New CA Law Affects Civil Actions Beginning January 1, 2024

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Recently signed into California law by Governor Gavin Newsom, SB 235, the amendment to CCP 2016.090, is to take effect on January 1, 2024. In essence, this amendment is to modify and amend the existing law in California state court on initial disclosures of information and documents under the California Civil Code of Procedure for all civil actions, other than unlawful detainers or small claims actions. The new procedure for initial disclosures under CCP 2016.090 is similar to the procedure for initial disclosures followed in federal court.

Prior to the amendment, with stipulation by all parties, CCP 2016.090 authorized the court to issue an order for a party to provide initial disclosures to the other parties in the suit within 45 days of such an order. The initial disclosures per court order were to contain information regarding persons that are likely to have discoverable information, documents in a party's control to support its claims and defenses (records), and any contract and insurance policy which can make a person or an insurance company liable to satisfy the judgment in the action, or to reimburse or indemnify for payments to satisfy the judgment.

Unlike the existing version of CCP 2016.090, SB 235 will amend the statute to require each party appearing in the civil action to provide initial disclosures to the other parties within 60 days of a demand for such disclosures, unless the parties have stipulated otherwise. Further, the new amendment will require that the party making the initial disclosures of information relating to persons or records also disclose information that is relevant to the subject matter of the action, except as specified. Additionally, it will require disclosure of information and records related to insurance policies that would make persons or insurance companies liable to satisfy the judgment in the action. Further, while the existing CCP 2016.090 imposed a $250 fine for failing to comply with initial disclosures in good faith under this section, the new amendment will increase the fine to $1,000. These changes made by the amendment are to remain in effect until January 1, 2027.

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