

# OPINION

## LETTERS TO THE EDITOR

### Open letter to Sec. Scott Gessler: promises to keep

Dear Sec. Gessler,  
 We have waited patiently for the past five months to see if you would follow through on the statements you made separately to both of us at the Colorado Press Association convention in February. At that time you assured us your office would conduct a thorough investigation of the Saguache election and that you would get to the bottom of the problems that caused the election irregularities.

While we applaud your lawsuit to view the ballots and have been encouraged by recent statements to the Denver press that you will take steps to prevent voting fraud, there are several complaints that were sent to your office months ago by Saguache residents that remain unaddressed. Nor has there been any indication, given the statements made by Judd Choate and others in your employ that you are willing to pursue any real investigation of what happened in the 2010 election in Saguache.

Since the grand jury delivered its report in June, the attitude adopted by the SOS as well as the Attorney General's office is that the matter is closed now and everyone should simply accept the grand jury's decision and walk away. But the grand jury report raises more questions than it provides answers, particularly where the SOS' involvement in this matter is concerned. And recent testimony by SOS officials at the hearing held in Judge Gonzales' court to view the ballots only serve to further confuse the issue.

The release of the grand jury report does not relieve you of your stated commitment to conduct an investigation. In fact you implicitly stated in February that you would conduct such an investigation regardless, knowing full well that the grand jury could even issue an indictment in the case. Your seeming reluctance to follow through, seeing that in your ballots suit you claim to have full power and authority over elections in the State of Colorado, just doesn't make sense.

But there is something yet to be addressed here that is even more puzzling, especially in light of the grand jury report: the recommendations the Election Reform Commission made to the Colorado State Legislature in 2009. At that time, you were a member of this 11-person commission, which accurately outlined the potential for the very problems encountered in the Saguache 2010 election, particularly

concerning the post-election audit and the certification issues the canvass board faced.

In the overview of the recommendations made to the Legislature that you signed, we find the following: "This commission was created by Senate Bill 08-243...The mission of the commission is to 'review research, and make recommendation to ensure that every eligible citizen has the opportunity to register to vote, participate in fair, accessible, and impartial elections, and have the assurance that his or her vote will count.'

"In fulfilling its mission, state law requires the commission to [among other duties mentioned]: Recommend changes to the state's election laws to protect the fundamental right to vote, guaranteed by the state constitution by ensuring that every election conducted in the state is accurate, secure, transparent, verifiable, recountable, auditable, and accessible," (see "Election reform" article, page 2).

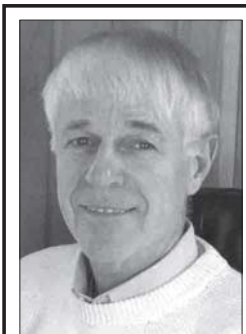
While some of the recommended changes to these laws were enacted by the legislature, others that would have effectively addressed the problems with the Saguache election were made only in part or were not adopted at all. You knew the extent of the existing problems shortly after the election and inexplicably failed to weigh in. Even after you took office, no strategies were speedily implemented to remedy these problems and it appears you could have done so without appealing to the State legislature.

Given the above, and to more fully inform ourselves in this matter, we respectfully request you to petition the court for the release of the grand jury transcripts containing testimony of all SOS officials during those proceedings. This is entirely in the best interests of the public, as it would help us determine if there is some justifiable reason for your failure to address election issues and whether the grand jury received true and accurate information on which to proceed.

You campaigned on the platform of transparency and told your supporters that you would work on things you could do right away after taking office that wouldn't require legislative approval. It's time to deliver on all your promises, Mr. Secretary.

Sincerely, Sylvia Lobato, Editor, Valley Publishing; Teresa L. Benns, reporter, Center Post-Dispatch

## CIRCUMNAVIGATING THE GLOBE



GUEST COLUMN  
 BY ROSS POBANZ

### Tort reform and job creation

I don't know exactly where it was I first crossed that line into relative oblivion. It was somewhere upon the far Tasman, somewhere close on the Roaring Forties between New Zealand and Australia.

Like most people, my life had involved a gradual drifting outward, away, trying to see what's Out There, trying to figure what it's all about. Of course, "it" kept slipping over the horizon, never quite grasped.

Awakening moon circled the masthead and played off snow-capped glaciated peaks behind distant unseen New Zealand shores. A higher-latitude chill sent in tacking south, the tropics falling astern. A lumbering sea crest appeared out of the darkness, tossed our wee ship according to her wont, and made way for the next in a sort of irregular rhythm. I held on when necessary. It was a few hours before dawn.

The years were sweeping past faster now. I wasn't after answers. Right or wrong, they seem to come by themselves. I just wanted to know life, one situation at a time. I wanted to be part of the drama but didn't

want to die on stage. No, I just wanted to see it unfold, unaffected by my presence.

We were approaching a south latitude of forty degrees. I so love the sea in its farthest reaches, at its greatest remote. If we didn't put in at approaching Fiordland two days over the horizon off the port bow, the next solid object would be the Antarctic icepack. No point in doing that. Having more or less arrived at the antipodes, the opposite point on Earth from whence I had come, whichever direction I went would take me closer to home. Somehow that seemed to subtract from the adventure.

No, the entire grand adventure was coming down to this time and place, here amid watery emptiness. Adventure is a state of mind. For me the adventure was to go to the farthest beyond.

Another heavy, swelling sea came hissing out of the dark and pushed us sideways a couple feet. Coffee slopped harmlessly across my foul weather gear. Something began knocking on deck behind me. I carefully slithered low across the moonlit deck and found a dinghy tied down adrift.

Settling back again behind the steering wheel, content, I was entirely at home.

What's it take to create a job? Creating government jobs is easy. Spend more tax dollars on government hiring, even if you have to borrow to do so, and presto, instant gratification. Creating private-sector jobs is far more complicated because free-enterprise open markets are likewise complicated and finely balanced. Improving the business climate improves the job-creation climate. Alternatively, attack businesses and you attack job-creation.

Among many trends trashing private-sector job creation is the widespread rising burden of lawsuits.

Gov. Rick Perry and the Texas state legislature recently passed tort reform. Under new 'loser pays'

legislation if a plaintiff's complaint is ruled groundless, he must pay the respondent's legal fees.

So what? Tort lawsuits cost about a quarter trillion dollars nationally in 2006 according to Marie Gryphon of the Manhattan Institute. Of that quarter trillion, small businesses were bled for over \$105 billion annually, with \$35 billion not covered by insurance, according to the National Federation of Independent Business. Under the Texas reforms, small business will face fewer frivolous lawsuits and enjoy significantly lower legal costs. Legitimate claims will come to trial faster.

The new Texas law will permit a trial judge to dismiss an empty, frivolous lawsuit. Plaintiffs seeking under \$100,000 can request an expedited civil action. If a trial judge thinks a ruling on a question of law by a court of appeals could decide the case, he has the discretion to go straight to the appellate court.

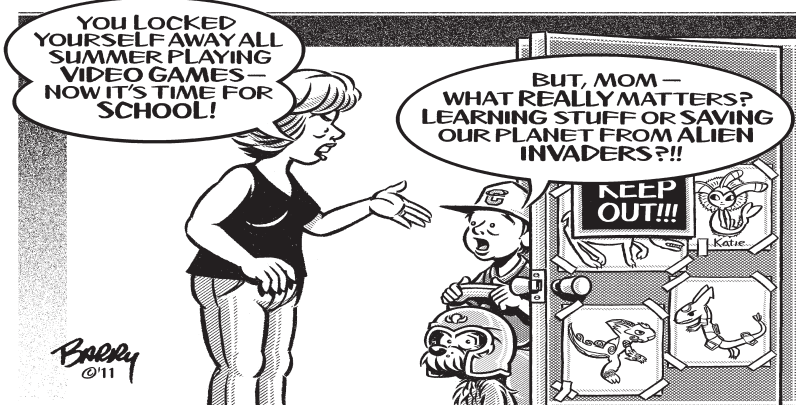
Reforms in 2003 and 2005 reformed medical malpractice law. Applications by physicians to practice in Texas soon rose 60%.

The latest legal reform is but one reason Texas leads the nation in building a political environment friendly to business and, more importantly to unemployed Texans, friendly to job creation.

According to the Institute for Legal Reform, the legal system in the U.S. consumes twice the percentage of GDP measured against other industrialized countries. The United States is the only industrialized nation not having a loser-pays law because this type of law is controlled at the state level.

States with intractable unemployment problems have a simple choice: cater to trial lawyers or enact legal reforms oiling the machinery of private-sector job-creation. Ultimately, voter responsibility in state-wide elections is where legal reform begins.

Ross Pobanz can be contacted at ross.pobanz73@gmail.com.



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