

PRESIDENT'S PAGE

Anthony Tarricone

This past year witnessed the end of an administration that promoted corporate immunity from lawsuits while raising the bar for consumers seeking justice in courts across the country. AAJ was on the front lines through it all, successfully putting the brakes on a calculated attempt to federally preempt state tort law and then deny a federal remedy to individuals seeking legal redress for injuries and deaths caused by defective products and wrongful conduct.

In the short time since the new administration and new Congress took office, we've experienced great victories. For example, in May, President Obama sent a memo to the heads of federal departments and agencies that reversed the regulatory preemption efforts pushed by the previous administration.

While the political landscape has changed dramatically, we continue to play defense in some respects. For example, we are working tenaciously to keep restrictions on medical negligence claims out of the national health care bill that is the center of debate in both chambers of Congress.

There is no valid rationale for constricting the legal remedies of victims of medical negligence as a quid pro quo for providing health care for uninsured Americans. Recent reports confirm that there are over 100,000 deaths from medical negligence annually and an even greater number of nonfatal medical errors. Taking away victims' right to seek meaningful recovery in court is not the answer to the problem.

While holding the line on corporate immunity and medical malpractice, for the first time in recent memory, we are in a position to advance pro-civil-justice legislation to expand consumer rights. Our legislative and regulatory agenda will directly affect our clients' lives and our practices. These initiatives include:

- the Medical Device Safety Act, which will undo the Supreme Court's preemption ruling in *Riegel v. Medtronic* and restore state tort claims against the makers of defective medical devices
- ERISA and Medicare reform, including a "make-whole" provision for subrogation liens and a workable framework for settling cases covered by the Medicare Secondary Payer Act

- legislation to undo the effect of the U.S. Supreme Court rulings in *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal*, which effectively precluded notice pleading in federal court and imposed detailed pleading requirements that will result in dismissal of meritorious cases
- the Foreign Manufacturers Legal Accountability Act of 2009, a bill that will make it easier for U.S. citizens who are harmed by defective products made abroad to sue foreign manufacturers in U.S. courts
- the Fairness in Nursing Home Arbitration Act and Arbitration Fairness Act, which will prohibit forced arbitration based on provisions in nursing home and consumer contracts
- repeal of the *Feres* doctrine, which will allow members of the U.S. military to seek compensation for injuries caused by medical negligence that occurs in military hospitals.

Joint effort

Succeeding in these efforts requires the involvement of every AAJ member. We can give voice to the many clients we represent—real people who have suffered real loss and whose stories are the most compelling support for passage of legislation to expand legal rights. Our clients' stories help our representatives in Congress understand convoluted subject areas—like preemption, civil procedure, and Medicare subrogation—that greatly affect our clients and, indirectly, our practices.

We need you to share your clients' stories with us so that the staff members of AAJ's Public Affairs Department can maximize the effectiveness of its message on Capitol Hill. If you have a compelling story to share, contact staff member Sam Kruzel at sam.kruzel@justice.org or (800) 424-2725, ext. 8280.

Don't underestimate your power and the collective power of your clients as constituents. It is critically important that members of Congress hear from you and your clients concerning civil justice issues, especially during committee hearings and before key votes on these initiatives. Real-life stories about how legislation will affect our clients' legal rights provide a persuasive and powerful counterbalance to the relentless lobbying of corporate interests.

Your participation in our Lobby Days, which bring AAJ members and their clients to Washington for face-to-face meetings with lawmakers, also sparks members of Congress into action. Our Women's Caucus Lobby Days in May prompted at least 12 mem-

bers of Congress to agree to cosponsor the Medical Device Safety Act.

Get involved and help us achieve the success that our clients deserve. If we don't speak up for them, who will?