



Voters Say YES to Proposition 64, NO to Frivolous Shakedown Lawsuits

Overwhelming 59% to 41% Vote

By the numbers, 5,833,682 Californians voted to stop shakedown lawsuits. This was 59.1% of the vote, 18 points ahead of the 40.9% opposition votes which totaled 4,047,793.

When the first precincts reported, Proposition 64 was 60% “yes” with 10% of the vote counted. Somewhat surprisingly, as the percentage vote reported climbed, the “yes” percent remained firm.

At approximately 11:15 p.m. on November 2 Governor Arnold Schwarzenegger took the stage before a mass of cameras, reporters, and supporters at the Beverly Hilton Hotel in Los Angeles and ran through the list of initiatives he had supported and opposed. To great cheers, he declared Proposition 64 as a “win.”

“Research, planning, financial support, a top line media effort, and grass roots work, all came together in the victory,” said John H. Sullivan, Civil Justice Association of California president and a co-chair of the “Yes on 64” campaign. “But in the end it was the voters who did it, voters who took the time to understand the importance of a civil justice system that works for them and not for predatory lawyers.”

Sullivan especially thanked co-chair Peter K. Welch, who as President of the California Motor Car Dealers Association led development of a critical core of funding and statewide support.



AP/Worldwide Photos

Governor Arnold Schwarzenegger rallies voters in Del Mar during his three-day pre-election tour that included a strong call for a “yes” vote on Proposition 64.

Co-chairs Allan Zaremborg, President of the California Chamber of Commerce, and David Houston, Chairman of the Coalition for Reform of Frivolous Lawsuits, made major contributions to the win.

“Governor Schwarzenegger was a great supporter. He made sure 64 didn’t get lost in the mass of measures on the ballot,” Sullivan said.

Proposition 64 “Goes to Work”

Only hours after Proposition 64’s passage CJAC received a call from an excited Southern California business owner who reported that the judge in his case had just said: “I stay discovery and I

will entertain a motion to dismiss...”

The businessman was fighting back after being sued by out-of-state lawyers working through a California attorney. They have no client and no evidence anyone has been harmed, but they claim the company’s brochure is misleading.

Grass Roots Support Grew Month-by-Month

When feasibility research began on a “17200 reform” initiative, no one foresaw the Trevor Law Group and its ilk. The Trevor mass lawsuits against innocent small businesses brought Unfair Competition Law abuses home

to the average businessperson and echoed through local press, radio talk shows, and eventually through lawmakers' offices in Sacramento.

The Legislative session in 2003 began with a joint Judiciary committees hearing and a dozen different bills to curb what were becoming known as "legal shakedowns."

The plaintiffs' bar used its customary clout in its usual fashion — to block reform bills. But bi-partisan pressure forced the lawyers to at least posture for reform, which they did with a proposal quickly spotted by all as a tool to enhance their ability to make money from the Unfair Competition Law. The Legislature did not go along.

Small business people who had been led to believe their representatives would protect them from blatant legal predation were suddenly prime candidates for a corps of initiative supporters.

With hundreds of small business victims were eager to tell their story to the media, and thousands more signed on as Proposition 64 supporters, gathering "yes" votes through rallies, signs, t-shirts, and other grass roots action.

Local Citizen Against Lawsuit Abuse groups, already mobilized in an on-going campaign against frivolous lawsuits, worked with "17200 victims" individually and through their trade associations to get a powerful "yes" message into communities all over the state.

Broad Range of Dollar Support for Initiative

The \$14.5 million raised by the "Yes on 64" campaign came from an unusually diverse group of contributors, reflecting the diverse targets of Business & Professions Code Sec. 17200 lawsuits. An estimated 400 separate entities contributed directly to the campaign. However, the actual number of individual business contributors was vastly greater

than this, because many made their reported campaign contributions to their associations which then contributed to the campaign.

While opponents attempted to focus their media attacks on large firm contributors, a review of contribution reports revealed that direct contributors in the \$1,000 and less category outnumbered the \$100,000 and over group by about seven-to-one.

52 of 58 Counties Were 'Yes' on 64

With Los Angeles County leading the way, voters in every county south of the Monterey Bay voted in favor of Proposition 64.

Only two large counties — San Francisco and Alameda — were in the "no" column. They were joined by four coast counties: Santa Cruz, San Rafael, Mendocino, and Humboldt.

Editorial Support Ran 4 to 1 in 64's Favor

At least 29 newspapers editorially urged their readers to vote "yes" on Proposition 64.

Some presented unique insight, such as the Los Angeles *Times*: "Opponents concede the law has led to abusive lawsuits but argue that to fix it is to throw the baby out with the bath water. Would these same liberal interest groups applaud the adoption of draconian criminal laws that undermined traditional constitution values if they happened to make it easier to catch some bad guys?"

The Placerville *Mountain Democrat*, went for the gusto: "Proposition 64 is our one chance to rein in the pirate lawyer class and strike a blow for common sense... Instead of letting legal terrorists blackmail businesses for penny ante peccadilloes real or perceived, Proposition 64 says the lawyers must have a client before they can sue...End the legal brigandage. Vote yes.."

The list of papers editorializing on 64:

YES

Alameda Times Star
Bakersfield Californian
Contra Costa Times
East Bay Business Times
Fremont Argus
Hayward Daily Review
Inland Valley Daily Bulletin
Long Beach Telegram
Los Angeles Daily News
Los Angeles Times
Napa Valley Register
North County Times
Oakland Tribune
Orange County Register
Oroville Mercury Register
Riverside Press Enterprise
Sacramento Business Journal
San Francisco Chronicle
San Francisco Examiner
San Luis Obispo Tribune
Santa Rosa Press Democrat
Sonoma Index Tribune
Stockton Record
The Daily Democrat
The Desert Sun
The San Diego Union-Tribune
The Santa Barbara News Press
The Vacaville Reporter
Tr-Valley Herald

NO

Fresno Bee
Modesto Bee
Redding Searchlight
Sacramento Bee
San Gabriel Valley News Group
San Jose Mercury News
Visalia Times Delta



In Sacramento

Proposition 64's 2001 Launch Date

If "Day One" had to be picked for the work that led to the Proposition 64 success, it would be September 19, 2001, when the CJAC Board of Directors held a planning meeting in Sacramento. The list of options raised the question: "Is

an initiative the only way reform can occur? Can the broad 17200 defendant community prioritize this issue high enough to mount a serious ballot initiative?"

A month later, the CJAC Board directed association staff to "develop amendments and message themes and test by focus group and polling for qualification as an initiative in 2004..."

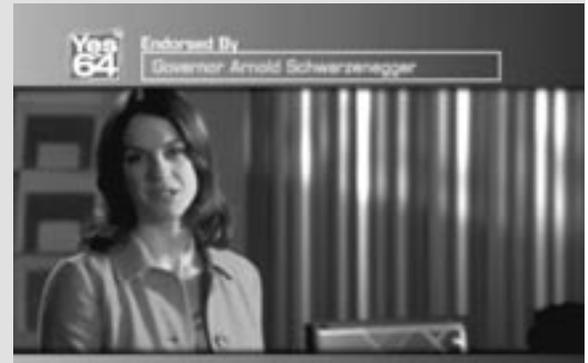
CJAC Wins Thanks For 17200 Reform

After years of unsuccessful work on legislation to rein in abusive lawsuits brought by private lawyers under Business and Profession Code Sec. 17200, the CJAC was pleased by the congratulatory notes that arrived after November 2. A sampling...

- *Proud to part of your group. Amazing work. Thank you.*
- **Thanks for a fantastic campaign. Great effort, great outcome.**
- I will continue to support, and increase in the future, for you and your terrific team's talents and energy and successes.
- *Congratulations. It is a victory well-earned and deserved. Glad I could be of some minute help.*
- ...to CJAC for leading the charge. Congratulations!
- *Congratulations to your entire team. This result is very exciting!*
- *A fabulous and well-deserved victory, after many years of ceaseless effort*
- Congratulations on a thoughtful, determined, and skillful effort.
- *OH MY GOD . . .*
- **HALLELUJAH!!!**
- Tremendous victory. What's next in '06?!!!!

Television Campaign Began in September

"Businesses like mine pay a fortune to lawyers filing frivolous lawsuits. If these lawyers aren't stopped, businesses like mine could be run out of state..."



The first of three powerful television spots began carrying the "yes on 64" message in early September.

Produced and placed by the highly-regarded and successful firm Goddard Claussen Strategic Advocacy (whose principal Rick Claussen managed the Yes on 64 campaign), the commercials were designed to take viewers through the "17200" problem in stages.

The first used a law library scene with an attorney giving paralegals shakedown lawsuit instructions, depicting the lawyers behind, misuse of the Unfair Competition Law.

The second commercial began running later, telling the actual story of a shakedown perpetrated against an auto shop owner. This commercial was gradually replaced with an office scene in which Governor's Schwarzenegger's support for 64 was depicted on a computer monitor and the importance of the initiative's passage for jobs and the California economy was highlighted.

As editorial support for the initiative grew, the latter commercial was produced in two shorter versions, one focusing on the Governor and the other on the editorials.



In the Courts

Dismissing A 'Prop 64 Case'

Proposition 64's passage sparked immediate interest from defendants and their attorneys with pending 17200 cases. Phone and email traffic at CJAC jumped the morning of November 3 with questions about 64's effective date and its application to cases in progress.

The answer to the first question: Article II, Sec. 10(a) of the California Constitution states that an initiative takes effect the day after the election.

The question of effect on existing cases is not as simple, among practitioners the consensus is that Proposition 64 does apply to lawsuits filed before the

November 3 effective date.

Fred Hiestand, CJAC's General Counsel, is monitoring developments on this front and working with attorneys whose cases are in trial courts or at the appellate level. The text of the new law, a description of how Proposition 64 works, and preliminary information on its effect in pending cases is at the CJAC web site www.cjac.org.

Verbatim

A Sampling of Editorial Statements Supporting 64

"Voters should support Proposition 64 to restore fairness to the judicial system, and to announce to corporations

willing to do business and create jobs here that California is not irrationally hostile to them.” —Los Angeles *Times*

“Prop. 64 is the only sure way to end these “shakedown” lawsuits. We recommend its passage.” —San Francisco *Chronicle*

“California’s unfair competition law was intended to protect consumers from unscrupulous businesses. But the reality is that the law needs to be rewritten to protect California businesses from unscrupulous law firms. That’s why Proposition 64 merits a Yes vote.” —San Diego *Union-Tribune*

“A vote for Proposition 64 is a vote for the little guys—which experience proves need all the protection they can get from predatory lawyers...Vote yes on Proposition 64 to bring a balance between public protection and individual rights.” —*Bakersfield Californian*

“California can protect its consumers without subjecting its businesses to extortion. And if the state is ever to shed its job-killing, anti-business reputation, it must. For the good of California’s beleaguered economy, the Daily News recommends a yes vote on Proposition 64.” —Los Angeles *Daily News*

“Don’t be lulled by the dull, state-issued title given to Prop. 64: ‘Limits on Private Enforcement of Unfair Business Competition Laws.’ Supporters call it, more accurately, the ‘Stop Shakedown Lawsuits Initiative.’ Prop. 64 is a sensible measure. It deserves a Yes vote.” —Orange County *Register*

“For nearly a decade, the powerful trial lawyer lobby has choked reforms proposed in the Legislature. For years, California lawmakers have failed to pass any laws to stop frivolous lawsuits. It’s time to do what legislators have failed to do. Vote “Yes” on Proposition 64.” —*The Desert Sun* (Palm Springs)



Trial Lawyer Watch

Plaintiffs’ Bar Spent Big Against Proposition 64

Campaign reporting records show Proposition 64 opponents spending more than \$3.8 million in an unsuccessful attempt to defeat the initiative. Nearly all the money came from plaintiffs’ attorneys — much of it from big name firms such as Lerach, Coughlin, Stoa & Robbins; Lieff, Cabraser, Heimann & Bernstein, Masry & Vititoe (best known for employing Erin Brockovich); and Sturdevant Law Firm (run by personal injury lawyer association current president and long-time 17200 advocate James Sturdevant).

While some pointed at a campaign imbalance (the \$3.8 million versus the winning side’s \$14.5 million), CJAC President John H. Sullivan said a better comparison takes in account the nearly \$35 million plaintiffs’ lawyers have spent to elect people to protect them during the eight-year span when the Civil Justice Association was trying in the legislature to stop abuse of the Unfair Competition Law.

Trial lawyer “no” money poured into their campaign during the final month before the election — \$500,000 on the Friday before November 2. The lawyers told the media they may have waited too long to begin their campaign, that they read polling as showing the initiative “doing poorly.” A former president of the trial lawyers’ association was quoted: “Our attitude was ‘Let’s not buy a landslide.’”

The plaintiffs’ bar used a few environmental and consumer groups to carry their “no” message, and funded a single television spot based on an animated map of California

inflating and deflating as though with impaired breathing.

Most active was an organization called “The Foundation for Taxpayers and Consumer Rights,” which has received plaintiffs’ lawyer funding over the years. The group used an “Election Watchdog” subsidiary (One campaign consultant couldn’t resist restating it as “Election Lapdog,” noting its ongoing support of the personal injury lawyer agenda.) The group issued statements attacking “Yes on 64” contributors and traveled around the state with an inflatable cigarette pack in a largely unsuccessful attempt to get media coverage and divert attention from the initiative’s purpose.

Civil Justice Association of California

The Civil Justice Association is a non-profit, membership supported coalition of citizens, taxpayers, businesses, local governments, professionals, manufacturers, financial institutions, insurers and medical organizations. Founded in 1979, CJAC is the only statewide association dedicated solely to improving California’s civil liability system. It is active in both the Legislature and the courts, working to reduce the excessive and unwarranted litigation that increases business and government expenses, discourages innovation, and drives up the costs of goods and services for all consumers.



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