

# HB HAPPENINGS

OUR QUARTERLY NEWSLETTER

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## RECENT AMENDMENTS MAKE SIGNIFICANT CHANGES TO CALIFORNIA'S DISCOVERY ACT

California CCP § 2016.090 has recently been amended resulting in significant change to California's Discovery Act. For all cases filed on or after January 1, 2024, parties are required to exchange initial disclosures within 60 days of a demand from any party, which aligns California more closely with federal initial disclosure requirements. Pursuant to the revised CCP §2016.090, initial disclosures must include the following information:

- ❖ The names, addresses, telephone numbers, and email addresses of all persons likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses, or that is relevant to the subject matter of the action," excluding any information that would be used solely for impeachment and information concerning expert witnesses or retained consultants.
- ❖ Production or a description "by category and location, of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, or that is relevant to the subject matter of the action," excluding any information that would be used solely for impeachment.
- ❖ Any contractual agreement or insurance policy under which an insurance company or person may be liable to satisfy a judgment.

Parties can also propound supplemental demands for initial disclosures - twice before the initial setting of the trial date, and once after the initial setting of the trial date. Exceptions to the initial disclosure requirement generally do not apply to civil litigation aside from cases where preference was granted pursuant to CCP § 36, and where plaintiff is not represented by counsel.

CCP § 2023.050 was also amended to increase the current \$250 sanction to a minimum \$1,000 sanction on any party or attorney who fails to respond to a document request or meet and confer in good faith.

### ANNOUNCEMENTS

We are excited to announce that **Miriam Ortiz** and **Elton Rushing** have joined the Hassard Bonnington team as Associate Attorneys.

We also welcome **Hilary Youngblood** to the team as Of Counsel

### Appellate Court Upholds Recent MICRA Decision

On December 1, 2023, the California Court of Appeal for the Sixth Appellate District (San Jose), in a 2-1 decision, held the trial court correctly concluded that the MICRA one-year statute of limitations applied to plaintiff's negligence claims in *Gutierrez v. Tostado*. The plaintiff was injured when his car was rear-ended by an ambulance which was responding to an emergency and occupied by paramedics who were actively rendering medical care. The court explained that "simply because there is also a general duty owed to the public to drive safely does not negate the fact that the conduct at issue in this case was integral to the provision of medical care. As explained in *Flores*, even when there is a general duty to the public to maintain safe premises, MICRA applies where equipment is 'integrally related to [a patient's] medical diagnosis and treatment.' Similarly, even though Tostado may owe a duty to the public to drive the ambulance safely when not in use for medical care, the injury to Gutierrez occurred while Tostado, a medical provider, was performing the integral function of transporting a patient by ambulance."

This is the latest in a line of MICRA decisions that involve injuries to persons who were not actually patients but were injured by the alleged negligence of a health care provider wherein the Courts have held that MICRA and the MICRA statute of limitations applies.

-B. Thomas French



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