

JULY 2024

900 words? Too few to explain what is happening

Uber and Lyft; also foster-child neglect, non-economic damages caps

I've been asked to give 900 words on what's going on in Sacramento. That's a hard ask, but I will try.

Ever heard of Uber? With CAOC's good work, and with the help of our then-President Chris Dolan, we secured first-in-the-nation insurance requirements for Transportation Network Agencies like Uber and Lyft. In 2014, AB 2293 (Bonilla) enacted requirements for Transportation Network Companies (TNCs) and was supported by the Personal Insurance Federation of California, other insurers, and CAOC. CAOC has recently heard that Uber is seeking legislation to reduce the amount of uninsured (UM) and underinsured (UIM) insurance coverage from the current $1 million to $30,000 per individual and $50,000 per accident, quite the change and so detrimental to passengers injured in these accidents.

The proposal to change insurance requirements for TNCs is quite complex. When originally negotiating financial responsibility with Uber, Lyft and other TNCs, careful thought and significant discussion was given to the need for, and amount of, insurance TNCs should possess to protect the public, TNC users and TNC drivers. As a result, there was a three-tiered formula based on the nature of the activity that the TNC was engaged in at the time of an accident.

Period One is the period where the app is on and the driver is waiting to connect with a rider (no request made/accepted).

Period Two is the time between a ride request being accepted and arriving at the pickup location.

Period Three occurs when the rider enters the vehicle through the period of discharge or ending of the trip by the driver through the app (whichever is later).

In Periods Two and Three, there is a requirement for $1 million in coverage to protect a third party injured by the fault of the TNC driver. In Period Three, there is also $1 million in coverage to protect the driver and the passenger if they are hurt through the fault of a negligent driver who does not have adequate insurance (UM/UIM).

CAOC is opposed to last-minute attempts to change these limits and welcomes any examples you may have on how the current limits work.

Still battling for foster children

And, just when you thought it was towards the end of the legislative year, a new proposal has been introduced to limit claims brought on behalf of neglected foster children. CAOC must strongly oppose AB 2496, a bill with serious policy implications for vulnerable children in the foster system. This bill guts decades of negligence law and restricts the legal rights of foster children, those who need the strongest, not weakest, protections under the law. AB 2496 would change long-standing negligence principles for one industry (foster family agencies, or FFAs) and make it harder for children to recover, recuperate and heal after an FFA's negligent acts. We owe abused and neglected children a higher duty than to entirely re-write the law that limits their legal rights.

Caps on non-economic damages

CAOC is still monitoring legislative attempts to limit non-economic damages or other tort reform from public entities. You will recall that the Los Angeles City Attorney was seeking a legislative author for a proposal to cap non-economic damages to three times actual damages or $1 million, whichever was less. CAOC advocates jumped into action, and the bill was not introduced, but the threat remains. Bills can be amended at any time. We are also hearing rumblings because of childhood sex abuse cases that were re-opened by a CAOC-supported proposal, now law, to allow victims of childhood sex abuse to file claims.

On the positive front

CAOC opposed and deterred or defeated:

- Los Angeles City Attorney proposal to cap non-economic damages against public entities to three times economics, or $1 million, whichever is *less*.
- AB 1897 (Flora), which would create a "loser pays" attorney fee law in all California cases.
- SB 1470 (Glazer), which would limit homeowner's rights in construction defect litigation.
- SB 1296 (Niello), sponsored by Liberty Mutual and the American Property Casualty Insurance Association, which would overturn longstanding judicial interpretation law by prohibiting the use of secondary sources in insurance cases.
- AB 2972 (Mathis), which would change employment law related to overtime.
- SB 1479 (Alvarado-Gil) and AB 2635 (Irwin), which would immunize "agritourism" businesses such as pumpkin patches or "u-pic" farms from civil liability.
- AB 1928 (Sanchez), which would overturn the *Dynamex* case related to independent contractors.
- SB 1149 (Niello), which would immunize the state for specific bridge collapses.
- AB 2568 (Pacheco), which would give employers carte blanche to aggressively surveil workers with practically no safeguards.

CAOC negotiated the following bills to remove opposition

- AB 2049 (Pacheo), which is a California Defense Counsel and California Judges Association bill to give judges six extra days to consider the reply for a motion for summary judgment. CAOC negotiated amendments that will prohibit the defense from raising new evidence, material facts, or a separate statement with their reply brief and will prohibit multiple motions for summary judgment absent good cause.
- SB 1141 (Niello) would allow a judge to mandate mediation for cases where the amount in controversy is $150,000 or less (current law is $50,000). CAOC removed our opposition after amendments to add five limitations to the bill, including that mediation must be free of cost, cannot delay a trial date and must be set 120 days before trial; counsel for each party must have full authority to settle; one party must opt in to mediation, and the mediation mandate cannot be dispositive of the case value.
- AB 2892 (Low), which originally changed the self-insurance amounts required for vehicle fleets. CAOC amendments allow self-insurance, but only with strict requirements.

CAOC opposes the following bill unless it is amended

- AB 2743 (Pacheco), which would change insurance requirements on peer-to-peer car-sharing entities such as Turo.

Oops – looks like that was 951 words!


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