



# 2008

# ACCOMPLISHMENTS



THE CIVIL JUSTICE ASSOCIATION OF CALIFORNIA (CJAC) CELEBRATES AN IMPRESSIVE NUMBER OF ACCOMPLISHMENTS IN 2008 IN OUR LEGISLATIVE, APPELLATE, LOCAL ACTION, COMMUNICATIONS, AND POLITICAL ACTION PROGRAMS AS PART OF OUR QUEST TO BRING ABOUT A MORE BALANCED AND FAIR CIVIL JUSTICE SYSTEM.

## In the Legislature, CJAC:

Led a coalition opposing a bill that would have allowed lawsuits by patients against makers of prescription medicines for failure to warn by holding drug makers responsible for warning patients of all possible risks associated with their drugs. The bill would have repealed the decades-old “learned intermediary doctrine.” (AB 2690-Krekorian)	<b>RESULT:</b> Died in Legislature
Opposed a bill that could have injected uncertainty into statutes of limitations in employment lawsuits. (AB 437-Jones)	<b>RESULT:</b> Vetoed
Opposed a bill that would have led to additional litigation regarding rescission of health plan contracts. (AB 1945-De La Torre)	<b>RESULT:</b> Vetoed
Opposed a bill that would have held a health plan liable for the actions of its contracting doctors. (AB 2847-Krekorian)	<b>RESULT:</b> Died in Legislature
Opposed a bill that would have inflamed California class action lawsuits regarding the chemical BPA. (SB 1713-Migden)	<b>RESULT:</b>
Fought to preserve the right of Californian’s to choose to arbitrate:	<b>RESULT:</b>
* Opposed a bill that would have limited arbitration agreements between elders and their long term care facilities. (AB 2947-Eng)	Vetoed
* Opposed a bill that would have limited arbitration agreements between private postsecondary colleges and their students. (SB 823-Perata)	Vetoed
* Stopped a bill that would have allowed appeal of arbitration decisions. (AB 644-Dymally)	Died in Legislature
* Opposed a bill that would have limited arbitration agreements in certain home mortgage loans and would have limited all arbitration agreements. (AB 2359-Jones)	Died in Legislature

## In the Courts, CJAC:

Filed an amicus brief in a business dispute over a research/patent assignment contract involving \$200 million in punitive damages. The CJAC brief stated that, absent a fiduciary relationship, punitive damages cannot be awarded for breach of contract. (City of Hope National Medical Center v. Genentech, Inc.)	<b>RESULT:</b> CSC agreed with CJAC
Filed an amicus brief opposing an attempt to expand property owners’ liability for harm occurring on their property due to criminal activity of others. (Castenada v. Olsher)	<b>RESULT:</b> CSC agreed with CJAC

## In the Courts, CJAC: (continued)

Filed an amicus brief arguing that whenever there is a possibility that a jury might consider “harm to others” in setting punitive damages, due process requires the trial judge to instruct that this consideration is improper. (Bullock v. Philip Morris USA, Inc.)

**RESULT:**  
CSC denied depublication

Filed an amicus brief defending a 22-year-old case law rule against contingency fee agreements between government prosecutors and private attorneys. The Sixth District Court of Appeal reinstated the contingency fee arrangements that a coalition of cities and counties had negotiated with a number of plaintiff’s lawyer firms. A petition for review was filed in May and CJAC filed a letter brief in support of review. (County of Santa Clara v. Superior Court)

**RESULT:**  
CSC granted review

Filed an amicus brief in an employment class action lawsuit to determine whether “provide” means that employers make available a meal period for their employees or ensure that their employees actually take it. (Savaglio v. Wal-Mart Stores, Inc.)

**RESULT:**  
Decision pending

## In our Communications program, CJAC:

Launched a new, interactive web site that will be updated frequently with videos, slideshows, blog posts, and other features to illustrate the issue of civil justice reform and how California’s low legal climate ranking affects consumers, business owners, and taxpayers.

Issued dozens of statements and news releases on our research, court decisions, legislative wins, and continuing efforts by personal injury and other plaintiff’s lawyers to chip away at arbitration, open up new areas of litigation, and drive more cases into the courts.

Brought the legal reform message to thousands of city and county government officials through our exhibits at the League of California Cities and California State Association of Counties annual conventions.

## In our Local Action Program, CJAC:

Continued to expand our Local Action Project to raise awareness of the need for legal reform in key legislative districts in California. As part of the program, we held award luncheons to honor four state legislators who support legal reform, sponsored seminars to show small business owners how to avoid disability access lawsuits, and held meetings with local opinion leaders who can echo legal reform themes in their communities.

## In the Political area, CJAC:

Continued research and interviews to identify candidates whose legal reform opinions and goals qualify them for support from our separate Political Action Program in the June 2008 Primary Elections and the General Election in November 2008.

Organized fund-raising dinners in Sacramento for incumbent legislators and legislative candidates who deserve campaign support.

Raised nearly \$2.2 million in the 2008 election cycle to support pro-legal reform candidates across the state.

# 100% KILL RATE



During the last two legislative sessions, every bill that CJAC opposed either died or was vetoed by the Governor. In numerous other instances, provisions CJAC objected to via “oppose unless amended” messages were removed and CJAC adopted a neutral position.