



Update from Washington

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Journal of Consumer Attorneys Associations for Southern California
ADVOCATE

November 2022

Senate passes Speak Out Act by voice vote

ALSO: MORE SPECIAL MASTERS FOR VACCINE COURT AND CHANGES TO FEDERAL RULES OF CIVIL PROCEDURE

WASHINGTON UPDATE

I would like to talk about something that affects *us all*: voting. AAJ's Voter Protection Action Committee has national and state alliances with voter protection coalition partners and has determined where we need lawyer volunteers in the pivotal midterm elections. There are Republican, Democrat, and non-partisan volunteer opportunities available.

With the future of civil justice at stake, I urge you to sign up today at www.justice.org/VPAC. If you have questions, email Tara Lee at tara.lee@justice.org.

Senate passes Speak Out Act by voice vote

On September 29, the Senate passed the Speak Out Act by voice vote. This bipartisan, bicameral bill will limit the enforceability of pre-dispute NDAs relating to sexual misconduct. The bill does not cover NDAs as part of settlement agreements.

The bill has cleared the House Judiciary Committee, and AAJ strongly supports a floor vote in the House when the House returns after the midterm elections. An estimated one-third of private sector workers in the U.S. have signed NDAs. This bill is a huge step towards ending the use of NDAs that silence victims of sexual harassment and assault.

Key provision provides important relief after New Mexico fires

A key provision was included in government funding legislation (Continuing Resolution) enacted into law in September that will allow recovery against the federal government for people and businesses that lost homes and livelihoods to the Hermit's Peak and Calf Canyon fires in New Mexico.

The federal government lost control of a prescribed burn, which caused the New Mexico fires. This resulted in significant damage and loss for these communities. It was the largest and most

destructive fire recorded in New Mexico history.

AAJ worked on the legislation with the bill sponsors in the New Mexico delegation to ensure a strong remedy for victims and strongly advocated for its inclusion in the must-pass government funding legislation.

House committee sends Vaccine Injury Compensation Modernization Act to House

On September 21, the House Energy and Commerce Committee voted unanimously to send the Vaccine Injury Compensation Modernization Act (H.R. 3655) to the House. This bill, which amends the Public Health Service Act, would provide long overdue updates to the Vaccine Injury Compensation Program (VICP) by:

- Increasing the number of special masters authorized to hear claims brought in vaccine court from a maximum of eight to a minimum of 10.
- Requiring the chief special master to report on the number of pending petitions and hearings scheduled and provide recommendations related to whether additional special masters are necessary.

While the number of required and approved vaccines has increased dramatically since the program's inception in 1986, the number of special masters hearing claims in the program has remained the same. By increasing the number of special masters, this bipartisan bill, sponsored by Reps. Doggett (D-CA) and Upton (R-MI), would provide faster relief to individuals and their families who have suffered from vaccine-related injuries.

Federal rules

AAJ has a robust federal rules program to shape amendments to the Federal Rules of Civil Procedure and the Federal Rules of Evidence. Since states largely copy these amendments, it is

important to enact the best possible amendments at the federal level. We want to advise of two amendments taking effect on December 1, 2022 – a new amendment for Social Security cases and a new disclosure rule that will help keep state cases in state court.

- The new Supplemental Rule for Social Security Review Action establishes new procedural rules for cases under the Social Security Act in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to section 405(g) of title 42 of the United States Code. These are the rules to be used if your client is denied Social Security benefits and that denial is appealed to federal district court, which is the forum to hear appeals of benefit denials.

- The amendment to Rule 7.1(a)(1) requires the filing of a disclosure statement by a nongovernmental corporation that seeks to intervene, and an amendment to Rule 7.1(a)(2) creates a new disclosure to facilitate the early determination of whether diversity jurisdiction exists under section 1332(a) of title 28 of the United States Code or whether complete diversity is defeated by the citizenship of a nonparty individual or entity because that citizenship is attributed to a party. The courts want this rule because they don't want cases on their dockets that should properly be in state court. The new rule should result in earlier remands as well as earlier determination as to who are the real owners of a corporation.

Fighting for you and your clients

Thank you for your continued support. AAJ remains committed to fighting for access to justice for your clients. We will keep you informed about important developments and welcome your input. You can reach me at advocacy@justice.org. 