



Update from Sacramento

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Let's be honest about our advertising

WE FIGHT THE GOOD FIGHT, YET SOME AMONG US ARE OUR OWN WORST ENEMIES

We are facing unprecedented challenges this year. And in every legislative hearing where a bill comes up that limits your clients' rights, a legislator points to the mass and unprecedented advertising, particularly in Los Angeles, that is occurring.

Here is brief recap of our challenges. Note that the Legislature ends this year on September 12, so all of this is fast moving, unpredictable and extremely concerning.

Rideshare cases

The California Assembly Insurance and Conveyance Committees both passed legislation (Senate Bill 371) that reduces California's current uninsured/underinsured motorist coverages from the current \$1 million (negotiated by CAOC in 2014) to \$100,000/\$300,000. This could be seen as a victory, as Uber wanted the limits to be reduced to \$50,000 and to include other, massive, tort reform. During the hearing, one legislator asked about the large billboard next to Los Angeles International Airport, which we have all seen. It states, "Uber-Lyft Lawyer 818-XXX-XXXX" right above the pickup area. The legislator made the point that he believes advertisers like this run up medical bills, increasing costs for everyone, and hence the need for lower mandatory insurance limits. This billboard was included in all Uber lobbying material. This issue will continue to be discussed, but one can expect Uber and Lyft to continue to strongly push this change.

Childhood sexual assault cases

CAOC has been working with public entities and survivor groups to find a balance between protecting survivor rights and recognizing the complexities of impact on public entity budgets. Again, legislators see and complain about the advertising in this area.

On April 28, a downtown Los Angeles law firm widely advertised on social media, "Our firm secured \$4 BILLION settlement for victims of abuse in LA County juvenile halls. NOW WE ARE HELPING THOSE HELD IN CYA (CALIFORNIA YOUTH AUTHORITY) FACILITIES." While undoubtedly effective in generating leads, the advertisement drew swift and negative attention from policymakers in Sacramento, reaching as far as the governor's office. This single, sensational promotion quickly became a centerpiece for tort reform advocates, who circulated it among legislators as alleged evidence of unchecked and

unethical attorney advertising. It directly fueled efforts to impose sweeping limitations on non-economic damages, including a proposal being aggressively advanced by the Los Angeles City Attorney. As a result, CAOC was compelled to divert significant advocacy resources to defend not only the legitimacy of such cases, but the credibility of our civil justice system more broadly.

Sexual assault survivors

Against this backdrop, CAOC remains committed to address the important goal of protecting the legal rights of sexual assault survivors, while also considering the legitimate concerns raised by public entities following the enactment of the "lookback" statute, which extended the statute of limitations for these cases. Assembly Bill 218 (Gonzalez, Chap. 861, Stats. 2019) amended C.C.P. section 340.1 to create a three-year "lookback window," which revived all civil claims arising from childhood sexual assault that were barred as of January 1, 2020. As amended by AB 218, C.C.P. section 340.1(a) provides that a victim of childhood sexual abuse may bring a claim: (1) any time before his or her 40th birthday or (2) within five years of the date that he or she discovered or reasonably should have discovered that the psychological injuries and/or illness suffered during adulthood were caused by the childhood sexual abuse, whichever period expires later (prior to the enactment of AB 218, the cut-off date was 26 years of age rather than 40, and the "delayed discovery" period was three years long, rather than five years). We are working very hard on a compromise in this area.

Public entity cases

Earlier this year, your advocates worked hard to prevent two bills from getting traction. One would have eliminated joint and several damages for economic damages against public entities. The other, mentioned above and being pushed by the Los Angeles City Attorney, would have capped attorneys' fees and limited non-economic damages to \$1 million.

We have met with various public entities, and they give us statistical data that shows increases in filings; they complain about several Los Angeles advertising firms that, they claim, include the state in claims where the state has no role. We understand the Government Tort Claims restrictions, immunities and filing deadlines on public entity cases and the need to often include

them; however, we ask that our members take a breath and include the state only where justified after due diligence. We envision tort reform legislation in this area and, unlike past years, we are going to have more political challenges due to increased scrutiny.

Advertising to victims of the fires

First, our hearts go out to Los Angeles and those of you who have clients, or who you yourself, have lost homes. Over 60 fire-related bills have been introduced in the legislature, and there is increased concern over the fire's impact not only on victims and communities, but on the sustainability of the Wildfire Fund.

Part of that discussion, again, has been the large amount of advertising for fire victims. One large Los Angeles billboard pictures burnt out cars and reads, "\$50 billion fire lawsuit 818-XXX-XXXX." This is terrible on so many fronts. This comment is not aimed at 99.9 percent of CAALA and CAOC members, but please, for the others, just stop and think about what your advertisement looks like to the public and legislators. Please think about your duty as an attorney to protect not just your clients but the rights of future victims and of our profession. Your advocates have spoken to very high elected officials on fire issues; there is a constant complaint about this type of advertising and what they see as the inclusion of "exotic claims" in the fire litigation.

CAOC-sponsored bill

As a reminder, Senate Bill 37 (Umberg), sponsored by CAOC, strengthens oversight of attorney advertising by toughening advertising rules and closing enforcement gaps. Specifically, SB 37:

- Attacks the illegal practice of "capping," which occurs when a non-lawyer steers a case to a particular lawyer for financial gain. SB 37 would allow consumers to directly enforce the law by holding lawbreakers accountable.
- Cracks down on third-party, often out-of-state, "lead generators" who make unrealistic promises and aren't being held accountable.
- Updates the definition of attorney advertising in statute to better encompass a broader range of communication methods in line with the State Bar Professional Conduct Rules.
- Tightens statutory prohibitions on misleading attorney advertising. 📄