

CA: Statute of Limitations for Personal Injuries and Summary Judgment Notice Period Are Extended

October 3, 2002

California employees now have more time to bring lawsuits for personal injuries and employers have less time to build their defenses under new legislation signed by Governor Davis on September 10, 2002. California Senate Bill 688 will have a dramatic impact not only upon employment law claims, but also on all other forms of litigation.

The bill increases the statute of limitations to sue for personal injuries from one year to two years. The law is retroactive with respect to claims arising from the September 11th terrorist attacks, but operates prospectively to all other claims. The governor claims the extended statute is consistent with the laws of other states.

Another aspect of SB 688 also will impact the procedure and strategy in defending employment lawsuits by effectively shortening the period of time employers will have to prepare their cases. The new law requires summary judgment motions to be filed more than three months prior to the trial date, which results in an accelerated discovery phase of litigation before a motion for summary judgment must be filed.

California Senate Bill 688: Lawsuit Filing Period / Summary Judgment Motion

Purpose: Extends the statute of limitations for personal injury torts from 1 to 2 years. Revises the service deadlines, continuance procedures, and appellate review of motions for summary judgment by extending the service deadlines from 28 to 75 days, by allowing additional discovery after continuance, as specified, and by requiring a reviewing court to allow supplemental briefing on grounds granting summary adjudication not relied upon by the trial court, and to make technical changes.

Effective Date: January 1, 2003, except the statute of limitations extension applies retroactively to claims arising from the September 11, 2001 terrorist attacks. There is uncertainty regarding how the courts will impose the summary judgment notice requirements for cases with trial dates in early 2003 where it would be impossible to give 75 days notice of a summary judgment motion.

Consequences: Makes it difficult for employers to file timely motions for summary judgment under the "fast-track" litigation rules. Permits plaintiffs' attorneys to wait until a defendant's motion for summary judgment is filed to conduct discovery relative to defeating the motion for summary judgment.

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