



CONSUMER ATTORNEYS OF CALIFORNIA

Seeking Justice for All

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2019 Legislative Wrap Up

2019	Total
Bills Introduced and Read	3033
Bills Tracked by CAOC	303
Sponsored	9 Introduced 8 Chaptered
Supported	67 (34 Chaptered)
Opposed	18 (0 Chaptered)

A Grand Slam

2019 legislative year in review.

By Nancy Peverini, CAOC Legislative Director

If Consumer Attorneys of California was a baseball team, we just won the World Series. We went 8 for 8. We even hit a couple grand slams.

Gov. Newsom signed all eight CAOC-sponsored bills that reached his desk. We defeated every single tort reform bill that was introduced and got more money for new judges. Further, our AB 51 (Gonzalez) addressing forced arbitration was the only bill on the California Chamber of Commerce's so-called "Job Killer" list to be signed by the governor.

While our advocacy team is proud of these accomplishments, CAOC could not have these successes without the support of CAOC leadership, members and political contributors, so thank you. CAOC's team works for you and your clients. This year, after input from our members, we prioritized court funding, forced arbitration, victims of sexual harassment and assault, the legal rights of abused elderly, race and gender bias in the jury process, asbestos victims, and civil procedure reform.

We faced an uphill fight on our efforts to restore the courts. This past January, the governor earmarked \$327 million for court funding in his first draft of a 2019-20 budget but offered nothing for new judgeships. CAOC worked diligently to turn that around. We successfully advocated for 25 new judicial appointments, which should help in our on-going battle to ensure that court rooms are available for you and your clients. And we're not done. Short of a collapsing state and national economy, we're expecting to push for more judges in 2020.

On the arbitration front, CAOC, along with the California Labor Federation, sponsored first-in-the-nation legislation (AB 51, Gonzalez) to prohibit employers from forcing workers to waive as a condition of employment their basic legal rights under the Fair Employment and Housing Act or the Labor Code. It also prohibits employers from discriminating or retaliating against a worker who refuses to sign an arbitration agreement. This new law will take effect Jan. 1. We also worked with the California Employment Lawyers Association (CELA) on SB 707 (Wieckowski) to address the increase in defendants who refuse to pay arbitration-provider fees in an effort to stop the commencement or continuation of an arbitration proceeding. The new law states that if the fees or costs required to continue the arbitration proceedings are not paid within 30 days of the due date, a respondent is in material breach of the arbitration agreement, allowing the case to proceed to court.

The governor also signed key CAOC bills aimed at helping victims of assault and illegal employment practices, including AB 1510 (Reyes) which revives time-lapsed claims for sexual assault victims such as those victims of USC's Dr. Tyndall, and AB 9 (Reyes), which extends the deadline for filing harassment, discrimination, and other FEHA violations with the Department of Fair Employment and Housing from one year to three years. CAOC also prioritized AB 218 (Gonzalez), the most far-reaching childhood sexual abuse law in the nation; it increases the statute of limitations to age 40 and gives survivors who just discovered abuse five years to sue. Finally, on other key employment bills, CAOC supported priority legislation to strengthen our labor laws, including AB 749 (Stone) to prohibit settlement agreements that contain a provision that restricts an employee from working for the employer against which the employee has filed a claim and SB 142 (Wiener) to expand worker protections for lactation accommodation requests.

Other CAOC-sponsored bills signed by the governor include SB 41 (Hertzberg) to prohibit the use of racial and gender-bias data in determining civil damage awards for personal injury or wrongful death actions, ensuring women and people of color are not deprived of fair compensation; SB 314 (Dodd) to clarify that abandonment is included in the Elder Abuse Act, an issue that arose after seniors were abandoned in care facilities following the 2017 Wine Country fires; SB 645 (Monning), co-sponsored by the State Building Trades and Iron Workers union, to protect plaintiffs who are dying from mesothelioma or silicosis from abusive depositions by limiting depositions to seven hours; and SB 370 (Umberg) to require that all documents or category of documents produced in response to a demand for inspection, copying, testing, or sampling be identified with the specific request number to which the documents respond.

One issue that we will continue to work on in 2020 involves the proliferating micro-mobility industry of rental e-scooters and bikes. AB 1286 (Muratsuchi) would prohibit “click and accept” waivers of liability and impose minimum insurance requirements related to the e-scooter industry in California. AB 1286 is now a two-year bill and will be heard in January, though the Senate will be holding fact-finding hearings on this important issue in November 2019.

Meanwhile, for the tenth straight year, CAOC defeated every major tort reform bill introduced in 2019. Our lobbying team carefully monitors legislative amendments daily to watch for tort reform attacks. Among the bad bills CAOC defeated: fee limitations, class action bans, Private Attorney General Act (PAGA) limitations, anti-employment bills and a bill that would have stated that public entities could destroy audio and video recordings at any point, obliterating important evidence.

Other key legislative issues in 2019 included employee classification, wildfires and consumer privacy. CAOC supported the new law found in AB 5 (Gonzalez codifying the California Supreme Court decision in *Dynamex Operations West, Inc. v. Superior Court of Los Angeles (2018) 4 Cal.5th 903* across all Labor Code, Unemployment Insurance Code and wage orders of the Industrial Welfare Commission. Wildfire liability, especially with the PG&E bankruptcy, was at the legislative forefront in 2019. We worked daily to make sure the legal rights of victims were protected, supporting AB 1054 (Holden), a measure signed by the governor that addresses fire safety and assists victims. Importantly, all efforts by the utilities to restrict liability were defeated by CAOC. On the privacy front, CAOC and privacy rights groups successfully protected the landmark California Consumer Privacy Act, which includes a data breach private right of action.

As we head into 2020 and beyond, we face challenges and opportunities. One challenge will be to address the State Bar Task Force’s report on Access Through Innovation of Legal Services (ATILS), which included 16 possible options for changing the regulations governing the practice of law in California. CAOC opposes most of the recommendations as we believe they will harm consumers’ access to civil justice. About 95% of the proposals would require legislative and statutory changes and CAOC intends to be aggressively involved.

Another challenge continues to be the detrimental effect of the *Howell* decision and liens. In 2018, the California Department of Public Health attempted through the budget process to limit recovery for Medi-Cal liens. CAOC successfully defeated this proposal and CAOC worked with state health officials to produce a concise roadmap through logjams. You also probably saw the May, 2018 decision, *Pebley v. Santa Clara Organics*, holding that in instances that an injured plaintiff elects not to use his or her medical insurance there are no limitations on the lien-based medical expenses that may be presented to the jury subject to expert testimony on reasonableness. Our lien committee continues to work on this issue and CAOC’s amicus committee will monitor it for any needed action.

There are many issues already in the hopper as we look towards 2020. CAOC has subcommittees working in the following areas: cyber security/privacy, sexual harassment, liens, fire/homeowner’s insurance, autonomous vehicles, civil procedure, elder abuse, arbitration/arbitrator ethics, childhood sexual abuse, PAGA, employment and minor’s

compromises. Additionally, the CAOC membership has voted to prioritize and CAOC plans to introduce legislation in 2020 to modernize our outdated Financial Responsibility minimum mandatory auto insurance limits, which currently stand as a nationally low \$15,000/\$30,000/\$5,000. We have already activated a legislative and grassroots campaign this year to lay the groundwork.

While we celebrate this year's victories for consumers, we also continue to focus on finding new ways to build strategic alliances and awareness of our causes, which continually face big business opposition. Facing challenges in the pursuit of justice is what we do; it is what you do. And we can succeed. This fight will not be easily won, but it is one we will continue to wage in years to come. It is our collective job (we, as advocates, you as CAOC members) to build relationships with state lawmakers, support CAOC's political program and explain the importance of the civil justice system and its impact on their constituents. This work doesn't happen overnight, and we must remain collectively diligent at this crucial task.

The CAOC legislative attorney/advocacy team (Nancy Drabble, Nancy Peverini, Lea-Ann Tratten, Jacquie Serna and Saveena Takhar) would like to particularly thank 2019 President Mike Arias, 2020 President Micha Star Liberty, and 2019 Legislative Chair Debbie Chang for their efforts this session. We also thank our partners in the Communications Department (Eric Bailey, J.G. Preston, Sharon Scott, Chris Weaver), CAOC's grassroots and political team (Samantha Helton, Paul Woods, Mark Wirth), CAOC legislative support staff (Beverly Johnson), our excellent contract advocates (Shane Gusman, Matt Broad, Christy Bouma and Meagan Subers) and the rest of the talented CAOC staff. As always, thanks for your support of CAOC's legislative program.

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