



# DC TRIAL

TRIAL LAWYERS ASSOCIATION OF METROPOLITAN WASHINGTON, D.C.  
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## ◆ PRESIDENT'S MESSAGE

By WAYNE R. COHEN

TLA-DC PRESIDENT 2004-2005



It wears on you. It's in the papers. It's in novels. It's in movies. It's on television. It's on the radio. And it's even at the dinner party you went to last week. What am I talking about? The public's misunderstanding of tort cases.

C'mon, you hear it everywhere. The McDonald's case always gets a good rise out of me. That verdict came down more than a decade ago, but every tort reformer around cites it as if it occurred yesterday. (They do get a lot of play out of Stella Liebeck, the McDonald's plaintiff, naming the nonsense *Stella Awards* after her.) Few people realize that Liebeck proved during discovery that from 1982 to 1992 more than 700 people were burned by McDonald's coffee. And fewer still realize that McDonald's kept its coffee between 180 and 190 degrees – hot enough to cause a severe burn within 2 seconds. What's more, the judge substantially reduced the jury's initial award. The next time a tort reformer spills his coffee on his lap, he'll be glad to know that good old 79- year-old Stella Liebeck won her case and changed McDonald's practice.

Here's another one I hear all the time: insurance rates for doctors are going up because of malpractice cases. Nothing could be farther from the truth. The fact remains that there is no relationship between caps on jury awards and insurance rates. Insurance rates for doctors have not dropped in states where there are caps. The facts are the facts.

Did someone just say, 'Enough Wayne, you're preaching to the choir?' Ok. But you get my point. The frustrating thing is that what we do best in a courtroom is ironically what we do worst everywhere else. Did that same someone just whisper, 'A butcher has dull knives at home?' Ah, yeah. I guess that is true with us. In a courtroom, trial lawyers are great. We educate juries about the most complicated issues. We convince. We persuade. We fight for the little guy. But outside of the courtroom we are failing to educate, persuade and convince the public at large. So how do we fix it? Remember folks, think simple. It's basic. We have the innocent victims and we have the facts. The task now becomes developing the best method to get the truth out to the public. It is against that backdrop that TLA-DC has created the Public Education Committee (PEC).

The purpose of the PEC is to disseminate the truth about tort cases and the civil justice system.

Truths like:

- George Bush's class action bill now provides an added layer of protection for pharmaceutical companies like Merck, even in light of the Vioxx debacle.
- The insurance industry has seen its profits rise dramatically in the past 2 years – nearly 1000%. (Anyone else out there getting those types of returns?)
- The General Accounting Office and the Congressional Budget Office admit that total medical malpractice costs are less than 1% of the overall healthcare expenditures. (Should we fix the other 99%?)
- The total number of medical malpractice lawsuits is dropping, not rising.
- And for the kicker, there are nearly 100,000 deaths every year due to medical errors.

The goal of the PEC is to get the truth out to the public in the District of Columbia about tort cases and the civil justice system. The following members and Board members of TLA-DC serve on the PEC (alphabetically): Thanos Basdekis, me, Palmer Foret, George Garrow, Jonathan Halperin, Pat Malone, Jack Olender, Melissa Rhea, and Mary Zambri. The PEC is working very closely with the Executive Committee, as well as the Legislative Committee.

Through much hard work, the PEC has developed some excellent ideas for helping to get the word out. These include an email newsletter, direct mail, media buys, etc. The PEC is developing some unconventional methods as well.

Many other members of our membership have expressed a willingness to serve, and the PEC is one committee where size matters. Not too far down the road we will have a large grass roots effort, and we will need help. So if you have an interest in serving, email me at [wrc@cohenandcohen.net](mailto:wrc@cohenandcohen.net) to let me know.

And for now, begin by educating yourself about our issues. The next time your neighbor says, "lawsuits are making my insurance go up," you'll be able to shout back, "*actually, medical negligence costs our economy between \$17 billion and \$19 billion each year.*"

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