



Sacramento Update Jacquie Serna

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Protecting justice for families

THE URGENT NEED FOR SB 29 TO PRESERVE PAIN-AND-SUFFERING DAMAGES AFTER THE VICTIM DIES

Ensuring justice for victims should not be a temporary privilege, but a permanent right. Senate Bill 29 (Laird), co-sponsored by Consumer Attorneys of California and the Consumer Federation of California, is a critical piece of legislation that removes the sunset provision on pain-and-suffering damages in survival actions (Code Civ. Prod., § 377.34). Without SB 29, this vital protection will expire in 2026, reverting California to an outdated and unjust legal framework that denies full accountability when victims die before their claims are resolved.

The importance of SB 29

California took a significant step toward fairness with SB 447 (Laird, 2021), which recognized that justice should not die with the victim. SB 447 ensured that families could continue pursuing pain-and-suffering damages even if the victim passed away before the case concluded. However, SB 447 included a sunset clause. Without SB 29, these protections will disappear, reintroducing an unfair standard that benefits wrongdoers who delay cases to escape full liability.

Pain-and-suffering damages are particularly crucial when victims do not have significant economic damages, such as seniors, children, low-wage earners, undocumented individuals, stay-at-home parents, and disabled persons. In these cases, pain-and-suffering damages often represent the most substantial component of a claim, making their elimination especially harmful to vulnerable groups.

Early opposition from the medical industry

The California Medical Association (CMA) and Californians Allied for Patient Protection (CAPP) are attempting to carve out an exemption from SB 29 for

medical negligence cases, a move that would deny accountability and strip families of their right to recover damages for their loved ones' suffering before death. This argument is not only unjust but also unnecessary.

Medical-malpractice cases are already subject to MICRA's damage caps, ensuring that awards remain within defined statutory limits. The fear of excessive jury awards in medical malpractice cases is unfounded, given that caps are firmly in place. SB 29 respects MICRA's limitations and was in effect when Assembly Bill 35 (2022) updated MICRA.

CMA and CAPP's claim that SB 447 was intended to sunset in 2026 is false – SB 447 (2021) explicitly required a review by the Judicial Council, which has since been completed. The final report found only four cases impacted by the law, none of which were medical malpractice cases.

Pain-and-suffering damages are not automatically granted in medical-malpractice cases. If a victim dies instantly, no pain-and-suffering damages can be awarded.

Only three states still allow pain-and-suffering damages to be extinguished upon a victim's death. California should not be among them. Justice should not expire simply because a victim does. Families deserve the right to hold wrongdoers accountable for the suffering they have caused. We urge lawmakers to support SB 29 (Laird) and ensure that California continues to stand on the side of justice and victims' rights.

Justice Day in Sacramento

Typically at CAOC events, we educate each other. But at Justice Day in Sacramento, we educate the people who make the laws we live by: members of the California Legislature. It's an important way for us to stand up for the civil justice system. For us to make a difference for

the people we represent, we need to meet the people who were elected to represent all of us. That's what we do at Justice Day, to defend the rights of California consumers.

The event starts Monday, April 7, with a Legislative Reception at the California Museum, followed by a nightcap at Cafeteria 15L hosted by the Orange County Trial Lawyers Association and the Capitol City Trial Lawyers Association. Then on Tuesday, April 8, we will meet with legislators and key staff members in their offices at the Capitol to discuss the issues and legislation that affect California consumers. Before we head to the Capitol, you'll learn about enacting meaningful social change from our advocacy team – and earn MCLE credit – at our opening breakfast.

Participation in Justice Day is FREE for CAOC members. If you're not a member, you can attend for \$99, and if you've never been a member, that fee includes your membership for all of 2025. Register at www.caoc.org/25JusticeDay. But register soon, as space is limited, and you must register by March 31 to be guaranteed legislative meetings.

Justice Day is our chance to communicate the crucial role we play in representing people who cannot afford a lawyer to help them at a pivotal time in their lives. The civil justice system will be stronger with your support.

Our legislative advocates have prepared an Issues Brief to help lawmakers understand the issues that are vital to your practice and your clients. It's online at www.caoc.org/?pg=IssuesOverview. Feel free to share this document and spread the word about the important rights we defend as consumer attorneys.

