

## Commentary

Daniel J. Popeo: Journalists aid in regulation by demonization of business

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### WASHINGTON -

A recent [New York Times Magazine](#) article examined how human nature makes us vulnerable to rumor and innuendo. Psychologists say that if we hear something multiple times, especially if it's from one source, we conclude it is familiar or widely held, and thus believe it's true.

This human tendency helps to explain why professional activists, self-interested lawyers and other “public interest” advocates have been able to force “change” through well-orchestrated demonization campaigns based more on fear than fact.

Even before the advent of the digital age and 24-hour media cycles, activists successfully scared drivers away from their cars with invented claims of “sudden acceleration syndrome,” and sent apple consumption plunging with junk science tirades against the safe and effective pesticide Alar.

Today, with blogs, [Wikipedia](#) and so many other outlets for peddling fear and shaping public attitudes, activists have seemingly infinite avenues for advancing agendas hostile to free enterprise and consumer freedoms.

Identify any deep-pocket industry or a business that sells a “disfavored” product or service, and chances are they are the subject of a multimedia demonization campaign. For instance, well-fed, paternalistic activists have been working for the last decade to force changes in certain food and beverage products’ design, production, and promotion.

Their patented scare tactics include blanketing a compliant media with slickly produced video and print propaganda, and threatening litigation.

Several self-styled consumer groups that specialize in this latter tactic have succeeded in extracting needless product changes and self-censorship of commercial speech from large food and beverage companies without having to prove anything in court.

Plaintiffs’ lawyers regularly partner with professional activists, intensifying the fear factor through litigation.

Any unsubstantiated, unscientific claim about a product can gain further credibility through a lawsuit.

Rather than scrutinize its merit, the media trumpets the suit, aiding and abetting in the manipulation of the public’s interest.

And, because they appear to have the legal system’s imprimatur, a suit’s allegations may be even more likely to be accepted.

Such a public perception is reflected in the deeply troubling reports of patients who stop taking their medications because of a lawsuit or lawyer advertising. While the lawyers profit handsomely from their supposedly public-minded crusades, the landscape is littered with lawsuit abuse victims — companies and products that couldn’t survive the demonization, as well as consumers denied more or better choices.

Not to be outdone, state and federal prosecutors now embrace activists’ and trial lawyers’ scare tactics.

Some state attorneys general work closely with activists who share common ideological agendas.

They also regularly hire contingent-fee lawyers to pursue anti-business lawsuits conceived of and designed by those very same activists and lawyers. State attorneys general’s involvement confers greater credibility to even the most baseless claims — if the state’s highest ranking law enforcement official is suing, then the claim must be true.

And with little regard for basic due process or legal ethics, ambitious “white collar” crime prosecutors use “perp walks,” press conferences and leaked allegations to create impressions of guilt in cases where they may have little or no proof.

Video footage and news stories of the claims blanket the airwaves, newspapers and the Internet. On the other hand, stories about the dismissal of criminal charges for lack of evidence or prosecutors being defeated in court rarely see the light of day.

Companies targeted by zealous prosecutors cannot afford being labeled “criminal,” so they settle, further emboldening officials to expand the criminalization of free-enterprise conduct.

Even those who fight back and win rarely are able to recover their reputations or, as in the outrageous [Arthur Andersen](#) case, are put out of business.

It may be easy, especially at a time when the democratic process seems to provide so few solutions, to embrace the method of change offered by “public interest” advocates and their allies.

But such “reform” routinely casts aside individual and economic freedoms, and is more likely to focus on issues that will enrich activists than to solve our most pressing problems.

As we are now learning from the serious legal and ethical troubles facing [Eliot Spitzer](#), [Dickie Scruggs](#), [Milberg Weiss](#), and other aggressive lawyers, law firms and law enforcers, self-interest does not necessarily equate to public interest.

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