



FLOOR ALERT

SB 447 (Laird) as Amended April 22, 2021– OPPOSE UNLESS AMENDED

The above coalition of organizations must respectfully **OPPOSE UNLESS AMENDED** SB 447, which will upend over 170 years of California legal precedent by allowing pain and suffering damages in survivor actions, for the following reasons:

1. **California already provides for generous damages for survivors, in line with other states.**
Under current law, survivors can seek punitive damages and compensatory damages on behalf of the decedent. Many states limit recovery to either punitive or pain and suffering damages – *not both* – due their open-ended and immeasurable nature. Providing both is also redundant because they serve a similar purpose. *If SB 447 passes, CA will allow excessive double-dipping of damages that other states avoid.*
2. **The big winner will be plaintiffs’ attorneys – richer fees from the excessive damages awards.**
SB 447 will allow plaintiffs’ attorneys to collect more fees than ever at the expense of no-fault consumers who will see higher insurance premiums and higher prices for goods and services. *Liability costs could skyrocket not only for businesses, but also the state and local governments who are frequently sued.* Plaintiffs’ attorneys, on the other hand, still won’t have to pay any pain and suffering damages themselves when they commit devastating malpractice against their clients.¹
3. **The wording of the four-year sunset allows the bill to continue for years beyond the sunset.**
While the coalition appreciates the author’s willingness to add a sunset to the bill, as written, the sunset provision is too broad and will not limit the bill to four years. It applies the damages expansion to all cases *accrued* or merely discovered, rather than filed, by January 1, 2026. *This allows SB 447 to apply to lawsuits after the sunset and extend a decade or more.*
4. **Bill sponsors are using the pandemic as cover to undermine over a century of legal precedent.**
SB 447 uses the pandemic crisis as an excuse to change a policy that has withstood decades of proper legislative scrutiny and debate. California already provides a process to allow the elderly and those with health issues to have quicker trials, as well as shortened depositions to further reduce delay. *If trials were delayed during COVID, this coalition requests that SB 447 be amended to address only the delayed cases.*

For the foregoing reasons, the above coalition respectfully **OPPOSES UNLESS AMENDED SB 447** and urges your **NO** vote. If you have any questions, contact Jaime Huff at jhuff@cjac.org or 916-956-2905.

¹ See, e.g., *Camenisch v. Superior Court* (1996) 44 Cal.App.4th 1689, 1693 (emotional distress damages not recoverable in attorney malpractice cases related to litigation); *Holliday v. Jones* (1989) 215 Cal.App.3d 102, 112 (plaintiffs not entitled to recover pain and suffering damages inflicted on them by attorney’s malpractice).