

EMPLOYMENT LAW UPDATE

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Senate Bill 688, Senate President pro Tempore John Burton: Amendments to California Code of Civil Procedure.

Change In California Law Extends Statute Of Limitations For Personal Injury Actions And Notice Required For Summary Judgment Motion

By David P. Borovsky and Jason A. Geller

On January 1, 2003, two major changes in California law went into effect, both of which will impact California employers. First, the statute of limitations period for filing suit on a “personal injury” action has been extended from one year to **two years**. Because this new limitations period covers injury to an individual “caused by a wrongful act or neglect of another,” it will likely apply to employment-related claims such as wrongful termination and infliction of emotional distress. *See* C.C.P. §335.1. Thus, employees now have two years from the date of their employment-related “injuries” to file suit, rather than one year.

The second major change is that **75 days** notice is now required on a motion for summary judgment, as opposed to 28 days as in the past. *See* C.C.P. §437(c). Summary judgment is the mechanism by which employers may request a dismissal of the case on the grounds that the employee cannot prove his/her claims. A plaintiff’s opposition to a motion for summary judgment, however, is still due only 14 days before the court hearing, giving the plaintiff

about *two months* to prepare to oppose the motion. In addition, because California law prohibits a summary judgment motion from being heard within one month of trial, an employer moving for summary judgment must now file its motion much sooner than before. Thus, employee-plaintiffs will now have more time to prepare oppositions to such motions, and employer-defendants will have less time to conduct the discovery required to support them.

Both of these changes have the potential to make it more difficult for employers to defend and defeat employment-related claims. These changes mean that employees will have more time to file their claims and more of a chance to gather evidence to defeat motions for summary judgment. These changes will also impact the way employers conduct discovery and defend their cases.