



New laws affecting your practice

REMOTE DEPOS AND E-SERVICE WILL BE PERMANENT IMPROVEMENTS TO THE CIVIL JUSTICE SYSTEM

SACRAMENTO UPDATE

The 2020 legislative year was unprecedented to say the least. When the session closed on Sept. 30, less than half the typical number of bills had won final approval. Of those bills, a handful will have an impact on the civil bar. Three of the most substantial relate to the current realities for the courts amid the pandemic in order to better prepare for future emergencies.

Remote depos and SB 1146

When the pandemic hit and the Legislature shut down, civil litigants were left in a black hole, as statutory rules and procedures boxed them into an unworkable format given court shutdowns and shelter-in-place restrictions. As a workaround, Gov. Gavin Newsom granted authority to Chief Justice Tani Cantil-Sakauye in an executive order to begin making emergency rules and procedures. As soon as the chief justice was granted the necessary authority, Consumer Attorneys of California worked to make sure necessary emergency rules were adopted as soon as possible to allow civil litigation to continue during the pandemic. Once the Legislature resumed, Assembly Bill 3366 (sponsored by the Assembly Committee on Judiciary) statutorily enshrined that authority, giving the chief justice emergency authority to authorize certain actions by the courts in response to emergency conditions. This bill was an urgency measure and went into effect immediately when it was signed by the governor.

Senate Bill 1146, authored by Sen. Tom Umberg (D-Santa Ana) and co-sponsored by Consumer Attorneys of California and the California Defense Counsel, made permanent Judicial Council Emergency Rules 11 and 12 to allow for remote depositions and

electronic service. The new law also allows trial deadlines to be continued during the shutdown. This bill was also enacted as an urgency measure.

E-filing and AB 2165

Assembly Bill 2165 by Asm. Robert Rivas (D-Hollister), and sponsored by the Judicial Council, clarifies procedures governing electronic filing of court documents and became law on January 1. Of note are the procedures governing receipt and filing or rejection of electronically filed documents. When a person submits a document for electronic filing, the entity that receives the document must promptly send a confirmation of receipt indicating the time and date of the document's receipt. If the document meets all the requirements for filing and the fee has been paid, the court must promptly send confirmation of filing. If the document does not meet the requirements, the court must promptly send the rejection and reasons for rejection including the date the clerk sent the notice. The bill also tolls any applicable statutes of limitation for the period between when a complaint or cross-complaint is received and when it was rejected and provides the filer one additional day to submit the complaint or cross-complaint in a form correcting errors that caused it to be rejected. However, the party seeking tolling cannot make any changes other than those that caused the document to be rejected. AB 2165 also makes clear that all courts are not to charge fees for electronic filing and electronic service that exceed the court's actual cost for providing those services.

Attorneys can sign stipulated settlement agreement, AB 2723

Every year, Consumer Attorneys of California joins with the California Defense Counsel to craft legislation

addressing civil procedure efficiencies. This year the result was Assembly Bill 2723, which authorizes attorneys for parties in civil litigation to sign a stipulated settlement agreement on the litigant's behalf, relieving participants of travel obligations that can cause logistical headaches even in the best of times. The bill became law January 1 and should prove to be immediately useful as we remain socially distant during the pandemic.

Legal guardians bringing wrongful death actions, AB 2445

Assembly Bill 2445 by Asm. Eloise Gomez Reyes (D-Grand Terrace) closes a loophole in current law regarding a legal guardian's right to bring a civil action when a decedent dies due to the actions of another. In most cases, wrongful death suits are brought by the spouse, partner, or children of the decedent. If none of these relationships exist, the parents may bring a wrongful death cause of action. But neither California's wrongful death statute nor intestate succession statutes gives that right to a legal guardian. AB 2445 allows a decedent's legal guardians to file a wrongful death action in the same manner as a legal parent. An urgency measure, it went into effect September 9.

As we proceed into another year of the pandemic, CAOC remains resolute in our determination to push forward with good legislation for the sake of civil justice, your clients, the courts, and our democracy. Access to the courts and a functioning legal system remain our top goals for the coming year. On behalf of the CAOC legislative advocates, thank you for your continued support of the CAOC legislative program.

