

TEXAS
CIVIL
JUSTICE
LEAGUE

JOURNAL

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Statewide Coalition Led Efforts to Pass Senate Bill 15
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JFK Library Foundation Honors Former Texas Lieutenant Governor

TEXAS CIVIL JUSTICE LEAGUE JOURNAL

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Texas Civil Justice League

Leading the Fight for Lawsuit Reform Since 1986

The Texas Civil Justice League Journal is published by the Texas Civil Justice League. Since 1986, the Texas Civil Justice League has led the fight to create a strong business climate by restoring fairness and stability to the civil justice system.

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TEXAS CIVIL JUSTICE LEAGUE

Leading the Fight for Lawsuit Reform Since 1986

The recently concluded legislative session was one of the most successful in the Texas Civil Justice League's twenty-year history.

First and foremost, the Legislature enacted ground-breaking legislation to end abuses in asbestos and silica litigation. Thanks primarily to the tireless efforts of Senators Kyle Janek (R-Houston) and Robert Duncan (R-Lubbock), as well as the leadership of Lieutenant Governor David Dewhurst, Speaker Tom Craddick (R-Midland), and Representative Joe Nixon (R-Houston, Senate Bill 15 will rid Texas courts of thousands of unimpaired asbestos and silica claims and allow those who are legitimately impaired to receive just compensation for their injuries.

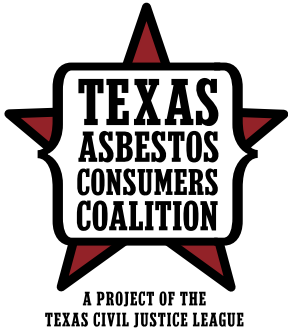
In addition to asbestos and silica litigation reform, the Texas Legislature restored the dollar-for-dollar settlement credit, closed a loophole in the *forum non conveniens* statute, and improved juror pay and working conditions. These issues were central to the League's 2005 legislative agenda, and I am pleased to report that the legislature addressed them all.

State lawmakers also declined to undermine past civil justice reforms or to create expansive new liability for businesses. Proposals to weaken current laws restricting plaintiff forum-shopping, to create a loophole in the 2003 House Bill 4 reforms for certain asbestos lawsuits, to prohibit businesses from contractually managing their risks in construction contracts, and to expose corporate officers and directors to additional criminal liability all failed. The League vigorously opposed these measures, and the Legislature listened.

None of these positive outcomes would have occurred without the consistent and active support of the League's members. Thank you for making the Texas Civil Justice League the premier business liability reform group in the country, and we look forward to another twenty years of success stories for Texas business.

Sincerely,

Dr. George S. Christian
General Counsel



GOVERNOR PERRY SIGNS ASBESTOS AND SILICA LAWSUIT REFORM

Statewide Coalition Led Efforts to Pass Senate Bill 15



When Governor Rick Perry signed Senate Bill 15 into law May 19, 2005, Texas became the fourth state to enact asbestos and silica lawsuit reform legislation that protects victims and businesses. Perry asked state lawmakers to enact asbestos and silica lawsuit reform in his State of the State Address earlier this year.

Statewide grassroots efforts to pass Senate Bill 15 by Sen. Kyle Janek, R-Houston, were led by the Texas Asbestos Consumers Coalition (www.texasbestos.com), a project of the Texas Civil Justice League.

(1) Governor Rick Perry responds to questions before signing Senate Bill 15 in Houston, May 19, 2005. Senator Kyle Janek (R-Houston), who authored the asbestos and silica lawsuit reform legislation, looks on.

(2) Senator Kyle Janek (R-Houston) explains Senate Bill 15's medical criteria at the Houston news conference before Governor Rick Perry signed the measure into law.

(3) Representative Joe Nixon (R-Houston) points out the economic benefits of asbestos and silica lawsuit reform at the Houston news conference and bill signing.

(4) Governor Rick Perry presents Senate Bill 15's author, Senator Kyle Janek (R-Houston), with the pen used to sign the asbestos and silica lawsuit reform law May 19, 2005, in Houston.

Ralph Wayne, president of the Texas Civil Justice League and former chairman of the American Tort Reform Association, commended legislative leaders, saying, “Texas lawmakers have worked hard to craft legislation that protects victims and improves the state’s civil justice system. Senate Bill 15 will be a national model for asbestos and silica lawsuit reform.”

Robert S. Howden, Texas Asbestos Consumers Coalition coordinator, praised lawmakers for “working diligently to achieve meaningful asbestos and silica lawsuit reform that benefits injured Texans and protects innocent businesses.”

“We applaud the Texas Legislature for passing legislation that will unclog the court system and put an end to frivolous asbestos and silica claims,” said Sherman Joyce, president of the American Tort Reform Association. “Passage of the bill is a culmination of state-wide grassroots efforts by the Texas Asbestos Consumers Coalition and the Texas Civil Justice League,” he said.

go to the truly sick is not diverted to pay claimants with no asbestos or silica-related illness.

- shutting down the “mass screening” of potential asbestos and silica claimants that has resulted in tens of thousands of unimpaired asbestos claims in our courts.

EXCERPTS FROM GOVERNOR RICK PERRY’S REMARKS

Bill-Signing Ceremony
Houston, Texas
May 19, 2005

Today, Texas is taking a significant step to improve our civil justice system for victims of asbestos exposure as well as employers unfairly targeted by frivolous asbestos lawsuits.

I am proud to sign Senate Bill 15 into law today because it ensures that every person made sick by asbestos has their “day in court,”

I am proud to sign Senate Bill 15 into law today because it ensures that every person made sick by asbestos has their “day in court,” while reducing the junk lawsuits that have forced dozens of innocent employers into bankruptcy. —Governor Ricky Perry

Senate Bill 15 substantially improves the state’s asbestos and silica litigation problem. Significant features of the legislation include:

- establishing medical criteria for all pending and future asbestos claims, including a requirement that all claimants submit a qualifying medical report with a pulmonary function test that demonstrates physical impairment. This requirement will go a long way toward weeding unimpaired claims out of the system.
- providing that all pending asbestos claims that have not been scheduled for trial within 90 days after the effective date, except for cases involving cancer, are subject to the multi-district litigation court process. This process will efficiently separate impaired and unimpaired cases and expedite cases involving truly impaired claimants.
- assuring that the most seriously ill—those suffering from mesothelioma or other malignancy caused by exposure to asbestos or silica—will receive expedited trials and adequate compensation for their injuries.
- requiring that each asbestos case be tried on its own merits, not as part of a “bundle” of claims that may include a few truly sick claimants and dozens of unimpaired claimants. This change will also assure that compensation that should

while reducing the junk lawsuits that have forced dozens of innocent employers into bankruptcy.

While trial lawyers have reaped millions in fees, asbestos victims with legitimate claims have had justice delayed and denied by the backlog of cases at the courthouse. But now, because of the leadership of Senator Kyle Janek and Representative Joe Nixon, Texas courts will operate under the same philosophy that guides doctors in the emergency room.

Call it a form of legal triage, those at the greatest risk must be given priority and those who face no immediate danger must not be allowed to divert time and resources from those who do.

Under Senate Bill 15, asbestos claims in Texas can only be brought by individuals who show legitimate illness or impairment. And for individuals without symptoms, the statute of limitations has been extended to ensure access to the courts if they become sick in the future.

Texas is continuing to lead the nation when it comes to fighting lawsuit abuse.

ASBESTOS PODCAST

www.texasbestos.com

Get a detailed legal analysis of Senate Bill 15 without leaving the comfort of your home or office. Visit the Texas Asbestos Consumers Coalition website to listen or download the MP3 asbestos podcast (running time 36 minutes). Robert S. Howden (Texas Asbestos Consumers Coalition) discusses Senate Bill 15 and its impact on asbestos and silica litigation with Kay Andrews (Brown McCarroll, L.L.P) and Dr. George S. Christian (Texas Civil Justice League).

TEXAS LEGISLATIVE REPORT

79th Regular Session

The following report provides a brief overview of the Texas Civil Justice League's legislative advocacy efforts during the 79th Regular Session, which adjourned May 31, 2005. Thanks to the work of a dedicated lobby team and the generous support of our members, the League accomplished all of its public policy goals this session.



Ralph Wayne, President

2005 TCJL LEGISLATIVE PROGRAM

Asbestos and Silica Litigation Reform (SB 15)

Senate Bill 15 substantially improves the state's asbestos and silica litigation problem. The Texas Asbestos Consumers Coalition, coordinated by the Texas Civil Justice League, led efforts to pass this landmark legislation. Significant features of the legislation include: (1) establishing medical criteria for all pending and future asbestos claims, including a requirement that all claimants submit a qualifying medical report with a pulmonary function test that demonstrates physical impairment. This requirement will go a long way toward weeding unimpaired claims out of the system. (2) providing that all pending asbestos claims that have not been scheduled for trial within ninety days after the effective date, except for cases involving cancer, are subject to the multi-district litigation court process. This process will efficiently separate impaired and unimpaired cases and expedite cases involving truly impaired claimants. (3) Assuring that the most seriously ill—those suffering from mesothelioma or other malignancy caused by exposure to asbestos or silica—will receive expedited trials and adequate compensation for their injuries. (4) Requiring that each asbestos case be tried on its own merits, not as part of a “bundle” of claims that may include a few truly sick claimants and dozens of unimpaired claimants. This change will also assure that compensation that should go to the truly sick is not diverted to pay claimants with no asbestos or silica-related illness. (5) Shutting down the “mass screening” of potential asbestos and silica claimants that has resulted in tens of thousands of unimpaired asbestos claims in our courts.

Anti-indemnity/additional insurance/owner-controlled insurance programs

(HB 1217/SB 445/HB 490/HB 2156/SB 868)

Subcontractor groups launched a major legislative effort to prohibit broad-form indemnity agreements, abolish additional insurance provisions in construction contracts, and drastically limit the use of owner-controlled insurance programs to control litigation costs in construction projects. The Texas Civil Justice League successfully opposed these efforts, protecting the rights of premises owners to manage risk contractually, reduce litigation, and improve workplace safety.

Settlement Credit (SB 890)

Restoring the dollar-for-dollar settlement credit in civil actions (other than health care liability claims) was one of the Texas Civil Justice League's top priorities this session. Last session House Bill 4 abolished the dollar-for-dollar credit, creating serious problems for defendants, as well as for plaintiffs, in multi-party cases, particularly in the toxic tort arena. Senate Bill 890 replaces the current percentage credit with the dollar-for-dollar credit and applies to pending litigation. This change averts the situation in which defendants must turn their guns on each other in order to maximize their settlement credit, thus creating massive increases in litigation costs and rendering joint defense strategies untenable. Much credit goes to the Texas Association of Defense Counsel for highlighting this problem and drafting the legislation to resolve it.

Forum non conveniens (HB 755)

Last session, House Bill 4 modified the statutory forum non conveniens doctrine, but left a loophole allowing plaintiffs to block

a motion to dismiss on *forum non conveniens* grounds if the plaintiff could merely allege that any part of an act or omission giving rise to a cause of action occurred in Texas. This loophole has prevented the dismissal of out-of-state asbestos claims with no substantial connection to Texas. House Bill 755 closes that loophole.

Jury Service (SB 1704)

Texas jurors are woefully undercompensated, resulting in massive absenteeism from jury service and increasing difficulty in constituting adequate jury panels for trials. This session, the Texas Civil Justice League strongly advocated the passage of legislation to raise juror pay (to \$40 per day beginning on the second day of service) and provide penalties for evading jury service. Senate Bill 1704 accomplishes both goals.

Obesity Litigation (HB 107)

The growing potential for mass tort litigation involving weight gain from fast-food and other food products has led a number of states to take pre-emptive action. The Texas Civil Justice League actively backed legislation this session to foreclose the possibility of such litigation. House Bill 107 follows the national model legislation by clarifying that no cause of action exists in Texas for weight gain related to the consumption of food products.

LEGISLATION OPPOSED OR MODIFIED

Exempting certain asbestos claims from the MDL process (HB 3415)

Asbestos claims filed on or after September 1, 2003 are subject to transfer from the court of original jurisdiction to a multi-district litigation (MDL) court in Houston. The creation of the MDL court has significantly improved the disposition of asbestos litigation by providing uniform pretrial rulings on medical expert and discovery motions. House Bill 3415 proposed to exempt post-September 1, 2003 asbestos claims alleging asbestos-related cancer from the MDL, thus undermining the purpose of both the MDL process and Senate Bill 15, the asbestos/silica reform legislation. The Texas Civil Justice League strongly opposed this bill, which died in the House Local and Consent Calendars Committee, preserving the MDL process.

Texas Sarbanes-Oxley Act (HB 2842)

The financial accounting practices of Enron and other corporations triggered federal reform legislation known as the Sarbanes-Oxley Act. Among other things, that act provides criminal penalties for those who deliberately and intentionally prepare false financial statements or provide false information to outside auditors. House Bill 2842 proposed an extremely

broad and far-reaching Texas version of Sarbanes-Oxley, which would have subjected officers and directors of financial institutions, insurers, public corporations, pension funds, and state and local governments to severe penalties (a first degree felony in some cases) for providing false or misleading information to outside auditors. The Texas Civil Justice League expressed serious reservations about the scope and effect of the proposal on recruiting and retaining corporate directors in Texas and proposed amendments to harmonize the proposal with federal law. Ultimately, the bill died in Senate committee.

Finance Code Revisions (HB 955)

House Bill 955 proposed a major revision of the Finance Code, which regulates the provision of financial services to Texas consumers by a broad range of financial services providers. As filed, House Bill 955 would have created a significant number of new causes of action under the deceptive trade practices act and exposed Texas businesses to substantial additional liability for a wide variety of practices. The Texas Civil Justice League expressed specific concerns about the scope of this new liability and proposed modifications to House Bill 955 to restore current law. Those changes were made in House Bill 955, which ultimately passed.

Probate court jurisdiction (HB 2875)

For the past several sessions, efforts have been made in the Legislature to expand substantially the ability of probate courts to reach into trial courts and transfer cases that involve the personal representative of an estate. The Texas Civil Justice League has successfully opposed such legislation, on the ground that it re-creates the forum shopping problem solved in the 1995 venue reform legislation and could potentially transfer complex tort litigation from trial courts with experience in such litigation to highly specialized probate courts. House Bill 2875 was yet another attempt to expand probate court jurisdiction. With Texas Civil Justice League opposition, the bill died in the House.

Arbitration (SB 504)

A number of bills were filed this session to restrict the use of arbitration as an alternative means of resolving disputes. One such bill, Senate Bill 504, would have required the publication of a significant amount of information about confidential arbitration awards. The underlying purpose of this legislation was to limit the use of arbitration, especially to settle disputes over certain consumer transactions. The Texas Civil Justice League expressed concerns about the impact of this legislation on the ability of businesses and their customers to resolve disputes efficiently and cost-effectively through arbitration. The bill died in House committee at the end of the session.

LEGISLATION SUPPORTED

Interlocutory Appeals (HB 1294)

The Texas Civil Justice League supported legislation to allow permissive interlocutory appeals on controlling questions of law from county courts (such appeals are already available from district courts). This legislation assures that this potentially important avenue is available in courts with increasing caseloads and growing jurisdictional limits. House Bill 1294 accomplishes this objective.

Workers' Compensation Reform (SB 5/HB 7)

Since the landmark workers' compensation reforms of the late 1980s, which the Texas Civil Justice League helped launch, the state's workers' compensation system has generally worked well. Rising medical costs and falling benefits, however, have caused a significant problem for Texas employers and workers. Additionally, the benefit administration system has become beleaguered by administrative problems. Senate Bill 5/House Bill 7 resolves these issues by establishing health care networks, increasing benefits, and placing administration of the system in the hands of an appointed commissioner accountable to the Governor. This important bill will be good for Texas businesses and their employees. The Texas Association of Business is to be commended for its hard work and leadership on this legislation.

Judicial Pay (SB 368)

The Texas Civil Justice League joined a broad coalition of groups to support a substantial increase in judicial compensation, which died very late in the session. Faced with declining judicial tenure, especially at the appellate court level (where a Supreme Court justice makes less money than a first-year lawyer), the judiciary organized a united effort to boost Texas judicial salaries closer to the national average.

Judicial Selection Reform (HJR 85/HB 2700)

The Texas Civil Justice League continues to support judicial selection reform as a means of removing partisanship and big money from judicial races. Although vast improvements have been made in the civil justice system since 1986, those improvements are only as good as the judiciary that interprets and applies the law as the Legislature intended. The objective is to achieve a judiciary that is not only well qualified, but independent from partisan political influence (from either side) and the demands of multi-million dollar political campaigns. While this legislation did not pass this session, the Texas Civil Justice League will continue to advocate improvements in the judicial selection system. The League and other statewide professional and trade associations have asked Governor Perry to include this issue in the First Called Special Session.



THE TORT TAX

You wrote personal injury trial lawyers an \$845 check for each family member last year...

You just didn't know it.

Personal injury trial lawyers will stop at nothing to defeat pro-business legislative candidates and fair-minded judges next year.

Your financial support is urgently needed to stem the tide of trial lawyer money that will pour into judicial and legislative races across the state.

The Texas Civil Justice League (TCJL) PAC has beaten back the trial lawyers before, and we can do it again—with your help.

What's at stake? Last year, thanks to the personal injury trial lawyers and their landslide of frivolous litigation, every American paid an \$845 "tort tax" passed along in increased costs for goods and services. That means a family of four shelled out more than \$3,3800 as a result of inflated damage awards, settlements, and projections for future losses. And it gets worse... By 2006 the figure is expected to reach more than \$1,000 per American.

Since 1988, the TCJL PAC has worked to elect pro-reform candidates to the Texas House of Representatives and Senate. The Texas Supreme Court is now a national model of balance and fairness, thanks to years and years of hard work to elect qualified jurists. We cannot go back to a state where justice was "for sale."

We need your help now, more than ever before. Please join the TCJL PAC. Write a check today and use the reply form on the back cover.

If you need information about legislative and judicial races in your area, contact the TCJL PAC at 512-320-0474 or e-mail info@tcjlpac.com.

TEXAS MOVES UP IN STATE LIABILITY RANKINGS

Judicial System Still Ranks Among Country's "Worst"

According to the U.S. Chamber Institute for Legal Reform's 2005 State Liability Systems Ranking Study, legal reform is an issue that does not appear to be dissipating. Texas moved up to 44th in the national survey of corporate in-house general counsel and other senior litigators. Texas ranked 45th in 2004. According to respondents, the state's judicial system still ranks among the "worst" in the country.

Interviews conducted between November 2004 and February 2005 with 1,437 senior corporate attorneys found that some states stand out as leaders in creating a fair and reasonable litigation system, but the majority (60 percent) of those surveyed give an overall ranking of fair or poor to the state court liability system in America, compared to 56 percent in 2004. An overwhelming 81 percent report that the litigation environment in a state could affect important business decisions at their company, such as where to locate or do business.

Specific questions were also asked about legislative reforms recently enacted in Mississippi and Texas. These questions were only put to respondents who evaluated these two states for the overall rankings. More than three-quarters (79 percent)

of respondents who ranked Mississippi were aware of the new legislative reforms and 63 percent of Texas respondents were aware of the state's recent legislation. There is optimism among those surveyed that the litigation environments in Mississippi and Texas will improve as a result of the reforms. Among Texas respondents, one-third (32 percent) think the legislative changes will lead to a major improvement in the litigation environment, while 57 percent foresee only a moderate improvement.

The study points out that the rankings and results are based on the perceptions of senior corporate attorneys, and that these perceptions may be based on certain cities and counties within the state. But "perception does become linked with reality," according to the report's conclusions. "If the states can change the way litigators and others perceive their liability systems to be, we may find considerable movement in future rankings. And once these perceptions change, the overall business climate may be deemed more hospitable as well."

For the complete study results, see the full report available at <http://www.instituteforlegalreform.org>.

2005 Overall Ranking of State Liability Systems



BEST

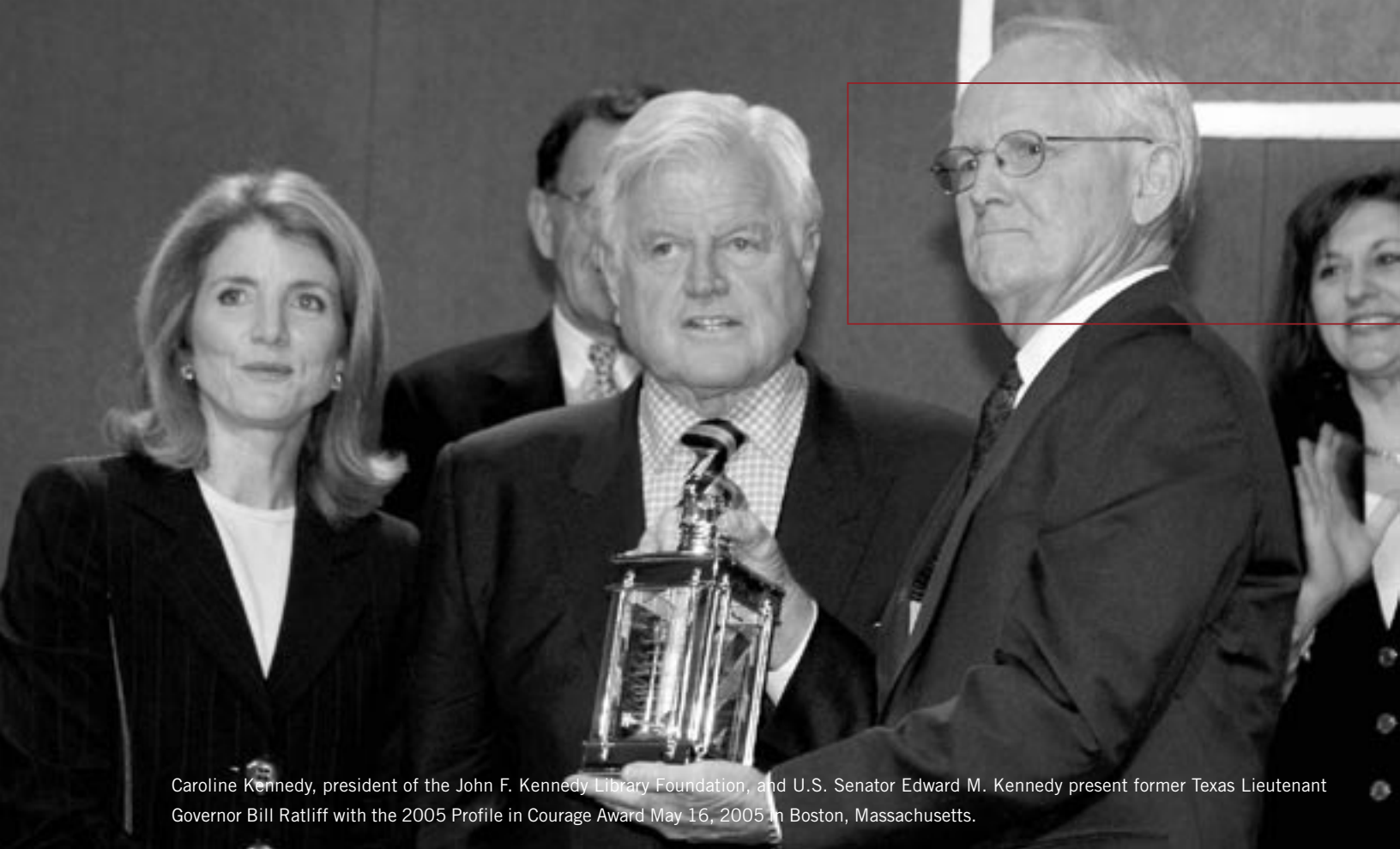
1. Delaware
2. Nebraska
3. North Dakota
4. Virginia
5. Iowa
6. Indiana
7. Minnesota
8. South Dakota
9. Wyoming
10. Idaho
11. Maine
12. New Hampshire
13. Colorado
14. Utah
15. Washington

MODERATE

16. Kansas
17. Wisconsin
18. Connecticut
19. Arizona
20. North Carolina
21. Vermont
22. Tennessee
23. Maryland
24. Michigan
25. Oregon
26. Ohio
27. New York
28. Georgia
29. Nevada
30. New Jersey
31. Massachusetts
32. Oklahoma
33. Alaska
34. Pennsylvania
35. Rhode Island

WORST

36. Kentucky
37. Montana
38. New Mexico
39. South Carolina
40. Missouri
41. Hawaii
42. Florida
43. Arkansas
44. Texas
45. California
46. Illinois
47. Louisiana
48. Alabama
49. West Virginia
50. Mississippi



Caroline Kennedy, president of the John F. Kennedy Library Foundation, and U.S. Senator Edward M. Kennedy present former Texas Lieutenant Governor Bill Ratliff with the 2005 Profile in Courage Award May 16, 2005 in Boston, Massachusetts.

RATLIFF RECEIVES 2005 PROFILE IN COURAGE

JFK Library Foundation Honors Former Texas Lieutenant Governor

Former Texas Lieutenant Governor Bill Ratliff and Atlanta Mayor Shirley Franklin received the John F. Kennedy Profile in Courage Award May 16, 2005 at the John F. Kennedy Presidential Library and Museum. A special Profile in Courage Award was also presented to United States Army Sergeant Joseph Darby.

“My father most admired those in public life who had the courage to make decisions of conscience without regard for the consequences,” said Caroline Kennedy, president of the John F. Kennedy Library Foundation. “Shirley Franklin and Bill Ratliff are an inspiration to all who serve in government, and to all Americans, for their principled and bipartisan leadership, and their willingness to make the difficult and unpopular decisions necessary for good governance.”

“This year’s winners continue to remind us that courageous individuals, acting on principle, can make an extraordinary difference for their communities and our country,” said Senator Edward M. Kennedy. “In this era of intense partisan divisions, it is most heartening and inspiring to pay tribute to the political courage of Mayor Franklin, Senator Ratliff, and Sergeant Darby,

who chose first and foremost to act for the good of their community and country. President Kennedy would be proud of them.”

Presented annually to public servants who have made courageous decisions of conscience without regard for the personal or political consequences, the award is named for President Kennedy’s 1957 Pulitzer-Prize-winning book, *Profiles in Courage*. The book recounts the stories of eight U.S. senators in American history who withstood strong opposition and risked their careers to fight for what they believed was the right course of action.

Bill Ratliff, former Texas lieutenant governor and state senator, was honored for a distinguished career as a courageous bipartisan leader in his state. Senator Ratliff’s most recent act of courage was to fight for a fair electoral process, becoming the only Republican legislator to object to his party’s redistricting plan. This principled action was the culmination of a distinguished career in Texas politics. Senator Ratliff also largely wrote and secured passage of landmark education legislation, and worked to improve health insurance and access to

Senator Ratliff's wisdom and integrity were so admired and respected that he was called the conscience of the Senate and given a nickname that would greatly impress my grandchildren....Obi-Wan Kenobi. —Edward M. Kennedy

Medicaid, while maintaining an inclusive style of governing in an era of sharp partisan politics.

Atlanta Mayor Shirley Franklin, the first woman to serve as mayor of Atlanta, was recognized for her courageous leadership in restoring fiscal stability and ethical government to Atlanta. Facing an \$82 million deficit upon taking office in 2001, Mayor Franklin, a Democrat, formed an unprecedented alliance between Republicans, the business community and state government, raised taxes, cut the city payroll, and imposed a strict code of ethics. Four years later, Atlanta enjoys a budget surplus.

U.S. Army Sergeant Joseph M. Darby was awarded a Special John F. Kennedy Profile in Courage Award for standing up for the rule of law as a soldier serving with the 372nd Military Police Company in Iraq. Darby turned in photographs to Army investigators depicting members of his unit taking part in the torture and humiliation of Iraqi prisoners at the Abu Ghraib prison. His decision to alert Army investigators to the abuse triggered a formal, and still ongoing, examination of the government's interrogation policy. Subsequent media reports and the publication of the photos sparked worldwide outrage.

Ukraine President Viktor Yushchenko was presented with a 2005 Profile in Courage Award at a separate ceremony hosted by Ms. Kennedy and Senator Kennedy on April 5th, when he visited the John F. Kennedy Presidential Library and Museum.

Described by one recipient as the "Nobel in government," the Profile in Courage Award is accompanied by a sterling-silver lantern representing a beacon of hope. The lantern was designed by Edwin Schlossberg and crafted by Tiffany and Co.

Profile in Courage Award recipients were selected by a distinguished, bipartisan committee chaired by John Seigenthaler, founder of the First Amendment Center at Vanderbilt University. Committee members are Michael Beschloss, author and presidential historian; David Burke, former president of CBS News; U.S. Senator Thad Cochran (R-Mississippi); Marian Wright Edelman, president of the Children's Defense Fund; Antonia Hernandez, president and chief executive officer of the California Community Foundation; Al Hunt, Washington managing editor of Bloomberg News; U.S. Representative Nancy Johnson (R-Connecticut); Elaine Jones, former director-counsel of the NAACP Legal Defense and Education Fund; Caroline Kennedy, president of the John F. Kennedy Library Foundation; U.S. Senator Edward M. Kennedy (D-Massachusetts); Paul G. Kirk, Jr., chairman of the board of directors of the John F. Kennedy Library Foundation; U.S. Senator Olympia Snowe (R-

Maine); and Patricia M. Wald, former judge of the International Criminal Tribunal for the former Yugoslavia. John Shattuck, chief executive officer of the Kennedy Library Foundation, staffs the Committee. Mr. Shattuck is a former U.S. Assistant Secretary of State and a former U.S. Ambassador to the Czech Republic.

Past recipients of the John F. Kennedy Profile in Courage Award are Afghan physician and human rights activist Dr. Sima Samar; former North Carolina State Representative Cindy Watson; former Oklahoma State Senator Paul Muegge; former Georgia Governor Roy Barnes; former South Carolina Governor David Beasley; former Georgia State Representative Dan Ponder, Jr.; United Nations Secretary-General Kofi Annan; former Palos Heights, Illinois, Mayor Dean Koldenhoven; former U.S. President Gerald Ford; former California State Senator Hilda Solis; U.S. Senator John McCain of Arizona; U.S. Senator Russell Feingold of Wisconsin; Garfield County, Montana Attorney Nickolas Murnion; Circuit Court Judge of Montgomery County, Alabama Charles Price; former Calhoun County, Georgia School Superintendent Corkin Cherubini; former U.S. Congressman Michael Synar of Oklahoma; U.S. Congressman Henry Gonzalez of Texas; former New Jersey Governor James Florio; former Connecticut Governor Lowell Weicker, Jr.; former U.S. Congressman Charles Weltner of Georgia; and former U.S. Congressman Carl Elliott, Sr. of Alabama.

Special Profile in Courage Awards have been presented to the Irish Peacemakers, eight political leaders of Northern Ireland and the American chairman of the peace talks, in recognition of the extraordinary political courage they demonstrated in negotiating the historic Good Friday Peace Agreement and America's public servants who demonstrated extraordinary courage and heroism in response to the terrorist attacks of September 11, 2001. A Profile in Courage Award for Lifetime Achievement has also been presented to U.S. Congressman John Lewis of Georgia.

REMARKS BY EDWARD M. KENNEDY

United States Senate

2005 Profile in Courage Awards

Senator Bill Ratliff has had a most distinguished career in the state legislature in Austin. He was at the center of historic legislation on education, and at various times chaired the three most important committees – Finance, State Affairs, and Education. For six years in a row, he was regularly recognized as one of the very best legislators by the local media. He had even been chosen by his fellow Senators to be Lieutenant Governor, when George Bush went on to other things.



U.S. Senator Edward M. Kennedy and Caroline Kennedy lead applause for the 2005 Profile in Courage Award recipients, Atlanta Mayor Shirley Franklin, former Texas Lieutenant Governor Bill Ratliff, and U.S. Army Sergeant Joseph M. Darby, May 16, 2005 at the John F. Kennedy Library and Museum in Boston, Massachusetts.

Senator Ratliff's wisdom and integrity were so admired and respected that he was called the conscience of the Senate and given a nickname that would greatly impress my grandchildren....Obi-Wan Kenobi.

It is not unusual for the Profile in Courage Award to be given to a Republican, but it's rare indeed that we have the opportunity to honor a Jedi knight!

REMARKS OF BILL RATLIFF

Former Texas Lieutenant Governor
2005 Profile in Courage Awards

First, let me say how pleased I am to have so many family and friends here from Texas. My wife of forty-five years, my three children, my two brothers, other family members, as well as a number of good friends who made the extraordinary effort to be here. Some of these friends have been by my side through my entire political life and, for some, many years prior to my entry into politics. I am very pleased to have these folks here to join in this honor.

Even though I have serious misgivings about my deserving this recognition, I am filled with pride at the thought of receiving it in their presence.

Ironically, as pleased as I am to be selected for this prestigious award, I despair that my selection represents a sad commentary on our nation's political situation.

It would appear that my selection for this award was primarily based on the fact that, over my political career, I have made public policy decisions based on what I felt was best for my constituents and for the state of Texas. Many times, this meant that I found myself fashioning and supporting legislative solutions

to the state's challenges which were not supported by the more partisan members of my party.

The most notorious of such stances was the recent mid-decade redistricting which was pushed by the national party leadership and which I opposed on the grounds that it was not in the best interest of my senate district.

Is it not a sad state of affairs that the courage for which I am being singled out consists of my decision to take positions in the best interest of my constituents in cases where those positions run counter to my political party?

How have we come to the point where an officeholder is deemed to have displayed unique courage when standing up for his constituency rather than bowing to the often strident views of party leadership?

Members of legislative bodies are elected to represent their constituents, not some faceless body known as a party. And yet, we have far too many legislators who do, in fact, view their own party's wrath with such trepidation that they are frozen with inaction, incapable to do what they know is best for the people they represent.

It now seems that, too often, when the members of one party propose a legislative program, the immediate reaction of the other party is to oppose, no matter the circumstances.

And most distressing to me are the times when one party will propose legislation, not because they wish to enact a proposal, and not because they necessarily believe it is in the best public interest, but simply to force the members of the other party to go on record opposing the matter.

It is what has become known as "gotcha" politics.

One of the reasons that I am a little chagrined about accepting this award is that the bipartisan positions I have taken over the years took little real courage.

You see, I was a republican who represented a predominately democrat district. To represent this schizophrenic district required that I not be viewed as a rigid partisan. Over the years I was routinely re-elected by almost 70 percent of the vote because the citizens I represented always supported my decisions no matter on which side of a partisan issue I came down.

When you have a constituency which allows such freedom, it takes little courage to vote your convictions.

I had a challenging, exciting, and rewarding fifteen-year career as Texas State Senator and Lieutenant Governor of Texas. I would not trade that experience for any other I can imagine. To receive the John F. Kennedy Foundation's Profiles in Courage Award is a capstone on that career of which I could not have even dreamed.

On behalf of myself and my family and friends, thank you all for this wonderful honor.

TEXAS CITIZENS AGAINST LAWSUIT ABUSE

Launch Advertising Awareness Campaign

“We are constantly bombarded with sensational advertising from some personal injury lawyers that is intended to scare people into the courthouse... It’s not surprising that Texans have caught on to this scheme and are fed up.” —Connie Scott

As part of its “Sick of Lawsuits” public awareness campaign, Texas Citizens Against Lawsuit Abuse released survey results this spring highlight the threats to healthcare system posed by personal injury lawyer advertising and frivolous lawsuits. The survey, conducted by Braun Research of Princeton, New Jersey, was conducted between March 28–31, 2005.

“We are constantly bombarded with sensational advertising from some personal injury lawyers that is intended to scare people into the courthouse,” said Connie Scott, executive director of Bay Area Citizens Against Lawsuit Abuse based in Corpus Christi. “It’s not surprising that Texans have caught on to this scheme and are fed up.” Texas lawyers spent \$37.8 million on advertising in 2004, according to TNS Media Intelligence of Arlington, Virginia.

For more information, visit <http://www.sickoflawsuits.com>.

Key Findings

More than three in four Texans (79 percent) believe that personal injury lawyer advertising encourages people to sue, even if they have not been injured.

A majority of those surveyed (83 percent) believe that personal injury lawyers who file lawsuits over medicines and other healthcare remedies are more interested in making money than in helping patients.

A strong majority of Texans (81 percent) are concerned that frivolous lawsuits have made it harder for them and their families to get affordable healthcare.

More than two in three Texans (73 percent) would support a system that compensates those who are suffering health care-related injuries without resorting to the litigation system.

Most Texans (61 percent) feel that the undoing of recent reforms to medical lawsuits would be harmful to the state’s healthcare system.

State’s Medical Liability Condition Upgraded

In May, the American Medical Association removed Texas from its list of states in medical liability crisis. Limits on lawsuit damages passed by the Texas Legislature in 2003 and approved by voters have resulted in fewer malpractice claims and increased physician recruitment and retention. Medical liability rate cuts announced by five of the largest insurers in the Texas market will save doctors almost \$50 million. The state’s largest liability carrier, Texas Medical Liability Trust, have reduced its premiums by 17 percent.

For more information on the American Medical Association’s medical liability crisis findings, visit <http://www.ama-assn.org/ama/noindex/category/11871.html>.



AMERICAN TORT REFORM ASSOCIATION

National Update

Across the nation, 2005 has been successful for civil justice reform proponents.

Eighteen states have enacted nearly thirty civil justice reform bills. Following in the footsteps of Texas, three states (Georgia, Missouri, and South Carolina) passed comprehensive civil justice reform packages. In addition, Texas joined Florida and Georgia in passing asbestos and silica medical criteria bills to weed-out unimpaired claims while letting those who are truly sick to move forward with their lawsuits. The American Legislative Exchange Council's "Commonsense Consumption Act" to prevent obesity lawsuits was approved by lawmakers in six states, including Texas, bringing the national total to twenty states with the law "on the books."

Last December, the American Tort Reform Association (ATRA) released its 2004 Judicial Hellholes report, the most comprehensive to date. Past reports have highlighted the problems in "hellholes," but the 2004 report took a new approach by leading with praise for Mississippi—former home to several "hellholes." ATRA documented how Mississippi cleaned up its "hellholes" as a result of efforts by the state's executive, legislative and judicial branches. This positive story was contrasted with the increasingly negative jurisdiction of the worst "hellhole," Madison County, Illinois.

On the day the Judicial Hellholes report was released, an op-ed by ATRA President Tiger Joyce also appeared in the Wall Street Journal. Within a month of the report's release, it was featured in more than 150 news stories and broadcast news programs.

The "hellholes" program reached a new level of visibility in early January when President George W. Bush visited Madison County to speak about legal reform.

ATRA shines a spotlight on judicial "hellholes" to raise awareness of the problems and spark debate about solutions. In addition to success in Mississippi, the Supreme Court of South Carolina issued a decision in February that should reduce forum shopping in the state and reign in the rapidly increasing number of cases filed in the nation's third worst "hellhole" Hampton County. In addition, the state's legislature passed venue reform that will further send the message to the personal injury bar that South Carolina courts are not open for venue-shopping business.

In May, ATRA announced the formation of the Lawsuit Abuse Reform Coalition. ATRA President Tiger Joyce chairs the coalition formed to support the federal Lawsuit Abuse Reduction Act (LARA). The coalition was founded by ATRA, National Association of Manufacturers, National Association of Wholesaler-Distributors, National Federation of Independent Business, National Restaurant Association, and the U.S. Chamber Institute for Legal Reform. The coalition's growing membership currently includes 170 organizations, including the Texas Civil Justice League. This common-sense federal legislation would help put an end to personal injury lawyers gaming the civil justice system by filing frivolous lawsuits and forum shopping. The bill passed the House Judiciary in May and is expected on the House floor in July or September.



ESTABLISHED IN 1986, THE TEXAS CIVIL JUSTICE LEAGUE IS THE STATE'S OLDEST AND MOST-SUCCESSFUL LAWSUIT REFORM COALITION.

Celebrate the Texas Civil Justice League's 20th Annual Meeting November 2006

U.S. Senator John Cornyn, Keynote Luncheon Speaker
Date and program details to be announced.

Yes! I want to help TCJL lead the fight against lawsuit abuse by funding the development of comprehensive public policy and defending legislative reforms. I am joining at the following annual level:

- Chairman's Council** \$10,000 or more
- President's Council** \$5,000
- Leadership Council** \$2,500
- Partner** \$500
- Associate** \$100 - \$499

To maximize the impact of your membership, please identify areas of personal interest:

- Asbestos litigation Austin lobby receptions Campaign news Judicial issues
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