

The Righteous Cause of Justice and the American Trial Lawyer

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The right to trial by jury is a fundamental right that is necessary to preserve our precious liberties. Its purpose is to level the playing field. Juries are composed of ordinary people empowered to make binding decisions that affect the lives and fortunes of their fellow citizens. While powerful corporations can readily influence legislators and other elected officials, who are subject to political pressure, they have no similar control over jurors, who do not run for election, do not seek appointment, and do not carry into their deliberations any political "debt." Indeed, the position of juror may be the only constitutional office in this country that remains open to the weakest and least wealthy member of our society, while at the same time remaining virtually free of political influence. The jury is insulated from political influence creates a problem for Big Business only because the jury wields power that may be exercised over Big Business.

Why did our Founding Fathers consider trial by jury in civil cases so important? The answer, of course, is that they understood human history, specifically the tendency of wealthy and powerful interests to oppress the poor and weak.

American Trial Lawyers take the needy, the hurt, the helpless, and we give them a chance. We give them strength when they have no strength. We give them hope when they have no hope.

Often, we are the only thing that stands between an average American and disaster to that person and his family. Many times we are the only

protection that an average person has against a powerful insurance company or a powerful corporation.

We are striving to protect the dignity of average Americans who are lame, sick, poor, or injured. Most of the time, without an American Trial Lawyer, these people would have no protection at all.

We are following in the footsteps of patriots who had the courage and moral fiber to represent average Americans against the powerful, including:

Patrick Henry who said, "Give me liberty or give me death" and said that "Trial by jury is the best appendage of freedom by which our ancestors have secured their lives and property. I hope we shall never be induced to part with that excellent mode of trial." He was a member of the Continental Congress and a governor of Virginia.

John Adams who said, "Representative government and trial by jury are the heart and lungs of liberty. Without them we have no fortification against being ridden like horses, fleeced like sheep, worked like cattle and fed and clothed like swine and hounds." Adams was the second President of the United States and publicly opposed the Stamp Act of 1765 because it denied Americans the right to trial by jury.

To malign the American Trial Lawyer is to malign many of our Founding Fathers, including:

Thomas Jefferson, the author of the Declaration of Independence and the third President of the United States

James Madison, the author of the Constitution and the fourth President of the United States

Abraham Lincoln, the sixteenth President of the United States, and

Thurgood Marshall, the first black Justice on the United States Supreme Court.

We want judges sympathetic enough to those who are on the outside, those who are vulnerable, those who are powerless, those who can't have access to political power and as a consequence can't protect themselves from being dealt with sometimes unfairly. That the courts become a refuge for justice; that's been its historic role.

Our magnificent justice system is not perfect, but it far exceeds those intolerable places where the weak are dominated by the strong.

No constitutional right is more indispensable than the right of access of the courts. It would be virtually impossible for an individual to protect or enforce his rights without having "meaningful access to justice."

There is one place where a big insurance company and a small child are equal. That is in a court room in the USA.

Corporations seeking to evade responsibility for negligence have spent billions of dollars misinforming the public about the civil justice system. Despite their efforts, polling and research show that the public supports a fair civil justice system that allows any person to hold a wrongdoer accountable. The following is some of what we know from polling conducted by Hart Research:

By a margin of 68-13, the public feels that large corporations and their CEOs put a higher priority on "*looking out for the bottom line financially and doing what's necessary to make a profit*" than on "*being fair and responsible in looking out for the interests of consumers and employees.*"

By a margin of 58-32, the public feels that when it comes to reforming the civil justice system, "*making sure individuals can get the justice they deserve when they have been harmed by the actions of an irresponsible corporation*" is more important than "*limiting the amount of damages that juries can impose for pain and suffering, so that lawsuits do not cause as big a burden on our economy.*"

By a margin of 55-30, the public feels that when it comes to reforming the civil justice system, "*making sure individuals can get the justice they deserve when they have been harmed by the actions of an irresponsible corporation*" is more important than "*reducing the number of frivolous lawsuits and penalizing those who file frivolous*

lawsuits."

By a 58-17 margin, the public trusts the legal system more than the political system to hold negligent corporations accountable.

When asked which statement about the civil justice system is more compelling, by a margin of 47-37, the public chose STATEMENT B below:

STATEMENT A: The civil justice system today is out of control and is having more of a negative effect on our country, by burdening our economy and driving up the cost of health insurance. The lawyers who file these lawsuits are a big part of the problem. These lawyers take on frivolous cases, they convince juries to hand out outrageously large judgments, and keep large shares of what their clients have been awarded, with no limits on their fees.

STATEMENT B: Today, the pharmaceutical and insurance industries, big oil companies and other, large corporations dominate our political process. So when they abuse their power by producing unsafe products, when they pollute our environment and endanger public health, or when they swindle their employees to pad their profits, the last resort for Americans to hold them accountable is in our courts. Lawyers play a valuable role in this system, by standing up for the average person against these powerful interests, and by ensuring that, at least inside that courthouse, the playing field is level and everyone gets a fair shake.

Opponents of justice have been heavily involved in opposing candidates, especially American Trial Lawyers running for office, who support the right of every American to get justice. In the 2006 elections, opponents of justice spent \$10,810,751 on television advertisements attacking pro-justice candidates. In addition to television advertisements, they ran radio ads, sent direct mail and issued press releases attacking pro-civil justice candidates. But, they got little return on their investment. In the 2006 elections for federal

office:

- 14 of the 18 American Trial Lawyers who ran, won
- 248 of the 306 candidates who support justice won

Defenders of the civil justice system have the high side of the debate when they offer a clear and compelling message. This is most clearly seen when voters are offered descriptions of two opposing approaches candidates take on the issue of civil justice and legal reform.

CANDIDATE A favors restricting lawsuits and says that they hurt patient care, drive up the cost of insurance, and drive jobs overseas when doctors and American business are forced to spend billions of dollars on unnecessary legal bills. Candidate A will put top priority on real tort reform to curtail frivolous lawsuits because the only ones benefiting under the current system are trial lawyers.

CANDIDATE B favors protecting the legal right of average Americans and strengthening the civil justice system so that deserving individuals can get justice, wrongdoers are held accountable, and insurance companies are required to pay legitimate claims. Candidate B will put top priority on ensuring that any person who is injured by the misconduct or negligence of others can get justice in the courtroom, even when taking on the most powerful interests.

Given this choice, voters prefer the candidate who emphasizes protecting the legal rights of average Americans over the candidate who emphasizes the need for "*tort reform*" by 54% to 31%.

The bottom line from this research, and from the election results themselves, is that while opponents of the American Trial Lawyers and the civil justice system work hard and spend a lot of money to get their way, there is far less political power in their attacks than is often suspected. Moreover, there is a potent framing for the valued role of trial attorneys and the civil justice system that overcomes the negatives of the other side in this debate.