coalition building in laying the groundwork for a statewide ballot initiative to appear on the November 2004 ballot to end private attorney abuse of Business and Professions Code Sec. 17200, the state Unfair Competition Law.

Reviewed thousands of appellate court cases and identified key cases in which CJAC filed *amicus curiae* briefs on such diverse and important issues as workers compensation, unfair competition, civil procedure, product liability, governmental liability, employment law, and punitive damages.

Tracked individual, firm, and PAC campaign contributions by personal injury lawyers. Documented, through September 30, 2003, more than \$1 million given to California office holders in preparation for the 2004 elections.

Blocked provisions in 12 different pieces of legislation through which plaintiffs' attorneys were attempting to gain new ability to bring fee-seeking lawsuits alleging violation of government regulations.

Filed an *amicus curiae* brief before the United States Supreme Court to address the rights of businesses to free speech when discussing their products without being subject to California's Unfair Competition Law. *Nike v. Kasky*.

"The Civil Justice Association of California has a long history of working on behalf of California's high tech companies. It deserves the support of every organization whose leadership recognizes the need for a balanced, efficient legal system. Before the Legislature and the Courts, the Association produces measurable benefits for its members, most importantly in heading off attempts to expand excessive and wasteful litigation."

F. Thomas Dunlap, Jr.
Senior Vice President, General Counsel and Secretary
Intel Corporation

"Congratulations! This is a fantastic outcome, and one I was not confident you could achieve. You've done a wonderful job raising the level of understanding in the press and in some legislators on the problems created by the statute."

Gail E. Lees

Get Title

Gibson Dunn & Crutcher

Issued dozens of email and hard copy news releases, exposing on plaintiffs' lawyer legislative game playing, revealing lawyer campaign contributions, and publicizing "legal shakedowns" being pulled off by private lawyers under the Unfair Competition Law.

Responded to hundreds of calls and email questions from national media such as *Business Week*, National Public Radio, and the *Wall Street Journal* as well as from California newspapers, magazines, and radio and television stations. Initiated national coverage of California's civil justice quagmire and participated in talk shows focusing on the state's litigation problems.

"On behalf of Cisco we would like to thank you for all your work in defeating SB 122. Hopefully we'll see real 17200 reform in the near future. We also would like to thank you for your work on protective orders, securities litigation, and arbitration this year. Joining CJAC last year was one of the best investments we made."

David London

State Government Affairs Manager

Cisco Systems, Inc.

“The Civil Justice Association of California is a strong, consistent organization seeking to create fair and balanced law in the State of California. CJAC also is a good team player with other state associations, and with those who work for the development of fair and balanced law at the federal level.”

Victor E. Schwartz, Shook, Hardy & Bacon LLP, General Counsel to the American Tort Reform Association and author of *Cases and Materials on Torts* and *Guide to Multistate Legislation*

Before the California Supreme Court, help win decisions blocking an attempt to undermine the 10-year statute of limitation for construction defects (*Lantzy v. Centex Homes*) and preventing “disgorgement” as a new remedy under Business & Professions Code Sec. 17200 (*Korea Supply v. Lockheed Martin Co.*)

In the Courts of Appeal succeeded in helping convince justices to overrule a trial court allowing plaintiffs’ lawyers to use California courts and favorable California law to pursue pharmaceutical injury claims in a case involving an out-of-state company, out-of-state doctors, and primarily non-resident plaintiffs.