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PRACTICE BRIEF · PERSONAL INJURY

Recent Developments in California Personal Injury Law (2024-2025)

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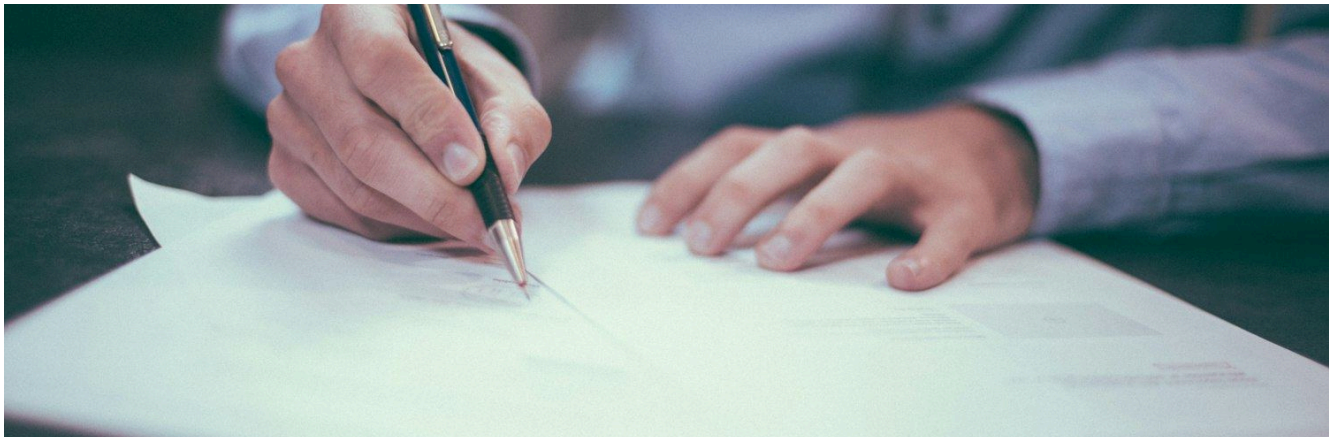

California personal injury law is never static. Between legislative reform, appellate interpretation, and large-scale mass tort proceedings, the framework governing how injured Californians seek compensation continues to evolve. The 2024-2025 period has been particularly active, with statutory changes to survival actions and medical malpractice caps intersecting with complex litigation over rideshare liability, medical damages, and catastrophic wildfire claims. Taken together, these developments signal a recalibration of the balance between plaintiff access to full compensation and defendant exposure to tort liability.

This article surveys five of the most significant developments affecting California personal injury practice during this period. Each carries implications for case valuation, litigation strategy, and the procedural calculus that governs settlement negotiations across the state.

I. SB 447 Survival Action Expansion

Senate Bill 447, which took effect on January 1, 2022, amended Code of Civil Procedure section 377.34 to permit survival actions to recover damages for the decedent's pain, suffering, and disfigurement experienced before death. This represented a significant departure from the longstanding rule that survival actions were limited to the decedent's economic losses — medical expenses, lost wages, and similar out-of-pocket costs. Under the prior framework, the non-economic suffering a person endured between a tortious injury and death simply vanished from the case when the plaintiff died, creating a perverse incentive structure in which defendants could benefit from delays that outlasted the plaintiff's life.

SB 447 was enacted with a sunset provision, initially set to expire on January 1, 2026. The sunset created urgency for plaintiffs' counsel to file and resolve survival claims before the expanded remedy potentially disappeared from the statute books. Practitioners closely monitored whether the Legislature would extend or make permanent the non-economic damages provision, as the political dynamics surrounding tort reform in Sacramento remained fluid. Defense interests argued that the expansion invited speculative damages testimony about a decedent's subjective experience, while plaintiff advocates contended that the prior rule effectively rewarded tortfeasors whose victims died before trial.

The practical effect of SB 447 on case valuations has been substantial. Survival claims that previously had modest settlement value — limited to provable economic losses — now carry a non-economic component that can rival or exceed the economic damages, particularly in cases involving protracted suffering before death. Wrongful death actions and survival actions are distinct causes of action with different measures of damages, and the interplay between the two requires careful allocation of settlement proceeds among heirs and the decedent's estate. For practitioners navigating these claims, the amended statute demands close attention to the legislative calendar and any proposed extensions of the sunset date.

II. AB 35 MICRA Cap Increases Take Effect

Assembly Bill 35, signed into law in 2022, enacted the first increases to the Medical Injury Compensation Reform Act (MICRA) cap on non-economic damages since the statute's original passage in 1975. The phased schedule began on January 1, 2023, setting the cap at $350,000 for cases not involving death and $500,000 for wrongful death cases. Each subsequent year, the non-death cap increases by $40,000 and the death cap increases by $50,000, continuing through 2033 when the caps reach $750,000 and $1,000,000 respectively. After 2033, both caps will adjust annually by two percent for inflation.

The significance of this reform extends well beyond medical malpractice litigation. For nearly half a century, the $250,000 cap functioned as a ceiling that depressed settlement values across all healthcare-related injury claims, including those that straddled the boundary between MICRA-governed professional negligence and general negligence. The AB 35 increases applied prospectively to causes of action arising on or after the effective date, which meant that cases already in litigation under the old cap were not affected. This prospective application created a transitional period in which the applicable cap depended entirely on the date of the alleged negligent act, adding a layer of complexity to multi-incident claims.

The ripple effects on settlement valuations have been notable. Defense carriers recalibrated reserves for medical malpractice exposure, and the increased caps gave plaintiffs' attorneys greater leverage in cases where non-economic damages — pain, suffering, loss of enjoyment of life — constituted the most significant component of the claim. The reform also affected cases at the intersection of personal injury and medical malpractice, where plaintiffs alleged both general negligence (not subject to MICRA) and professional negligence (subject to MICRA), because the

higher cap reduced the incentive to litigate the classification question as aggressively. For personal injury practitioners handling cases with any healthcare nexus, the AB 35 schedule is now a baseline reference point in every damages evaluation.

III. Howell v. Hamilton Meats: Continued Litigation

The California Supreme Court's 2011 decision in *Howell v. Hamilton Meats & Provisions, Inc.*, 52 Cal.4th 541, held that a plaintiff's recoverable past medical damages are limited to the amounts actually paid or incurred, rather than the full billed amount. The ruling fundamentally changed how medical damages are measured in personal injury cases, and litigation over its application has continued to generate disputes in 2024-2025. Particular friction has arisen around the treatment of uninsured plaintiffs who receive care on a lien basis, where the "amount paid or incurred" is not readily ascertainable because no insurer has negotiated a reduced rate and the provider's lien often reflects the full billed charge.

The companion case of *Corenbaum v. Lampkin* (2013) 215 Cal.App.4th 1308 addressed the related question of future medical damages, holding that the *Howell* limitation does not apply to future medical costs because those amounts are inherently uncertain and cannot be reduced to a "paid or incurred" figure. The interplay between *Howell* and *Corenbaum* has produced conflicting trial court rulings on several recurring issues: whether a plaintiff may introduce the full billed amount as evidence of the reasonable value of services rendered, whether defense experts may testify about customary reimbursement rates to reduce the claimed medical specials, and how lien-based treatment should be valued when the plaintiff had no insurance at the time of treatment.

These disputes carry outsized practical significance because the amount of recoverable medical damages directly affects the non-economic multiplier that many practitioners use as a settlement benchmark. A case with $100,000 in past medical specials occupies a different settlement range than one with $35,000 in Howell-reduced specials, even if the plaintiff's pain and suffering are identical. Trial courts in Los Angeles, San Francisco, and other major jurisdictions have reached inconsistent conclusions on evidentiary questions surrounding *Howell*, and the absence of further appellate guidance has left practitioners to navigate a patchwork of local rulings. Until the Courts of Appeal or the Supreme Court provide additional clarification, the *Howell* damages framework will remain one of the most actively contested issues in California personal injury litigation.

IV. Rideshare/TNC Liability Under Prop 22 Aftermath

Proposition 22, approved by California voters in November 2020, classified app-based transportation and delivery drivers as independent contractors rather than employees, overriding the application of Assembly Bill 5's ABC test to these workers. The measure's passage fundamentally altered the liability landscape for personal injury claims arising from rideshare and transportation network company (TNC) accidents involving platforms such as Uber and Lyft. Because drivers are classified as independent contractors, traditional respondeat superior and vicarious liability

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theories — which impose liability on employers for the tortious acts of employees acting within the scope of employment — face significant obstacles when asserted against the platform companies.

Proposition 22 required TNCs to provide occupational accident insurance for drivers who are injured while engaged in platform activity, but the required coverage limits and benefit structures have raised questions about their adequacy. For passengers and third parties injured in collisions with TNC drivers, the liability framework depends on whether the driver was logged into the app, had accepted a ride request, or was actively transporting a passenger at the time of the incident, with different insurance coverage tiers applying at each stage. The minimum insurance requirements under California law — including the $1 million commercial liability policy required during active rides — may prove insufficient for catastrophic injury claims, and disputes over coverage triggers and policy stacking have become a recurring feature of TNC-related litigation.

The constitutional challenge to Proposition 22, which resulted in the California Supreme Court largely upholding the measure in *Castellanos v. State of California* (2023) 15 Cal.5th 379, resolved some uncertainty about the law's validity but left the practical liability questions unresolved. Personal injury practitioners handling TNC cases must now navigate a layered insurance framework, assess the viability of direct negligence claims against the platform (such as negligent hiring, supervision, or retention of drivers), and evaluate whether the platform's control over routing, pricing, and driver behavior may support liability theories that do not depend on an employment relationship. The area remains unsettled and is likely to generate further appellate decisions as courts work through the implications of the independent contractor classification for tort liability.

V. Wildfire Litigation Developments

Massive wildfire litigation against California's major utilities — principally Pacific Gas & Electric Company and Southern California Edison — continued to shape tort law throughout 2024 and into 2025. These cases, many consolidated through the Judicial Council Coordinated Proceedings (JCCP) process, involve thousands of individual plaintiffs asserting claims for property damage, personal injury, wrongful death, emotional distress, and business interruption losses. The sheer scale of the litigation has forced courts to address novel questions about damages methodology, particularly how to value total property losses in communities where comparable sales data ceased to exist after the fire destroyed the entire housing stock.

Inverse condemnation claims against public utilities have been a central feature of wildfire litigation. Under California law, a public entity that damages private property in the course of public improvement or public use may be held strictly liable under the constitutional guarantee against uncompensated takings. The California Supreme Court's decision in *City of Oroville v. Superior Court* (2019) 7 Cal.5th 1 extended this doctrine to privately owned public utilities operating under a franchise, and subsequent wildfire cases have tested the boundaries of that extension. Utilities have argued that inverse condemnation should not apply when the fire resulted from

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conditions beyond the utility's control, such as extreme weather events exacerbated by climate change, but courts have generally rejected these arguments where the utility's equipment was the ignition source.

Subrogation battles among insurers have added another layer of complexity. Homeowners' insurers that paid fire-related claims to their policyholders have asserted subrogation rights against the utilities, seeking to recover the insurance proceeds they paid out. These subrogation claims often proceed on a parallel track with the individual tort actions, and disputes over allocation of fault — particularly where CalFire investigations identified multiple contributing causes — have required sophisticated expert testimony on fire origin and spread. The intersection of public utility regulation with tort remedies has also raised questions about whether the California Public Utilities Commission's safety standards preempt or inform the standard of care in negligence actions, an issue that remains unresolved at the appellate level and has significant implications for how future wildfire liability claims will be litigated.

> *"The 2024-2025 period reflects a broader recalibration in California personal injury law — one in which statutory reforms, evolving case law, and unprecedented mass tort proceedings are collectively reshaping how damages are measured, liability is allocated, and claims are valued."*

PRACTICAL CONSIDERATIONS FOR CALIFORNIA PERSONAL INJURY PRACTITIONERS

- **SB 447 sunset monitoring:** Practitioners with survival action claims should track the legislative status of the sunset provision and consider timing strategies that account for potential expiration of the non-economic damages remedy
- **AB 35 cap calculation:** The applicable MICRA cap depends on the date the cause of action accrued; for 2024 cases the non-death cap is $390,000 and the death cap is $550,000, increasing annually — verify the precise figure under Civil Code section 3333.2 for each case
- **Howell damages preparation:** In cases involving lien-based medical treatment or uninsured plaintiffs, develop a strategy for establishing the reasonable value of services that accounts for the evolving and inconsistent trial court interpretations of *Howell* and *Corenbaum*
- **TNC coverage analysis:** For rideshare injury claims, identify the driver's activity status at the time of the accident (offline, app-on awaiting request, en route, or on-trip) as each status triggers different insurance coverage tiers with materially different policy limits
- **Wildfire claim coordination:** In utility-caused wildfire cases, coordinate with the JCCP assignment and assess whether inverse condemnation, negligence, or strict liability provides the most favorable liability framework given the specific facts of ignition and spread

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The legal landscape described herein is subject to change through legislative action and judicial interpretation. Consult qualified counsel for advice specific to your situation.

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