

A Resolution Calling Upon Legislators to Protect Dying Mesothelioma Victims from Marathon Depositions

WHEREAS, mesothelioma is an incurable and fatal cancer of the membrane lining the chest and abdominal cavity. Its only known cause in the United States is exposure to asbestos. Companies that profited from marketing asbestos products knew of the dangers of asbestos, yet did not remove it from their products, nor take steps to protect workers from asbestos exposure, and;

WHEREAS, many workers, especially in building and industrial trades, firefighters, and power plant and shipyard workers, have suffered exposure to asbestos in their workplace. As a result, workers and their families have the right to seek compensation through the courts for their devastating injuries. Corporate defendants, including insurance companies and manufacturers of asbestos-laden products, and employers often subject the dying asbestos victims to lengthy depositions, at times so long that the plaintiff dies before a deposition is complete. Their claims die with them, and justice is denied, and;

WHEREAS, the California legislature in 2012 stated its intent to protect dying mesothelioma victims by enacting AB 1875 (Gatto), which added California Code of Civil Procedure 2025.290, and thereby limited “a deposition of any person to 7 hours of total testimony, except under specified circumstances (1).” Unfortunately, a loophole in the law means that terminally ill mesothelioma patients are not protected, and endure abusive interrogation from lawyers at the end of their lives. SB 632 will close this loophole.

WHEREAS, the 2016 platform of the California Democratic Party, the document which codifies our shared values, unequivocally states that “we believe that justice for all requires constant vigilance and a thorough examination of laws and governmental actions that disproportionately impact diverse segments of society (2),” and that California Democrats “support a strong and accessible civil justice system to defend public health, safety and the environment, and to vindicate the rights of consumers, injured persons, employees, and all of our citizens equally (3).” Our elected officials are responsible for upholding these values in their work representing the people of California, particularly those who call themselves Democrats. However, “in recent years, our civil justice system has come under concerted attack by corporations shielding themselves from civil liability for wrongful conduct by using their money and power to deny everyday people fair access to the courts. The attack on Seventh Amendment rights has come under the false and misleading cloak of ‘tort reform’ (4).”

THEREFORE, be it *RESOLVED* that the Democratic Party of Sacramento County reaffirms our commitment to a strong, robust and accessible civil justice system, and our opposition to those who seek to limit Seventh Amendment rights under the guise of “tort reform,” and;

THEREFORE, be it *RESOLVED* that the Democratic Party of Sacramento County calls upon the members of the California assembly to join their colleagues in the state senate in demonstrating a commitment to Democratic values by passing SB 632 (Monning), insofar as it ensures sensible and safe limits exist on depositions of dying mesothelioma victims by limiting depositions to 7 hours of total testimony for such terminally ill patients, with an additional 7 hours of deposition testimony available (for a total of no more than 14 hours of total testimony), if the health of the deponent does not appear to be endangered by the additional time.

Copies of this Resolution shall be mailed by the Secretary of the DPSC to the four Democratic Assemblymembers that represent Sacramento County.

(1) California Legislative Information.

http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201120120AB1875

(2) California Democratic Party Platform: Preamble. <https://www.cadem.org/our-california/platform/2016-platform-preamble>

(3) California Democratic Party Platform: Civil Justice. <https://www.cadem.org/our-california/platform/2016-platform-civil-justice>

(4) Ibid.

(5) SB 632 Supporters: Consumer Attorneys of California (sponsor); SEIU; State Building & Construction Trades Council of CA; California Labor Federation; California Professional Firefighters; Labor & Employment Committee - National Lawyers Guild; California Conference of the Amalgamated Transit Union; California Teamsters Public Affairs Council; California Conference of Machinists; Courage Campaign; UNITE HERE!, AFL-CIO; International Longshore and Warehouse Union; SAG-AFTRA; Utility Worker Union of America Local 132; Engineers & Scientists of California IFPTE Local 20; Professional and Technical Engineers AFTPE Local 21, AFL-CIO; Asbestos Workers Local 16 Retirees Club; Communications Workers of America District 9; Communications Workers of America Local 9421; San Francisco Bay Area Physicians for Social Responsibility; Sacramento Central Labor Council, AFL-CIO; WORKSAFE!; Asbestos Disease Awareness Organization; Heat & Frost Insulators & Allied Workers Local 5; District Council of Iron Workers of the State of CA; Green Democratic Club of Sacramento County; Town & Country Democratic Club; JFK Democratic Club of Sacramento County.