

MEMORANDUM

TO: American Association for Justice
FROM: Peter D. Hart Research Associates, Inc.
DATE: July 11, 2007
RE: Civil Justice Issues and the 2008 Election

From June 28 to July 3, 2007, Peter D. Hart Research Associates, Inc., conducted a national telephone survey for the American Association for Justice among 1,007 likely 2008 voters (margin of error equals ± 3.2 percentage points). The survey explored voters' attitudes toward the civil justice system and the impact of civil justice issues on voting preferences. This executive summary reviews the survey's key findings.

1 Americans are deeply worried about their nation's future, and concern about corporate misconduct is a major source of their anxiety. "Worried swing voters," who see corporate irresponsibility as a central problem, may play a pivotal role in the 2008 election.

Worry about the future. By more than three to one, voters are dissatisfied (65%) rather than satisfied (20%) with the way things are going in their country today. Even more decisively, they are worried about the nation's future. Fully 82% are worried about the outlook for the American middle class (16% confident), and 76% worry about the future facing the average working person (22% confident). Historically, Americans have remained optimistic about their own personal prospects even during difficult times for the nation. However, today we find that a 54% majority feels worried about the outlook for themselves and their family, while just 45% feel confident.

Worried swings. Voters' anxiety about the future will likely play a significant role in shaping the contours of the 2008 presidential election. Voters worry about their future currently vote Democratic (in a generic presidential ballot) by 32 percentage points, whereas those confident about their outlook favor a GOP candidate by 10 points. More important, a 52% majority of swing voters (those undecided or not strongly committed to supporting either party) feel worried about their future today. These "worried swings" make up 18% of the national electorate, and could very well elect the next president:

- This group leans Republican in party affiliation (30% GOP, 19% Democrat) and supported George W. Bush over John Kerry by 21 points in 2004.

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- Despite their GOP leanings, today their vote is split evenly (20% for Democrat and 21% for Republican, 59% undecided).

Corporations put bottom line ahead of fairness for consumers and employees. An important driving force behind voters' worried outlook is their concern about misconduct and greed on the part of large corporations. While 74% believe that large corporations should give priority to being fair and responsible in dealing with their consumers and employees over looking out for the bottom line (11%), only 13% say that being fair and responsible is actually corporations' priority today while 81% say it's the bottom line. The perceived gap between corporations' obligation and actual behavior is still greater among the worried swings, among whom 83% feel companies should give priority to consumers and workers but just 7% believe this occurs today (87% say the financial bottom line comes first).

Similarly, three voters in 10 trust large corporations a lot or a fair amount when it comes to being fair and responsible in looking out for the interests of consumers (28%) or employees (30%). Worried swings offer an even more critical view, with just 19% confident that corporations look out for consumers (81% a little or not much trust) and 16% confident about fair and responsible treatment of employees (82% little/not much trust).

Voters Worry More About Corporate Behavior Than Lawsuits Or Lawyers

Proportion saying extremely serious problem for the country today
(9-10 on a 10-point scale)

64%	Corporations giving huge salaries and bonuses to CEOs, while cutting the jobs and benefits of employees (76% among worried swings)
64%	Corporations defaulting on their pension obligations, even when the top executives continue to get large retirement packages (74% among worried swings)
62%	Health insurance companies and HMOs refusing to pay for medical treatments, even when doctors said they are necessary
55%	Corporate CEOs defrauding investors and stockholders by manipulating financial information or abusing company resources for personal gain
55%	Corporations selling or misusing personal, private information about people without their permission
54%	Insurance companies refusing to pay settlements even in cases where they have clear obligation to do so
53%	Pharmaceutical companies putting medicines on the market when their own studies indicate those medicines might not be safe
51%	Corporations contaminating the air or water by failing to dispose of waste in a proper way
47%	Large corporations having too much power, and using it to take advantage of average people
45%	Insurance companies raising premiums for drivers and homeowners, even when the amount they pay in claims is declining
43%	Insurance companies continuing to raise malpractice premiums for doctors, even when the amount they pay in claims is declining
34%	Trial lawyers making too much money when they successfully represent a client in a lawsuit
24%	Victims in cases involving personal injury or medical malpractice receiving too much money from juries

On issues of civil justice, voters consider corporate misconduct to be a much more serious national problem today than alleged "lawsuit abuse." Voters consider many kinds of corporate misconduct and greed to be very serious problems for the nation today. More than three in five voters identify as very serious problems today companies defaulting on pension obligations to employees (64%), excessive CEO compensation (64%), and HMOs denying needed medical treatments (62%). A majority are deeply concerned about CEOs defrauding stockholders (55%), misuse of personal information (55%), and insurers refusing to pay settlements even when they have a clear obligation to do so (54%).

Significantly, the worried swing voters rate every single one of these examples of irresponsible or greedy behavior by corporations as a more serious problem today than do voters overall. For example, three-fourths of worried swings feel that excessive CEO compensation (76%) and companies defaulting on pension obligations (74%) are very serious problems.

In sharp contrast to these findings is voters' muted response to two criticisms frequently made of the civil justice system. Only one-third (34%) of voters say that trial lawyers making too much money when they win lawsuits is a serious problem, and just one-quarter (24%) are concerned about victims receiving too much money from juries in personal injury and medical malpractice cases. These two items rank at the very bottom of voters' concerns, behind all 11 examples of corporate misconduct included in this question. Clearly, Americans' concern about "lawsuit abuse" is greatly eclipsed today by their concern over corporate abuse of consumers, employees, and shareholders.

2 Voters support the civil justice system as an important remedy for corporate misconduct, and reject legal "reforms" that restrict plaintiffs' ability to hold corporations accountable and obtain fair restitution.

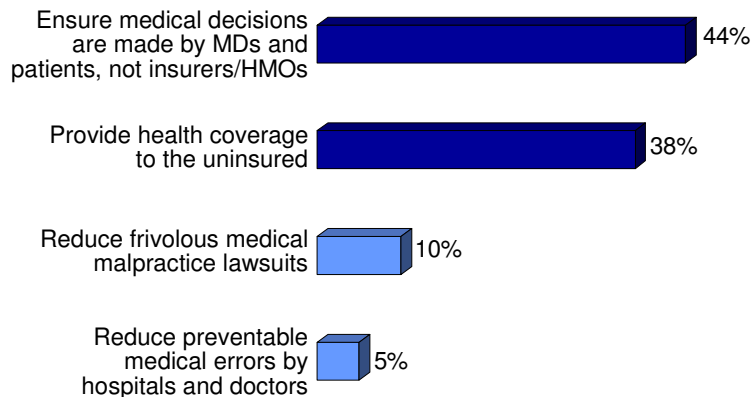
Americans believe that the civil justice system provides essential safeguards for them at a time when corporate misconduct is such a serious problem. They tell us that making sure corporations are held accountable when their actions harm consumers, employees, or communities (70%) should be a much higher priority for the civil justice system than limiting the amount of compensation that juries can award for pain and suffering "so that lawsuits do not cause as big a burden on our economy" (25%). Similarly, they give priority to holding corporations accountable (61%) over "reducing the number of frivolous lawsuits" and penalizing those who file them (32%).

Similarly, when voters are asked to choose between the goals of making sure individuals get fair compensation when they have been harmed or these "tort reform" policies, fair compensation is the clear choice. Voters choose fair

compensation over placing caps on plaintiffs' compensation by 69% to 25%, and over reducing "frivolous lawsuits" by 60% to 32%.

Voters' Real Health Care Agenda

Which one of these health care issues should be the highest priority for the next president?



Voters' real health care agenda. In debates over the nation's health care system, candidates hostile to the civil justice system call reducing "frivolous" medical malpractice lawsuits their top priority. However, this is not a high priority for the American people. Asked to choose among competing health care policy priorities, voters say that what matters most today is ensuring that doctors and patients—not HMOs and insurance companies—make medical decisions (recall that 62% believe insurers' denying coverage for needed treatments is a serious problem). Following closely behind is providing coverage to the uninsured, selected by 38% of voters. Trailing far behind at just 10%, not really on voters' radar screen, is the notion of "reducing frivolous medical malpractice lawsuits." Given these results, it is extremely unlikely that candidates in 2008 will be able to use attacks on malpractice lawsuits to distract voters from more fundamental health care concerns.

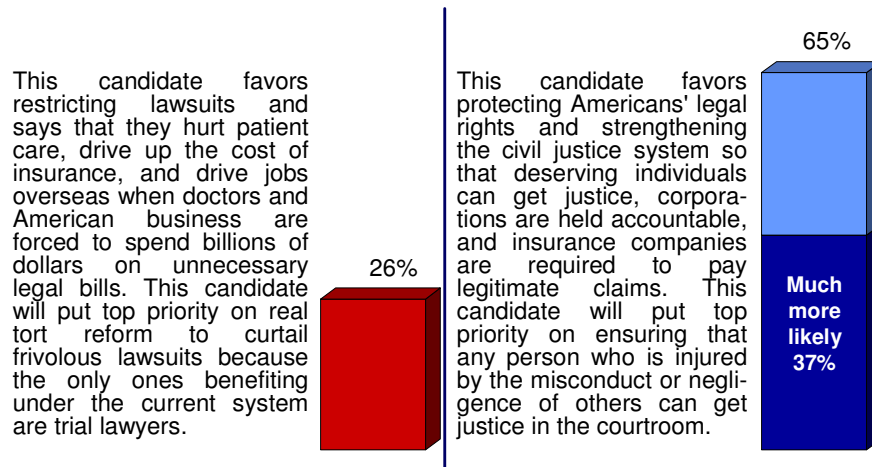
3 Voters will support candidates who defend the civil system over candidates who assail "frivolous lawsuits" and advocate "tort reform." Pro-civil justice candidates not only command overwhelming support from swing voters, but also appeal to significant blocs of Republicans.

In the electoral arena, the survey results provide strong evidence that voters will reward candidates and parties who support the civil justice system, and seek to hold corporations accountable for misconduct, over those who attack trial lawyers and favor policies that restrict access to the civil justice system.

We asked voters which concerns them more today: that Democrats go too far in siding with trial lawyers and blocking “needed changes” to the legal system, or that Republicans go too far in siding with big corporations and restricting people’s ability to seek justice and accountability through the courts. Significantly, voters are more concerned today about Republicans’ anti-civil justice posture (45%) than about Democrats’ siding with trial lawyers (34%). This greater concern about Republicans is found broadly, in every region of the country, all income brackets, men and women, and college- and non-college voters.

Candidate Choice: Protect Legal Rights Or Curtail Frivolous Lawsuits

For which candidate would you be more likely to vote?



Of even greater political consequence is how voters respond to candidates with contrasting positions on civil justice issues. When we ask voters to choose between a pro-civil justice candidate and a candidate pledging to restrict lawsuits (see previous graph for full text), their preference is for the civil justice candidate by an overwhelming 65% to 26%.

A pro-civil justice system candidate enjoys overwhelming support from Democratic voters (75% to 18%), as well as a very solid 38-point margin among independents (64% to 26%). **Among the worried swing voters, the civil justice candidate enjoys a commanding 55-point lead, 72% to 17%, virtually as strong as among self-identified Democrats.** This critically important constituency clearly sees the civil justice system as an important antidote to the corporate misconduct, which troubles them so greatly.

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Even among Republicans, a narrow 53% majority votes for the civil justice candidate. This suggests that attacks on lawsuits and lawyers do not enjoy nearly the support among GOP voters that is often assumed. Indeed, the “tort reform” candidate wins only among very conservative Republicans (and then by only one point), while trailing by a large margin among somewhat conservative (54% to 37%) and moderate/liberal (60% to 31%) Republican voters. Republican women also express a strong opposition to the “tort reform” candidate.

These results strongly suggest that attacking the civil justice system or trial attorneys will not pay the electoral dividends so often believed, while support for the civil justice system can be a winning position for candidates in 2008.

Pro-Tort Reform Candidate (A) v. Pro-Civil Justice Candidate (B)		
	<u>Candidate A</u>	<u>Candidate B</u>
	%	%
All	26	65
Democrats	18	75
Independents	26	64
Republicans	37	53
Worried swings	17	72
Republicans: very conservative	43	42
Republicans: somewhat conservative	37	54
Republicans: moderate/liberal	31	60
Male Republican	44	48
Female Republicans	29	58
Born-again (whites)	27	63
Northeast	28	63
South	28	64
Midwest	23	66
West	26	66
Less than \$35K	19	73
\$35-\$75K	27	64
More than \$75K	33	60