Update from Sacramento

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2026 presents threats and opportunities

WE FACE NEW CHALLENGES ON THE RIGHT TO SUE PUBLIC ENTITIES, RECOVER ON BEHALF OF ABUSED FOSTER CHILDREN AND ADULT SURVIVORS OF CHILDHOOD ABUSE. HOMEOWNERS RIGHTS ALSO UNDER ATTACK

The threat level is high, unpredictable and, frankly, scary. We are clearly at a turning point for the legal rights of the consumers we represent. Now is the time to assess, plan, and act.

Limits on public entity liability

Broad limitations on the right to sue public entities

The city attorney of Los Angeles and those of various other counties and cities are pushing for catastrophic changes to limit the rights of those injured by those entities, including caps on non-economic damages and attorney fees, changes to joint and several liability, limits on the ability to file against public entities, and restrictions on what constitutes constructive notice for public entity cases.

Elimination of the rights of foster children to recover for negligence

The main insurer of foster family agencies (FFAs) has largely withdrawn from the market, in California and nationwide. This insurer, the Nonprofits Insurance Alliance of California, is not regulated by the Department of Insurance, and it appears its underwriting practices were incompetent or negligent, probably both. As a result of its own ineptness, they are now demanding a near-total elimination of the rights of foster children who have been abused or killed due to FFA negligence.

Restrictions on the rights of adult survivors of childhood sexual abuse

With the enactment of AB 218 (Gonzalez, Chap. 861, Stats. 2019) and its three-year revival window, school districts and counties have raised concerns about the cost of defending against AB 218 cases. Childhood sexual abuse cases against school districts and other public entities are complex, hard-fought, and require a deep understanding of an intricate and ever-changing body of law. Last year, Senator John Laird introduced SB 577 to advance the critical goal of protecting the legal rights of sexual assault survivors while also addressing legitimate concerns raised by public entities following enactment of the "look-back" statute, which extended the statute of limitations for these claims. SB 577 ultimately stalled due to overreach by certain lobbying groups representing Los Angeles Unified and County, which demanded caps on non-economic damages and fees, an increase to clear and convincing evidence in these cases, and an age limit of 26 to bring cases. Because of this overreach, no provisions to balance these rights were enacted last year. This year, tort reform efforts continue, including, but not limited to, the introduction of legislation creating a "litigation fund" for these cases. CAOC remains firmly committed to policies that prevent abuse and protect survivors' rights. We will continue to engage in thoughtful policy discussions and pursue targeted legislation that responsibly balances these objectives.

Limits on homeowner legal rights in fire cases

The January 7, 2025, Eaton wildfire killed 19 people and destroyed 9,414 structures in Altadena and surrounding areas of Los Angeles County. The fire burned 14,021 acres before being declared fully contained on January 31. First and foremost, any policy discussion must prioritize the recovery of homeowners and others directly affected by the fire; robust laws and legal rights are crucial to that recovery. However, last year the Legislature passed SB 254, which requires the California Earthquake Authority to report recommendations to the Legislature by April 1, 2026, including recommendations to limit recovery in utility-caused wildfire litigation, specifically restrictions on recovery of attorney's fees, limitation on economic/noneconomic damages, limitations on public entity claims, limitations on claims outside the fire perimeter, and an aggregate limitation on liability per event. CAOC will prioritize defense of these legal rights, but we expect organized and well-funded pushes to limit the use of inverse condemnation, limit fees, and limit damages.

Other threats

Limits on construction defect cases

There is a significant threat this year to limit rights of those harmed by construction defects, due to the lagging construction of condos and to the misplaced allegation that limiting legal rights will improve our affordable housing crisis.

Mandatory disclosure of client non-recourse advances to defense counsel

A key goal of the U.S. Chamber of Commerce and of the American Property Casualty Insurance Association is to require plaintiffs to disclose to defense counsel any funding a plaintiff has received. CAOC opposes such mandatory disclosure.

Limits on the ability to enforce the California Invasion of Privacy Act

There is a continuing effort to weaken private enforcement of this important privacy act. CAOC will continue to engage and protect.

It's time to plan and act

Together, we can defeat these proposals – but only if we all join together. Your legislative team needs your support of our President's Club. Our PAC needs your support. Our effort to defeat the Uber initiative needs your support.

Finally, a personal plea. Please, view any of your advertising or social media posts through this lens: How would this look in a commercial or legislative piece seeking damage or fee limits? This also applies to employees and even your own family members with public ties to your company. It's crucial to have this conversation with anyone who represents your firm. In a demand to the Legislature for limits on attorney's fees, damage caps and other anti-plaintiff legislation, this is an exact quote from one city's material: "Some of the plaintiffs' attorneys are bragging about their wealth on social media. Meanwhile the City has had to dip into rainy day reserves to meet operating expenses to serve the community."

Let's do better when we post on social media. Let's fight to protect our clients' rights. Let's win.