

# CTLA Calls Reporters to Defend Secret Bargaining

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SACRAMENTO — In a sometimes combative session with news reporters Wednesday, the leadership of the California Trial Lawyers Association defended the closed-door process that led to significant changes in California liability laws on the final day of the 1987 legislative session.

CTLA leaders have been concerned about complaints by reporters and consumer groups over being intentionally excluded from lengthy negotiations that led to the landmark legislation. To counter the ill feeling, CTLA has embarked on a public relations campaign urging reporters to cover the "substance" of the legislation rather than merely the "process" that led to it.

Originally billed as an off-the-record "background" luncheon to deal with complaints that the negotiations represented back-room politics at its worst, Wednesday's session was changed to on-the-record after several reporters objected.

The passage of the bill provoked crit-

ical newspaper editorials and columns and an outcry from consumer groups, which said victims' rights in product liability cases may have been sacrificed in the rushed process.

CTLA legal analyst Will Glennon, a lawyer who is also a writer, chided the somber group of reporters for concentrating on the "sex appeal" of the closed-door negotiations instead of the substance of the historic compromise.

"What struck me was the emphasis on the 'sexy' aspect, [which has] caused a real misdirection" in reporting, Glennon said. The luncheon was scheduled so CTLA leaders could talk to reporters "about what did happen substantively, and what is the importance of it. We hope we can get past the 'secret back-room deal' type of angle and begin to talk about what really happened."

As tape recorders whirred and reporters took notes, Glennon said he would like to see reporters bring their "focus around" to the "long-range implications" of the legislation.

CTLA President Browne Greene took critics to task for "suggesting" that the

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legislation was "something that was conjured up overnight, that hasn't been discussed, negotiated, argued about over a period of months and years."

Such a view, Greene said, "totally misses the point" and offers a skewed view of reality to the reading public.

Greene said all of the provisions of the legislation have been debated publicly and considered by the Legislature "in one form or another" in the past.

"It is totally untrue to suggest or to infer that this was something that was done at the last minute," he emphasized.

Greene and CTLA president-elect Gary Gwilliam said meetings among the various parties were held over the past year with the knowledge and encouragement of legislative leaders.

"There was, of course, a final culmination," Greene said, "and it did happen at the last minute. It's much akin to settling a case on the courthouse steps. I'm a trial lawyer. That is the way ordinarily that I settle cases. You can't get a case settled if it isn't on the courthouse steps. Negotiating positions change. Events change. The ideal way is to have hearings, to do it out in public so that everybody will know what is going on. I don't think that's the real world."

The luncheon was organized by the Sacramento public relations firm of Stoorza, Ziegas & Metzger, which in-

cludes among its name partners Bobbie Metzger, former press secretary to Assembly Speaker Willie Brown, D-San Francisco, and to former Gov. Jerry Brown. The tort reform measure, which Gov. George Deukmejian was expected to sign Wednesday night, was sponsored by Brown and by Sen. Bill Lockyer, D-Hayward.

The bill, SB 241, was introduced and pushed through the normally glacial legislative process in one day, after extensive negotiations involving CTLA, the Association for California Tort Reform and other representatives of big business, medicine and the defense bar. In return for a "nonaggression pact" in which all groups agreed not to sponsor initiatives or legislation against the others for five years, major compromises were worked out on all sides of the tort and insurance reform wars, and a bruising 1988 initiative battle was avoided.

Greene said the earlier agreement between the CTLA and California cities and counties on public-sector tort reform — a package signed by the governor this week — was a major factor in moving the private-sector negotiations along.

Glennon said agreement among the warring parties over tort reform was essential to the legislative process. "We have been harangued by the Legislature for years to sit down and work out some kind of mutual ground," Glennon said.

"They're pleading with us, 'Why don't you guys sit down and talk to each other like intelligent people? You come into these hearing rooms and start posturing. How are [legislators] supposed to make sense of it with you guys screaming back and forth?' This is not a unilateral decision on our part. They have been encouraging us to do that for years."

CTLA leaders say the tort reform compromise makes further discussions on insurance reform possible. Consumer groups say they intend to place an insurance reform initiative on the 1988 ballot.

The CTLA insists no victims' rights were negotiated away and that valid product-liability suits are not precluded by the legislation.

Among its many provisions, SB 241 would:

- Raise the sliding-scale contingency fee limitation of the Medical Injury Compensation and Reform Act.

- Change the definition of malice and oppression to include proof that the defendant's conduct was "despicable."

- Immunize sellers of products that are known to consumers to be "inherently unsafe," such as alcohol and cigarettes.

- Clarify the circumstances in which an insurance company must provide separate independent counsel to an insured.