



# CONSUMER ATTORNEYS OF CALIFORNIA

*Seeking Justice for All*

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## LEGISLATIVE WRAP UP: 2017

By Nancy Peverini, Esq., CAOC Legislative Director

2017	Total:
<b>Bills Introduced and Read</b>	2980
<b>Bills Tracked by CAOC</b>	261
<b>Sponsored</b>	7 Introduced 5 Chaptered
<b>Supported</b>	62 (30 Chaptered)
<b>Opposed</b>	26 (0 Chaptered)

What a crazy year 2017 turned out to be. With the election of President Trump, it was crucial that California continue to lead on consumer protection efforts. While our partners at AAJ continue the federal fight, CAOC fought hard to successfully defeat all tort reform bills introduced in 2017. Further, CAOC passed positive legislation limiting forced arbitration in fraud cases, ensuring that attorney voir dire is protected, and protecting abused children, among other bills.

**TORT “DEFORM” LEGISLATION KILLED:** During 2017 we turned back every measure pushed by the tort reformers. Among them:

- MICRA limits for Caltrans claims (AB 965-Kiley)
- Limits on PAGA Suits (AB 281-Salas, AB 945-Melendez, AB 1045-Flora, AB 1429-Fong, AB 1430-Fong)
- Limits on asbestos victims’ claims (AB 1056-Kiley)
- Contingency fee limits (AB 1146-Flora)
- Prevailing attorneys fees for toxic polluters (AB 1621-Allen)
- Limits on construction defect claims (AB 1489-Brough)
- Weakening wage and hour laws/Changes to meal and break laws (AB 1173-Harper, AB 1174-Harper, SB 524-Vidak, SB 662-Berryhill)
- Limiting regulation and oversight of doctors (SB 572-Stone)
- Immunity for owners of dangerous boilers and tanks (AB 1389-Bigelow)
- Public entity immunity for fire rings (SB 720-Allen)
- Limits on disability access claims (AB 150-Mathis, AB 913-Gray)
- Elimination of consumer protections for insureds (AB 1679-Burke)

- Immunities for realtors (AB 1289-Arambula)
- Immunities for nitrate polluters (AB 1605-Caballero)

### CAOC SPONSORED BILLS

Through your input and suggestions, Consumer Attorneys of California sponsored seven bills this year. Five were signed, including our big sponsored bill to address forced arbitration and prevent another Wells Fargo-sized scandal, one has been vetoed and the last is going to move forward next year. Meanwhile, we continue to work behind the scenes on other issues, like liens. Here is a rundown of our 2017 legislation:

FORCED ARBITRATION: SB 33 (Dodd), signed by Gov. Jerry Brown, will prohibit financial institutions from forcing customers to give up their legal rights via forced arbitration when the bank has committed intentional fraud or identity theft, as occurred with the Wells Fargo fraud scandal.

FAIR AND IMPARTIAL JURIES: SB 658 (Wiener), signed by Gov. Brown, will address the issue of unreasonable and arbitrary restrictions on attorney examination of potential members of a jury.

PROTECTING SENIORS: AB 859 (Eggman), which Gov. Jerry Brown vetoed on Oct. 2, would have prevented the intentional destruction of evidence in cases involving physical abuse of elderly and dependent adults. The bill would have allowed elder abuse civil neglect cases to be enforced using a preponderance of the evidence standard.

IMMIGRANT LEGAL RIGHTS: AB 1690 (Assembly Committee on Judiciary), signed by Gov. Brown, will clarify that California Civil Code §3339, which states that a person's immigrant status is irrelevant to liability issues, applies to consumer protection laws in addition to the listed labor, employment, civil rights, and employee housing laws.

HELPING SEXUALLY ABUSED CHILDREN: SB 755 (Beall), signed by Brown, addresses abusive defense psychological exams of children who have been sexually abused by creating a three hour presumptive time limit on these exams.

COURT ASSISTANCE: AB 644 (Berman), signed by Brown, extends the requirement that counsel for parties in civil litigation engage in a meet and confer process before demurrer, to the substantially equivalent pleadings of motions to strike and motions for judgment on the pleadings.

HELPING ASBESTOS VICTIMS: SB 632 (Monning) will be heard in 2018. It clarifies that dying asbestos victims receive the benefit of current law that provides a presumptive time limit of a seven-hour deposition for dying victims.

You can view any bill at [www.leginfo.legislature.ca.gov](http://www.leginfo.legislature.ca.gov).

We have also been busy on plenty of other fronts, by working behind the scenes in the budget process to aid your practice and by killing bills that could hurt the legal rights of your clients. For example, we had a lot of activity on liens in 2017. Liens remain a major issue, especially in light of *Cuevas v. Contra Costa*. CAOC's amicus committee engaged with appellate counsel on *Cuevas*, and our lien committee remains active as well. CAOC battled the Department of

Healthcare Services in its effort to eliminate the 50% rule. At CAOC's urging, both houses of the Legislature rejected the DHS budget play. The Department, however, continues to press for the change. We will carry on our fight to protect this equitable rule.

### CAOC AMICUS COMMITTEE

CAOC's amicus committee, led by Co-Chairs Sharon Arkin, Lee Harris and Kevin Green and by Staff Counsel Saveena Takhar, had another successful year shaping consumer law, filing almost a dozen amicus briefs. More than 80% of the amicus committee's work takes place in the California Supreme Court. The committee's volunteer writers contribute their valuable time, without reimbursement, to craft thoughtful and compelling briefs that shape the law governing your practices. Given its capacity, the committee has been strategic in choosing where to allocate its resources

One important victory in 2017 was addressing discovery available under PAGA. In *Williams v. Superior Court* (2017) 3 Cal.5th 53, the plaintiff sought contact information for employees statewide who worked for Marshalls department stores. The trial court restricted contact information to one store – where Williams worked. The motion was denied as to all other Marshalls stores unless Williams could show his PAGA action was meritorious. Reversing unanimously, California Supreme Court held that good cause was not required for the discovery that Williams sought. As the court observed, PAGA fills a void left by lack of “adequate staffing and resources” at government agencies “to police labor practices throughout an economy the size of California’s.”

### LOOKING AHEAD TO 2018

There are many issues already in the hopper as we look towards 2018. CAOC has subcommittees working in the following areas: Equifax/cyber security/privacy, sexual harassment, liens, fire/homeowner's insurance, autonomous vehicles, intermediate case tiers, nursing home staffing levels, and minor's compromises.

We do face serious obstacles in 2018. Three initiatives have been filed to limit PAGA claims, which if qualified will appear on the November 2018 ballot. CAOC is actively investigating and researching the initiatives. Other obstacles include well financed corporate Democrats, term limits, and the fact that there are few attorneys in the Legislature. However, CAOC and our members continue the important job of pushing pro-consumer legislation and building relationships with lawmakers. Our efforts are paying off, as evidenced by our successes in 2017. 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, and you, as CAOC members) to build relationships with the legislators, to support CAOC's political program and to explain the importance of the civil justice system and its impact on their constituents. It doesn't happen overnight and we must be vigilant about this crucial task. We could not have done this without the CAOC membership, and we thank you

The CAOC legislative counsel/advocacy team (Nancy Drabble, Nancy Peverini, Lea-Ann Tratten, Jacquie Serna and Saveena Takhar) would like to particularly thank 2017 President Greg Bentley, 2018 President Lee Harris, and 2017 Legislative Chair Mike Arias 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 support team (Paul Woods, Mark Wirth, Samantha Helton), CAOC legislative support staff (Alex Galeana) and the rest of the talented CAOC staff. As always, thanks for your support of CAOC's legislative program.

As always, thank you for your support of Consumer Attorneys of California.

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