

Ralph Nader Radio Hour Episode 92

Joanne Doroshow, Steven Hill

From the KPFK studios in Southern California, it's the Ralph Nader Radio Hour.

SS: Welcome to the Ralph Nader Radio Hour. My name is Steve Skrovan along with my co-host, David Feldman. Hello, David.

DF: Hello. I hope Ralph is getting all his Christmas shopping done.

SS: And the man of the hour, Ralph Nader. How are you today, Ralph?

RN: Very good. We're going to have a great show today, too, folks.

SS: Well, we do have a fine show for you today. We're going to be talking to political author and commentator Steven Hill, whose latest book is *Raw Deal: How the Uber Economy and Runaway Capitalism are Screwing the American Worker*. We're also going to see what Russell Mohkiber is watchdogging for us on the corporate crime beat, and we're going to be talking civil justice with our first guest. David.

DF: Our first guest is Joanne Doroshow. Ms. Doroshow is the founder and Executive Director of the Center for Justice and Democracy and co-founder of Americans for Insurance Reform. She is also Adjunct Professor at New York Law School, where she teaches *Civil Justice Through the Courts*. An attorney, Ms. Doroshow has worked on civil justice issues since 1986 when she directed an insurance industry and liability project for Ralph. Together, they developed some of the first education materials used to fight "tort reform" around the country, including *Goliath*, *Lloyds of London in the United States*, and *Safeguarding Democracy, the Case for the Civil Jury*. Welcome to the Ralph Nader Radio Hour, Joanne Doroshow.

JD: Thanks. It's certainly great to be here.

RN: Welcome, again, Joanne. That report you did on civil juries is still being used and sent all over the country. Because you rooted it, among other things, in our early history, and you showed how people

from Thomas Jefferson to Chief Justice Renquist glowingly affirmed and supported the right of trial by jury and the role of civil jurors.

JD: Yeah, well, you know, I wrote that report back in the early 90s to look at the history of the civil jury trial in America and how important it was to the framers of the Constitution, and even before them. So it's a fundamental right that we have that's been under attack, unfortunately, in the last few decades.

RN: Well, not only under attack, but we're under-utilizing the right of trial by jury. Civil juries in the tort area, that is the wrongful injury area, have declined. And more and more people are not educated about the importance of jury service. It's the only real duty coming out of our Constitution. We have a Bill of Rights, but it's the only real civic duty coming out of our Constitution. Let me start with some questions you might not anticipate, because I want to show how important your work is and how widespread the area of wrongful injury is. It is staggeringly larger than street crime, which also is a tort. Somebody assaults a person: that's not only a crime, it's also a tort. It gives a person the right to challenge beyond what the police do in civil court. You know these effects, but I want to frame them for our audience. There are about 100,000 people who die every year from hospital malpractice. That's 2,000 a week, Harvard School of Public Health. There are about 100,000 people who die every year from the side effects and mis-prescribing of drugs, like antibiotic resistant situations. The Public Citizen Health Research Group has used that figure reliably. There are about 80,000 people who die from hospital-induced infections, preventable. That comes out of the Center for Disease Control. There are all kinds of people who are killed because of defective products, automobiles to toxic chemicals. That's the area you're working in. And so, since you're one of the leading advocates and the most knowledgeable advocates on this enormous annual toll of preventable violence in this country, how many times have you been on the Diane Rehm, the Terry Gross, the Charlie Rose Shows?

JD: Never. (Chuckle)

RN: Okay. How many times have you been on any of the Sunday shows, "Meet the Press," "This Week," "Fox with Chris Wallace," and others?

JD: Never. (Chuckle)

RN: Okay, and how many times have you been profiled by the New York Times, The Washington Post? They profile a lot of people: jugglers, misbehaving athletes. How many times have you been profiled by Time Magazine, Newsweek, Fortune -- what you do affects the business community --The Washington Post and the New York Times?

JD: No, I've never been profiled by any of those publications.

SS: Ralph, I'm going to have to jump in here. You're badgering the witness.

(Chuckling)

RN: Okay. Let the jury disregard that remark by Steve Skrovan. Lastly, the Wall Street Journal has probably written 200 editorials against people's right to have their full day in court and let judge and jury -- subject to appellate review -- decide how much they're going to get when a drug company or an oil company or auto company, harms them wrongfully. Like the GM ignition switch, Okay? So, have you ever been subject to a feature, since you're their prime adversary, with all the knowledge that you put out and all the reports? A: have you ever been subject to a feature, since they have pummeled their readers with wild and inaccurate statements about the civil justice system? And have you ever been invited to join their many other invitees and meet with the Board of Editors of the Wall Street Journal?

JD: Well, I think your audience probably can guess the answer to this question, and it's no, no, no.
(Chuckling)

RN: Okay. Welcome.

JD: Never.

RN: Welcome, dear listeners --

JD: Never.

RN: -- to the decayed mass media. It only affects hundreds of thousands of preventable deaths a year. And millions of preventable injuries and illnesses. That's what the law of torts is designed to equip you with the right to take these perpetrators of your harm and get compensation for your losses and you pain and suffering. And if they don't come over and do that, you can take them to court and have a trial by jury. All right, Joanne Doroshow, first of all, I have whetted the appetite of our listeners. Give our listeners your contact information so they can get this wonderful material in clear language, which we're going to go through in the next few minutes.

JD: Sure. Well, we have all kinds of things on our website. And the website is centerjd.org, C-E-N-T-E-R-J-D dot O-R-G. And everything's free, so people are welcome to download any information that we have up there.

RN: And how do they contribute what they know? What they've experienced? Complaints? Defects? Things they'd like to know the way they're mistreated by some judges and so forth? Is there a two-way there?

JD: Yeah, there is, right on our homepage of our website. If people are interested in staying in touch with us, and getting updates from us, and communicating with us, you can do that right from our website.

RN: Okay. We're talking with Joanne Doroshow, the Executive Director of the Center for Justice and Democracy. She's also Adjunct Professor of Law at New York Law School. And the first question, Joanne Doroshow, is this. What are the major myths about the tort system that the corporate interests, the insurance companies, people like the Association for Tort Reform, are peddling throughout the mass media year after year?

JD: Well, I think there are a couple of big ones. One is that these tort suits or personal injury suits are flooding our courts. The National Center for State Courts, which is the only real organization that monitors litigation and looks at statistics, just came out with a new report, where they found that tort cases, these kinds of cases, are only 7% of the cases that are in our civil justice system. Whereas 64% of the cases are mostly businesses suing other businesses or contract cases. Half of those are debt collections. So the banks clearly are using - and the credit card companies and all kinds of big businesses - are using the civil justice system however they like. But they like to, for some reason, blame the average everyday person who has been harmed, who brings an injury suit, for contributing to a flooding of the courts. And that's just statistically completely wrong. And the second thing, related thing, is the notion that they try to push out there that people are sue-happy. That they run to court at the drop of a hat. And statistically we also know, and the last time Rand looked at this -- it's been a few years but it's probably generally still true -- that only 10% of people who have been injured and could file a law suit even file a claim with their insurance company for compensation. That's just 10%. And only 2% of these people file lawsuits. So it's a very different impression of the civil justice system that I think a lot of corporations try to push out there.

RN: And you have a very handy list of myths about the tort system, which people can download from your website. Is that correct?

JD: Yeah, we have FAQ, or frequently asked questions right on the home page of our website. So you just click on that FAQ and you're going to see some very common questions and answers about the myths, these other myths about what's really going on in civil litigation in America.

RN: That's why it's important for our active listeners to download this information and talk it up. Talk it up with your coworkers, relatives, friends. Talk it up when you meet legislators who are misinformed. Tell them to go to the Center for Justice and Democracy website. You know, so accurate and comprehensive is Joanne Doroshow and her team is that when reporters want information, they call her. When reporters want a good quote they call her. It's just that the corporate media doesn't like to herald her as an authority on the subject in the ways that I alluded to earlier in this program. Are there any recent reports that are worth mentioning that you have put out? That people should know about?

JD: Yeah, well, one of the issues that we work on quite a bit is medical malpractice. And as you mentioned, Ralph, medical errors are a huge problem in this country. And they cause lots of deaths and serious injuries. They're now considered the third leading cause of death in America. There's an awful lot of misinformation about litigation in that area, so we put out a briefing book every six months. And the newest one just came out. It's 128 pages long. And it's all the most comprehensive studies and information about what's really going on in this area. Everything from patient safety issues and the kinds of deaths and injuries that we're talking about here, to also how few patients ever bring a law suit against a doctor or a hospital. It's really a tiny, tiny percentage of cases. And then we also talk about how much money medical malpractice insurance companies are making. And how these laws harm people, and the solutions. And most of the solutions really lie with the insurance industry, because what they do is they price-gouge doctors, they raise rates, they charge them too much money. And the doctors complain, well this must be because of litigation against us, which is not true. This all has to do with insurance company mismanagement and underwriting practices. But we have to keep pushing this information out there because state lawmakers and even Congress get this message that unless they take away the rights of patients, who have been harmed to bring some kind of case against the doctor or hospital, unless they take away those rights, somehow doctors' insurance prices are never going to go down. Not only is that completely untrue, but it is a terribly cruel way to address a problem that patients have nothing to do with it. They're innocent in this. And their rights should not be taken away.

RN: You know, you've heard, and I have heard, people who have been wrongfully injured. And they don't want to live through the injury -- let's say it's to their child -- in a trial. And they just don't even go to a lawyer. They don't even want to try the case. It's too horrible. They think they're going to be subjected to severe questioning, maybe investigated. There's a lot of intimidation and fear. And some of it is well taken, because we've seen what the investigators for the insurance industry have done to some plaintiffs. But tell our listeners what percent of the doctors account for what percent of the malpractice cases?

JD: Oh, well, Public Citizen has continued to do research in this area. It's a -- I forget, exactly. It's something like 5% of the doctors are responsible for over half of the medical malpractice payments. So it's a tiny percent of bad doctors who should not be practicing, and who continue to practice even though they've been found guilty in a number of malpractice cases, sometimes ten or more cases. Yet state disciplinary boards do nothing, and they allow incompetent doctors to continue to practice. Just weeding out that small number of bad doctors would save so many lives, let alone reduce the number of claims and lawsuits that are brought in the system.

RN: Let me ask you this, Joanne Doroshow. Auto insurance companies surcharge bad drivers. Do the malpractice insurance companies in the hospital and medical area surcharge bad doctors?

JD: No, they generally do not surcharge bad doctors. This is one of the types of insurance reforms that we and other organizations have always advocated. Instead, what insurance companies do is they rate doctors, depending on their specialty. But they don't look at their record. So the insurance companies perform no loss prevention role here, where they really could do more to keep the doctors with terrible malpractice records from practicing, just by charging them or making it impossible for them to get adequate insurance. So, they could be doing more. They don't do that.

RN: Why not? Why not?

JD: It's called experience rating.

RN: Why don't they?

JD: Well, I just don't think that it's a priority for them to reduce the claims. They make most of their money from investing the premiums that they collect from doctors, as do most insurance companies. It's how they make money, through their investment income. So they're happy just to continue to get the premiums in their pockets. They really don't focus so much on claims. And, you know, you hear them sort of complaining about it sometimes, but that's really not part of how they tend to manage their businesses. They much prefer to just continue collecting premiums.

RN: They're more investment companies than insurance companies in terms of their profits. Is that what you're saying?

JD: Yes, exactly. Insurance companies really are just big investment tools. I mean, their underwriting practices, the way they collect money, it's all about investing the premium dollars. And, they're not even supposed to make a profit, an underwriting profit. In other words, claims versus premiums type profit. They're not supposed to make money that way. And some of them still do. But, they also make a ton of money investing the premiums, so that's really what they've turned into, is big investment tools.

SS: That's what I've heard. You're always hearing stories about doctors having to give up their practice because malpractice insurance is so high. And I guess, it was either Public Citizen or you that did the study that said it is, the rise in malpractice insurance premiums have more to do with how their stock portfolios are doing. It's not correlated to lawsuits. Right?

JD: Oh, it's not correlated to lawsuits at all. I mean, it has nothing -- the way they rate, what they charge, has absolutely nothing to do with claims. And I should say that for the last ten years or so, medical malpractice insurance rates have been extremely stable and pretty low. The kinds of complaints that we hear about rates going up with doctors, we haven't heard those for about a decade. You know, they don't like paying premiums. But it's not like they're shooting up like they did in certain periods of time. This is called a soft market period that we're in. They're extremely low right now. So, there really is not much for them to be complaining about. And yet, doctors' lobbies are still going to legislatures around the country, trying to get even more liability protections for their malpractice than exist already. This profession, the healthcare industry, has more liability protection probably than almost any other industry or profession in the country and they still want more. They still want to continue to strip away the rights of patients who have been harmed. In Tennessee, for example, there's talk that they may try to put a constitutional amendment on the ballot so that they can get their damages capped, their compensation to patients capped. They don't stop, even though their insurance rates are stable, they already have lots of protections. Very, very few people sue who are victims of malpractice. I mean, that's the real scandal, is how many people who experience medical malpractice don't do anything in terms of filing a claim. It's a tiny percentage of patients who do that. So that means doctors and hospitals are committing malpractice and just getting away with it. That's the real scandal.

RN: And by the way, listeners, when somebody files a claim and wins a case, it isn't just compensation to the person filing the claim. There's disclosure about bad practices, like in anesthesia years ago, which are cleaned up because the media and others publicize what comes out of these lawsuits. And they stimulate federal and state regulators to issue safety standards. I know when I pushed for auto safety laws in the mid-1960s, I used information from tort law cases against the auto companies that we couldn't get anywhere else, from depositions and other material that the lawyers could get when they filed suit against General Motors or Ford or other companies. So remember, the law of torts not only deals with compensating you for your lost wages, pain and suffering, it also discloses information that our government bureaucrats are often scared to disclose, because lawyers have no such restraints. And it leads to across the board safety standards. Tire safety standards. Drug safety standards, etc. Medical device safety standards. So you're performing a public service, as well as pursuing your own legitimate interests. And Joanne Doroshov's group, Center for Justice and Democracy, is a huge repository of

information for all of these beneficial results from using the law that our founding fathers struggled to give you, the law of torts and the right of trial by jury. Has anybody from the insurance side, Joanne Doroshow, anybody from the lobbying side that wants to restrict liability cap damages for innocent, vulnerable people, have any of these people ever challenged you to a debate?

JD: No. Not in the sense of a direct challenge. I've been in situations where I have ended up debating people. But no, I've never been challenged in that way.

RN: Well, since they're so powerful, and they get the media, and they've got the money behind them, what are they afraid of? Why are they afraid?

JD: Facts.

RN: The main lobby - outside the corporations and the US Chamber of Commerce - that focuses on restricting your rights to have your day in court is the American Tort Reform Association. And it's run by a man who's called Tiger Joyce. I just learned he's making over \$400,000 a year plus benefits. Has he ever challenged you to a debate? Because he's pretty aggressive.

JD: No. I've never been challenged by him.

SS: You don't want to be challenged by somebody named Tiger.

JD: Oh, I wouldn't care.

RN: Yeah, well, you see, he's also a Princeton graduate, I'm sorry to say. And the mascot for Princeton is a tiger. But when it comes to Joanne Doroshow and challenging somebody who really can expose the fallacies of his argument, he's a pussycat. Now, tell us about Philip Howard, a partner of the corporate law firm Covington and Burling that has represented the tobacco industry, the drug industry, the chemical industry, and another baleful of tort feasers? Tell us. What does Philip Howard do? Why does he get such play in the op ed pages of the New York Times, Wall Street Journal, Washington Post, and you don't get any?

JD: Well, he's made a career out of attacking any kind of corporate regulation, and the civil jury system. And he does it not with facts but with a lot of inflammatory stereotypes about lawsuits and the need for

law in America. And he does that against a backdrop of unprecedented corporate misconduct as if none of that is happening. So, he gets an op-ed in the Wall Street Journal because that's how the editorial board of the Wall Street Journal views America. And he's -- talk about a lightweight. I've never seen anything that he's ever said or written that sources anything factually. He just engages in a lot of rhetoric and tries to accomplish something that way. But we don't engage in rhetoric. We try to engage in facts and source everything that we do. And I guess certain publications don't appreciate that. So you see more from Phil Howard than from us.

RN: Well, you know, well, Phil Howard gets a real pass. Because when he's identified for these op-ed features that he's allowed to put into big newspapers, they never identify him as a senior partner of Covington and Burling, the big law firm. They identify him with some nonprofit group that he started. I had the pleasure, once, of debating Phil Howard in Washington DC. And I had even more pleasure after it was over. Because, as you say, he can't argue the facts. And it's almost pathetic to see someone get so much mass media against the rights of the most vulnerable people in America, people and children who are wrongfully injured, and he never has to back up what he is saying. So I challenged him to another debate a few years ago. And he said only if I don't identify him as a partner of Covington and Burling. How about that?

JD: Oh my goodness. How dishonest.

SS: Joanne, I have another question. Are there any doctors or doctors groups who understand this? Or is this always just going to be a war between doctors and lawyers?

JD: Well, the problem is that organized medicine -- we're talking about the AMA, and, at the state level, sort of similar medical societies -- their agenda is to strip patients of their legal rights. And to the extent possible, lawsuits against physicians, no matter how reckless, no matter how awful the injuries, that's their agenda. The insurance issue, in other words, the rates that doctors pay, particularly when we're in periods of time when they're very high, upset doctors. But the lobby groups, number one, don't explain very well to doctors why their rates are going up. They try to shift all blame onto the patients and the lawyers who sue them, instead of the real culprits, which are the insurance industry. The insurance industry and how they rate doctors, and their underwriting practices. Sometimes during these periods you can get through to some of the individual physicians who are more concerned about their insurance rates than other things. But for the most part, they're being told by the organized medicine lobbyists that they need to blame patients, who have been injured for all of these woes. And so, it's very hard, sometimes, to get them either to understand it, or to shift strategy. I have oftentimes, when I am in situations where I'm talking to doctors or doctors' groups, asked them to join us in our efforts to enact state law that properly regulates the insurance industry, that will provide oversight over these practices. And I never get any cooperation from them. And it's just, you know, in a way, it's shocking to me. There are groups like in California, Consumer Watchdog, that have taken advantage of a very strong insurance regulatory law there called Prop 103, which has given the organization the ability to challenge rate hikes,

rate increases, has won these cases, and it's resulted in billions of dollars going back to doctors, in terms of lower premiums, and rebates, and so forth. So there's evidence that this is actually how it should be working. And there are groups like that, and like ours, that tries to work to get proper oversight over the insurance industry. But the groups that represent the physicians and the hospitals just won't join with us, and it's crazy. Because they're not the ones trying to fight for the doctors. We are.

RN: It's even worse than that. This is a profession whose members are involved in the loss of life, tens of thousands of people losing their lives through medical malpractice. Has the American Medical Association or any state medical association, ever put out a factual report about malpractice in their own ranks?

JD: No. They try to deny. Whenever the government puts out a study with alarming statistics about the number of medical errors, their position is to deny it or to try discredit it in some way. They just won't accept it. It's really outrageous. Because I think everybody listening probably has had some experience with the medical profession, either in a hospital or a doctor's office, where there's been some kind of negligence. It happens to everybody. And almost nobody ever does anything about it. But it is very common to experience something like that. And that's certainly what the statistics show. But it's just an outrage that these organized groups won't acknowledge it.

RN: There are some doctors who have spoken out about how bad some malpractice physicians have been, but they're scattered throughout the country. And although I love to refer to them, because they're very conscientious and they're very good doctors, they don't get much attention. But before we conclude, Joanne Doroshov, tell us about Governor Jerry Brown's history with the \$250,000 cap for pain and suffering that has been imposed since 1976 on tens of thousands of vulnerable victims of malpractice in California. And what can we do to change that? Because that has led to a lot of other states saying, well, if you can do it in Jerry Brown's Democratic California, why can't we do it in Georgia and other states around the country? Capping \$250,000 limit, no matter what the jury and judge think should be compensated.

JD: Yes, this is a very sad situation. In 1975, as you say, Jerry Brown was Governor the first time around. And he was one of the first people convinced by this notion that he had to restrict patients' rights in order to bring down insurance rates for doctors. We found out shortly after that, in the 1970s, that this was all wrong. And that none of this was connected. Claims and insurance rates were not connected and people shouldn't have had their rights taken away. But that law was put on the books in 1975 without even an inflation adjustment. So, recently there was, in the last election cycle, an attempt to try to just get an inflationary adjustment into that law. Because in 1975, a \$250,000 cap was worth what would be at least over a million dollars today. So, it's a terribly brutal cap. And all we were trying to do was get the cap raised slightly to keep up with inflation. The medical and insurance industry dumped a ton of money into the state, and ultimately convinced people not to do it. But Jerry Brown, who is now Governor, shouldn't have had to even go through something like that. He should just sign a law to do that. He

acknowledges, I believe, that what he signed back then was wrong, that he should not have signed it. But he won't take any steps today to fix it. So it's still the law in California.

RN: He acknowledged in the early 90s in a statement to the press, that it was mistake. He regrets it, and it should be changed. But now he has two thirds control of the legislature, dominating it, he's a popular governor, and he won't stand up for children, who are wrongfully injured, for the elderly who have no wage loss, for home makers who don't have a job but need to have compensation for pain and suffering in order to support their injuries year after year. Well, on that note, thank you very much, Joanne, Doroshow, for being on our show. And could you once again give your contact information? So people can avail themselves of the kind of information that will defend themselves, should they be wrongfully injured, whether on the streets, or whether in the marketplace, whether in a toxic environment, or whether in the workplace.

JD: Yes. Our website is centerjd.org, C-E-N-T-E-R-J-D dot O-R-G. And there you can find all kinds of information, as well as our contact information. If you'd like to receive updates for that from us there's a way to do it right on our website.

RN: Thank you indeed, very much, Joanne Doroshow.

JD: Well I just really appreciate your having me. Thank you.

RN: Okay. Thank you again, Joanne Doroshow, Executive Director, the Center for Justice and Democracy in New York City.

SS: That's right. Go to centerjd.org, that's center, jd, dot org. Now let's check in with corporate crime reporter, Russell Mohkiber. Russell?

RM: From the National Press Building in Washington DC, this is your Corporate Crime Reporter Morning Minute for Wednesday December 16th, 2015. I'm Russell Mohkiber. The Ethics and Compliance Initiative has released a discussion draft of a report defining the principles and practices of high quality ethics and compliance programs. The report was funded by the US Chamber of Commerce Institute for Legal Reform. The discussion draft was written by a, quote, blue ribbon panel, unquote, and identifies five principles common to high quality programs. Patrick Burns of Taxpayers Against Fraud is not impressed. "No one gave this panel a blue ribbon," he said. "And so, calling it a blue ribbon panel is a bit presumptuous. More accurately, it is a panel almost entirely dominated by people who are being paid to defend and apologize for companies facing fraud charges." For the Corporate Crime Reporter, I'm Russell Mohkiber.

SS: Thank you, Russell. If you have ever used the Uber app, or stayed at an Airbnb, you want to hear from our next guest. David.

DF: Steven Hill is a writer, lecturer, and a Senior Fellow with the New America Foundation. Mr. Hill is a frequent speaker on a wide range of topics related to politics, economics, climate change, global complexity, and future trends. His new book is *Raw Deal: How the Uber Economy and Runaway Capitalism Are Screwing the American Worker*. It's published by St. Martin's Press. Welcome to the Ralph Nader Radio Hour, Steven Hill.

SH: Thank you. It's my great pleasure to be here.

RN: Yes, welcome, Steven Hill. I want to start by describing your book as your publisher and you have described it, just to set a quick framework for our listeners. Because this is extremely important in the sense of the new kind of economy that Steve Hill is describing. Quote, "The US work force, which has been one of the most productive and wealthiest, is undergoing an alarming transformation. Increasing numbers of workers find themselves on shaky ground, turned into freelancers, temps, and contractors. Even many full time and professional jobs are experiencing this precarious shift. Within a decade, nearly half of the 145 million employed Americans will be impacted. Add to that the steamroller of automation and robots replacing millions of workers, and the job picture starts looking grim. Now a mash-up of Silicon Valley technology and Wall Street greed is thrusting upon us the latest economic fraud, the so-called sharing economy, with companies like Uber, Airbnb, and Task Rabbit, allegedly liberating workers to become independent and their own CEOs. In reality, workers are forced to take ever smaller jobs called gigs and wages, while the companies profit handsomely," end quote. So, let me tell you a personal experience I had. I was walking down the street, and I saw a couple flag the Uber car and start to get in for an evening on the town. It was Saturday. So I paused, and I said, "Excuse me. Why are you taking this Uber car, when there are cabs all over roaming around for business?" And they said, "Because it comes quickly, and it's more convenient to pay. Bye-bye." How would you answer them?

SH: The best friend of Uber has been the service of the taxi industry, which in city after city, has been sub-par for many years. And this is what has provided the opening for this rogue company to basically come in and refuse to follow any laws, whether they're local regulations for taxi type service or paying livery taxes. It's just kind of a robber baron company that's doing whatever the heck it wants. And people like it, because it's way better than taxis. And this is unfortunate, because, I mean, people are willingly going along with a company that's breaking the law like Uber is in city after city and even around the world. And it's kind of feeding into this what I call kind of pirate culture, where people are thinking, "Well, we don't have to follow laws. We don't have to pay our taxes. And when the government doesn't have taxes, then it can't do the good things that government can do with people's

taxes.” And so, there's a knock-on? effect. It's just an ongoing dynamic that is feeding itself. And I don't see it going anywhere good long term.

RN: Well, I like taxis better than Uber. And I take a lot of taxis in Washington and other cities. Why do I like taxis better than Uber? Because one: the taxi driver's got a full time job. There are often benefits. There's regulation. They have insurance. I see the picture of the cab driver with the number, his license number. And they know, usually, how to get around the city without GPS.

SH: Absolutely.

RN: And also, I feel I'm supporting someone with a full time job. I don't know who these Uber drivers are. I know they rate the customers and the customers can rate them. But I have no idea where they come from. I don't know whether they even know the city without GPS. I don't even think they're less expensive. Enlighten me. Am I missing out on something, Steven Hill?

SH: Well I mean, there's all sorts of issues that with Uber, having to do with inadequate background checks. They don't use the highest standard, which is fingerprinting. Taxis do. Inadequate insurance for drivers. And Uber is, in many cities, a bit less expensive than taxis because Uber has been engaged in a fare war with taxis, and also with it's competitors, Lift, and Side Car. And they're mounting this fare war on the backs of its drivers. They're lowering the drivers' wages. They've done it on a consistent basis. And as a result, Uber's own numbers -- so this is the best it gets -- Uber's own numbers show that most drivers last a year on this platform. And then these drivers move on because they realize, this company doesn't care about me. It's just about having a warm body in that car. And it's just not very attractive after you've been driving for an amount of time. But here's the thing. The people who like that car showing up so quickly compared to taxis -- 5, 10, 15 minutes -- what they don't realize, and we're only starting to put together, is that the way Uber has been able to accomplish that is they're flooding the streets with cars. You know, you basically have an industry in which there was a system for taxis, whether it's a medallion system or plate system, whatever it's called in different cities, where there was, on purpose, a limited supply of cars. That's what kept the wage somewhat high. That's what allowed it to be, to some degree, a middle class job. It's what kept the congestion down on streets. And now, in city after city -- I'm in Seattle right now, and I gave a talk last night. And said, have you noticed how your streets have become so congested? It's the same story in San Francisco, in New York City, Los Angeles. The streets are more congested than they ever were before. You just can't have this big fantasy of Americans to have your own private chauffeur that shows up whenever you want it by having a company that's flooding the streets with cars, and not have knock-on effects like increased congestion, more carbon dioxide being emitted. There goes your climate change goals in your cities, because this industry is bad for the environment. And so there's, I mean, people are only starting to realize, “Wow, it is really getting congested in a lot of these downtown corridors.” Maybe not so much in Washington DC, but it will. It will get there as they increase the number of cars.

RN: Steven Hill, let me ask you this question. When I get into a cab, that cab driver doesn't have a database invading my privacy over a period of time, who I go to, who I'm with. Tell the listeners how Uber, which claims it isn't even a transportation company. They say it's just a software --

SH: No, they say they're a technology company.

RN: They say they're a software company. Explain the kind of sensitive, intimate information they collect on people who use them.

SH: They have this technology that's used for tracking your information internally. They have some rather telling names for it. They call it God View. They also call it internally Creepy Stalker View. That's what they call their own software, because they can track people with this technology. Not only track you, the consumer. I interviewed one person for this book who was in an Uber in New York City, and he suddenly got a text from someone saying, "I'm in Chicago watching an Uber presentation, and we're tracking your car in New York in real time." And they also have used this technology to track journalists who make critical comments about them. They actually threatened to dig up dirt on one journalist, Sarah Lacey, for a publican in Silicon Valley called Pando. It's kind of a watchdog of Silicon Valley. And they didn't like what she was writing about them. She was saying that it's a sexist company, that it doesn't care about women, that its executives make sexist comments and run sexist ads. And so they said, you know, we could hire some journalists who have been laid off and need work to dig up dirt on these sorts of people. And so, you know, this is the type of company that you're dealing with here. It is basically a kind of Ayn Rand libertarian robber baron capitalism mentality that's running amok in our streets, by flooding our streets with cars and hoping in the process to drive taxis out of business and drive the ride-share competitors like Lift and Side Car out of business so that they have a monopoly on the transportation.

RN: But increasingly -- what's the name of the CEO founder of Uber? How old is he?

SH: Travis Kalanick. He's in his 40s, you know, he's a very typical CEO of Silicon Valley, you know, get government out of my way. Regulation is bad. It's all about me and my company. And they're heading for their IPO. It's a \$51 billion valued company at this point. That's almost as much as General Motors, even though Uber doesn't make a single car, doesn't own a car, and doesn't really, they claim, don't even employ any drivers, because they say they're all independent contractors. Which means they don't pay health insurance or any kind of safety net for these drivers. These drivers have no job protection. Recently, Uber just cut off the platform 350 drivers in Los Angeles because their acceptance rate was too low. Because the drivers in Los Angeles figured out when someone wants to just ride a mile or two, they're going to be sitting in congested traffic for 15 or 20 minutes burning off gasoline that they have to

pay for. They pay for all their own expenses as a driver themselves. And they're not going to make any money on that ride. So if these drivers truly are the CEO of their own driver's business, and they can't refuse a ride that they know they're going to lose money from, it's just, some of the claims made by Uber are just ridiculous. And going back to that congestion point, the other point I wanted to make was there's been some studies about these sorts of things now. And they found that 50% of the Uber riders in this one study, they said if they didn't have Uber available to use, instead they would be using public transit, or bicycling, or walking. So we've gone from people who were using other forms of transportation that are greener, better for the environment, to one that now is just belching more carbon monoxide and just driving around the city causing congestion. This is the knock-on effect.

RN: One thing I like about your book, Steven Hill, *Raw Deal: How the Uber Economy and Runaway Capitalism are Screwing the American Worker* -- it isn't just Uber by the way. He goes into others, Airbnb, that is encouraging apartment holders to evict tenants so they can have the space ready for Airbnb -- is that these companies are extremely aggressive in organizing their temporary employees into a lobby force against cities and states and foreign countries that want to regulate them the way they regulate the apartment building owners or the hotels or cab companies. Tell our listeners what happened when Mayor de Blasio of New York City had to back down because of what Uber did to lobby against him.

SH: Yes. Both Uber and Airbnb have been very sophisticated in being able to mobilize their customer base to lobby. Mayor de Blasio tried to suggest that Uber was in fact causing congestion in New York City. And Uber has hired as its chief PR flak, David Plouffe, who is the former campaign manager for Barack Obama in 2008. He's a brilliant strategist. And he pulled out all the stops. And he got the Democratic Party establishment to pressure de Blasio to back off on this. Now, and I should also mention. I'm in Seattle right now. The Seattle City Council has proposed legislation, and it looks like it's going to pass here, that would allow Uber drivers to engage in collective bargaining. Because as contractors, according to federal law, you're not allowed to form a union. But the local law would allow them to do a process that will be very similar to forming a union. David Plouffe came out here and spoke against it. So this is a leading Democrat, you know. He's very high up in the upper echelons of the Democratic Party. He came out here and took an anti-labor stance, saying these workers should not have the right to form a union. This is a battle for the soul of the Democratic Party, in the middle of a presidential election year. We'll see if this sort of creeps its way into the Hillary Clinton campaign at some point. And will she come out against collective bargaining for Uber drivers? This is going to be very interesting to watch.

RN: And, Steven Hill, author of the new book, *Raw Deal*, let me ask you this question. The profit margins for Uber are so fantastically high that they can go into a foreign country, or into a state or into a city, and basically say, we don't care about your laws. Sue us. Take us to court. We can get the best lawyers and pay 'em. And they've been prosecuted, haven't they, in France?

SH: Yes. They're being prosecuted. In fact the head of Uber in France is in jail right now awaiting trial for breaking the law. In South Korea there's a warrant out of the arrest of Travis Kalanick, the CEO of Uber, for breaking laws. I mean, here's the thing about Uber, as well as Airbnb. I mean, I'll use the Airbnb as an example. If I could just mention that real quickly, Airbnb is something that I think started out as a good idea. The idea that you could allow people to rent out a spare room in their home to make some extra money in a down economy. It seems like that's okay. But at this point it has become completely invaded by professional real estate operatives who are basically taking over the platform. And they now produce about 50% of Airbnb's revenue. And in order to clear buildings, they're, as you mentioned, evicting tenants. They're doing all sort of heinous things in city after city. I've interviewed many of the tenants who have been evicted, and they're in my book. But Airbnb will tell you that they're in 34,000 cities. And they haven't been paying taxes like hotels pay in any of these cities. They're now paying taxes in 12 cities. And they say, you know, "We want to pay our taxes. We want to be a good corporate citizen. But we just, you know, we're in so many cities, it takes so much time to figure out all the idiosyncrasies of each city. And so it's just going to take us time in order to get there." Well here's the thing. If you're Dupont, you can't set up a chemical plant in Seattle or San Francisco. If you're Boeing, you can't set up operations, or if your Microsoft or any of these corporations, you can't set up operations in some city somewhere and say, "We'll figure out the tax laws, and we'll figure out the local regulations later." Airbnb and Uber are asserting this new corporate right that we'll set up operations first, and figure out your local tax laws and your local regulations down the road when we can get around to it. I mean, imagine if all corporations did this. What kind of world we would live in. And so, we just can't let these companies get away with asserting this new corporate right, but that is exactly what they are doing.

RN: Well, I think, Steven, to be fair, I think Airbnb and Uber learned a lot from Amazon. Because Amazon sold in many states and got away with avoiding billions and billions of dollars of sales tax. So they had, like, 6, 7, 8% advantage against local merchants who had to pay sales tax.

SH: Well, the difference there, Ralph, was that Amazon, they actually allowed them to do it legally. You know. They tried to say, Congress said, "This company, it's new, we don't want to stifle it. We'll give them this little break by not having to pay sales tax." And now we see the impact of that. Amazon has wiped out Mom and Pop bookstores. They're becoming an octopus that is creeping into all sorts of other areas. And so, Uber and Airbnb argue the exact same thing. We're a new industry. You don't want to stifle innovation. Government, don't come in with a heavy hand. And now we're seeing impact. Congestion is in our streets. Labor laws, drivers who can't even make a decent wage. A lot of Uber drivers say they're not even making minimum wage, and they don't have any safety net. Airbnb, tenants being evicted all across the cities where they operate. These are the knock-on effects that we see as a result of taking a light hand on regulation of these companies. And it's just kind of amazing that Americans, we're so enamored with technology, I guess, that we are willing to fall for these arguments. You know, other countries look at Uber, for example, and they say it's a taxi company. I don't care if you connect drivers to passengers in a new way. It doesn't matter. There was a time when taxis didn't have electronic meters, either. Did that make them a technology company when they put meters in their cars? No. You're a taxi company. We're going to regulate you like a taxi company. It's only here in the US where we're like, "Oh my God, what is this thing? Is it a technology company? Is it some new animal

we've never seen before? How do we regulate this?" Instead of just keeping it simple, basic, it's a taxi company. Follow the laws.

RN: Steven, let's be fair. One of the arguments that the Uber people make, along with Airbnb, and one of the reasons they say they're being prosecuted and persecuted in places like Korea and France, is that they're challenging cartels. They're challenging industries that have gotten parliaments to turn them into exclusive monopolies. And they make the same claim for some of the taxi industry laws here. What's your argument against that?

SH: Well, I mean, there's a certain degree of truth to that. There's no question about it. And that's why I said at the beginning, that you know, the taxi industry and the way it's operated has been Uber's best friend. Because they always fall back on these arguments. But that's no excuse for becoming the company that it's becoming. Instead of treating its drivers better, and there might be some way, I mean, it was clear that there weren't enough taxis on the road to provide good service for people. That's absolutely clear. But the reason for that, there's actually a history to livery. And you can go back 200 years. And you can see that in times of economic downturn people jump into whatever vehicle they have to provide rides for money. You know, you can see Charles I in the 1600s saying, "Too many people with their horses and coaches on the road, we've got to regulate this." And then you go to the Great Depression. Same thing happened. People started using their cars. A lot of rogue taxi drivers were doing horrible things to patrons. There was an outcry from the New York Times and others saying, we need to regulate this. That's where the medallion system came from. And it was considered a good reform at the time. But you flash forward decades later, and suddenly now the medallion system has turned a lot of this into taxi cartels, monopolies, and these sorts of things. So this industry was ripe for disruption, as Uber likes to call it. Uber has now disrupted it quite, quite well. But it's time to now really look at our streets as a public utility. Ride sharing is here to stay. We're not going to stuff that genie back in the bottle. But we have to regulate it in a way that makes it work for everybody and not just this one company that wants to flood our streets with cars.

RN: Very quickly. We're running out of time, Steven. If you could answer some of these questions as briefly as possible. Have you ever used Uber, Lyft, Airbnb, or any of the others, like Task Rabbit?

SH: As research for my book I rode in Uber and Lyft. And, you know, so experienced the joys of the convenience of someone showing up in 10 minutes to pick you up. But now, you know, it's a clash of conveniences. They pick you up sooner, but now you're spending 15 or 20 minutes longer in the car to get from Point A to B because there's so much congestion on the road. I also, interestingly, became an Airbnb host just to find out what it was like. And it was amazing. I took photos of my house inside and out. And in 15 minutes, I was live as an Airbnb host. I mean, Airbnb has said we have 200 people working on safety and fire issues to make sure there's not problems. There was no contact with anybody at Airbnb. They didn't check me out. And I could have been using photos from Better Homes and Garden website. And it was live. And then, you know, they said, we give all of our hosts a free smoke and carbon

monoxide alarm. And so, I wrote to Airbnb saying send me my alarm. It didn't exist. They said, we send you a card where you can tell people, your guests, how to get out of your house in case of a fire. So there's so much smoke and mirrors with these companies, promising things and saying they're going to do things. And they never follow through.

RN: Let me ask you this question. Your book ranges way beyond taxis and apartments. Quickly talk about the expansion of this Uber-type economy throughout the entire economy. Because your book mentions it. Can you do that quickly?

SH: Yes, absolutely. That's what my book is mainly about. It's the impact of technology on jobs and the labor force. And so, we're seeing just a huge increase in contractors, temps, freelancers, who are working in this very precarious way now. They don't have access to safety nets. And the sharing economy, as it's called, or the share the crumbs economy, as I call it, they've created these apps that make it so much easier to hire and fire workers, that the danger is that everyone's going to become a contractor or freelancer. I'll give you an example. The pharmaceutical company, Merck: one of the biggest pharmaceutical companies in the world. They had a plant in Philadelphia. They sold the plant to another company. The company lays off all 400 workers, hires back all 400 workers as contractors. Because by doing that, they lower their labor costs by about 30% because you don't have to pay for health care, social security, Medicare. You don't have to pay for injured worker compensation. A lot of the workers who are working this way, Uber drivers included, get injured on the job. They have no injured workers compensation. And they have to pay for their own medical bills. And if they can't, if they're laid off and can't work while they're injured they have to subsidize that, too, out of their own pockets. So these are the types of jobs that in the aftermath of the Great Recession are increasing. And the good jobs we had before are decreasing. And this should be extremely worrisome to everyone who, you know, even college graduates who want to get out and have a good job, because the good jobs aren't going to exist anymore. I mean, I do believe that if we regulated these properly we could actually make them work. As I said, Airbnb started out as a good idea.

RN: Thank you very much, Steven Hill, author of the brand new book, Raw Deal.

SH: Thank you, Ralph. It's a great pleasure to be on the show with you and to discuss these very important issues.

SS: We've been speaking with Steven Hill, author of Raw Deal: How the Uber Economy and Runaway Capitalism are Screwing the American Worker. We'll post a link on ralphnaderradiohour.com for that. For more of Steven Hill's work, go to steven-hill.com. That's Steven, spelled S-T-E-V-E-N, dash Hill dot com. And that's our show. I want to also thank our first guest again, Joanne Doroshow, Executive Director of the Center for Justice and Democracy. She can be reached at centerjd.org.

DF: A transcript of this episode will be posted on ralphnaderradiohour.com.

SS: For Ralph's weekly blog go to nader.org.

DF: For more from Russell Mohkiber go to corporatecrimereporter.com.

SS: Remember to visit the country's only law museum, The American Museum of Tort Law in Winstead Connecticut. Go to tortmuseum.org.

DF: The producers of the Ralph Nader Radio Hour are Jimmy Lee Wirt, and Matthew Marron.

SS: By the time the program airs, Ralph, you will have just completed a cruise. We expect a full report when we come back.

RN: Okay. We'll do that. Thank you, David and Stephen. And let's be more active than ever, folks. It's all up to us, isn't it, in a democracy.

[music]

[Audio Ends]