



FIGHTING COURT SECRECY

“Secrecy kills,” says former Public Justice client Rich Barber. He would know. Rich’s son was killed by a gun that fired without the trigger being pulled. When Rich bought the gun years before, he knew nothing about the rifle’s defect because Remington had been able to seal the key court files and documents about it.

Court secrecy - barring public access to crucial facts discovered, court filings, evidence and trial records - is being used more and more by corporations to limit their liability, continue sales and protect their public image, even when it is a matter of life and death.

For nearly three decades, Public Justice has been exposing and preventing excessive secrecy in our nation’s courts. We have unsealed evidence of dangers to public health and safety, helped injury victims oppose overly-broad protective orders, and educated the public about the harm done by litigation conducted in secret.

- **Saving Lives:** Public Justice made over 118,000 previously-sealed Remington documents available to the public via a custom-designed website at www.RemingtonDocuments.com. These documents show that Remington knew – for decades – that the trigger in the company’s Model 700 and a dozen other Remington models could fire when no one pulled it. Our documents were, in part, the basis of a CNBC documentary, *Remington Under Fire: The Reckoning*, and a *60 Minutes* feature, which exposed Remington’s long history of denying the truth and hiding the facts about its dangerously defective guns. Thanks to Public Justice’s work to unseal the documents and make them widely available to the public for the first time, everyone who owns a Remington rifle can better protect themselves, their loved ones and innocent others.
- **Battling for Workers:** Public Justice, on behalf of the Washington Wage Claim Project, successfully sued to unseal documents in a case involving satellite installers for DirecTV. In an earlier suit brought by the U.S. Department of Labor, DirecTV had been exposed for using a pernicious subcontracting scheme to cheat workers out of their hard-earned wages. We asked the court to unseal records related to that earlier case and disclose the full evidence of the company’s wrongdoing. The court agreed, ordering the records to be made public in a win that will allow workers in other, similar industries to hold their employers accountable and allow the public, and the press, to learn, for the first time, just how DirecTV swindled its workers.
- **Exposing Payday Lenders:** Public Justice, on behalf of Americans for Financial Reform, successfully unsealed documents showing how AMG Services – a notorious payday lending company owned by magnate Scott Tucker – deceived borrowers and trapped them in an endless cycle of debt that netted the company \$2 billion from more than 4.5 million people. The unsealed documents include transcripts of angry phone calls in which Tucker’s company engaged in a variety of illegal loan practices, including threats of arrests. Thanks to this victory, consumers now know more about how payday lenders work, and the schemes they use to trap borrowers in never-ending debt.
- **Enforcing the Public’s Right to Know:** Representing the Center for Auto Safety, Public Justice moved to intervene and unseal court records in a case alleging that Chrysler had concealed a dangerous safety defect in the power system of potentially millions of its cars. The deadly defect could cause a vehicle to stop running without warning while driving full-speed on the highway. Though the underlying case settled before reaching trial, the Ninth Circuit ruled on our motion that *all* court records more than tangentially related to the merits of a case must be open to the public unless there’s a compelling reason to seal them . . . setting a very high standard for when records can be kept secret, and an equally high bar for Chrysler to meet if it wishes to keep the records from public view.

“Secrecy pervades our civil justice system. In the auto industry alone, we learned recently about Toyotas that suddenly accelerate, Takata airbags that shoot shrapnel, and GM ignition switches that fail, causing crashes. All of these dangers were known to the companies and kept secret in litigation long before they became public.” – Chairman Arthur Bryant, in a CNBC op-ed

“Hundreds of pages of court documents from [an inquiry into payday loan magnate Scott Tucker] have now been unsealed, thanks to a lawsuit filed by Public Justice on behalf of Americans for Financial Reform. As a result, we know a great deal about how Tucker’s operation worked.” – U.S. News

“The law requires courts to determine what the opposing justifications for secrecy and public access are when access is being sought, not when a court initially entered a secrecy order, Bryant said.” – Bloomberg BNA, quoting Chairman Arthur Bryant

- **Holding Companies Accountable for Sexual**

Harassment: We’re fighting to unseal court documents in a major sexual harassment case against one of the largest trucking companies in the United States. We’ve asked the court to unseal documents that we believe may show that women have been reporting serious incidents of sexual harassment to the company for years. We also believe these documents show that the company penalized women who reported the harassment, rather than taking steps to help victims and prevent future harassment.

- **Standing with Families:** Public Justice helped Rich Barber unseal long-hidden court records that held the truth about a trigger defect in Remington’s Model 700 rifle after Barber’s gun fired without the trigger being pulled, killing his nine-year-old son, Gus. As a result of Rich’s subsequent advocacy, the Montana legislature passed the Gus Barber Anti-Secrecy Act, which limits the use of secrecy and protective orders to hide hazards to public safety. In an editorial about the case, USA Today noted that Barber’s work, and that of Public Justice, helped tear down walls of secrecy. “If more judges realized their duty is to the public – not to corporations or lawyers,” the paper wrote, “there would be fewer tragedies such as the one that killed Gus Barber.”

- **Fighting for Public Safety:** A major highway guardrail manufacturer, Trinity, was sued for defrauding the federal government by changing the design of its guardrail end terminals without conducting appropriate crash tests on the new design or telling the government about the changes. As a result, passengers were decapitated, their limbs were severed and car occupants were stabbed by guardrails during crashes. On behalf of The Safety Institute and the Center for Auto Safety, Public Justice moved to intervene and unseal court documents showing just how dangerous Trinity’s redesigned guardrails were. That effort helped to convince the court to do the right thing, ruling that the court files must be open to the public. The victory means the public now has access to facts that could be

critical ammunition for states seeking to phase out and remove these lethal guardrails from our highways.

- **Protecting Consumers:** After Public Justice provided the U.S. Consumer Product Safety Commission with numerous examples of court secrecy hiding critical information from it, the agency issued a formal guidance finding that court secrecy was preventing it from doing its job. Public Justice made consumers and attorneys aware of the agency’s official guidance and recommended best practices regarding protective orders and settlement agreements. The guidance urges all judges, plaintiffs, defendants and lawyers, as well as anyone wishing to submit amicus briefs, to ensure that protective and secrecy orders and agreements “specifically allow for disclosures” to the “CPSC and other government public health and safety agencies.” Writing in the *Legal Examiner*, Public Justice Chairman Arthur Bryant noted, “The danger is real,” adding that the guidance “cites protective orders in current cases involving allegedly defective propane heaters, wheelbarrows, markers, multimeter devices, office chairs and gas cans that prevent the CPSC from learning the truth. There are undoubtedly many more.”
- **Uncovering the Truth About Dangerous Drugs:** Public Justice, on behalf of the medical journal *PLoS Medicine*, brought to light reams of discovery materials about Wyeth Pharmaceuticals “ghostwriting” medical journal articles promoting its own dangerous hormone replacement drug. The articles, *The New York Times* reported, “emphasized the benefits and de-emphasized the risks of taking hormones to protect against maladies like aging skin, heart disease and dementia.” The materials we unsealed were then made available to the public, the press and patients in a searchable online database.