



## Update from CAOC

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# CAOC Legislative report 2021 – not one tort reform bill passed!

A LOOK AT TRIAL LAWYERS' PRIORITIES WITH THE NEW LEGISLATIVE SESSION AS CAOC'S NOVEMBER CONVENTION APPROACHES

## SACRAMENTO UPDATE

We are pleased to announce that once again this year, despite continued challenges, not one tort reform bill passed the Legislature. Thank you for your continued support of our legislative program. Here's what happened to the bills we supported.

### Remote access and court efficiency – SB 241 (Umberg)

CAOC's top priority is ensuring access to the courts during the pandemic and equipping the courts with the tools needed to work through the backlog. We fought hard to obtain \$200 million that was restored to the courts and then \$60 million more earmarked for dealing with the backlog. However, remote access to courts could end without legislative action, and the gains we made during the pandemic would be lost. The rules now in place due to the State of Emergency that allowed the courts to pivot from in-person proceedings to remote expire 90 days after the emergency is lifted. If the rules expire without a new statute in place, courts would be forced to have in-person proceedings or telephonic hearings only.

A major union representing court reporters, the Service Employees International Union (SEIU), strongly opposed CAOC co-sponsored SB 241, claiming that remote proceedings will harm litigants and produce inaccurate court records. After months of negotiations led by CAOC's Nancy Drabble and Saveena Takhar and multiple twists and turns, a compromise was reached in the last week of session and we expect a signature.

Key provisions include:

1. Remote conferences, hearings and proceedings for all civil cases.
2. Trials and evidentiary hearings can be conducted entirely or partially through remote means, absent a showing by the opposing party as to why remote should not be allowed.
3. Expert witnesses can appear

remotely absent good cause to compel in-person testimony.

### Preserving human suffering damages post death – SB 447 (Laird)

Under current California Code of Civil Procedure section 377.34, defendants benefit from court delays, as victims' rights to non-economic damages die with them. California is one of only five states with this archaic rule. SB 447 addresses this injustice and applies to claims that were granted a preference before Jan. 1, 2022, and to all cases filed between Jan. 1, 2022, and Jan. 1, 2026. The California Medical Association strongly opposed the bill and launched a vicious misinformation campaign, claiming the bill would result in higher medical costs and was really just a ploy by plaintiff lawyers to collect higher fees. Despite CMA's opposition and its massive lobbying campaign, we were able to pass the bill through the Legislature and send it to the governor's desk

### Civil rights – SB 2 (Bradford/Atkins)

CAOC supports SB 2, which addresses the use of illegal force by enacting a decertification program for police who violate the law and overturns some existing immunities. CAOC was beyond disappointed that the key provisions to the Bane Act we fought so hard for did not remain in the final version of the bill. However, important provisions remain that ensure that officers *will not* have absolute immunity for injuring prisoners, refusing to provide them medical care, filing false police reports or planting evidence. The bill has gone to the governor's desk.

### Holding online marketplaces accountable – AB 1182 (Stone)

In January, we introduced AB 1182 to hold online marketplaces like Amazon to the same legal standard as traditional brick-and-mortar businesses when internet retailers place dangerous products in the stream of commerce. However, in April, the court affirmed

*Loomis v. Amazon*. (B297995 (Cal. Ct. App. Apr. 26, 2021).) The sweeping decision affirmed the basic premise of tort law is to deter and protect and held that online marketplaces must face strict liability. No exceptions were made. Given this wonderful decision, we decided legislation was no longer necessary.

### Protecting elderly nursing home residents – AB 849 (Reyes)

CAOC prioritized AB 849, which will overturn the horrible California Supreme Court decision *Jarman v. HCR Manorcare*, holding that statutory damages in residents' lawsuits alleging violations of regulatory resident rights are capped at \$500 per lawsuit, not \$500 per violation. This bill has gone to the governor's desk.

### Employee rights – SB 331 (Leyva)

We supported SB 331 to expand current protections against secret settlements to (1) cover settlement agreements involving all forms of harassment or discrimination and (2) address overly broad confidentiality and non-disparagement clauses. This bill has also gone to the governor's desk.

### State Bar's attempts at deregulating the practice of law

CAOC is also focused on stopping the State Bar's dangerous overreach to allow large tech businesses, hedge funds, franchisors and insurance companies to undermine the practice of law through their "Closing the Justice Gap" initiatives. Since 2019, we have been actively engaged in the State Bar's working groups and continue to fight against their deregulatory proposals, which will have serious and detrimental effects on Californians seeking access to justice.

Now is the time to plan for 2022 and beyond! Please send us your legislative proposals now at <https://forms.gle/ECiWo98cFbAzDLx58> and be sure to join us at the CAOC Convention in November to present your proposal.

