

Q: Who's Better
for Lawyers?

A: George W. Bush

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As President George W. Bush has stated: “Serving something greater than yourself is an important part of being an American.” This aspiration—to serve others in a greater cause—is also an important part of being an American lawyer. As attorneys, we have a special obligation to improve the responsibility, efficiency, and effectiveness of our legal system. President Bush has advanced specific proposals to foster these goals and, if re-elected, he will work to fulfill them.

The president has supported legal reform measures that will

improve the public’s faith in our profession and the integrity of the entire judicial process.

LIMITING LITIGATION COSTS

For average consumers, especially medical patients, the costs of litigation have created real concerns. The increasingly unpredictable nature of noneconomic damages has forced doctors to pay rising malpractice insurance rates. As those rates escalate, medical costs increase, fewer doctors offer care, and, ultimately, patients lose access to necessary treatments or are forced to pay prohibitively high prices for health insurance and services.

To help limit litigation costs, Bush has proposed capping attorney fees and limiting punitive damages. Such reforms, of course, will not prevent victims from recovering legitimate economic damages and appropriate punitive damages.

While reasonable people may disagree over the proper means of

achieving “tort reform,” only Bush has taken the issue seriously. By contrast, Sen. John Kerry’s proposals do not address the primary harm of excessive litigation—the increasing costs of health care. Indeed, his proposals would actually place additional costs on an already burdened legal system by requiring parties to present their cases to expert panels prior to appearing in court. Such measures would only increase the delay and expense that litigants must bear and, concomitantly, undermine public confidence in our legal system.

Contrary to the suggestion of some in the course of this campaign, Bush’s reform measures do not target the plaintiffs bar or small practitioners. To the contrary, the president, by signing into law the American Jobs Creation Act of 2004, helped to eliminate the double taxation of attorney fees earned in legitimate discrimination and whistleblower lawsuits. And many law firm partnerships have similarly benefited from Bush’s efforts to reduce federal tax burdens on small businesses. Thus, the president has worked to prevent frivolous litigation and, at the same time, sought to ensure equitable treatment for lawyers in their professional activities.

OUTSTANDING JURISTS

In addition to advancing specific proposals to reform the litigation process, the president has made a timely and concerted effort to fully staff the federal bench with outstanding, well-respected jurists. He has moved more quickly than any other president in recent history to name candidates to fill judicial vacancies with individuals who consistently have received high approval ratings from the American Bar Association.

By making such quality judicial nominations, the president has done his part under the Constitution to ensure that lawyers and clients alike will see their cases proceed through the federal judicial system in an effective and efficient manner.

Unfortunately, a minority of Democrats—including Sens. Kerry and John Edwards—have used the filibuster process in an unprecedented manner to prevent the Senate from even voting on well-qualified candidates to various federal courts of appeals. Currently, 21 judicial nominees await a final Senate vote, some having been delayed for more than three years.

As these nominations languish, federal district and circuit court dockets continue to be strained to the detriment of our entire system of law and justice. The legal profession, indeed the public at large, would benefit from prompt votes by the entire Senate on judicial nominees.

REFORMING NOMINATIONS

President Bush has made a serious, substantive proposal to end this politicization of our judicial system. Under his plan, federal judges would, absent extraordinary circumstances, provide a year’s advance notice of planned retirements. Such notice would give the president and the Senate an adequate opportunity to prepare for the nomination process. Upon receipt of an appointment from the president, the Senate Judiciary Committee would hold a hearing within 90 days, and the nominee would receive a final vote on the Senate floor within six months.

This recommendation would provide a workable system for judicial appointments no matter which party held the presidency or a majority of the Senate. While the Judicial Conference has agreed to provide the one-year advance notice, Senate Democrats have not agreed to the president’s eminently fair proposal.

In all, President Bush’s record reflects a thoughtful, responsible, and compassionate vision for enhancing our legal system. Meaningful tort reform will protect the interests of victims, consumers, and health-care providers. And a fairer and more expeditious process for the appointment of federal judges will alleviate delays and inefficiencies in the courts, to the benefit of all Americans.

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