

October 12, 2021

Honorable Tom Oliverson
Texas House of Representatives
Texas Capitol, Room E2.910
Austin, Texas 78701

Via hand delivery

RE: House Bill 155

Dear Dr. Oliverson:

While TLR does not have a position on the efficacy or necessity of COVID-19 vaccinations, we do oppose several of the provisions in HB 155 because we believe the bill puts many Texas employers in an untenable position. On one hand, under a U.S. Presidential Order, employers having more than 100 employees must require COVID-19 vaccination of their employees. At the same time, HB 155 would expose employers to substantial liability for requiring those vaccinations. Uncertainty is disruptive to a positive economic environment.

Beyond the uncertainty HB 155 would impose on Texas's major employers, the cause of action it creates is expansive and contrary to the principles that have guided TLR and tort reform advocates for more than 25 years.

First, when TLR was founded, the Texas Supreme Court was controlled by the personal injury trial bar. It routinely created new causes of action and expanded damages that could be recovered in lawsuits. The creation of causes of action and open-ended damages by the Court made Texas "the lawsuit capital of the world." In its early years, TLR supported legislation to roll back the Supreme Court's activism in order to level the playing field for Texas employers. Since then, TLR has cautioned against, and often opposed, new causes of action, especially those that expose Texas job creators to broad liability, as does HB 155.

Second, even when TLR has not opposed a new cause of action aimed at the business community, we have fought against provisions that allow only one side to recover attorneys' fees. Therefore, we oppose the one-way attorneys' fee provision in HB 155. We have learned from experience that one-way attorney fee provisions attract unscrupulous lawyers and foment economically non-productive litigation.

Third, TLR has opposed bills that create a right to recover compensatory damages when injury is not apparent and damages are not clearly defined. Compensatory damages are intended to "make whole" the plaintiff for a loss that was suffered. What amount of money is necessary to make whole a person who was required to take a vaccine? What amount of

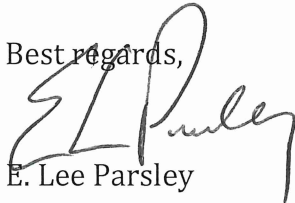
money is necessary to make whole a person who, through court action, avoided taking the vaccine?

Fourth, TLR has opposed bills that create a right to recover punitive damages when such damages are not tied to plainly inappropriate and antisocial actions by the defendant. Chapter 41 of the Civil Practice and Remedies Code sets high—and appropriate—standards for recovery of punitive damages. Essentially, the defendant's actions must be *intentionally harmful*. How can a defendant who is complying with a presidential mandate or simply exercising its best judgment to protect its customers and employees from a deadly disease have acted in an *intentionally harmful* manner? Yet HB 155 specifically allows the recovery of punitive damages, with no guiding liability standards imbedded in the bill itself.

For the reasons stated in this letter, we respectfully oppose HB 155 as currently written.

We in TLR appreciate your public service, our long and productive association with you, and your consideration of our views on this matter.

Best regards,

A handwritten signature in black ink, appearing to read "E. Lee Parsley", written over the typed name.

E. Lee Parsley
General Counsel