

SUMMER 2015

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OUR MISSION

Texans for Lawsuit Reform is a volunteer-led organization working to restore fairness and balance to our civil justice system through political action, legal, academic, and market research, and grassroots initiatives. The common goal of our more than 18,000 supporters is to make Texas the Beacon State for Civil Justice in America.

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## A Serious Lawsuit Abuse Goes Unchecked



Alan Hassenflu

The most serious lawsuit abuse in Texas today is led by notorious plaintiff lawyer Steve Mostyn, who reaped hundreds of millions of dollars in manipulative hurricane-related lawsuits against the Texas Windstorm Insurance Association (leaving that quasi-government body basically insolvent), and who now is engaged in abusive hail-event litigation on a massive scale.

**Senate Bill 1628**, authored by **Sen. Larry Taylor** (R-Friendswood) and sponsored by **Rep. John Smithee** (R-Amarillo), was designed to deter Mostyn and lawyers like him from engaging in the abusive lawsuit practices that will make property and casualty insurance policies more expensive and difficult to obtain. The bill passed the Texas Senate with a 21-10 vote, with the active support of **Lt. Governor Dan Patrick**. Chairman Smithee's Committee Substitute for SB 1628 in the Texas House passed the Insurance Committee with the vote of all six Republican Members. Nevertheless, this critically important bill did not get to the House Floor for a vote. Apparently, sometimes things have to get worse before they can get better.

The failure to pass SB 1628 will have worrisome consequences, including:

- Many homeowners will lose their ability to purchase homeowners' insurance in the private market.
- All Texans are likely to experience higher insurance deductibles and higher premiums.
- Insurance policies are likely to have more restrictive coverage.
- Home sales will be impacted by the failure of families to qualify for home loans due to higher insurance rates or the inability to secure homeowners' insurance.
- Insurance companies will continue to withdraw from certain markets.
- Some Texas-based insurance companies might be made insolvent, and all are likely to become less competitive with national carriers, giving Texans fewer choices.
- Innocent Texans (primarily independent claim adjusters and insurance agents) will bear the cost and anxiety of being sued merely for manipulative purposes.

The storm-chasing lawyers who troll relentlessly for clients are just the latest in a string of mass-tort lawyers who have imposed a heavy "tort tax" on consumers through abusive lawsuits that drive up the cost of goods and services.

We will continue to fight this flagrant lawsuit abuse. ■

Alan Hassenflu  
 TLR Board Member

# TLR-Backed Reforms Strengthen Civil Justice System

By Lee Parsley, *TLR Outside Counsel*



## ASBESTOS TRANSPARENCY - ELIMINATING A LONGTIME ABUSE

Personal injury trial lawyers controlled much of the Texas civil justice system in the 1970s and 1980s, making Texas “ground zero” for abusive asbestos litigation. In 2005, TLR proposed **Senate Bill 15**, which established medically appropriate criteria for Texas courts to use to determine if a claimant had an actual asbestos-caused disease, rather than a lawyer-created *possibility of a future* asbestos-caused disease. Under SB 15, an unimpaired claimant’s case remained pending (unofficially called “inactive”) until the claimant could show a properly diagnosed medical condition scientifically attributable to asbestos exposure. At any time that any claimant on the inactive docket could meet the medical criteria, his case was activated and could proceed to trial.



*Rep. Doug Miller*

By 2013, very few unimpaired claimants’ cases had been activated because they did not show a legitimate medical reason for having filed a lawsuit. TLR supported **House Bill 1325** (authored by **Rep. Doug Miller**, R-New Braunfels), which required the courts to implement fair and transparent procedures for dismissing the inactive cases. To ensure that no claimant was unduly prejudiced by dismissal of his or her case, HB 1325 provided that any claimant who was later diagnosed with an asbestos-caused injury could re-file his case at any time.

Going into the 2015 Legislative Session, a remaining problem had to do with the trial lawyers’ manipulation of the dual-compensation system for asbestos claimants. In asbestos cases, the claimants often reveal exposure to asbestos products manufactured by the solvent companies that are defendants in the cases, while failing to report exposure to products manufactured by companies that have filed bankruptcy. Through this process, the lawyers place most or all of the blame for their clients’ asbestos-related diseases on the solvent companies who are the litigation defendants. Then, after obtaining a settlement or judgment from the solvent companies, the lawyers file documents with special trusts set up by the bankrupt companies, asserting that their clients were also exposed to the bankrupt companies’ asbestos products—blaming different companies that were not mentioned during the initial litigation with the solvent companies.



*Sen. Charles Schwertner*

**HB 1492**, authored by **Rep. Doug Miller** and sponsored by **Sen. Charles Schwertner** (R-Georgetown), addresses this deception in asbestos litigation by requiring plaintiffs to file all of their asbestos bankruptcy trust claims—and provide all trust-claim documents to the litigation defendants—*before* the case can be presented to a judge or jury. Hopefully, this is the final chapter in ending asbestos litigation abuses in Texas.

## NET WORTH DISCOVERY - PROTECTING PRIVATE FINANCIAL INFORMATION



*Rep. Ken King*

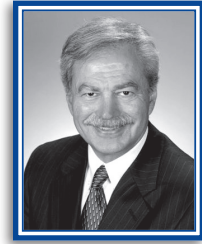
**SB 735**, authored by **Sen. Troy Fraser** (R-Horseshoe Bay) and sponsored by **Rep. Ken King** (R-Canadian), protects private financial information from disclosure in litigation.

The new law revises the section of the Civil Practice and Remedies Code that provides that, if a plaintiff pleads a right to punitive damages, he or she can obtain information from the defendant that reveals the defendant’s net worth. Some trial courts allow broad discovery of financial information, including financial statements, loan applications, and tax filings. Allowing this kind of discovery gives the plaintiff excessive leverage against individuals and privately held companies. In most cases, the plaintiff is unlikely to actually recover punitive damages, making the discovery pointless except for the harassment value to the plaintiff of conducting the discovery.

SB 735 provides that, in order to obtain pre-trial discovery of net worth evidence from a defendant, a plaintiff must convince the trial court that he or she has a substantial likelihood of succeeding on their claim for punitive damages. SB 735 does not prevent the discovery of financial information; it simply requires a plaintiff to show a legitimate chance of success on his or her punitive-damage claim before being able to obtain private and confidential financial information. Then, when allowed to obtain net worth discovery, the plaintiff must use the least-restrictive means available to obtain that information.

**Speaker Joe Straus** and his leadership team were instrumental in the passage of both HB 1492 and SB 735 in the Texas House. ■

## Plaintiff Lawyer Profiteering Undermines Respect for the Law



Steve Mostyn is a notorious plaintiffs' trial lawyer who harvested hundreds of millions of dollars in legal fees following Hurricane Ike. The mass-tort model he used in manipulating settlements from the Texas Windstorm Insurance Association (TWIA) has now gone viral, as he and other opportunistic lawyers have transformed hail claims litigation across Texas into a storm surge of lawsuit abuse.

Until a couple of years ago, property claims for hail damage were routinely handled in the normal and ordinary claims resolution process. About 1% of hail claims resulted in litigation. But once Mostyn knew that the TWIA legislative reforms, which were enacted in 2011, would prevent his enrichment from future hurricanes, he turned his attention to hail events. Now, because he and other lawyers aggressively solicit clients following any hail event, carriers are seeing lawsuit-to-claims ratios of 20% to 40%. These suits often are filed despite homeowners' prior settlements of the same claims.

Solicitation of clients by lawyers is unethical and even illegal. This is called barratry, but unfortunately, offending lawyers are ineffectively regulated and largely undeterred by the barratry statutes and the State Bar's disciplinary procedures.

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*“The law helps bind society together only so long as the law is respected. What certain plaintiff lawyers are doing in hail litigation defiles the law and undermines respect for our litigation processes.”*

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Another despicable aspect of the mass-tort model used by the storm-chasing lawyers is that they sue independent adjusters, insurance agents, and other individuals against whom they have no legitimate cause of action. They do so for two manipulative purposes: (i) to expand the scope of their discovery in order to increase the insurance carriers' time, trouble, and expense of defending the lawsuit, thereby making it harder and more expensive to defend against even a meritless lawsuit, and (ii) to ensure that the case will stay before the lawyer's handpicked judge by preventing an out-of-state defendant from removing the case to a Texas federal court when it believes it cannot


get a fair or timely resolution in the court chosen by the plaintiff lawyer.

The most insidious consequences of the joinder of innocent parties fall on the individuals who are sued and their families, who must suffer the financial cost and the anxiety of being sued—sometimes dozens, or even hundreds of times. These persons have done nothing more than serve as the agent who placed a policy, or the adjuster who estimated the cost of repairing damaged property, or the office assistant who handled the documents. They are used as pawns by a few callous trial lawyers. Only in our nation is such outrageous litigation activity tolerated, and we should be ashamed to tolerate it.

The Texas House's failure to pass legislation to deter these abusive lawsuits means that unscrupulous lawyers and their soliciting agents will continue to recruit clients whenever and wherever hail falls in Texas. They will continue to use our statutes and litigation system to extort undeserved settlements because the cost of settling these cases is a fraction of the cost of taking them to trial, no matter how meritless the lawsuit.

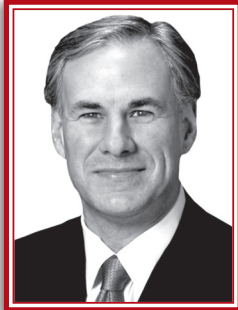
All Texas property-owners will pay the trial lawyers' "tort tax" through higher insurance deductibles, higher premiums, and reduced or lost coverage. Insurers will pass the skyrocketing costs of litigation to their policyholders. In this, as in every massive lawsuit abuse, *consumers* are the ultimate losers.

Our court system did not evolve over the past century for the purpose of enriching people with law licenses. Rather, it came into being as the means of last resort to resolve legitimate disputes that could not otherwise be resolved. The law helps bind society together only so long as the law is respected. What certain plaintiff lawyers are doing in hail litigation defiles the law and undermines respect for our litigation processes. We all suffer the consequences of any degradation of the integrity of our civil justice system, which is why we must never shrink from fighting and eliminating abusive litigation practices whenever and wherever they occur. ■

  
Richard J. Trabulsi, Jr.  
President of TLR

# Working to Pass Good Legislation and to Stop Bad Legislation

By Mike Hull, TLR Outside Counsel



*Gov. Greg Abbott signed 23 good civil justice bills into law in his first legislative session as Governor.*

TLR's efforts to pass legislation are only a portion of the work TLR does during a legislative session. TLR also commits substantial resources to stopping bad legislation—preventing an erosion of existing reforms by opposing legislation that would create new causes of action susceptible to use in mass tort lawsuits and modifying other proposed causes of action that create more problems than the proposed legislation solves. TLR was successful on both fronts in the 2015 Legislative Session.

## THE 84TH SESSION: BY THE NUMBERS

During the 84th Legislative Session, House Members filed 4,207 bills and Senators filed 2,069 bills. TLR tracked 545 House bills, 226 Senate bills, and 11 joint resolutions this session.

No bill opposed by TLR passed both the House and the Senate and, therefore, TLR did not need to advocate for gubernatorial veto of any bill.

## HOW DO WE SELECT BILLS AND JOINT RESOLUTIONS FOR TRACKING?

TLR tracks all bills that propose a new cause of action, seek to modify an existing cause of action, attempt to add new remedies to existing civil actions, or try to modify existing statutory protections for civil lawsuits.

TLR tracks all bills that concern the judiciary, including those impacting judicial pay, judicial selection and retention, the method by which judicial districts are managed, the creation of new courts, and court funding.

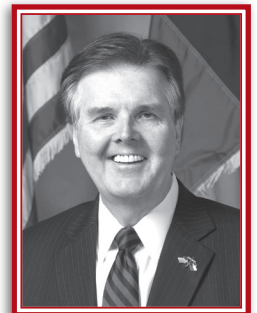
TLR even tracks bills that do not have an immediate connection to tort reform, such as: bills relating to how legal services to the poor are funded, all Texas Sunset Commission bills (since they can be amended to create mischief), and bills that touch on general law principles such as sovereign immunity, the right of people who contract with the state to sue the state, matters of workers' compensation, whether the state creates new law schools, and the creation of new civil fines and criminal penalties.

TLR reviews bills by specific authors because certain legislators are more likely to file bills with provisions that are of interest to TLR. We monitor all bills filed by those members.

TLR reviews bills that are particularly susceptible to being amended in ways that implicate TLR's interests.

TLR reviews all bills that are referred to particular committees, including House Judiciary and Civil Jurisprudence, House Insurance, House Business and Industry, Senate State Affairs, Senate Business and Commerce, and most bills that are set on various House and Senate calendars.

TLR is also alerted to bills by House and Senate staff, by elected officials, by those who work in and around state government, by trade associations, and by legislators who inquire whether TLR has a position on a bill.



*Lt. Governor Dan Patrick was instrumental in the Senate's passage of numerous tort reform bills, including the effort to stop hailstorm lawsuit abuse.*

## THE 84TH LEGISLATURE PASSED MANY GOOD REFORM BILLS

The Legislature passed 23 good civil justice bills supported by TLR and signed into law by Governor Greg Abbott.

**HB 262 • Miles, Borris (D), Creighton, Brandon (R)** Prohibits negligence actions against an owner, lessee, or occupant of land to be used as a community garden.

**HB 1040 • Paddie, Chris (R), Hancock, Kelly (R)** Prohibits negligence actions against certain sports officials and organizations.

**HB 1050 • White, James (R), Taylor, Van (R)** Prohibits negligence actions against certain food donors.

**HB 1171 • Farney, Marsha (R), Lucio Jr., Eddie (D)** Applies certain immunity and liability laws that exist for public schools to open-enrollment charter schools.

**HB 1403 • Sheets, Kenneth (R), Estes, Craig (R)** Clarifies that actions by healthcare employees against their employers are not healthcare liability claims under the medical liability act. *(Continued on page 8)*

# The Storm-Chasing Trial Lawyers' Misinformation Campaign

By Sherry Sylvester, *TLR Senior Communication Advisor*



In late 2012, Ralph Nader, left-wing patron saint of plaintiff attorneys, ripped into Texas trial lawyers for losing “legislative battle after legislative battle,” despite being the “wealthiest trial bar in the country.”

Steve Mostyn, the notorious hurricane lawyer from Houston who spends more on Texas political campaigns than anyone else, may have taken Nader’s words as a challenge.

Mostyn made hundreds of millions of dollars from exorbitant attorney fees he garnered from suing the Texas Windstorm Insurance Association (TWIA). He has filed more hailstorm lawsuits than any other trial lawyer in Texas, although many plaintiff attorneys are now copying him, cashing in on his litigation machine model. In the 2015 Legislative Session, he opposed the hailstorm lawsuit reform bill, which would rein in a virulent new form of storm-chasing lawsuit abuse that is further enriching him.

## ANOTHER LONGSHOT

Mostyn’s quest to stop hailstorm lawsuit reform looked like another longshot for him. He has dumped millions into unsuccessful efforts against Governors Rick Perry and Greg Abbott and other pro-tort reform leaders and legislators. He surpassed the previous all-time biggest trial lawyer contributor, the late Fred Baron, earlier this year when he dropped a half-million dollars in San Antonio in an unsuccessful effort to elect a Democrat trial lawyer to the Texas Senate. His current campaign spending total is just over \$25 million in Texas alone.

Apparently knowing that a frontal assault on tort reform would not be successful in protecting his financial self-interest in hail litigation, Mostyn devised a new misinformation machine built on a barrage of inaccurate statements to combat the hailstorm lawsuit reform bill. He painted the bill’s advocates as being anti-business and opponents to constitutional rights.

## PHONY FRONT GROUPS

Manufacturing misinformation is not new for Texas trial lawyers. Like their colleagues nationally, they have attempted to sell themselves as modern-day Robin Hoods who take from the rich—meaning businesses and job creators—and give to those they recruit to file lawsuits.

They do not mention the big percentages they take for themselves in legal fees. The “Robin Hood spin” does

not work in Texas. The image most have of ambulance-chasing trial lawyers comes from the garish ads that assault us on TV and billboards. Polls consistently show that trial lawyers have little credibility and are viewed unfavorably by the majority in both political parties.

So, when it comes to public policy debates and political campaigns, personal injury trial lawyers almost never deliver their own messages.

Instead, they use phony front groups that pretend to be independent and often characterize themselves as consumer advocates. Texas Watch, which was the most high-profile opponent of the hailstorm lawsuit reform bill, has long been a front for Texas trial lawyers. They fought the 2003 medical liability reforms as well as reforms to TWIA in 2011. The deputy director of Texas Watch is a personal injury trial lawyer and frequently testified against the hailstorm lawsuit reform bill, saying he represented a “consumer group.”

The spokesman for the Texas Trial Lawyer Association sits on the Texas Watch board along with a Dallas personal injury trial lawyer who is also a former board member of the national trial lawyer organization, the deceptively-named “American Justice Association.” Texas Watch always marches in lockstep with trial lawyers and yet, in the media, they are almost always described as “non-partisan watchdogs” or “consumer advocates.”

## A HAILSTORM OF MISINFORMATION

The misinformation campaign against hailstorm lawsuit reform first appeared in the mainstream media on April 9, when *Dallas Morning News* columnist Dave Leiber dramatically misinformed his readers with a story based almost entirely on information he received from Texas Watch, which he called a “non-partisan insurance watchdog.” Although two insurance companies had already stopped writing policies in some parts of the state and another was on the verge of making a similar move, Leiber called the fact that insurers would pull out of Texas “the biggest lie in the 2015 Texas Legislature.”

Leiber’s column was followed by a news story in the *Dallas Morning News*, which provided charts and graphs showing the profit margins of the top ten insurance companies operating in Texas.

The news report also leaned heavily on misinformation provided by Texas Watch, *(Continued on page 7)*

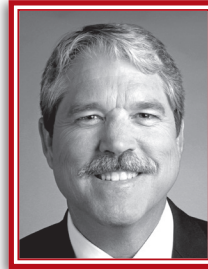
## Legislation to Curb Hail Litigation Abuses Sets Predicate for Future Action

The worst and most pervasive lawsuit abuse in Texas today is the explosion in litigation concerning property claims following hail events, which was covered extensively in a recent edition of the *TLR Advocate* and is discussed on Page 1 and Page 3 of this *Advocate*.

**Senate Bill 1628** was authored by **Sen. Larry Taylor** (R-Friendswood) and passed the Senate with the vote of all 20 Republicans and one Democrat. In the House, **Rep. John Smithee** (R-Amarillo) sponsored SB 1628 and modified it in a Committee Substitute, which passed the House Insurance Committee with all six Republicans voting for it. Unfortunately, the bill then died in the House Calendars Committee, having never been set for a House Floor vote. The Committee Substitute contained four crucial elements:

1. The insurance companies would have been allowed to assume the liability of any agent or employee who was named as a defendant in a property damage case. These agents and employees are sued for manipulative reasons, not because they actually have done anything wrong. SB 1628 provided that these people would be dismissed from the case if the company assumed their liability.
2. The storm-chasing lawyers would have been required to give an insurance company a pre-suit notice of the claim and the damages sought. Today, the companies often pay a customer's claim and assume that the matter was satisfactorily resolved, only to learn two years later that their customer has a further complaint (usually of highly questionable merit) when lawsuit papers are served. A pre-suit notice allows an insurance company to attempt to settle a meritorious claim before a lawsuit is filed and extensive attorney fees are incurred.
3. SB 1628 would have required that notice of a lawsuit had to be filed within a sufficient period of time after the damage-causing weather event, to give the insurance companies a reasonable chance to evaluate the claim while the damage caused by the storm is still ascertainable.
4. The Insurance Code's 18% per annum penalty interest provision would have been amended to make clear that it applied only to the amount of the claim that was underpaid by the insurance company, not to the entire amount of the new claim. It does not make sense to impose a penalty

on that portion of a claim that was timely paid, especially a penalty that is so gargantuan in today's interest rate environment. ■



*Sen. Larry Taylor*



*Rep. John Smithee*



*Chairman John Frullo*



*Rep. Kenneth Sheets*

**Sen. Larry Taylor** authored SB 1628, which would have curbed the pernicious lawsuit abuses occurring in hail-damage lawsuits across the state. Sen. Taylor was a leader in curbing lawsuit abuse when he was a House Member and Chair of the House Republican Caucus. He continues as an influential leader on lawsuit reform in the Texas Senate; he serves on several critical Senate committees, and chairs one of them.

**Rep. John Smithee** (R-Amarillo) sponsored SB 1628 and serves as Chairman of the House Judiciary and Civil Jurisprudence Committee. Chairman Smithee and three of his Republican colleagues on that Committee consistently supported tort reform measures—**Rep. Jodie Laubenberg** (R-Parker), **Rep. Kenneth Sheets** (R-Dallas), and **Rep. Mike Schofield** (R-Houston).

**Chairman John Frullo** (R-Lubbock) of the House Insurance Committee and his five Republican colleagues voted SB 1628 out of Committee. The other Republican Members of that Committee are **Rep. Greg Bonnen** (R-Friendswood), **Rep. Morgan Meyer** (R-Dallas), **Rep. Dennis Paul** (R-Webster), **Rep. Kenneth Sheets** (R-Dallas), and **Rep. Paul Workman** (R-Austin).

**Rep. Kenneth Sheets** serves on both the Insurance Committee and the Judiciary and Civil Jurisprudence Committee. Rep. Sheets is a leader on civil justice issues in committees and on the Floor of the House.

## The Storm-Chasing Trial Lawyers' Misinformation Campaign (Continued from p5)

which is described as a “consumer group active on insurance issues.”

The story does not mention the millions being made by trial lawyers in hailstorm lawsuits.

The *Texas Tribune* weighed in on April 30, with a mostly one-sided review of the bill. Although the *Tribune* prides itself on being a bulldog in pursuit of public corruption, it did not report the riches that Mostyn stands to reap on hailstorm lawsuits.

### MORE MISINFORMATION ALLIES

Mostyn had another ally in the fight against hailstorm lawsuit reform—a few business attorneys who have a vested interest in the lucrative attorney fees and penalty provisions contained in the insurance code—the same provisions that motivate the storm-chasing trial lawyers. Building on an error-filled letter sent to legislators and the media from a litigator who makes his living suing insurance companies, Mostyn’s misinformation machine pumped out a message that the hailstorm lawsuit reform bill would hurt Texas businesses. On May 22, a story written by *Texas Lawbook*, a legal journal, was published in the *Dallas Morning News* essentially reiterating the letter.

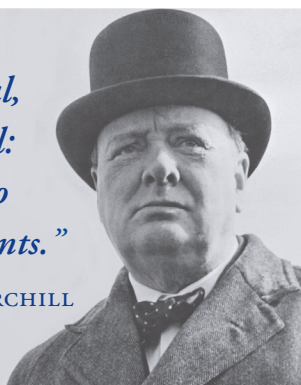
An editorial in the *Waco Tribune* also echoed Texas Watch outlandishly suggesting that hailstorm lawsuit reform targeted property rights and 7th Amendment protections.

### THE FIGHT FOR HAILSTORM LAWSUIT REFORM CONTINUES

TLR has been battling trial lawyer misinformation for over two decades. We let none of these shots go unanswered and fought back with facts. We will continue to do so. The business and community leaders, good government advocates, and others who comprise the leadership and supporters of TLR are committed to the belief that our civil justice system must be fair and honest for everyone in order to maintain a job-creating and prospering business climate in Texas. ■

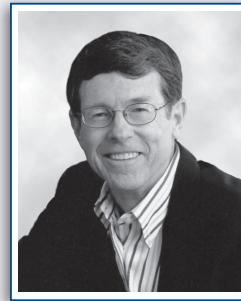
*“Success is not final,  
failure is not fatal:  
it is the courage to  
continue that counts.”*

- WINSTON CHURCHILL



## IN MEMORY

Recently, TLR lost two of its founding and sustaining leaders, Bob Weekley, brother to Dick and David Weekley, and Bob Hoy, a prominent El Paso business and civic leader. We value what they did for TLR and we honor them as men who were dedicated to their families and communities.



*Bob Weekley*

**Bob Weekley** was TLR’s largest contributor from outside of Texas—both in money and wise counsel. Bob spent his career in California as a highly successful real estate investor and developer. He saw the terrible societal and economic consequences in a state where politics and government are dominated by personal injury trial lawyers, which made

him appreciate the tort reform accomplishments of his brother, Dick, in Texas. Bob’s generosity to a fair civil justice system in his native state continues beyond his death. Bob made a posthumous contribution of one million dollars to the TLR Foundation for its research work concerning matters impacting our courts and laws.

**Bob Hoy** was well known in Texas political and business circles. As a successful automobile dealer and civic leader in El Paso, Bob had long been active in legislative matters related to the automobile industry and issues affecting West Texas. Bob was instrumental in helping TLR establish and expand its reach in the El Paso business, professional,



*Bob Hoy*

and political communities, and was a valued advisor to TLR in all aspects of our operations. The *El Paso Times* editorialized about Bob upon his death, calling him one of El Paso’s “giants,” and commending his humility, integrity, great smile, and good heart.

We in TLR miss these and our other departed friends who have been an integral part of our mission. Fortunately, their departures are filled by other accomplished persons who assume leadership roles. It is said that “water flows, the river stays.” The TLR river is wide and deep with a strong current surging toward order and justice. ■

*Shad Rowe*

Shad Rowe

TLR Board Member

## Working to Pass Good Legislation and to Stop Bad Legislation (Continued from p4)

### **HB 1455** • King, Phil (R), Creighton, Brandon (R)

Clarifies the procedures required before a condominium association files a suit or initiates an arbitration proceeding for a defect or design claim.

### **HB 1492** • Miller, Doug (R), Schwertner, Charles (R)

The Asbestos Litigation Transparency Bill reviewed elsewhere in *The Advocate*.

### **HB 1510** • Thompson, Senfronia (D), Garcia, Sylvia (D)

Limits the liability of persons who lease dwellings to persons with criminal records based on the crime committed and the knowledge of the lessor.

### **HB 1692** • Sheets, Kenneth (R), Huffman, Joan (R)

Texas law currently provides that a case may not be dismissed or transferred to another jurisdiction under the doctrine of *forum non conveniens* if one of the plaintiffs is a Texas resident. HB 1692 makes clear that the Texas resident exception to the existing *forum non conveniens* statute applies only if the Texas resident is a plaintiff in the action, not an intervener or other similar person.

### **HB 1794** • Geren, Charlie (R), Hancock, Kelly (R)

Caps the damages that may be awarded against a defendant in an environmental action if the defendant already has remediated the property in good faith.

### **HB 2303** • Kuempel, John (R), Huffman, Joan (R)

Prohibits negligence actions against a landowner for injuries incurred during certain recreational activities.

### **HB 2390** • Bohac, Dwayne (R), Creighton, Brandon (R)

Prohibits negligence actions against an employer arising from an employee wellness program.

### **HB 2536** • Harless, Patricia (R), Whitmire, John (D)

Provides that the Harris County District Courts, as well as the county courts at law, have jurisdiction of condemnation actions when the value of the property being condemned exceeds \$200,000.

### **HB 2573** • Johnson, Eric (D), Lucio Jr., Eddie (D)

Establishes a Deceptive Trade Practices Act cause of action against a person who is not an attorney who implies that he is authorized to practice law.

### **HB 3163** • Cyrier, John (R), Watson, Kirk (D)

Relating to civil suits filed against board members of a groundwater conservation district and the protection from liability of a member for certain actions taken by the board.

### **SB 378** • Rodríguez, José (D), Sheffield, J.D. (R)

Prohibits negligence actions against certain social workers who provide volunteer healthcare services to charitable organizations.

### **SB 381** • Uresti, Carlos (D), Guillen, Ryan (D)

Prohibits negligence actions arising from a volunteer's operation of a Parks and Wildlife Department motor-driven vehicle or equipment.

### **SB 455** • Creighton, Brandon (R), Schofield, Mike (R)

Relating to the creation of a special three-judge district court. This bill is discussed below.

### **SB 610** • Perry, Charles (R), Murr, Andrew (R)

Prohibits negligence actions relating to an agritourism entity involved in an agritourism activity.

### **SB 627** • Huffman, Joan (R), Hunter, Todd (R)

Limits libel actions.

### **SB 735** • Fraser, Troy (R), King, Ken (R)

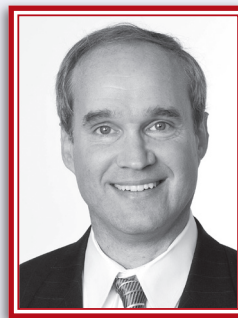
The Net Worth Discovery Bill reviewed elsewhere in *The Advocate*.

### **SB 1060** • Hinojosa, Chuy (D), Thompson, Ed (R)

The explosion of hail-related lawsuits is caused in part by public adjusters who are soliciting clients for attorneys. SB 1060 enhances the statutes regulating public adjusters to provide that they cannot sign up a client solely for the purpose of referring the client to an attorney and cannot accept referral fees from attorneys.

### **SB 1457** • Nichols, Robert (R), Clardy, Travis (R)

Litigation alleging patent infringement has become a substantial area of abuse. SB 1457 takes a step toward addressing the abuse by making it a violation of state law for a person to send a written communication in which the person makes a bad faith claim of patent infringement.



*Rep. Mike Schofield*

**HB 1091** by **Rep. Mike Schofield** (**Sen. Brandon Creighton's** Senate companion bill, **SB 455**, is the bill that was signed by the Governor) creates a three-judge panel to decide cases related to school finance and redistricting. Current law allows those cases to be decided by a single trial

judge. The enacted bill requires school finance cases and redistricting cases to be decided by a three-judge court. The three-judge panel consists of the judge before whom the case was filed, plus a district court judge and an appellate judge appointed by the Chief Justice of the Texas Supreme Court. By creating these three-judge courts, Texas will give much greater representation to opinions and concerns from the entire state when deciding these cases of considerable statewide impact. ■