



TADC *e-Update*
The Texas Association of Defense Counsel, Inc.

LEGISLATIVE UPDATE

March 25, 2011

[CLICK HERE](#) *to be directed to Texas Legislature On-Line homepage where you may look up any bill before the legislature by bill number*

TADC President Keith O'Connell testified on Monday, March 21st before the House Judiciary and Civil Jurisprudence Committee in favor of [HB 1427](#) by Rep. Tryon Lewis (R-Odessa). The bill repeals Sec. 33.004(e), TCPRC, which allows a claimant to join a person designated as a responsible third party regardless of limitations not later than 60 days after designation. He also testified in opposition to the introduced version of [HB 2031](#), which allows a defendant to create a compensation fund under certain circumstances and abate a trial on the merits. The details of HB 2031 are still in flux, but as drafted it would apply broadly to personal injury claims involving two or more persons and property damage claims involving 5 or more persons. It would also cap the claimant's attorney's fees at 5% and create cost shifting if the claimant declines the fund's offer and does not substantially prevail at trial. TADC registered support for two anti-barratry bills authored by Rep. Connie Scott (R-Corpus Christi), [HB 2163](#) and [2164](#).

On March 28th, the House committee will hear two bills proposing changes in the offer of settlement procedure under Chapter 42, CPRC, [HB 2437](#) by Rep. Kenneth Sheets (R-Dallas) and [HB 2661](#) by Rep. Tim Kleinschmidt (R-Lexington). Rep. Kleinschmidt's proposal makes extensive changes to current law, including a provision that awards litigation costs to the defendant if the defendant's offer is rejected, the amount of monetary relief awarded to the claimant in the judgment is more favorable to the offering defendant than the settlement offer, and the difference between the relief awarded and the amount of the offer is at least 10% of the offer. The committee will also hear [HB 2034](#) by Rep. Doug Miller (R-New Braunfels), which requires the asbestos and silica

MDL courts to offset amounts recovered from bankruptcy trusts and establishes a procedure for dismissing claims for which medical reports have not been filed.

Also on Monday, the Senate State Affairs Committee will hold a hearing on [SB 1714](#) by Sen. Robert Duncan (R-Lubbock). As filed, this legislation appears to make non-substantive changes in current statute regarding claims by or on behalf of an employee not covered by workers' compensation insurance procured by the employee's direct employer. The committee will also hear Sen. Duncan's anti-barratry bill, [SB 1716](#).

[HB 274](#) by Rep. Brandon Creighton (R-Conroe) and [SB 13](#) by Sen. Joan Huffman (R-Houston), which contain different versions of Governor Perry's loser pays provisions, will likely be scheduled for hearings in the near future. Please attend TADC's Legislative Day on Wednesday, March 30th, and take advantage of this opportunity to let your legislators know how you feel about these and other legislative proposals currently under consideration.

TADC Makes the front page, advocating the importance of a balanced and accessible civil justice system! [Read it HERE!](#)

TADC LEGISLATIVE DAY

TADC's Legislative Day will kick-off Wednesday, March 30th. It is so important for you to take the time to come to Austin and take advantage of the opportunity to visit your legislators and let them know how you feel about "loser pays", "victims relief fund", "statutory employer" and other critically important issues. An orientation will occur at 11 a.m. on March 30th at the Hyatt Regency on Lady Bird Lake, in the Hill Country A Ballroom (208 Barton Springs Road – Austin). TADC will provide you with the materials and information you need to make an effective case on behalf of the profession and your clients, but the important thing is for legislators to hear from their own constituents. Nothing is more persuasive to an elected official than seeing a real live voter in his or her office!

Please mark your calendar and plan to attend this important event and take advantage of this opportunity! Other professional groups are walking the halls to help educate members of the legislature, and it is vital that members of the TADC do so as well! Please do not hesitate to contact the TADC office if you have questions about the TADC Legislative Day.

REMINDER - REGISTER NOW!

2011 TADC Spring Meeting

March 30-April 3, 2011 - Hyatt Regency on Lady Bird Lake - Austin, Texas

Don't miss this Seminar [\(program link below\)](#)

*A **9.0** hr (with **3.00** hrs ethics) CLE Program Featuring:*

The Honorable Sam Sparks, U.S. District Judge, Western District of Texas

Chief Justice Wallace Jefferson and Justice Paul Green, Texas Supreme Court

District Judge Karen Gren Johnson & outstanding lawyers

and litigators Michael Huddleston, David Chaumette, Greg Cokinos, Ed Burbach,

Harriett O'Neill

and Craig Enoch to name but a few!

PLUS the TADC Legislative Day and Breakfast with the current

and former members

of the Texas Supreme Court