



Update from CAOC
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CAOC prepares to battle initiatives on attorney's fees, PAGA

ATTORNEY FEES BALLOT INITIATIVE WOULD CAP CONTINGENCY FEES AT 20%, AN UNPRECEDENTED LIMIT

SACRAMENTO UPDATE

In early October, three contingency fee initiatives aimed at the 2022 ballot were filed. All three are sponsored by the corporate-backed Civil Justice Association of California, and all limit contingency fees to 20 percent, with slightly different approaches. In our press release, CAOC's CEO Nancy Drabble said, "This is nothing but a breathless attempt by an organization desperate for political relevance to tip the scales of justice in favor of America's most heinous corporate entities: Big Tobacco, the fossil fuel industry and Wall Street banks. It should come as no surprise that these massive corporations are gearing up to spend millions of dollars just to make it harder for consumers to hold them accountable for wrongdoing. CAOC is committed to protecting consumers' rights – and we will stand up to fight any attempt at shutting Californians out of their right to justice."

The "Civil Justice Association of California" is a front for multibillion-dollar multinational corporations (including Big Tobacco, the fossil fuel industry, and Wall Street banks) that seek to restrict consumers' access to justice. CJAC filed three initiatives to keep their options open in determining which one they intend to financially back in order to gain the necessary signatures to place the measure on the ballot. CJAC misleadingly claims that, "Since 1946, the federal government has limited the amount attorneys can receive for settling cases against it to 20% of the amount recovered for their clients." In practice, this fee cap applies to very few cases, as the Federal Tort Claims Act is extremely narrow. Further, no state has a 20% cap on attorney fees in any capacity. The CJAC initiatives propose an unprecedented across-the-board limit on attorney fees.

In addition to capping contingency fees at 20%, two of the three initiatives specifically target attorney fees for claims brought pursuant to California's consumer protection statutes – the Unfair Competition Law (Bus. & Prof. Code, §§ 17200-17209), the False Advertising Law (Bus. & Prof. Code, § 17500), the Consumer Legal Remedies Act (Civ. Code, §§ 1750-1784) and the Song-Beverly Consumer Warranty Act (Civ. Code, §§ 1790-1795.8). These statutes allow consumers in California to bring a wide range of actions; common violations include false and deceptive advertising practices, fraudulent business practices, and product liability cases including defective vehicles.

Two days before the CJAC filings, the California New Car Dealers Association, the California Chamber of Commerce, and the Western Growers Association filed an initiative to abolish the Private Attorneys General Act (PAGA).

As recently as 2018, CAOC and our allies in organized labor, low-wage worker advocates and employment law handily overcame the threat of three initiatives and multiple pieces of legislation that would have dismantled PAGA. Now, likely due to our collective ability to protect PAGA in the state legislature, the opposition has decided to again look towards the ballot box to gut California's worker protections.

PAGA gives workers a chance to enforce their rights, including being paid minimum wage and overtime compensation, using earned sick leave, taking rest and meal breaks, and seeking gender pay parity. The law allows an individual worker to file a civil lawsuit in the name of the state and all their coworkers to recover penalties for violations of California's Labor Code. The initiative proposes California replace PAGA with a process that allows workers to recover penalties through the Labor

Commissioner, which will undoubtedly result in severe underenforcement.

The PAGA initiative's main goal is to prohibit representative or collective actions and any private enforcement of labor code violations. The truth is most workers are fearful of filing complaints against their employer, especially in the underground economy, where undocumented immigrant workers dominate labor forces in agricultural, garment, warehousing, and janitorial operations. That's why collective actions (where one or more workers represent all aggrieved workers) are so important. The proponents of this draconian initiative know there is strength in numbers, which is why their new rules would isolate workers, allowing them to recover penalties for themselves alone.

The PAGA initiative would result in an enormous cost to taxpayers and the state. California collected more than \$88 million from lawbreaking corporations in 2019 thanks to workers using PAGA to enforce their rights. If this initiative passes, California will lose this revenue from PAGA and will have to spend taxpayers' money to create and fund new enforcement institutions within the California Labor & Workforce Development Agency. This would lead to endless backlogs and delays for workers and a lack of accountability for employers who violate their workers' rights.

CAOC has already begun organizing against these anti-consumer and anti-worker initiatives and is actively mobilizing across the state. Join leading consumer groups and our incredible attorney supporters in safeguarding access to our civil justice system with a donation to CAOC's organizational and political efforts. To support our political efforts, go to <https://seekingjustice-caoc.com>. CAOC is taking these initiatives seriously, so stay tuned for our strategic plan.