

[Legislation Seeks to Cap Punitive Damages in California; Defendants Hopeful, Plaintiff Lawyers Fearful?](#)

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Typically, tort reform efforts are premised on the belief that the court systems are overly filled with unworthy cases and the awards in those cases are unnecessarily excessive. Surely, many insurers and other defendants would agree with that presupposition. Many plaintiff attorneys would vehemently disagree. If you are the former, Assembly Bill 2740, authored by Assemblyman Roger Niello (R-Fair Oaks), might be of great interest. Indeed, if it survives the gauntlet of the California legislature, AB 2740 would eliminate what many insurers and other defendants view as unpredictable jackpot awards that only drive up premiums for insureds and the cost of doing business for all companies operating in California.

Most importantly for insurers, the bill would limit punitive damages to three times the amount of compensatory damages, and would be applicable to claims for breach of the implied covenant of good faith and fair dealing (colloquially known as “bad faith”). While Supreme Court decisions have recently sought to limit the ratio of punitive to compensatory damages, the decisions have not been evenly applied by trial and appellate courts; AB 2740 would effectively resolve and limit the ratio component.

In addition, the bill also would limit non-economic damages, *i.e.*, damages for pain and suffering, to \$250,000 in all civil cases. (This \$250,000 cap on non-economic damages has been the law in California for medical malpractice claims since the passage of the Medical Injury Compensation Reform Act of 1975.)

While it is currently unclear if AB 2740 will gain any momentum in the California legislature, insurers can hold hope for – or at least keep watchful eyes on – this promising legislation. We expect that Governor Schwarzenegger would sign the bill if it passed in the legislature. We will keep you updated on its progress. The next hearing is in the Assembly’s Judiciary Committee on May 4, 2010.

The full text of the proposed legislation can be found [here](#).