

## LEGISLATIVE LAW

### End of 2007 Legislative Session Report

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The 2007 Regular Session of the California State Legislature has been adjourned. The next Regular Session will commence in January 2008. As this report goes to press, the Special Session called by Governor Schwarzenegger to tackle the issue of healthcare continues. However, it does not appear at this time that a comprehensive reform measure will be enacted. Prior to the start of the Special Session, the Governor vetoed AB 8, the comprehensive healthcare bill authored by Assembly Speaker Fabian Nunez (D-Los Angeles) and Senate President Pro Tem Don Perata (D-Oakland). While not a universal healthcare coverage measure, AB 8 would have enabled significantly more Californians to obtain health insurance. SB 840, the single payor universal healthcare bill discussed in detail in the October 2007 issue of *TRIAL BAR NEWS* (at page 5), was withdrawn from the Assembly floor by its author, Senator Sheila Kuehl (D- Santa Monica), in the face of a certain veto by the Governor.

Other bills of interest to consumers fared as follows:

**SB 93:** This bill, introduced by Senator Ellen Corbett (D-San Leandro), would prohibit the amount paid by Medi-Cal from being considered as evidence of past medical damages in a third-party lawsuit. The plaintiff would be entitled to introduce evidence of all reasonable and necessary medical expenses, and the treating medical providers could receive payment for the reasonable value of the services provided, rather than being limited to the amount reimbursed by Medi-Cal. **SB 93** was supported by a coalition of consumers, healthcare providers and consumer attorneys. The bill passed both the Assembly and Senate, only to be vetoed by Governor Schwarzenegger. Two virtually identical bills carried by then Senator Martha Escutia (D-Norwalk) passed the Legislature in 2004 and 2005, and were also vetoed.

**AB 1043:** Assembly Member Sandre Swanson (D-Oakland) authored this bill which would make void and unenforceable any provision in an employment contract that requires an employee, as a condition of obtaining or continuing employment, to use a forum other than California, or to agree to a choice of law other than California law, to resolve any dispute with an employer regarding employment-related issues that arise in California. **AB 1043** passed the Assembly and Senate, but was vetoed by the Governor.

**SB 936:** This bill, authored by Senator Perata (D-Oakland), would have increased the benefits paid under the Workers Compensation system to permanently disabled workers over a three-year period. These workers, who include those who have suffered the most catastrophic types of disabilities, such as brain or spinal cord injuries, have seen their benefits cut by 50% or more as a result of the legislation passed in 2003. Subsequent insurer profits have risen substantially. **SB 936** attempted to increase the benefits from what is currently the lowest level in the nation for severely injured workers. After passing both the Assembly and Senate, the bill was vetoed by the Governor.

**AB 1636:** Assembly Member Tony Mendoza (D-Norwalk) authored this bill, which would have expedited the provision of job retraining vouchers to disabled workers whose work-related disabilities prevented them from returning to their former employment. This bill was also vetoed by Governor Schwarzenegger after passing the Assembly and Senate.

**Job Killer Bills:** The California Chamber of Commerce labeled a series of pro-consumer bills, including several of those discussed above, as “job killer” bills which, if allowed to become law, would allegedly have harmed California business. All were vetoed by the Governor, who set a new record by vetoing 22% of all the bills that came to his desk for signature. However, a few bills strongly supported by CAOC were signed into law, as discussed below.

**AB 500:** This bill, carried by Assembly Member Ted Lieu (D-Torrance), gives parties to general civil cases statewide the right to appear telephonically at case management conferences, trial setting conferences, law and motion hearings (other than motions in limine), discovery motion hearings, post-arbitration or mediation status conferences, and other types of hearings. The court may, on a hearing-by-hearing basis, find that a personal appearance would materially assist in the determination of the proceedings or effective management or resolution of the case. This quickly became a “consensus” bill which passed the Assembly and Senate without any significant opposition, and was signed by the Governor.

As discussed in the November issue of *TRIAL BAR NEWS* (at p. 5), **AB 1264**, prohibiting judicially mandated severance of DOE defendants or dismissal of DOE defendants before the conclusion of introduction of evidence at trial, has been codified as part of Government Code §68616.

**SB 183**, which provided that the right to bring an elder abuse claim passes automatically to the personal representative or, if none, to an interested intestate heir or other interested person as defined by Probate Code §48, when the victim of the abuse does not survive, passed. This bill specifies that an “interested person” does not include a creditor or a person who has a claim against the estate who is not an heir or beneficiary of the decedent’s estate.

**SB 611** (Senator Daryl Steinberg, D-Sacramento) also passed. It permits the use of attachment law in cases involving financial abuse against an elder or dependent adult, whether or not other forms of relief are demanded.