Personal Injury Made Easy
Making Business Easier™

To California's Personal Injury Attorneys, Law Firm Leaders, Trial Lawyers, and the Organizations That Advocate on Their Behalf:

This may be the most difficult letter in this series. It may also be the most important.

I am a lawyer.

I understand contingency fees. I understand the enormous financial risk law firms assume. I understand what it means to advance costs, carry cases for years, fight well-funded defendants and insurance companies, and sometimes invest extraordinary time and money into a case that produces little, or nothing.

I also understand the value of a great personal injury attorney.

Great PI attorneys change lives.

They protect people who otherwise have little leverage against enormous corporations and insurance companies.

They tell the story of what an injury did to a human being.

They obtain compensation for lost wages, lost opportunities, permanent impairment, pain, suffering, and lives that may never be the same.

I am not anti-my legal peers.

But I am asking California's PI attorneys to confront an uncomfortable truth:

You successfully protected your profession in the Uber fight. Now you need to help protect the medical professionals whose care allows you to prove your clients' injuries … and, more importantly, whose care allows your clients to heal.

Because if SB 623 becomes the model for all California personal injury in its current form, the Legal Lobby may ultimately discover that winning the battle over attorney fees helped damage the healthcare ecosystem upon which its own clients and cases depend.

Uber Found Your Pressure Point

Uber originally came after the economics of personal injury law.

Most significantly, it proposed restricting contingency attorney fees.

The Legal Lobby mobilized. Understandably. Contingency fees are the economic engine that allows many injured Californians to obtain legal representation without paying hourly fees they could never afford.

But then something important happened. The ballot fight disappeared. SB 623 emerged. And the burdens shifted.

Not principally onto attorney fees.

Onto medicine.

Medical billing. Medical liens. Medical funding. Referral disclosures. Provider declarations. The underlying enforceability and economics of PI medical receivables.

The Legal Lobby protected what mattered most to the Legal Lobby.

Again, I understand that.

But who protected medicine?

That question matters now.

The Provider Is Not Merely a Number on Your Demand

Every good PI lawyer understands that damages don't begin with a demand letter.

They begin with an injured human being. That person needs care. And frequently the medical provider agrees to provide that care without being paid today. Personal injury is often healthcare financed care.

The chiropractor treats for months. The pain physician evaluates and performs procedures. The neurologist assesses traumatic injury. The psychologist documents the emotional consequences. The surgeon may perform a procedure costing tens of thousands or hundreds of thousands of dollars. The ASC provides the facility.

And many of those providers may wait: A year. Two years. Often longer.

Meanwhile, **the law firm is also waiting.**

That should create common ground.

Both professions are investing today against an uncertain future recovery. Both assume some element of risk. Both have overhead. Both can lose. But there is a crucial difference.

The lawyer voluntarily chose the case and structured a contingency agreement defining the lawyer's compensation.

The medical provider's primary obligation is different:

Treat the patient the moment they need medically necessary are.

The provider should not become the party upon whom everyone else's economic compromise is ultimately imposed.

The Medical Bill Is Not Your Profit Center

This needs to be said.

There are law firms that treat medical reductions as part of their business model.

Settle the case. Take the contractual attorney fee. Then turn to the providers who waited months or years and demand enormous reductions so that the client distribution looks better, or so the settlement economics work.

Negotiation is part of PI. I know that. That’s one of my key focus areas to protect medical provider and physician offices.

Providers should negotiate when legitimate circumstances warrant it.

Policy limits matter. Liability matters. Comparative fault matters. Proper case costs matter. Client recovery matters. Reasonableness matters.

But there is a difference between fair lien negotiation and treating every provider bill as an automatic discount opportunity.

If a physician provided medically necessary care, billed reasonably, waited years, assumed the payment risk, helped your client recover, documented the injuries, supported your damages claim, and made your case stronger …

Why should that provider automatically be the first person asked to surrender compensation after the case resolves?

Good firms understand this. More firms need to.

And Please Stop Calling Every Medical Lien Part of the Attorney's Fee Problem

One of the arguments surrounding Uber's original proposal blurred an important distinction.

A limitation on attorney compensation is not automatically the same thing as a limitation on medical obligations.

Historically, the patient may remain responsible for legitimate medical bills and liens from the patient's recovery.

Those obligations do not simply become the attorney's bills because attorney fees are capped.

The economics need to be analyzed correctly. And medicine should not be used as the justification for preserving attorney economics and refusal to proceed to trial decisions while simultaneously accepting new restrictions on its own.

If the Legal Lobby wants medicine standing beside it in the next tort-reform fight, medicine needs to know the Legal Lobby will stand beside medicine too.

And right now, healthcare feels betrayed by the Legal Lobby, and rightly so in my opinion.

The Surgical Strike Gives You That Opportunity

I am not asking you to dismantle SB 623. I am not asking you to reopen the entire Uber war.

I am asking the plaintiffs' bar to support a few narrow corrections.

First: Keep FAIR Health Where It Belongs … In the Trial Evidentiary Discussion

If Uber's concern is excessive medical specials driving excessive jury awards, reasonable evidentiary limitations can address that. Fine.

But why should an evidentiary limitation determine the underlying economic agreement between a patient and provider?

The provider may have waited years. The provider assumed risk and increased administrative costs waiting often years to be paid. The provider paid expenses while waiting.

The provider may ultimately negotiate the bill.

What a jury should hear and what a provider may reasonably charge are not necessarily the same question.

Support that distinction. It’s been done in many U.S. States.

You can preserve your client's ability to prove legitimate damages. Uber can preserve protection against artificially inflated medical specials. And legitimate providers can preserve the economics necessary to continue treating PI patients.

Everyone keeps the legitimate portion of the bargain.

Second: Own the Referral You Make

This should be easy.

If your firm refers a patient to a physician … **say so.**

If your lawyer makes the referral … **say so.**

If your case manager makes it … **say so.**

If nobody at your firm originated it … **say that.**

But don't shift the primary burden onto the physician to declare under penalty of perjury facts that your office knows better than anyone.

Transparency is not the problem. **Misallocated responsibility and accountability is.**

The Legal Lobby should support moving the principal declaration obligation to the party with actual knowledge of the referral's origination.

If that's you, own it. That is accountability.

Third: Stand Up for Legitimate Medical Funding for Your Clients

Plaintiffs' attorneys should understand this better than almost anyone.

Sometimes your client needs surgery. Now. Not after settlement. Not after trial. **Now.**

The surgeon may be willing to perform it but unwilling to personally finance $100,000 of care for several years. The client may not have usable insurance.

That is where legitimate medical funding can become the bridge between injury and treatment.

Funding companies should not receive unreasonable windfalls. **They should earn reasonable profits for reasonable risk.**

Require transparency. Attack abusive practices. But preserve responsible medical funding.

Because without it, your client's theoretical right to recover the cost of necessary medical treatment means very little if the client cannot actually obtain the treatment.

And Now I Need to Challenge the Legal Profession Itself

If attorneys want credibility when criticizing medical billing, then attorneys should be willing to examine their own billing and settlement practices. This is part of the reason there are so many lawsuits around the country by insurers and Uber naming law firms, and why tort reform is the center of attention in so many states.

Good law firms already do many of these things correctly. The rest should follow them.

Stop Hijacking MedPay

MedPay exists to pay medical expenses.

When available, it can help providers receive at least partial payment while a liability claim remains unresolved.

It should not become an opportunity for a law firm to unnecessarily intercept funds intended to pay healthcare providers or extract attorney compensation from benefits whose primary purpose is paying medical care.

There is a law firm administrator whose staff runs 11 different law firm practices, and about three years ago she asked how best to handle MedPay. I told her. She put it in place, and two and a half years later I asked her how many insurers waived the right of reimbursement. Her reply?

All of them. 100%

Pay out the MedPay based upon the EOB of the insurer. Take no attorney fees out as your client has to make up that difference, and you had nothing to do with the turnover of that MedPay.

Then get a letter or email from the provider or physician saying they received the MedPay, and applied it to their bill, and presented an updated bill of the remaining balance. Take that letter or email and submit it to the MedPay insurer with a request to waive the right of reimbursement. It works.

Let medical-payment coverage do what it was designed to do: pay medical bills.

Stop Inventing Phantom Costs

A contingency case should not become an excuse to manufacture internal charges that would ordinarily be part of law-firm overhead.

“Administrative fee.” “File setup fee.” “Processing fee.”

Internal charges that do not reflect genuine third-party case expenses. If it is really overhead, so **call it overhead and do not charge extra for it.** Don't convert it into a client cost simply because your retainer agreement you drafted and your client doesn’t understand says you can.

And Apply Your Percentage Honestly

If the attorney's agreement provides for a contingency percentage, the contingency should be applied after deduction of the attorney costs, like any business does before compensating for contingency arrangements.

When you fail to deduct costs, you then are getting a kick on top of the costs … the percent of the attorney fees.

That’s less for your clients, less for providers … just more for yourselves.

Do the math. Ask whether the result is fair to your client.

If the Legal Lobby wants every other participant in PI to examine its economics, **the Legal Lobby should be willing to examine its own.**

Consider Self-Restraint Before Government Does It For You

Uber's attorney-fee proposal should have been a warning.

It demonstrated that contingency fees are politically vulnerable.

The next ballot initiative may be better drafted. The next industry may have even more money. The next campaign may resonate more strongly with voters.

The plaintiffs' bar should not assume it can defeat every attempt forever.

So consider self-policing.

Consider whether contingency fees should ordinarily remain within a defensible range, perhaps 3**0% to 40% depending upon the case, risk, litigation stage, and work required,** rather than allowing outlier practices to become ammunition for the next tort-reform campaign.

I see day in and day out law firms charging 45% to 60% in attorneys fees, and often, only a complaint was filed. No extensive discovery, let alone an actual trial.

This is not anti-lawyer. It is about “fairness” and **pro-survival of good personal injury law.**

Because if the profession refuses to address its bad actors, eventually voters, legislators, courts, or ballot initiatives may do it for you.

And they may use a sledgehammer.

The Billboard Firm Is Not the Entire Legal Profession

There are extraordinary PI attorneys in California.

Attorneys who know their clients personally. Attorneys who call the treating doctor. Attorneys who understand the medicine. Attorneys who litigate. Attorneys willing to try cases. Attorneys who negotiate provider balances fairly. Attorneys who put meaningful money into the client's pocket. Attorneys who appreciate that the chiropractor, physician, therapist, surgeon, psychologist, and funding company helped make the recovery possible.

Those firms deserve enormous respect.

But there is another model.

High-volume. Marketing-driven. Sign the client. Move the file. Maximize intake. Minimize attorney time. Settle if we don’t want to invest in trial and talk the client into it. Push reductions downstream to make up for the decision to settle for less rather than push a case to trial.

The Legal Lobby should stop allowing the worst version of PI law to define the public perception of the entire profession.

Clean your own house.

Medicine needs to do the same. Funding needs to do the same. Insurance needs to do the same. Transportation needs to do the same.

That is how an ethical PI ecosystem is built.

Because More Tort Reform Is Coming

If anyone believes Uber was the last attack on the personal injury system, I think they are making a serious mistake.

Uber now demonstrated something extraordinarily important.

The Legal Lobby can be pressured.

And once one sophisticated corporate defendant discovers leverage, others watch.

Transportation companies watch. Insurers watch. Large corporations watch. Municipalities watch. Business groups watch. And political strategists watch.

The next proposal may target attorney fees again. Or damages. Or liens. Or funding. Or admissibility. Or all of them.

And if the public sees a system filled with excessive medical charges, questionable treatment, unreasonable attorney fees, phantom client costs, predatory funding, and endless fighting over settlement proceeds …**why would the public defend that system?**

That is why reform should come from within before it is imposed from outside.

You Need Good Medical Providers More Than You May Realize

The Legal Lobby should think very carefully about what happens if good independent providers begin leaving PI.

Your client's case doesn't become stronger. It becomes weaker.

Who documents the injury properly? Who follows the patient's functional loss? Who explains causation the right way? Who identifies the need for specialty care and timely refers out? Who documents impairment permanency? Who explains future treatment? Who tells the patient's pain-and-suffering journey through the medical record? Who becomes the credible medical witness when the case is disputed?

And most importantly: **Who heals your client?**

Great attorneys need great providers. Great providers need ethical attorneys. The relationship should not be adversarial.

It should be **collaborative but independent.**

Medicine should never become an arm of the law firm. And the law firm should never treat medicine as merely a cost center to manipulate.

Each has a different role. Each should respect the other.

The Patient's Recovery Is Not a Pie Everyone Should Fight to Consume

Too often PI becomes a fight over a finite settlement: The attorney wants the fee. The provider wants the bill paid. The funding company wants its return. The insurer wants to pay less.

And somewhere in the middle is the person the entire system supposedly exists to serve: **The patient. Your client.**

That needs to change.

The objective should not be: **How much can I extract from the recovery?**

It should be: **How do ethically ensure access to the quality medically necessary care they need when they need it, and how do we ethically maximize the patient's medical recovery and legal recovery while fairly compensating every stakeholder who legitimately contributed to that result?**

That is a healthier ecosystem. And the Legal Lobby is powerful enough to help build it.

So Here Is My Ask

To California's PI attorneys and Legal Lobby: **Support the Surgical Strike.**

Support keeping legitimate FAIR Health protections focused upon courtroom evidence rather than unnecessarily restricting the underlying medical receivable. Support placing referral declarations primarily upon the party actually making the referral. Support legitimate medical funding while helping eliminate unreasonable funding practices. Support payment in full of reasonable medical billing. Support medically necessary care.

Support sanctions against providers who abuse the system.

But then apply the same standard to yourselves.

Protect MedPay for its intended medical purpose. Eliminate phantom costs. Examine how contingency percentages are calculated.

Keep fees reasonable.

Stop treating medical lien reductions as an automatic profit opportunity. Treat ethical medical providers as partners in serving the patient, not adversaries at disbursement.

And when medicine is unfairly targeted … **stand beside them.**

Because the Next Fight May Require Us to Stand Beside You

That may be the most important message in this entire letter.

Personal injury law and personal injury medicine are interconnected.

If legislators destroy the economics of legitimate PI healthcare, attorneys suffer. If ballot initiatives destroy the economics of legitimate PI law, patients and providers suffer. If medical funding disappears, certain patients cannot obtain necessary care. If insurers refuse to fairly value legitimate claims, everyone fights longer.

If bad actors dominate any segment, the entire ecosystem loses credibility.

We either improve this ecosystem together or watch others dismantle it piece by piece.

The Legal Lobby won an important battle protecting itself.

Now demonstrate that your advocacy is about more than protecting attorney fees.

Protect the patients. Protect their access to quality care when they need it. Protect the legitimate providers willing to take financial risks to treat them. And help us create a PI system worthy of defending the next time someone comes after it.

Because there will be a next time.

Reform the Abuse. Preserve the Value. Protect the Client-Patient.

And pursue the outcomes every stakeholder should want:

Better Patient Outcomes.
Better Provider Outcomes.
Better Case Outcomes.
Better Claim Outcomes.

Respectfully,

Michael Coates
Michael Coates, Esq.
President, Personal Injury Made Easy

PS: To my colleagues in the legal profession: this letter is not an attack on PI attorneys. It is a challenge to us. **Medicine cannot demand accountability from law without accepting accountability itself, and law cannot demand accountability from medicine while exempting itself.** If we want Californians to defend the personal injury system when the next tort-reform campaign arrives, we need to give them a system worth defending.