



Executive Director
Stuart Zanville

CONSUMER ATTORNEYS ASSOCIATION OF LOS ANGELES

Journal of Consumer Attorneys Associations for Southern California
ADVOCATE

April 2018 Issue

A good list of bad corporate conduct

EVERYBODY LOVES LISTS. HERE'S ONE THAT'S ANYTHING BUT FUNNY.

We all love to look at Top 10 lists. Whether it's lists of sports teams, movies, restaurants, cell phones, apps, software, cars or hotels – we are interested. My guess is that somewhere there's a list of the best lists.

Trial lawyers are familiar with annual lists that make them the brunt of criticism and jokes.

You've probably heard of the lists of the Top 10 Dumbest Lawsuits, the Top 10 Most Outrageous Lawsuits, the Top 10 Frivolous Lawsuits, the Top 10 Most Ridiculous Lawsuits and for those who love redundancy, the Top 10 Most Ridiculously Frivolous Lawsuits. I'm not making this up; they are all out there.

One list that attracts way too much media attention is the annual list of "Judicial Hellholes" put out by the American Tort Reform Foundation.

They will tell you, "The program has identified and documented places where judges in civil cases systematically apply laws and court procedures in an unfair and unbalanced manner."

What they don't tell you is that, according to the Center for Justice & Democracy, "the group was formed in 1986 to represent hundreds of U.S. and foreign corporations in their bid to overhaul civil liability laws at the state and national levels. Their members are largely Fortune 500 companies with a direct financial stake in restricting lawsuits."

If in-house corporate attorneys and their law firms rank a state high on the list, that's a *good* thing for consumers; consumers who should be encouraged, not restricted, from holding corporate wrongdoers accountable.

I want to share with you another list. It's a lot more serious, is anything but frivolous or a joke, and it's a list you can share with your clients and colleagues.

The list was compiled by AAJ, your national trial lawyer association. AAJ decided that it was time to develop a list that tells the truth about corporate misbehavior.

AAJ's report is titled "Worst Corporate Conduct of 2017." AAJ says that "When corporations put profit before safety and customer and employee welfare, and the regulatory system proves unable to force change, it falls to the civil justice system to protect consumers, workers and injured parties. Lawsuits have proven to be the most effective, and sometimes the only mechanism for deterring negligent behavior and exposing corporate misconduct." But, as practicing trial lawyers, you already knew that.

Following are brief highlights of AAJ's list of "The Worst Corporate Conduct of 2017." They say these are "stories that may be the most high-profile examples of corporate misconduct; but are hardly isolated incidents."

United Airlines violently removed a Kentucky doctor from his seat on a United flight to make room for airline personnel. The doctor suffered a concussion, broken nose and lost two front teeth in the incident.

Agrochemical giant **Monsanto** had employees ghostwrite scientific reports that led the U.S. Environmental Protection Agency to conclude that a chemical in the company's Roundup weed killer did not cause cancer. Farmers claimed that Monsanto failed to warn that the weed killer could cause non-Hodgkin's lymphoma.

Wall Street conducted a massive lobbying effort to repeal the Consumer Financial Protection Bureau's (CFPB) rule on Forced Arbitration. This allowed the banking industry to benefit when the U.S. Senate voted to prevent the CFPB from banning forced arbitration clauses in the fine print of credit card agreements.

Wells Fargo charged 800,000 customers for bogus car insurance they didn't need and often didn't know about. As many as 274,000 customers were forced into delinquency by the expense of the unneeded insurance, and nearly 25,000 had their cars wrongfully repossessed.

FOX News in one year paid approximately \$50 million to settle a string of sexual harassment and discrimination lawsuits including litigation against Fox News chairman Roger Ailes and top-rated host Bill O'Reilly. A forced arbitration clause in Fox News' employee contracts not only prohibited them from having claims heard in court, but also sought to enforce a gag order on "all relevant allegations and events leading up to the arbitration."

Equifax – one of the nation's largest credit reporting agencies – revealed that it had suffered a massive security breach in 2017 that compromised sensitive personal identification and financial information of nearly half of America's population. To make it worse, Equifax profited from the massive data breach. Once the breach became public, Equifax offered the 145 million victims identity theft protection and credit monitoring through a subsidiary company that eventually could make hundreds of millions of dollars for Equifax.

Johnson & Johnson, the world's biggest health care products company, is defending a wide variety of dangerous products responsible for injuries, sickness and hundreds of deaths. Johnson and Johnson was hit with six of the seven largest dangerous-product verdicts in one year and faces tens of thousands more lawsuits over other dangerous products. The company faces dangerous-product lawsuits and allegations against their DePuy artificial hips, various talc products, the blood thinner Xarelto, the antipsychotic drug Risperdal and Johnson & Johnson's pelvic mesh product.

Anyone can download the full AAJ list/report at no charge. It's available at www.justice.org/misconductreport17.

The efforts of trial lawyers to protect the public from unsafe products, unsafe medicine and unfair business practices doesn't make for an entertaining Top 10 List. It's an important list that's anything but funny.