



California Law Update: Recent Case Decisions/Legislative Activity & Implications for HRM

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Sailing Through Uncharted Waters:
Navigating Risk in a Changing World

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Settlement Funds



Party who wires settlement funds in best position to avoid fraud to avoid sending to an imposter – *Thomas v. Corbyn Restaurant Development Corp (05/27/2025)*

Confidentiality of Medical Records



Health & Safety Code section 1280.15 is another legislative mandate related to prevention of unauthorized access to confidential medical information in addition to HIPAA and the CMIA
– *The Regent of the UC v. CDPH (09/23/2025)*

Conditions of Admission – Assignment of Benefits



Hospital COA including assignment of insurance benefits held to be unenforceable – *Dameron Hospital Association v. Progressive Casualty Ins. Co.* (05/27/2025)



Service of Process on Corporation



- Evidence supports proper substituted service at defendant's usual place of business – *Lee v. Yan* (10/31/2025)
- Evidence did not support valid service where substituted service was found to be invalid and default judgment should be vacated – *Chinese Theater LLC v. Starline Tours USA, Inc.* (11/06/2025)
- Service on a corporation through the Secretary of State pursuant to Corporations Code section 1702 is available under certain circumstances – *Socal Lien Solutions, LLC v. BDB Properties* (12/31/2025)

MICRA



Under prior MICRA statute, trial court properly reduced jury award for non-economic damages for defendant's percentage of fault after applying the \$250,000 cap – *Snover v. Gupta* (11/18/2025)

California Supreme Court reverses and rules that MICRA's one year statute of limitations does not apply to driver's claim from being rear-ended by ambulance but rather two-year general negligence statute of limitations - *Gutierrez v. Tostado* (07/31/2025)

Offers to Compromise (CCP section 998)



Parties may agree to their own allocation of costs and fees as part of a settlement agreement while Section 998 provides a default rule for cost shifting measures – *Madrigal v. Hyundai* (03/20/2025)

Discrimination



Statute preventing misgendering patients at long term care facilities survives constitutional challenge as a means of regulating discriminatory conduct – *Taking Offense v. State of California* (11/06/2025)

Sealing of Records



Court determines that request to seal civil harassment records was properly denied based upon failure to meet California Rules of Court requirements – *Marino v. Rayant* (04/18/2025)

Use of AI



Attorney who used AI-fabricated (i.e. hallucinated) legal authority violated California Rules of Court and warranted imposition of monetary sanctions. – *Noland v. Land of the Free, L.P.* (09/12/25)

New Senate Bill (SB)-574 Umberg – entitled: “Generative artificial intelligence: attorneys and arbitrators” provides in pertinent part, that attorneys shall:

1. Not use generative AI to unlawfully discriminate against or disparately impact individuals or communities based on age, ancestry, color, ethnicity, gender, gender expression, gender identity, genetic information, marital status, medical condition, military or veteran status, national origin, physical or mental disability, political affiliation, race, religion, sex, sexual orientation, socioeconomic status, and any other classification protected by federal or state law;
2. Verify the accuracy of generative artificial intelligence material, including any material prepared on their behalf by others;
3. Correct any erroneous or hallucinated output in any material used by the attorney;
4. Provide that a brief, pleading, motion, or any other paper filed in any court shall not contain any citations that the attorney responsible for submitting the pleading has not personally read and verified, including any citation provided by generative AI.

Motion for Summary Judgment



A co-defendant with an adverse interest has standing to oppose a motion for summary judgment by co-defendant regardless of whether it filed a cross complaint – *RND v. County of San Bernardino* (06/30/25); *Bean v. City of Thousand Oaks* (09/29/25)

Government Claims Act (GCA)



Plaintiff is excused from compliance with the GCA's presentation requirement based upon failure of public entity to register named public entity affiliated entity with the Registry of Public Agency – *Black v. LACMTA/Public Transportation Services Corporation* (12/02/2025)

Reptile Theory / Other Forms of Attorney Misconduct



New trial granted based upon PC's violation of motions in limine relating to projecting Reptile Theory argument, misleading the court and making improper arguments including impugning the integrity of defense counsel – *Allen v. Patel* (12/23/25)

Arbitration



Plaintiff conduct constituted waiver of right to claim arbitration pursuit where party had earlier sought injunctive relief and jury trial, opposed a demurrer and propounded over 700 discovery requests – *Hofer v. Boladian* (05/09/2025)

Opposing Party's Use of Privileged Communications



Trial court did not abuse its discretion in disqualifying an attorney who received privileged information from opposing counsel and refused to destroy it as well as shared with its experts – *Johnson v. Dept. of Transportation* (03/17/25)

Miscellaneous



Defendant failure to object to setting trial date beyond statutory period for bringing action to trial was not an agreement to extend the deadline – *Randolph v. Trustee of Cal State University* (01/15/2026)

Foreign state law requiring a certificate of merit in medical malpractice actions conflicted with federal rules regulating civil procedure, federal rules prevail – *Berk v. Choy (U.S. Supreme Court)* (01/20/2026)

Legislative Activity 2025



Sexual Assault – Statute of Limitations

– AB 250 – extends the eligibility period for revival of claims that would otherwise be barred prior to January 1, 2026 where the alleged perpetrators or entities engaged in a cover up or attempted cover up of previous instances or allegations of sexual assault by an alleged perpetrator



Legislative Activity 2025



Elder Abuse and Dependent Adult Civil Protection Act – AB 251 –
authorizes court to apply a preponderance of the evidence standard in lieu of clear and convincing re any claim versus certain sub acute care facilities for remedies sought pursuant to the Act upon circumstances of in which spoliation of evidence has been committed

Legislative Activity 2025



Death Certificates– AB 583 – authorizes the medical and health section data and the time of death on a death certificate to be completed and attested to by a licensed nurse practitioner in the case where a patient is in a skilled nursing or intermediate care facility.

Legislative Activity 2025



Medical Chaperones – AB 849 – requires a licensed health facility that offers a sensitive examination to provide written notice to patients that a medical chaperone will be provided to observe the sensitive examination subject to the patient’s declination.

Legislative Activity 2025



Nurse Anesthetists – Scope of Practice – AB 876 - provides certified registered nurse anesthetists (CRNA) authority to practice independently – and not be limited to the scope of practice of RN’s in performing anesthesia services – they also would not have to perform anesthesia services pursuant to standardized procedures.

Legislative Activity 2025



Patient Directories (Acute Care Hospitals) – AB 894 - requires general acute care hospitals, beginning July 1, 2026, to inform patients or their representatives of the patient’s right to opt out of the patient directory. Such hospitals must verbally inform patients during the intake process, as well as update the “Acknowledgment of Privacy Rights” form to include a checkbox allowing patients to opt out.

Legislative Activity 2025



Physician Assistants – AB 1501 - extends the authority of the California Department of Consumer Affairs’ Physician Assistant Board (the “Board”) through January 1, 2030, increases the physician-to-PA supervision ratio from 1:4 to 1:8 in all settings, and directs the Board to study scope-of-practice structures—with input from stakeholders—to evaluate potential models from other states that could benefit California.

Peremptory Challenge protocol used in criminal cases no longer coming to civil courtrooms



- Code of Civil Procedure section 231.7 – no sunset provision not applicable to civil lawsuits - utilized in criminal cases since 2022 - SB 645
- Burden on party utilizing peremptory challenge to rebut invalidity presumption on 13 grounds based upon clear and convincing evidence.
 - Expression of distrust in law enforcement or criminal system
 - Having close relationship with people who have been stopped, arrested or convicted of a crime
 - Having child outside of marriage
 - Receiving state benefits
 - Not being a native English speaker
 - The ability to speak another language
 - Dress, attire, or personal appearance
 - Employment in a field proportionately occupied by members of protected classes
 - Lack of employment or under employment of juror or family member
 - Any justification that is similarly applicable to a questioned prospective juror, but were not the subject of a peremptory challenge

Current Status of SB 29 –Pain and Suffering Damages in Survival Claims

SB 29 was designed to modify Code of Civil Procedure section 377.34

SB would extend the SB 447 window – allowing pain and suffering and disfigurement damages from the current sunset of January 1, 2026 to January 1, 2027

SB 29 died in committee last year – currently held on the inactive file in the Assembly.

But, it is a two-year hold over bill and could still be rendered active likely with modifications.

Because SB did not advance, the temporary expansion to allow pain and suffering under SB 447 has expired, California has reverted to its pre-2022 rule, which bars recovering noneconomic damages such as pain, suffering and disfigurement.

Questions?

Thank you!

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Thank you!