



FROM THE President

Thomas M. Warner Jr.

Thank you for the privilege of allowing me to serve as President of KTLA for 2018-19. I have been a member of KTLA for my entire legal career, so it is truly an honor to lead this organization that has played a big role in my professional life over many years.

I remember my first KTLA annual meeting at Crown Center. It was 1986. I was barely out of law school and I wanted to become a trial lawyer. I will never forget seeing KTLA members wearing a button that said "STAT." I knew generally what "stat" meant but I didn't understand why KTLA members were wearing the button. I learned that it was an acronym that stood for "Stop The Attack on Torts." As luck would have it, I was beginning my foray into trial practice while special interests were cranking up a full-scale assault on the "inviolable" right to jury trial and right to a remedy that are guaranteed in section 5 and 18 of our Kansas Constitution.

Ultimately, the special interests and their political cronies were successful at that time in convincing the legislature to pass a law that capped non-economic damages at \$250,000.00, regardless of the nature and extent of the harm caused, and to pass a law that prohibited trial lawyers from telling the jury the truth about the caps.

Since then, injured workers' rights have been eroded year after year by the legislature at the behest of special interests to the point that many injured workers do not have an adequate remedy when injured at work, making it difficult for them to provide for themselves and their families.

Insurance companies have even gone so far as to pay defense attorneys to try and eliminate the word "safety" from personal injury and wrongful death trials. Unfortunately, some trial judges have taken the bait and granted motions in limine to prevent the use of the dreaded word "safety" at trial.

And if that wasn't enough, during the last election special interests promoted and financed an attempted power grab of the Kansas Supreme Court by urging Kansans to vote against retention so that Kansas' then governor could appoint justices that would decide cases the way he wanted them to, rather than in accordance with the law and evidence.

The pendulum, however, may be swinging back the other way toward protecting Kansans' right to jury trial and right to remedy thanks largely to the efforts of members of KTLA. Recently, damage caps have been challenged in the courts which resulted in the legislature increasing the amount of the cap for the first time since the original caps were passed in the mid '80s. The Kansas Supreme Court is currently considering another challenge to the damage cap that has been advocated by KTLA members and the KTLA amicus committee.

KTLA members have challenged the constitutionality of injured workers' remedies under the current state of workers compensation law and won rulings from the Kansas Court of Appeals finding that the

current state of workers compensation law unconstitutionally deprives injured workers in those cases of an adequate remedy.

The Kansas Supreme Court very recently ruled that the word "safety" cannot be outright banned from a personal injury trial, especially when an expert on the standard of care bases his or her standard of care opinion on safety concepts.

And with the help and resources of members of KTLA, we played a very substantial role in assuring that our courts remain independent of the political winds that blow from time to time across Kansas by defeating the power grab at the ballot box and retaining all the justices up for retention.

Since the start of my trial lawyer career, the attack on our system of justice including the right to trial by jury (which includes a jury's determination of damages) and the right to an adequate remedy have been under relentless attack by special interests. These attacks can be expected to continue.

There is only one organization of lawyers that can and will step up time and again to protect these rights: it is the members of the Kansas Trial Lawyers Association. When many other lawyer organizations sit on their hands and remain silent in the face of challenges to our state constitution and system of justice in Kansas, members of KTLA will be rolling up their sleeves and preparing for battle. KTLA members have and will continue to fight the erosion of the right to jury trial and right to remedy by stepping up and challenging trial court rulings and legislative enactments that erode these rights.

As President, I will promote these challenges. As members of KTLA, we will continue to try cases and, as part of the process, we will identify legal issues that need to be challenged and, with the blessing of our clients, make the challenge. This is the only way that we can change Kansas from a legal backwater to a state where the right to trial by jury and the right to a remedy are considered substantive rights and not just given lip service.

It's time to get back to work. It's time to remind the special interests that we know the way to the courthouse. It's time to let the trial judges know that we know our way around the appellate courts. We will keep up the momentum and we will let the special interests know that, as members of KTLA, we will be relentless in the pursuit of justice.

It's been over 30 years since the attack on torts began. Now is the time to fully restore the right to jury trial and right to a remedy in Kansas. STAT.