



## Update from CAOC Nancy Peaverini

CAOC LEGISLATIVE DIRECTOR

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**ADVOCATE**

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# “Kill Bill(s)”

## THAT’S PART OF THE JOB AT CAOC

We are well into the 2023 legislative year and into “second house” committees. Last month, we had great news on two CAOC-sponsored pieces of legislation. First, our legislation to continue remote appearances was signed by Gov. Newsom as part of the 2023 budget. CAOC was a strong supporter of remote access to the courts and worked with leadership and stakeholders including legal aid and dependency counsel to craft Senate Bill 241 (Umberg) in 2021. That bill was given a very short sunset of July 1, 2023. CAOC joined with California Defense Counsel and the California Judges Association to co-sponsor SB 21 to extend that sunset to January 1, 2026, for civil cases.

Second, Gov. Newsom has signed CAOC’s SB 652 (Umberg). The bill codifies long-standing law regarding the standard for expert witness testimony. SB 652 will ensure that, when testifying to a jury, all experts provide their opinion to a reasonable degree of probability. A reasonable degree of probability means that the expert is testifying that their stated cause of injury was more likely than not the cause of the person’s injuries.

A recent isolated court decision threatened to undermine the credibility of expert witness testimony. *Kline v. Zimmer, Inc.* (2022) 79 Cal.App.5th 123 review denied (Aug. 31, 2022) upends current law by allowing only defense experts to testify to any “possible” cause

of injury rather than what “more likely than not” caused an injury. SB 652 clarifies Evidence Code section 801 to ensure all experts must testify to a reasonable degree of probability based on their field of expertise. This would codify the standard that had been consistently relied upon for decades and will ensure only reliable testimony is presented to juries.

At CAOC we not only sponsor important new bills, we also “kill bills” that are harmful to consumers and your practice. Some of the bills CAOC defeated or amended so far this year include:

- SB 581 (Caballero) As introduced, would have required any funding provided to plaintiffs via non-recourse advances or any litigation attorney funding to be disclosed, made discoverable and made admissible to all parties and defense counsel.
- AB 1095 (Low) Would have drastically reduced the financial responsibility insurance requirements required for “peer to peer” car sharing, such as Turo and GetAround.
- AB 1155 (Flora) Would have created a safe harbor in the law stating that if an industry standard was met, the defendant (including utilities that cause wildfires) would have a presumption that the standard of care was met.
- SB 592 (Newman) Would have protected employers who violate the law by providing a defense to liability

if the employer relied on a department advisory, advice or nonlegal opinion.

- SB 331 (Niello) Would have undermined the Private Attorney General Act by enacting restrictions on plaintiffs who file PAGA actions.
- AB 1031 (Rubio) Would have undermined current law on employee rest period violations by creating exemptions when certain rest periods are interrupted or not taken.
- SB 731 (Ashby) As introduced, would have detrimentally changed the law related to reasonable accommodations for remote employees.
- SB 554 (Cortese) Would have reenacted the currently expired informal discovery conference statute, but without any of the reforms CAOC has requested.
- SB 875 (Glazer) An industry-sponsored bill, would have enacted provisions beneficial to residential facility referral companies without any consumer protections.
- AB 635 (Flora) Would have granted broad immunities from liability to spacecraft entities.
- SB 41 (Cortese) Would have retroactively wiped out existing cases against airlines for wage-and-hour violations against flight attendants and pilots.

As always, thank you for your support of CAOC’s legislative program.

