

PUBLICATION UPDATE

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Matthew Bender[®] Practice Guide: California Civil Discovery

Publication 1290

Release 34

March 2020

HIGHLIGHTS

2020 Annual Update for Recent Legislation, Rules of Court, and Judicial Decisions.

- This publication has been updated with California legislation and rules of court effective in 2020, as well as the latest judicial decisions.

This release is the annual update for recent California legislation, rules of court, and judicial decisions. It incorporates the relevant California legislation passed in 2019 and effective on or before January 1, 2020, as well as changes to the California Rules of Court operative January 1, 2020. Changes in this release include the following:

Statutory and Rules Updates

Initial Disclosures. Under CCP § 2016.090, a court may order parties to provide initial disclosures without awaiting discovery requests, including relevant witnesses and documents. *See* Ch. 1, *Strategy and Planning*, § 1.12[9].

Additional Sanctions Available for Specific Acts. Under CCP § 2023.050, a court must impose a \$250 sanction, payable to the requesting party, upon a party, person, or attorney if, upon reviewing a request for a sanction made pursuant to CCP § 2023.040, the court finds certain facts. *See* Ch. 3, *Sanctions*, § 3.08[9].

Outline In Lieu of Separate Statement. Cal Rules Ct, Rule 3.1345(b) has been revised to provide that a separate statement is not re-

quired when no response has been provided to the request for discovery or when a court has allowed the moving party to submit a concise outline of the discovery request and each response in dispute. *See* Ch. 4, *Law and Motion Procedure*, § 4.10[3].

Special Time Limits Apply to Mesothelioma or Silicosis Cases.

Under CCP § 2025.295, the time for the deposition of a plaintiff suffering from mesothelioma or silicosis must be limited. *See* Ch. 6, *Oral Depositions in California*, § 6.07A[2].

Upon Request, Interrogatories and Requests for Admission Must Be in Electronic Format. CCP §§ 2030.210(d) and 2033.210(e) have been amended to provide that, upon request, the propounding party must provide the interrogatories and requests for admission in an electronic format to the responding party within three court days of the request. *See* Ch. 9, *Interrogatories*, § 9.08A; Ch. 12, *Requests for Admission*, § 12.09A.

Judicial Opinion Updates

Waiver of Privilege. In *Fish v. Superior Court* (2019) 2019 Cal App LEXIS 1195, **10–15, the court of appeal held that a defendant charged

with DUI did not waive the psychotherapist-patient privilege when he disclosed that the psychotherapist had prescribed antidepressant and antipsychotic medications because this information was not a significant part of his communications with the psychotherapist. *See* Ch. 2, *Scope of Discovery*, § 2.14[4][b].

Use of Depositions in Subsequent Actions. In *Berroteran v. Superior Court* (2019) 41 CA5th 518, 531, 2019 Cal App LEXIS 1065, the court held that former deposition testimony is admissible if the party had an opportunity and similar motive to develop the testimony. *See* Ch. 6, *Oral Depositions in California*, § 6.60.

Scope of Impeachment Testimony. In *Pina v. County of Los Angeles* (2019) 38 CA5th 531, 549, 251 CR3d 17, the court of appeal held that disagreement with an opposing expert's understanding or application of medical science exceeded the scope of permissible impeachment. *See* Ch. 13, *Exchanging Expert Witness Information*, § 13.21.

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