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**2016 New Years Resolution**  
**New Requirements for Deposition Notices**



**By Katherine Gallo**

There was only one change to the Discovery Codes but it was significant. The legislature added language to Code of Civil Procedure Section 2025.220 with added requirements when you serve a deposition notice. The deposition Notice must now contain:

**(8) (A) A statement disclosing the existence of a contract, if any is known to the noticing party, between the noticing party or a third party who is financing all or part of the action and either of the following for any service beyond the noticed deposition:**

- (i) The deposition officer.**
- (ii) The entity providing the services of the deposition officer.**

**(B) A statement disclosing that the party noticing the deposition, or a third party financing all or part of the action, directed his or her attorney to use a particular officer or entity to provide services for the deposition, if applicable.**

Assembly Member Bonilla introduced AB 1197 Assembly Bill on February 27, 2015. The Governor signed into law on September 28, 2015 and it became effective on January 1, 2016. The following is the Synopsis regarding the Bill Analysis from the Assembly Committee on the Judiciary:

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*Existing law requires that certain information be provided to all parties and some non-parties who will be involved in a deposition. The required information encompasses the logistics of the deposition, namely when it is scheduled, where it will be held, who is to be deposed, any items that are supposed to be produced at the deposition, and the means in which deposition testimony will be taken by the court reporter (i.e. by transcription, video, or another electronic means). The law sets out the timeframe and manner in which the parties must receive the deposition notice. This bill seeks to address an unsavory practice in contractual relationships between defense attorneys and court reporting companies. Insurance companies have moved into the legal arena by establishing long-term contractual relationships with court reporting companies. Insurance companies require their attorneys to utilize only the contracted court reporting company for depositions, while the court reporting company provides special services and discounted rates to the insurer. The problem is that these special services and discounted rates are being supplied to one party for free, and are either costing the opposing party significantly higher fees, or are not being offered to the other party at all. Also, the services that are provided constitute litigation support services, such*

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*as informational databases, deposition databases, deposition summaries, digital data-all services that are very expensive for the opposing party to obtain in the marketplace. As a result, the defense obtains basically free litigation support services, placing the opposing party at a huge disadvantage. This bill seeks to level the playing field by requiring the disclosure of these types of contractual relationships in the deposition notice. This disclosure will allow the party receiving the notice to object in advance of the deposition to the use of specific court reporters and reporting companies. There is no known opposition to this bill.*

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