



Update from Washington

Linda A. Lipson

CEO, AMERICAN ASSOCIATION FOR JUSTICE

Journal of Consumer Attorneys Associations for Southern California
ADVOCATE
May 2025

Supporting the rule of law and our Constitution

NEW TORT-REFORM GROUPS TAKE ROOT IN SEVERAL STATES; SUPPORTERS INCLUDE UBER

The Trump administration's attacks on the judiciary and lawyers undermine the rule of law and our Constitution. At this time, perhaps more than ever, with the federal government slashing programs intended to protect the public, trial lawyers must continue to provide a safety net. AAJ and the state associations must continue working in partnership to address the challenges we face.

Earlier this year, AAJ's board approved a Resolution in Support of the Rule of Law and a statement from AAJ President Lori Andrus. AAJ's statements were posted on LinkedIn, X (formerly Twitter), Instagram, and Facebook.

New tort "reform" campaigns

A new group called Protecting American Consumers Together (PACT) launched earlier this year. PACT announced that it intends to spend more than \$10 million this year to protect consumers from "exploitative practices by a predatory personal injury system." To do this, they have targeted several states, including California, Florida, Georgia, and Texas, and have recently started running ads in Louisiana, New York, and New Jersey. The *Atlanta Journal-Constitution* reported that PACT has received funding from Uber. If you know of PACT operating in your state, please email our state affairs director at mary.graffam@justice.org.

New videos

Through our grassroots campaign Take Justice Back, AAJ released a video to raise public awareness and drive the conversation about the need to hold Big Tech accountable for social media products that cause massive, systemic harm. You can watch the video on X, Facebook, and Instagram.

Our Communications team also posted a new video about pesticides and corporate immunity on X, Facebook, and Instagram.

Please help us amplify the message! Share with your contacts and followers on social media and "like" or comment on the videos. Follow Take Justice Back to

get the word out. No one wants their rights taken away.

Comments filed at FDA

AAJ filed comments on March 27 in response to the Food and Drug Administration's (FDA) proposed rule: Testing Methods for Detecting and Identifying Asbestos in Talc-Containing Cosmetic Products. AAJ largely supports the steps the FDA is taking in this proposed rule to strengthen protections for American consumers.

The rule sets out to update testing methods and definitions of elongated mineral particles. The FDA's proposed new testing methods align with those endorsed in 2021 by the Interagency Working Group on Asbestos in Consumer Products (IWGACP), of which AAJ was a participating member. Though the rule does not adopt the IWGACP definitions of elongated mineral particles, it improves upon outdated previously used definitions.

We urged the FDA to correct the inconsistency in the definition of asbestos to prevent products from being misbranded and marketed as asbestos-free. In recent years, reports of Americans hurt or killed by dangerous cosmetic products have increased, and 70% of children under 12 have started using cosmetic products. The FDA's work to protect American consumers from asbestos and other dangerous ingredients in their cosmetic products is critical.

Legal Affairs

Amicus Curiae update

AAJ's amicus curiae briefs help to ensure that access to justice is rigorously defended in courts nationwide. Since the beginning of 2025, AAJ has filed 12 briefs in state and federal courts on a variety of issues.

This month, the Supreme Court of the United States (SCOTUS) handed down a favorable decision for a truck driver who filed a civil RICO claim against a company that marketed CBD products containing no THC after he was fired for failing a drug

test. (*Medical Marijuana, Inc. v. Horn* (No. 23-365).) AAJ filed an amicus brief in support of Horn last fall, urging the Court to hold that the plain language of the statute's "business or property injury" requirement necessarily includes damages stemming from Horn's personal injury, including loss of employment. The brief was authored by Robert S. Peck of the Center for Constitutional Litigation, PC. On April 2, Justice Barrett delivered the opinion of the Court, which voted 5-4 to hold that a civil RICO plaintiff may recover for harm to business or property even if that harm resulted from a personal injury.

On April 17, SCOTUS handed down a unanimous decision for the plaintiffs in *Cunningham v. Cornell University*, finding that the Second Circuit should have allowed a class action brought by Cornell University workers under the Employee Retirement Income Security Act of 1974 (ERISA) to proceed. AAJ filed an amicus brief in support of the petitioner, arguing that the Court has never insisted upon specialized pleading requirements on plaintiffs in cases like this one – and should not devise new ones now in what would amount to judicial amendment of ERISA's text.

Federal rules update

AAJ advocates for fair and balanced rules to ensure that plaintiff attorneys are represented.

After a six-month public comment period, the proposed amendments to FRAP 29 – Brief of an Amicus Curiae – have been fixed. The Advisory Committee on Appellate Rules made substantial changes to its proposed rule based on comments it received from both the plaintiff and defense bars, which, in a rare showing of agreement, favored the proposed rule. The proposal to eliminate party consent for filing a brief was removed from the rule. The revisions ensure that parties will not have to engage in motion practice to get an amicus brief filed. Other provisions, including the disclosure requirements, were also substantially revised.

