PERSPECTIVE ON PROPOSITIONS 200, 201, 202

# Laws to Shut Consumers Out

**The three initiatives masquerading as legal reform would strip ordinary folk of access to redress in the courts.**

By HARVEY ROSENFIELD

In a lawyer-bashing mood? Insurance companies, billionaire businessmen, Wall Street investment firms and the high-tech tycoons of Silicon Valley sure hope so. They have already spent $5.5 million to get you so riled up you that you'll vote for Propositions 200, 201 and 202. But it's not lawyers who will get whacked if these initiatives pass; it's you.

Consider Proposition 202, the most insidious of the three. It would cut lawyers' fees by up to 50%. But whose lawyers? Not the insurance industry's lawyers. Not defense attorneys. Not the corporate lawyers who are paid by the hour. It only limits lawyers who work on a contingency fee. These attorneys represent consumers who can't afford to pay $300 an hour for legal help. Instead, they represent you for free, then take a percentage of what they collect for you if they win. If they lose, you owe them nothing.

Contingency fee lawyers are the ones who sued to get the defective Ford Pinto taken off the market. They won compensation for the families poisoned by toxic waste at the Stringfellow dump in Riverside. They forced the manufacturer of a defective heart valve to take it off the market after it killed 600 people. Contingency fee lawyers who prosecuted the civil case against savings and loan swindler Charles Keating recovered $240 million for 23,000 small investors.

You don't have to be an economist to understand why the corporate moguls want to regulate consumer attorneys' fees. Slashing the amount you can offer a lawyer will have the same effect as cutting the pay of doctors, architects and engineers. Lawyers just won't take cases, especially against rich defendants. Who will be around to protect consumers then?

Proposition 201 is the big prize for the Wall Street speculators and private bankers financing the three initiatives. These folks just can't understand what's so bad about deliberately hyping a new product or company that turns out to be a total dud after investors have been lured into putting millions of dollars into it.

Millions of dollars have been donated to the campaign by firms that have been sued, some repeatedly, for securities law violations. It's as if bank robbers put an initiative on the ballot to legalize bank robbery.

Proposition 201 will force consumers who have been swindled out of their savings, pensions or IRAs to post a bond to cover the thieves' legal fees before filing a lawsuit against them. Worse, if the investors lose the case—or win, but gets less from the jury than the defendants had offered to pay—they must then forfeit the bond and pay all the defendants' legal expenses. The effect, again, is to prevent people from pursuing justice.

Finally, there is no-fault auto insurance, with its promoters promising big premium reductions. Proposition 200 is the Trojan horse by which the special interests hope to slip the other two initiatives past the voters. Under no-fault, however, auto insurance rates will go up, not down. The average auto liability insurance premium in no-fault states soared 45% between 1989 and 1994. By comparison, California's average premium dropped 4.5% during that period, thanks to Proposition 103. But don't count on 103 to protect you against no-fault's high prices or insurance company abuses: Proposition 200 gives the insurance commissioner and the Legislature the authority to nullify 103.

As is the case with many corporate-sponsored ballot initiatives, the interests behind these measures have worked hard to deceive California voters. They have tried to disguise themselves as consumer advocates. In fact, Ralph Nader, Consumers Union and all consumer organizations in the state oppose the propositions.

With their slapstick 30-second television ads, the big business backers have sought to shift the debate away from the fine print of the measures, making the election instead a referendum on "lawyers." There are plenty of things about the legal system that need to be fixed, but the most serious problem is that wealth too often tips the scales of justice in favor of the powerful, jeopardizing the average citizen's access to the only branch of government in which the mighty can still be held accountable. For most of us, Propositions 200, 201 and 202 would slam the courthouse door shut.

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