The 77th Legislative Session saw a major push by the plaintiffs’ lawyer lobby to expand the lawsuit industry in Texas and saw those efforts frustrated by the research, lobbying, and grassroots response of Texans for Lawsuit Reform and our allies in the legislative session.

“Bills to expand class action litigation, to strip away existing tort reforms, and to open up entirely new areas of lawsuits failed largely because TLR supporters across the state learned about those bills and made their views known to appropriate House and Senate committee members,” said Dick Trabulsi, Chairman of the TLR Legislative Committee.

In order to stop bad bills, TLR first had to learn which bills contained provisions that would undermine the integrity of the civil justice system in Texas. It was a painstaking process led by TLR attorney and legislative expert Alan Waldrop and longtime TLR lobbyist Mike Toomey. “TLR monitored and analyzed more than 3,000 proposed bills,” said Waldrop. “We scoured these bills every day looking for new, unjustified causes of action. We found scores of bills which added new lawsuit provisions, weakened arbitration rules, and some of which simply eliminated existing tort reforms.”

Once problem legislation and dangerous provisions were identified, TLR’s volunteer leadership team carefully reviewed each scenario in order to determine an appropriate course of action. “We spent many late nights on the phone with our professional team charting the most appropriate response from TLR,” said Trabulsi. “Many times, a phone call from TLR’s legal counsel to a member explaining our concerns was sufficient to resolve an issue, but other times a well-reasoned, clearly-stated, hand-delivered letter from TLR was the appropriate course of action.”

“Occasionally, our legislators needed to hear from TLR’s grassroots supporters statewide in order to fully understand the depth of concern about a particular bill,” said Leo Linbeck, Jr., Chairman, TLR.

Lobbyist Mike Toomey noted, “Ultimately, we were able to work cooperatively with many legislators, and TLR found a genuine willingness to listen to reason. Key to our success this session was your voice - the voice of concerned citizens. This was an essential element of our process. A combination of vigilant research,
Sometimes it seems that public policy and politics is like a stage where, we the people, see only what is presented in front of the curtain. We would like to share with you a glimpse of what happens behind the curtain. Recent legislation proposed in the Texas House of Representatives provides a good window on the legislative process and an excellent example of what Texans for Lawsuit Reform supporters were able to accomplish during the 77th Legislative Session.

In the early days of the session, TLR learned that the Chairman of the House Civil Practices Committee, Representative Fred Bosse, had authored a bill with a laudable goal: the Chairman wished to deter and punish companies that exhibit egregious behavior such as a corporation that knowingly instructs its executives to hide documents and key information regarding potential safety hazards to consumers who use the company’s products.

Our legal counsel studied this bill, House Bill 3125, and found numerous significant problems. We believed that the legislation harbored provisions that would have rolled back TLR’s hard-won tort reforms achieved in previous legislative sessions. Instead of merely punishing responsible parties, the legislation would have cast a wide net with the potential for pulling in many innocent persons and ethical businesses.

One provision of the bill actually allowed statements considered inadmissible to be submitted as “evidence” by lawyers to the courts. This meant that any lawyer would be able to submit hearsay evidence or even statements created entirely by the lawyer, alleging wrongdoing by companies. The legislation was explicit that inadmissible “evidence” was all that would be required in order to force open every record of a company both in Texas and worldwide. Under House Bill 3125, lawyers would have been granted the right to compel interviews of every employee in a company, order copies of countless records, review distribution strategies, interoffice memos, e-mail records, and even see strategic plans. Clearly, this bill was a license to fish for lawsuits.

The bill was filed on a Friday. By the following Monday, TLR had assembled our legislative team and devised a strategy to communicate the facts about the adverse impact of House Bill 3125. By Tuesday morning we had already alerted our grassroots supporters throughout Texas to ask them to quickly communicate with their elected officials. We also began an extensive round of education and outreach to inform the public about the dangers of House Bill 3125.

Quick response by TLR and its grassroots supporters managed to defeat this dangerous bill.
phone calls and fax communications to interested trade associations, legal
counsels, and interested parties such as chamber of commerce groups.
Concurrently, TLR sent a hand-delivered letter to Chairman Bosse and to other
members of the House Civil Practices Committee detailing our concerns.

There was significant lobbying by the plaintiffs' attorneys in support of this
flawed bill. Many so-called "consumer" groups came forward on the day of
the bill's hearing and attempted to exploit the grief of family members and
victims of Firestone accidents as an example of the "preventative good" that
House Bill 3125 could do. In fact, on Wednesday, just prior to the bill's hear-
ing, a trial lawyer front-group held a press conference in the halls of the State
Capitol with victims of the Firestone tragedy and their families. Their heartfelt
statements to the press that House Bill 3125 would have saved the lives of
their loved ones made it very difficult to point out what this bill actually would
have created. TLR anguished over how to address the real flaws of the bill in
testimony before the House committee.

But once we heard the statements of the plaintiffs' lawyers supporting the leg-
sislation, it was imperative to set the record straight. The only opponent of this
legislation to speak at the hearing was our legal counsel who presented a
detailed description of the real significance and impact of the
legislation should it be voted
into law.

Alan Waldrop's testimony,
which lasted more than an
hour, was challenged by sever-
al members of the Committee.
Respectfully and calmly, TLR's
legal counsel explained each
and every troubling element of
the proposed legislation. TLR
even introduced in support of
our position a four-page letter
written by W. Kip Viscusi, the
John F. Cogan, Jr. Professor
of Law and Economics at
Harvard Law School and dis-
tinguished author of more than
20 books and two hundred
articles on health and safety
risk issues.

After rigorous questioning,
Chairman Bosse took the
microphone in front of a
packed room and conceded
that the bill contained several
unintentional flaws. The author
had been persuaded, through
meticulous testimony, that the
legislation contained major
deficiencies. We appreciated
the Chairman's candor.

Two weeks after the committee
hearing, the legislation was
resubmitted by the Chairman
with some of the worst prob-
lems re-worked. But, upon further analysis, we found that numerous serious
problems still remained in the legislation. Once again, TLR reached out to

The only opponent of this legis-
lation to speak at the hearing
was our legal counsel who pre-
presented a detailed description of
the real significance and
impact of the legislation....

Alan Waldrop's testimony was
challenged by several members
of the Committee. Respectfully
and calmly, TLR's legal counsel
explained each and every trou-
bling element of the proposed
legislation.
Texans for Lawsuit Reform speakers have traveled throughout Texas during the past 18 months to meet with large and small groups alike in more than 217 towns and cities. "Our speakers have had a chance to talk extensively with fellow Texans about lawsuit abuse. We have also closely listened to real-life stories and Texans' concerns about the civil justice system," said Andi Behlen, TLR's new Executive Director.

"Our legislative experts and supporters bring to our attention many problems facing our legal system," said Behlen. "But when we travel each week to the towns and cities across the state of Texas, we get first-hand exposure to the specific lawsuit problems that are the most widespread."

Most TLR speakers are volunteers who take time out of their busy schedules to talk to community groups about how citizens can have a positive impact on legislation improving the Texas civil justice system. All TLR speakers undergo an annual training session to update them on the legislative goals and remind them of the principles guiding TLR. Community leaders, lawyers, trade association executives, and realtors are just some of the volunteers who make the TLR speakers program work.

"It's very satisfying to get out of my office and share our message with citizens who don't usually have the opportunity to experience our legislative process first-hand," said one of TLR's outstanding speakers, Pat Kiley, who is executive director of the Houston Association of General Contractors.

"Sometimes listeners to our message are surprised that we communicate about real facts and that we don't tell lawyer jokes," said Ken Hoagland, TLR's Communications Director. "In fact, we receive very strong support from many outstanding lawyers who tell us how much they would like to get their profession back from those few lawyers who are exploiting the legal system. Our goal is very simple - we want to show citizens how they can have a direct influence on the legislative process to make Texas a better place to live and work."

TLR speakers have traveled hundreds of miles to share the TLR message. Often, local news media outlets cover our speeches. These positive tort reform articles and broadcasts reach a far larger audience than those who attend the event itself. Hundreds of articles and TV and radio stories have been generated because of TLR's dedicated speakers.

If you are interested in scheduling a TLR speaker for your community or business organization, please contact the TLR staff at (713) 963-9363 or send us an e-mail message via our website, www.tortreform.com.
supporters across the state and explained that the bill was still too flawed to become law. In response to a swift and comprehensive campaign by grass-roots supporters, within the month, the legislation was dropped from further consideration.

This is only one example of how the legislative process should work. An idea was proposed, it was analyzed and it was found, for all its good intentions, to be flawed. When TLR’s supporters got personally involved, our elected officials responded with reasonable and fair results.

Thank you, to all of TLR's loyal supporters, for the incredible job you did this past legislative session. It is hard to adequately describe the positive impact that you made on the legislative process.

Also, a special note of thanks to Bill Hammond and the Texas Association of Business and Chambers of Commerce, whose members weighed-in heavily against this bill.

**Legislature in Trial Lawyers’ Shadow**

Some legislative battles come and go in an intense and short-lived cycle. Public attention focuses on the problem, groups crop up on both sides of the issue, and a legislative battle takes place that settles the issue. Then groups on both sides disband. But when it comes to tort reform, the battle will rage on as long as there are wealthy personal injury lawyers who see the opportunity to increase their profits by attempting to manipulate our legislature and our courts.

**TTLA’s Commitment**

Recently, a concrete example of the never-ending threat posed by the trial lawyers was erected at 1220 Colorado St. in Austin. Just 200 yards from the west entrance of the Capitol, the Texas Trial Lawyers Association built a new 38,042 square foot headquarters building valued in excess of $6,000,000.

The value of the building demonstrates the vast resources that the trial lawyers have available and their commitment to an ongoing and relentless campaign to overturn hard earned tort reforms. The location of the building provides TTLA lobbyists immediate, face-to-face access to legislators – and its presence casts a shadow over the legislative process and the future of tort reform in Texas.

**Texans for Lawsuit Reform’s Commitment**

TLR understands the ongoing threat presented by the trial lawyers. With your continued support, we will remain on the scene as long as that threat continues. We will not match the trial lawyers’ expenditures next to the Capitol, but we will continue to commit the resources necessary to remain strong advocates of lawsuit reform in Texas.
It is often said that the power of appointment is among the greatest powers granted to chief executives in government. Since becoming governor, Rick Perry has distinguished himself by making a number of excellent appointments, including two critical appointments to the Texas Supreme Court. These appointments are among his most important because Justices on the Supreme Court are charged with interpreting Texas law.

Shortly after taking office, President George W. Bush selected Texas Supreme Court Justice Al Gonzales to serve as White House Counsel. In March of this year, Governor Rick Perry appointed San Antonio lawyer Wallace Jefferson to fill the vacancy.

"Mr. Jefferson is a legal scholar and long-time appellate practitioner who will reflect great credit on an already distinguished court," said Richard W. Weekley, TLR President. "Governor Perry should be congratulated for naming a distinguished lawyer who is highly regarded for his abilities both in the courtroom and the law library. This is an historic appointment that does credit to the people of Texas."

"Mr. Jefferson has a wealth of experience. His work as President of the San Antonio Bar Association, as a member of the Advisory Committee of the Texas Supreme Court, and as a member of the Texas State Commission on Judicial Conduct makes him eminently qualified for this position."

A second Supreme Court vacancy was created when Justice Greg Abbott resigned to run for Lieutenant Governor. In late August, Governor Rick Perry named his second Supreme Court appointee, Xavier Rodriguez, also a resident of San Antonio.

"Mr. Rodriguez exemplifies the highest standards of integrity and scholarship," said Richard W. Weekley, TLR President. "With a solid background of trial work and legal accomplishment, Mr. Rodriguez is a strong replacement for Justice Greg Abbott."

"We believe that Justice Rodriguez will help maintain a fair and impartial court that bases its rulings on established law and precedent. Justice Rodriguez's reputation is that of a hard-working, self-made success who is a straight arrow. He will reflect great credit on the people of Texas and on Governor Rick Perry."

Mr. Rodriguez received a Bachelor of Arts degree from Harvard University in 1983. In 1987, he received both a Master of Public Affairs degree from UT's LBJ School of Public Affairs and a law degree from UT's School of Law. A San Antonio resident, Mr. Rodriguez is a partner in the law firm of Fulbright & Jaworski, L.L.P.
accurate analysis, effective lobbying, and overwhelming grassroots communications made it possible to positively impact many bad provisions and bills.

**Playing "Defense" In the Legislative Arena**

"We made a judgment before this session started that it would be very difficult, if not impossible, to pass meaningful new reforms this legislative session," said Dick Trabulsi. "Instead, we focused our grassroots and lobbying efforts on stopping new causes of action that could not be justified by the law or fairness. There were so many bad provisions and bad bills proposed this session that we knew we would have our hands full. The legislative record proved the pre-session analysis to be accurate. We managed to stop a score of bills which would have created unwarranted new lawsuits."

"The legislature was unable to tighten up loose legislation that permits a handful of trial lawyers in Texas to obscure the source of their political campaign contributions," said TLR PAC Director Matt Welch. "The legislature was also unsuccessful in passing language that would have added teeth to the existing Texas Ethics Commission rule that prohibits PACs from having misleading names. This reform would have eliminated a practice that has allowed fewer than ten Texas trial lawyers to obscure the source of millions of dollars of political campaign contributions."

But because TLR supporters from every corner of our state sent faxes, wrote letters, and made phone calls to members of the legislature, virtually every bill that had problems that had not been corrected in committee, ultimately failed to pass on the House floor. "We are grateful not only to the citizens who were willing to let their views be known, but also to our legislators who responded responsibly," said Leo Linbeck, Jr.

**Highlights of Legislative Accomplishments**

**HOUSE BILL 3125**: This bill, which would have been destructive to tort reform purported to punish companies that concealed evidence of dangerous products. But in fact, the bill would have allowed lawyers in Texas to conduct "fishing expeditions" for lawsuits, to eliminate caps on punitive damages, to waive certain rules of evidence, and to roll back other existing tort reforms. After compelling testimony and an avalanche of grassroots protests, the bill was shelved.

**SENATE BILL 11**: A bill was introduced to protect the privacy of medical records. But the bill almost had amendments added that would have created a lawsuit feeding-frenzy. Vague definitions and loose legislative language would have made a new round of costly litigation a virtual certainty. Letters and calls from hundreds of TLR supporters turned these potentially disastrous provisions around. Senate Bill 11 ultimately passed without the destructive amendments that business analysts predicted would have caused health care costs to increase, would have eliminated drug testing of employees, and would have
The Plaintiff Trial Lawyers’ lobby will be back next session and every session to try to expand their “Lawsuit Industry.”

With your continued support, Texans for Lawsuit Reform will be there to stop them. Without it, they will surely succeed.

LEGISLATURE (cont from pg 7)

potentially led to an environment where Texas employers would drop health care benefits for employees. Tort reformers should be grateful to Senator Nelson for resisting attempts to add litigation provisions to the final bill.

SENATE BILL 8: Legislation was introduced to equalize insurance reimbursement for men and women’s health care procedures. Our analysts concluded that there would be a period of adjustment when health care providers and insurance companies would seek to make comparable the costs of widely differing procedures. Unfortunately, pressure was brought to add lawsuits and civil penalty provisions that would inevitably raise the cost of Texas health care and create a lawsuit bonanza during this adjustment period. Both lobbying efforts and grassroots communications convinced Representative David Farabee and others that the bill had the best chance of passing without the lawsuit provisions. The bill did pass without these harmful provisions, thanks to the willingness of Representative Farabee to accommodate TLR’s concerns.

HOUSE BILL 587: Representative Senfronia Thompson and Senator Rodney Ellis proposed legislation that would increase criminal penalties for crimes where “hate” was the primary motivation of the attacker. An early version of this legislation would have added extensive civil causes of action in addition to criminal penalties. Working with Representative Thompson and Senator Ellis new legislation was drafted with stiff criminal penalties and without new civil causes of action. The bill later passed as redrafted and was signed into law.

HOUSE BILL 543: Representative Joe Deshotel filed legislation to change the voting boundaries of the Ninth Court of Appeals. This attempted gerrymandering of the voting district for the Ninth Court of Appeals was apparently in response to the fact that Montgomery County is in this district and has a growing conservative voting population. These new voters helped elect the first judge with a conservative judicial philosophy in the recent history of this court. The Ninth Court of Appeals is located in Beaumont and continues to make rulings that are routinely overturned by the Texas Supreme Court. After strong lobbying and help from Representative Tommy Williams, the bill died in the House. As a result, there is a growing opportunity to elect men and women to the Ninth Court of Appeals who have a philosophy of judicial restraint.

HOUSE BILL 740: This legislation proposed by Representative Harold Dutton would have erected procedural roadblocks to quick summary judgments. A summary judgment is the right of Texas judges to dismiss cases found to have no legal or factual merit before huge amounts of time and money have been spent on discovery and litigation. “The summary judgment rule is one of the best ways to stem the tide of frivolous lawsuits that often clog our courts,” said TLR lawyer Alan Waldrop. “This bill would have made virtually automatic the appeal of a summary judgment, further extending the life of marginal claims.” As a result of TLR grassroots communications and the help of Senators David Sibley and Troy Fraser, the bill died in the Senate Economic Development Committee.