

Insurance Initiative Campaigns Will Continue to Target Lawyers

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SACRAMENTO — Facing an uphill battle to convince voters they should trust insurance companies and vote for no-fault auto insurance — Proposition 104 on the November ballot — insurers' campaign strategists are continuing to go for the jugular. Lawyers' jugulars, to be precise.

And, based on interviews with strategists for the various initiative campaigns, there is no indication of any lull in the blatant lawyer-bashing of the insurers' ads. Airing since last spring with a vengeance — and cost — unmatched in

PROPOSITIONS 100/103/101/104/106 CAMPAIGN STRATEGIES

any previous campaign in state history, the ads beseege voters with images of an unredeemed phalanx of seedy, smooth-talking lawyers whose apparent sole mission in life is to victimize clients and charge absurd fees.

"I think the ads are fair, and I see no reason to change that strategy," said Proposition 104 spokesman Scott Car-

penter of Clinton Reilly Campaigns in San Francisco, which is managing the insurers' \$43 million campaign. "What we have [planned] is secret until it hits the air, but there is no major change that I am aware of."

"I wouldn't characterize them as lawyer-bashing ads," says insurance industry spokesman George Tye, a top executive with the Association of California Insurance Companies in Sacramento. Many of the ads target the California Trial Lawyers' Association-backed Proposition 100, or encourage support for the industry-sponsored Proposition 106, which would

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Lawyer-Bashing Proves Popular Strategy

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severely limit lawyers' contingency fees. "When it is pointed out to people that it [Proposition 100] exists primarily to protect lawyers' income, support for Proposition 100 is dropping," Tye said. "A lot has to do with our ads and the public's awareness that the trial lawyers want to protect their interests."

The insurers' principal measure, Proposition 104 or the no-fault initiative, appears to be doing poorly in the polls. A recent California Poll showed 31 percent of respondents said they would vote for the measure when the respondent was unaware that the proposition was sponsored by the insurance industry and 28 percent when they were aware. Proposition 100, a sweeping insurance measure backed by the CTLA that requires greater state regulation of the insurance industry, showed a 54 percent to 56 percent approval rate — with between 24 percent and 27 percent undecided, depending on whether sponsorship was known.

The September poll also indicated that support for Proposition 100 had dropped considerably from a July poll that showed the initiative passing by a whopping 85 percent, or by 78 percent when sponsorship was known. Pointing to the big jump in undecided voters, Proposition 100 backers blame the barrage of anti-lawyer advertising by insurers.

"It's an old debating ploy, which is to attempt to shift the focus by picking another, hopefully equally detested faction like lawyers, and suggest they are part of the problem," says Proposition 100 strategist Gene Erbin, counsel to the Assembly Judiciary subcommittee on the administration of justice and a top aide to Assemblyman Lloyd Connelly, D-Sacramento, a sponsor of the measure.

"They've succeeded," Erbin added, "to the extent that people are confused."

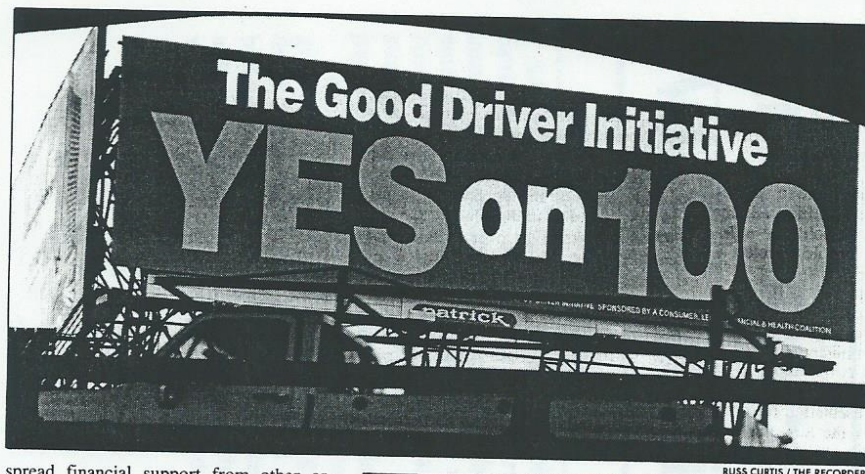
To be sure, the lawyers are having their say, too, painting insurers in counter ads for Proposition 100 as insatiable monetary gluttons, untouched by ethics or government regulation, gleefully gobbling the hard-earned premium dollars of increasingly angry ratepayers. But the ad campaign underwritten by lawyers, primarily the CTLA, faces a particularly formidable task because it cannot hope to match the more than \$43 million that the insurers plan to spend.

Spending reports covering the early weeks of the campaign were due to be filed with the secretary of state Wednesday.

"We don't have the fund-raising capacity of the [insurance] industry," Erbin says. "We don't have the same collection mechanism. They [insurers] assess people and get the money. If we can spend 25 percent of what they spend, I would be pleased."

The CTLA, along with a coalition that includes California Attorney General John Van de Kamp, the California Bankers Association and the California Chiropractic Association, hope to spend \$8 million to \$10 million — the most expensive campaign in state history, but less than a fourth of the insurers' campaign war chest. Much of the money will go to television advertising but also to radio and print ads, billboards and direct mail.

Although the CTLA is a major backer and fund-raiser for Proposition 100, Erbin and others say the initiative has wide-



INITIATIVE WARS: Left and below, insurer and lawyer strategists are bombarding California voters with expensive advertising campaigns for conflicting initiatives.

spread financial support from other organizations. Just how much will be seen when campaign spending reports are released this week and filed again Oct. 27.

"The bankers and the chiropractors have come up with more than we anticipated," says CTLA legal analyst and insurance expert Will Glennon, a key CTLA/Proposition 100 campaign strategist. "It's a significant amount of money in \$10 and \$20 contributions."

But, adds Glennon, "We anticipate that [insurers] are saving the most scurrilous ads for last."

Added CTLA president Gary Gwilliam of Gwilliam & Ivory in Oakland: "I think lawyers in general are beginning to understand that this is a problem for more than just trial lawyers, that it is really a lawyer-bashing issue for lawyers all over the state."

Patti Levine, a Sacramento public relations specialist who is the statewide news director for Proposition 100, said most upcoming advertising for the initiative will be "pro-100 ads," urging voters to "read the initiative and determine for themselves that it lowers rates for good drivers everywhere."

Proposition 100 backers will also continue to target the insurer-backed Proposition 106, which would limit lawyers' contingency fees in accident cases. "All of our campaign advertising is very straightforward," she said. "It asks people to read the initiatives, to look at who is sponsoring 106."

The September California Poll indicated that Proposition 106 enjoyed a 59 percent "yes" vote when its sponsorship was not disclosed — a figure that dropped to 49 percent when insurance industry sponsorship was disclosed to voters.

"Proposition 106 was initially very popular," says Erbin. "It's a crude, legal-bashing proposal."

Erbin said that internal polling by Proposition 100 backers indicates that "if you start talking to people about [Proposition 106], it slips and if people understand it they move. If they know it's the insurance industry [backing it] and they're spending \$43 million and it has nothing to do with insurance rates, if people get all the points, it's beat, it's not popular, it's well below 50 percent."

In contrast, the insurers' Tye says the industry's polling on Proposition 106 — which he declined to describe in specific



terms — indicates that "it's certainly OK, it's doing very well."

The California Poll results drew a blast from no-fault campaign manager Clinton Reilly, who harshly criticized the polling techniques of the Mervin Field, longtime director of the California Poll, which Field founded in 1947.

"Your polling techniques on propositions create one-sided and essentially meaningless results," Reilly wrote in a Sept. 21 "open letter" to Field which was widely distributed to reporters. "Yours are outmoded techniques which push voters prematurely toward a conclusion with information that is often incorrect."

"I don't consider the Field poll a measure of anything," said no-fault press secretary Carpenter. "Everybody has an uphill battle."

Field, in a written response sent to the poll's subscribers — including many news media that regularly run the Field polls — says Reilly's accusations are "as far from the truth as anybody could get."

"We have accurately charted vote formation and voting change during candidate and ballot proposition campaigns which frequently have produced wide swings in public sentiment," Field wrote. "It is true that voter preferences in many ballot proposition contests are subject to change when advocates of one side or the other have at their disposal millions of dollars to be used in persuading voters to vote the position they espouse during short intensive campaign periods."

Field said he regards Reilly's comments as similar to those "made by other campaign managers for a candidate or a

ballot proposition when they have to deal with objective poll data which discomfits them." A spokeswoman for Field said a subsequent poll on the initiatives will be released later this month.

The September California Poll indicated that 101 was favored by 35 percent of the voters, opposed by 32 percent, with a 33 percent undecided vote.

Proposition 101 campaign spokesman Harvey Englander said 101 ads would accentuate "the positive attributes of our proposition" but refused to discuss his campaign strategy further. "We run a tight-knit organization," he said, "with no leaks."

Harvey Rosenfield, a Santa Monica lawyer-journalist-consumer activist who once worked for Ralph Nader and is now the principal spokesman for Proposition 103, the so-called "Voter Revolt" initiative backed by Nader, said his organization will spend virtually nothing on paid advertising, relying instead on grass-roots support and media coverage. "We're operating on a week-to-week basis," Rosenfield said. "I don't think we're going to spend much more than we've spent already [approximately \$2 million]." Although there will be no traditional paid political advertising, Rosenfield said some money will be spent on direct-mail appeals to voters.

The September Field poll showed 103 enjoying a 62 percent approval rating, which jumped to 74 percent when sponsorship was known. "Despite the insurance industry spending a fortune to advertise, no-fault is at the bottom of the polls and 103, which has spent virtually no money, is ahead," Rosenfield said.

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