

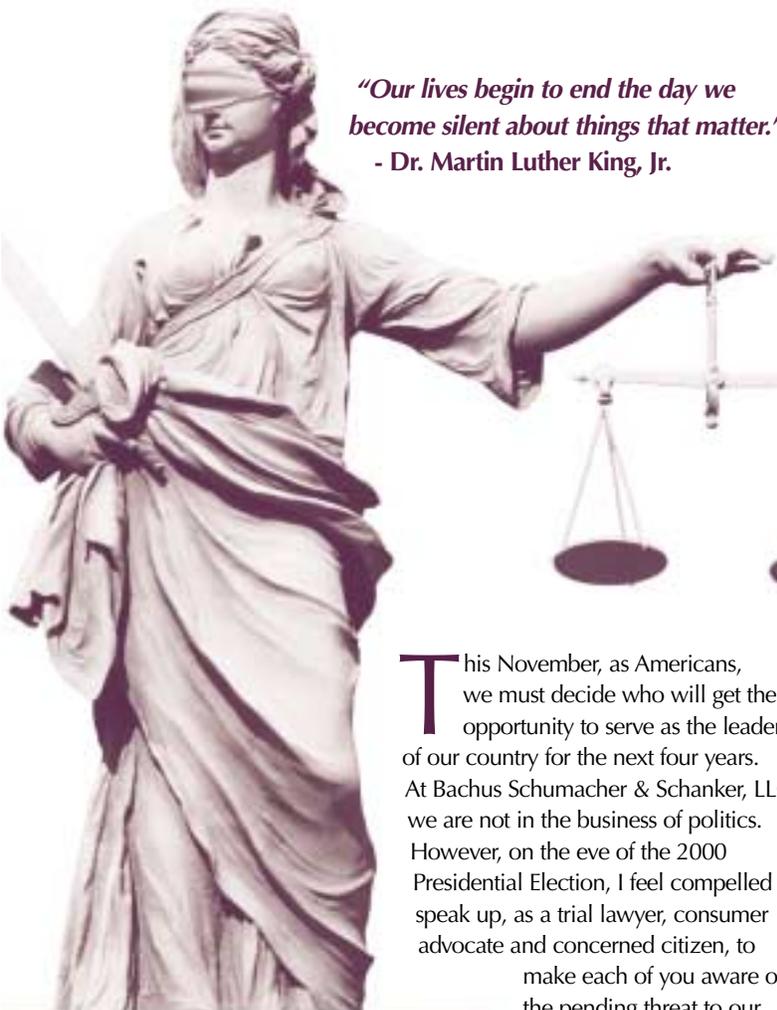


BACHUS SCHUMACHER & SCHANKER, LLC  
ATTORNEYS AT LAW

# THE VERDICT

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## VOTE FOR CONSUMER RIGHTS



*"Our lives begin to end the day we become silent about things that matter."*  
- Dr. Martin Luther King, Jr.

**T**his November, as Americans, we must decide who will get the opportunity to serve as the leader of our country for the next four years. At Bachus Schumacher & Schanker, LLC, we are not in the business of politics. However, on the eve of the 2000 Presidential Election, I feel compelled to speak up, as a trial lawyer, consumer advocate and concerned citizen, to make each of you aware of the pending threat to our country's Civil Justice System.

As Americans, we have worked hard to build a better life for our families. We have persevered in the face of the obstacles that life has put before us. We strive forward on hope, in an effort to make our own version of the American dream a reality.

Unfortunately, some of the largest corporations in this country are busy implementing their own plan for our futures as American citizens.

At the very cornerstone of our United States of America rests the founding principle that, as Americans, we are vested with the right to life, liberty and the pursuit of happiness. As many of our clients and their families know firsthand, this most basic of rights is too often interfered with or trampled upon by the intentional acts, willful, reckless conduct or negligent actions of other individuals or corporations.

It is the Constitution of the United States of America that serves to empower even the weakest members of our citizenry when these rights are violated, by giving each one of us access to our Civil Justice System. Each of us is granted the authority to seek redress and accountability from negligent wrongdoers (regardless of how rich or powerful those who are responsible may be).

In America, when someone injures, kills or destroys the life of someone else, he or she is accountable for his or her actions. If a wrongdoer refuses to stand up and accept responsibility for his or her actions, we each have a tool to seek justice and to force responsibility and accountability. We have a Constitutional right to bring our case for redress before a jury of our peers for fair and just resolution. This is America. This is justice. Perhaps James Madison summed up the importance of this Constitutional right best when, in 1789, he said, "Trial by jury in civil cases is as essential to secure the liberty of the people as any one of the pre-existent rights of nature."

However, the largest and most powerful corporations in this country, many of which are insurance companies, have a different agenda. Aware that only in the courtrooms of America can an ordinary citizen take on these powerful corporate giants, the corporations seek to close this gaping hole in their armor by destroying your access to the courtroom. After dismantling the American Civil Justice system, corporations and insurance companies will be free to act with impunity and without civil responsibility.

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## "Rights" Continued from Page 1

That is their plan for the future of America, and they are well on their way to accomplishing that goal.

For more than 20 years now, Corporate America and the insurance industry have been working side by side in an effort to chip away at consumer and individual rights. Through the corporatization of our government, buying of political candidates and by utilizing vast corporate resources to mislead the public through the media, these corporations seek to shield themselves from accountability by destroying your right to hold them responsible for their actions. The results have been devastating.

In many states, including Colorado, these corporations have been able to get laws passed placing limits on how much an individual person can recover for non-economic losses (pain, suffering, disfigurement, loss of enjoyment of life, physical impairment, etc.) when injured or killed due to someone else's negligent conduct. Under the current law, these limits apply regardless of how negligent the wrongdoer was and regardless of the amount of insurance coverage available. In addition to limits on non-economic damages, limits have been placed on punitive damages (damages designed to punish large corporations when their intentional, willful or reckless actions cause injury or death).

For instance, in Colorado, if a child is paralyzed from the neck down in an accident caused by a semi-truck driver, that child can recover no more than \$250,000 in non-economic damages. The same is true even if the semi-truck driver was drunk or on drugs, even if the company who hired the driver knew about his drinking while driving. Instead of letting a jury made up of fellow citizens determine the value of that child's losses after hearing all the facts, Corporate America and the insurance companies got their politicians to pass a law limiting their liability. Did you know that if you went into Denver General Hospital for surgery, and doctors there negligently amputated the wrong leg or severed your spinal cord, the maximum you could recover under the current law from that public entity is \$150,000? It's true. But this is not the end. The onslaught against individual rights in this country continues.

Three days after taking office as Governor of Texas in January of 1995, George

W. Bush declared an emergency situation requiring the Texas legislature's immediate attention. The issue was not taxes, welfare or education, but instead another issue: taking immediate action (on behalf of the corporations who supported his campaign) to limit the access to, as well as the remedies available to, individual citizens under the Texas Civil Justice System. By June, Bush could claim to have delivered. As reported by the Washington Post, Governor Bush "signed into law seven major bills that put a pro-business face on the state's tort (civil justice) laws, making it harder for aggrieved parties to win damages against big business, doctors, hospitals and insurance companies." According to Texas election records, the two leading tort reform organizations in Texas gave Bush more than \$4 million towards his campaign to become Governor of that state.



Governor Bush claimed that the changes to Texas law were necessary to address the "litigation explosion" and to "prevent junk lawsuits." Bush hailed these new laws as "a job creation package." According to the Washington Post, "Besides new caps on punitive damages and limits on liability of 'deep pockets' defendants, they included provisions making it harder to file medical malpractice lawsuits, ...raised the standard of proof for punitive damage awards, and narrowed the definition of gross negligence." But those who have studied the issue say the facts don't support the explanation given by Governor Bush. A University of Wisconsin study revealed that what Bush called "the

litigation explosion" was non-existent. According to University of Wisconsin law professor Marc Galanter, there really is no evidence that frivolous or totally unfounded lawsuits were a problem in Texas. Those who have studied the issue believe that all of the talk by Bush about "junk lawsuits" is nothing more than an attempt to hide Bush's real goal: reducing corporate liability at the expense of individual rights.

After five years under Governor Bush's new laws in Texas, who do you think has benefited? Birny Birnbaum, the former chief economist for the Texas Insurance Department, said, "I know the Governor needs a plank in his campaign (for President) saying he saved money through tort reform, but that has not happened."

"Consumers haven't been benefiting," Birnbaum said. "The insurance companies have. They've raked in billions of dollars in excess profits since the reforms were passed."

As you might imagine, the insurance industry shows no signs of being upset by Mr. Bush's assault on individual rights. Instead, insurance industry interests are some of the largest financial backers of the Bush 2000 presidential campaign. The largest and most powerful corporations and insurance companies in America would like nothing more than to see Governor Bush take his relentless attack on individual rights to the White House and the entire country.

I write to you because of my gut-wrenching belief that if we, as a nation, elect George W. Bush President of the United States of America, the powerful corporations and the insurance companies will rejoice and all of us as ordinary citizens, the consumers of corporate products, will pay for Mr. Bush's victory with the loss of our individual rights.

I know that there may be other issues in the election that are important to you. I recognize that some of those issues may be more important to you than the issues that I have discussed. I respect that fact. I also firmly believe that voting is itself a precious right to be exercised on an individual basis. However, if the preservation of individual rights matters to you, if justice matters to you, if corporate accountability and responsibility matter to you, then as a fellow American I urge you to consider these issues before you enter the voting booth and cast your vote for President of the United States of America this November. ■

– J. Kyle Bachus

# YOUR VOICE FOR CHANGE

The 2000 elections could have major implications for the civil justice system. These elections determine who will control the White House, Congress, the U.S. Supreme Court and each of the state legislatures. It is important to actively participate in the elections to thwart some federal and state level politicians' efforts to limit legal rights.

Control of both houses of Congress hangs on this year's elections. Republicans today have a five-vote margin in the U.S. House of Representatives, where the leadership consistently supports tort "reform." It is possible that the Democrats will regain control. Likewise, in the U.S. Senate, Republicans led by tort "reformers" have a 10-vote margin. Control of the Senate could also shift, but that is much less likely.

The values of the winning party in the White House will control The Supreme Court

for many years to come. Conventional wisdom says the next president will select at least two, and possibly four, new members of the Supreme Court. The next president's appointees will likely set the judicial direction of the country on crucial issues, such as genetic history disclosure and other consumer privacy rights (e.g. abortion, civil rights and the legal rights of workers).

State legislators elected this year will draw new legislative and congressional districts, which will be in effect for the next decade. The political complexion of those bodies for the next 10 years can have serious implications for the civil justice system. For the pivotal year 2000 elections, voter registration and actual turnout will directly determine America's future on many fronts. While registration of all Americans eligible to vote has reached a high of over 70 percent,

actual voter participation has steadily declined from 45 percent in 1994 to just over 36 percent in the last national election. The League of Women Voters, among other groups, is making efforts to increase the number of citizens who show up at the polls. The League's "Take a Friend to Vote" program is based on the premise that people are more likely to register and vote if someone they respect and share values with persuades them to do so.

We urge you to register and vote for candidates who are known to be friends of the civil justice system. Details about state voter registration deadlines and primary elections for each state are available from the Federal Election Commission web site at <http://www.fec.gov/>. ■

## FIRESTONE TIRES: THE TRUTH UNCOVERED

Before journalists wrote about it, before NHTSA investigated it, before Congress was concerned about it, the civil justice system was working to unveil the truth about tire tread separation tragedies.

The enormous power of our civil justice system to discover the truth and protect consumers was soundly demonstrated when victims of the Firestone/Ford tire tread separation accidents began seeking justice in the courts. The civil justice system sounded the alarm on the problem, began the process of holding the companies legally accountable for their actions, compensated victims, and by forcing the companies to come forward, prevented even more tragedies from occurring.

Consider the following: It was the civil justice system that first alerted America to the problem. The first lawsuits were filed in 1992, serving notice to Ford and Firestone that others knew there was a serious problem. Over the course of a decade, victims' lawyers unearthed and worked to expose documents - which Firestone and Ford fought to keep secret - that are now being used to warn drivers around the world of these defective tires and to alert all concerned about the companies' knowledge of the dangers.

It was the civil justice system that first held wrongdoers accountable. By January 2000, Firestone had paid at least \$3 million to deal with its lethal tire tread separation problems. The amounts paid by Ford are as yet unknown, but one thing is certain - lawsuits brought by crash victims have hit the companies where it hurts - their profits.

It was the civil justice system that first took care of victims. The civil justice system forced Ford and Firestone to compensate those who had been injured by the companies' irresponsible behavior. Settlements paid by the companies have already helped devastated victims get their lives back in order - and have given them a measure of justice.

It was the civil justice system that first prevented further tragedies. No one outside of Ford and Firestone had publicly tracked the incidents of tire tread separation, and those companies chose not to share that information with the American people or their government. Without the lawsuits filed by victims, a pattern of accidents might never have emerged, the press might never have reported on the danger to consumers, and America's drivers might never have been alerted to these lethal hazards on the road.

The bottom line: An unfettered civil justice system roots out dangers, holds people and corporations accountable for creating those dangers, compensates those victimized, and prevents others from being hurt by those dangers. Knowing the power of the civil justice system to protect consumers, why would anyone want to 'reform' it? Could it be that Ford and Firestone, and other corporate behemoths just want to hide the truth and protect their profits from the people they hurt? Without the Civil Justice System consumers wouldn't have known the truth.

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### If You Have Firestone Tires:

On August 9, 2000, Bridgestone/Firestone recalled approximately 6.5 million P235/75R15 Firestone ATX, ATXII and Wilderness AT tires made for sport utility vehicles and light trucks. Since 1990, the company made about 48 million of these tires. They were sold as original equipment and aftermarket replacements for various models of Ford, GMC, Chevrolet, Nissan, Toyota, Isuzu, Mazda and Subaru SUV's and trucks. **If you or a loved one owns or has been injured by these dangerous tires, contact the experienced trial attorneys of Bachus Schumacher & Schanker, LLC immediately for important information regarding your rights.**



ADDRESS SERVICE REQUESTED

# FIRM NEWS

## J. Kyle Bachus becomes a certified member of the Million Dollar Advocates Forum

The Million Dollar Advocates Forum is recognized as the most prestigious group of trial lawyers in the United States. Membership is limited to attorneys who have won million and multi-million dollar verdicts, awards and settlements. The organization was founded in 1993 and there are approximately 1,800 members throughout the United States. Forum membership acknowledges excellence in advocacy and provides members with a network of experienced

colleagues for referral and information exchange in major cases. Members must have acted as principal counsel in at least one case in which their client has received a verdict, award or settlement in the amount of one million dollars or more.

Mr. Bachus is a graduate of University of Florida Law School and specializes in personal injury, medical malpractice and wrongful death law.

## ATLA Summer Convention in Chicago

The attorneys of Bachus Schumacher & Schanker, LLC recently attended the Association of Trial Lawyers of America's Summer Convention in Chicago, IL. The convention provided a good opportunity to share ideas and strategies with the greatest trial lawyers in the nation. President Clinton addressed the 2,200 trial lawyers in attendance, emphasizing the need for passing a patients' bill of rights and the importance of clearing the backlog of judicial appointments.

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# REFERRALS

At Bachus Schumacher & Schanker, LLC, we want you to think of us as *your* law firm. If you have a legal matter that needs attention, let us know. If we do not specialize in your matter, we will refer you to a firm that does. Please feel free to refer us to your friends and family for their legal needs. We welcome the opportunity to help.



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