

Disenfranchised by Lawyers

Voters may have rejected their ideological agendas at the polls, but the elitist "public interest" movement's permanent campaign continues, and is succeeding. This endless campaign seeks to legislate radical policy ideas not through the democratic process, but through the unaccountable legal system. It is led and staffed by a virtual shadow government of seasoned activists and lawyers drawn from hundreds of well-funded special interest groups and plaintiffs' law firms.

Lacking sympathizers for their ideological campaign in the legislative or executive branches, activists are increasingly turning their attention to the courts and solidifying their cozy alliance with state attorneys general ("AGs"). Some AGs have already embraced Activism 101's textbook tactics — demonize, investigate, and litigate — and are positioning themselves as standard-setting overlords of our free enterprise system.

Take, for instance, Attorney General Eliot Spitzer, who, from his New York office, has directed "extreme makeovers" of several industries. His recent investigation of insurance brokers did lead to legitimate criminal charges for bid-rigging. Unfortunately, he also extrapolated isolated instances of wrongdoing into an indictment of industry-wide "corruption," accompanied by the requisite lawsuits and unauthorized demands for broad business practice changes. A real opportunity for thoughtful, reasoned action by state insurance commissioners and legislators has perhaps been lost in the avalanche of media hyperbole and rushed investigations by competing state AGs.

The permanent campaign

Mr. Spitzer's approach is being repeated with other "disfavored" industries. Some AGs have sued to bring about radical restructuring in the way prescription drugs are priced and sold. Another industry traditionally regulated at the federal level, banking, has been subjected to state AG suits aimed at altering their lending practices. Several AGs have sued utilities and federal regulators to impose economically-destructive "global warming" controls. Rumored to be next on the AGs' hit list: food and alcohol producers. It seems nearly every aspect of American society is caught in a vortex of unchecked legal shakedowns where attorneys general reinforce and expand upon ongoing class action lawsuits and activists' demonization campaigns.

Whenever a microphone draws near, state AGs and their ideological allies brazenly declare that their sweeping crusades and reinvented approach to policymaking are in the best interests of the public. But do coerced settlements and court decisions most effectively address broad, complex controversies? And is it the public's interest, and not the self-interested goals of higher political office and millions in legal fees, that motivates the shadow government's actions?

The victims of lawmaking by judicial fiat and legal threats are not only the businesses targeted, but the very workers, consumers, and shareholders that activists and attorneys general claim to be protecting. In the end, government by lawyers and judges can never be government of, or by, the people.

Isn't it time for our elected representatives to take back our government?



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