



## Update from CAOC

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# Eyes on the goal

“CIRCUMSTANCES MAY CAUSE INTERRUPTIONS AND DELAYS, BUT NEVER LOSE SIGHT OF YOUR GOAL.” — MARIO ANDRETTI

## SACRAMENTO UPDATE

It is safe to say that 2020 has caused interruptions and delays and yet opportunities as we navigate this very strange and unprecedented coronavirus pandemic. Yet here at Consumer Attorneys of California we never will lose sight of our goal: Protecting your clients' legal rights and your practice while maintaining a robust civil justice system.

### Legislation

As we entered 2020, CAOC had an ambitious legislative program, designed after input from our members. In what seems decades ago, we were very optimistic about our agenda of maintaining and improving adequate court funding while sponsoring several watershed bills, including a measure to increase the state's wildly outdated mandatory auto financial responsibility limits and legislation to prohibit secret settlements in cases involving public hazards. Due to the changed world and the Legislature's narrowed focus on COVID-19 and wildfire-related legislation, those two bills will not be proceeding this year. We are disappointed but have resolved to resurrect those efforts in 2021.

Despite these new challenges, we have worked to keep the rest of our legislative package on course. It includes a bill that would hold online retailers like Amazon to the same longstanding product liability law that applies to brick-and-mortar retailers (AB 3262 by Asm. Mark Stone). AB 1286 (Asm. Al Muratsuchi) seeks to prohibit damage caps related to e-scooter click-and-accept waivers. SB 1146 (Sen. Tom Umberg) makes permanent the pandemic-inspired emergency rules that have allowed remote depositions and e-service. Most of our bills are already heading to the

Assembly and Senate floors for their next vote.

### Court impacts and tort challenges

Two main crises arose after the governor issued stay-at-home orders on March 19, 2020. First and foremost, the horrific impact on our courts. As the backlog builds, court leaders are announcing their intent to push civil cases to the back of the line, possibly until 2021 or later. CAOC has been advocating to both the Legislative and Judicial branches that our California courts must find a way to operate during the crisis and utilize technology going forward.

Second, the governor's office told CAOC on April 19 that a broad and sweeping executive order would be issued imminently to immunize broadly any person, entity, or equipment related to or that provides health care services related to COVID-19 or "COVID impacted care," which could be twisted to mean just about anything, including reckless conduct, nursing home elder abuse and more.

You can imagine our concern. CAOC advocates and leaders have been working nonstop to stop or narrow the proposal, including creating a coalition that includes the AARP, California Advocates for Nursing Home Reform and others. That coalition has held press conferences, generated an avalanche of sympathetic press coverage, and launched a grassroots campaign that includes a website, digital advertising, and other advocacy efforts. As of this writing, we remain hopeful that an executive order, if issued, will be far narrower in scope.

Meanwhile, in another tort war threat, employers are also seeking broad business immunities. In early May we saw efforts by Republicans, anti-civil justice groups and the California Chamber of Commerce give employers broad immunity for actions taken during the

COVID-19 pandemic. We took immediate action and worked with organized labor to fight the proposal, which would jeopardize the health and safety of workers as well as the general public.

In the meantime, we have defeated nearly a dozen other major tort bills in 2020, with most being in the employment arena. This year we stopped a major effort by the Chamber of Commerce to undermine the Private Attorneys General Act as well as efforts by a small business coalition seeking a "PAGA moratorium" during the COVID-19 pandemic. Other bills that we halted included four measures designed to undercut the *Dynamex* gig-economy decision, and a bill that would nullify overtime pay for farm workers.

### Low-ball insurance offers

One of the top complaints we've heard from members during the pandemic lock-down is that insurers are leveraging the dire circumstances to low-ball settlement offers with the cynical belief that financial need is high among plaintiffs and civil recourse is slim with the courthouse shutdowns. CAOC's strength resulted in the Department of Insurance issuing a notice, warning insurers that if they continue with these unfair settlement practices the commissioner's office intends to exercise full authority to issue civil penalties up to \$10,000 for each act.

In closing, I would like to thank you for your continuing efforts to support CAOC as we work 24/7 to protect your practice and the rights of your clients.

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