

# CALIFORNIA PRACTICE GUIDE CIVIL PROCEDURE BEFORE TRIAL

## STATUTES OF LIMITATIONS

### 2025 UPDATE

This 2025 softbound Update completely replaces the 2024 Update.

These Highlights summarize the most significant developments over the past year. References are to chapters and paragraph numbers of the 2025 edition of the Practice Guide where the material is discussed in greater detail.

**Cut-Off Date—January 15, 2025:** Some of the cases covered in this Update were not final as of our cut-off date and could be affected by later developments. Please be sure to check the subsequent histories before citing or relying on them.

**Thank You!** We encourage your comments and suggestions regarding this Practice Guide. *Please keep them coming!*

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## 2025 UPDATE HIGHLIGHTS

### CHAPTER 3

#### ACCRUAL

##### Accrual of Particular Claims

###### Occurrence rule

- [3:78a] **Consumer Legal Remedies Act (Civ.C. §1750 et seq.) (CLRA):** CLRA claims are the type where the discovery rule generally applies, the policy being to “ameliorate a harsh rule” allowing for the expiration of a limitations period before a plaintiff has or should have learned of an injury or its cause. [*Medina v. St. George Auto Sales, Inc.* (2024) 103 CA5th 1194, 1205, 324 CR3d 94, 102; *see also* ¶4:1303-1304]
- [3:78.2a] **Recoupment of tax refund:** The two-year period to recover a tax refund overpayment starts when the refund check clears the bank, not when the taxpayer receives the check. [*United States v. Page* (9th Cir. 2024) 116 F4th 822, 826-829]
- [3:92.3] **Ending Forced Arbitration of Sexual Assault and Sexual Harassment Act (9 USC §§401-402):** The EFAA invalidates pre-dispute arbitration agreements pertaining to workplace sexual harassment and assault claims that accrue after the statute’s effective date. [*Doe v. Second Street Corp.* (2024) 105 CA5th 552, 571, 326 CR3d 42, 55-56; *Olivieri v. Stifel, Nicholas & Co., Inc.* (2nd Cir. 2024) 112 F4th 74, 78, 89]

### CHAPTER 4

#### TIME PERIODS FOR PARTICULAR CAUSES OF ACTION

##### Actions Involving Personal Rights

###### Invasion of privacy

- [4:307.4] **California Invasion of Privacy Act (CIPA):** An action under CIPA §637.3 must be filed within 1-year of the violation. Each violation is a potential *new* violation for statute of limitations purposes. [*Balanzar v. Fidelity Brokerage Services, LLC* (SD CA 2023) 654 F. Supp. 3d 1075, 1082 (voice examination or recording)]

###### Childhood sexual assault

- [4:515.9] **Limited revival of claims:** The revival provision of CCP §340.1 (and waiver of the Government Torts Claims Act’s claim presentation requirement) is not a violation of the California Constitutional prohibition on gifts of public funds. [*West Contra Costa Unified School Dist. v. Sup.Ct. (A.M.M.)* (2024) 103 CA5th 1243, 1264-1265, 323 CR3d 904, 918-919—waiver serves public purpose]
- [4:520] **Federal child exploitation statute of limitations eliminated as of 9/16/22:** [18 USC §2255(b); *see Elden v. Nirvana L.L.C.* (2023) 88 F4th 1292, 1296-1297—prior to September 16, 2022,

federal actions for child exploitation had to be filed within 10 years after right of action first accrued and each republication of child pornography constitutes new injury under former 10-year statute]

## **Actions Involving Real Property**

### **Federal quiet title actions**

- [4:811.20] **Constructive notice that government has a reasonable claim to some interest in real property sufficient for quiet title actions:** [*Gambrell v. United States* (8th Cir. 2024) 111 F4th 870, 875]

## **Actions Involving Personal Property (Including Intangibles)**

### **Conversion**

- [4:1116] **Action for *damages* for artwork taken as result of political persecution—6 years:** A California resident may bring an action for damages for artwork or other personal property taken, or otherwise lost, as a result of political persecution. [New CCP §338.2]

An action under CCP §338.2 must be brought within 6-years of actual discovery of both the identity and whereabouts of the art, and adequate information to indicate claimant has a *possessory interest* in the art that was unlawfully taken or stolen. [New CCP §338.2(b)(1), (2)]

### **Copyright claims**

- [4:1165.5] **Recovery of damages in copyright case:** A copyright owner with a timely claim for infringement may recover damages regardless of when the infringement occurred, including for infringement that occurred more than three years before the lawsuit's filing. [*Warner Chappell Music, Inc. v. Nealy* (2024) 601 US 366, 368, 144 S.Ct. 1135, 1137—action must be brought within 3-years of infringement discovery; *Michael Grecco Productions, Inc. v. RADesign, Inc.* (2nd Cir. 2024) 112 F4th 144, 148—no distinction made between copyright holder “sophisticated” in detecting and litigation infringements, versus one who is not; *see also* ¶1:48, 3:118 & 4:1165.2]

## **Actions Involving Employee Rights and Benefits**

### **California Statutes**

- [4:1272] **Contractual provision reducing the time to bring FEHA claim may be substantially unconscionable:** [*Ramirez v. Charter Communications, Inc.* (2024) 16 C5th 478, 500-502, 322 CR3d 825, 844-845]

## **Environmental Protection Actions**

### **Suits against federal agencies under Administrative Procedure Act (APA, 28 USC §2401(a))**

- [4:1455] **Accrual under 28 USC §2401:** The Supreme Court ruled that the statute of limitations in suits brought under the APA commences when plaintiff is injured by a final agency action. [*Corner Post, Inc. v. Board of Governors of Fed. Reserve System* (2024) 603 US 799, 804, 144 S.Ct. 2440, 2447-2448]

### California Environmental Quality Act (CEQA) actions

- [4:1476] **Effect of notice of determination:** A notice of determination approving a vesting tentative tract map and stating that the City planning department had adopted a mitigated negative declaration triggered the 30-day limitations period on challenging CEQA compliance. [*Guerrero v. City of Los Angeles* (2024) 98 CA5th 1087, 1104, 317 CR3d 347, 358]

### Miscellaneous Actions

- [4:1580] **Unfair competition by private litigants—4 years:** The 4-year statute of limitations in Bus. & Prof.C. §17208, not the 1-year statute of limitations in Ins.C. §2701, governs an insureds claim for declaratory and injunctive relief under California unfair competition laws (Bus. & Prof.C. §17200). [*Rosenberg-Wohl v. State Farm Fire & Cas. Co.* (2024) 16 C5th 520, 523, 323 CR3d 95, 96-97, 101; *see also* ¶4:51 & 2:45.1]
- [4:1690.7] **Judicial review of local agency zoning and land use decisions—90 days:** The period of time before a permit or project approval issued by a city, county or state agency expires shall not include the time during which an action or proceeding involving the approval (or conditional approval) of the permit or project approval is, or was, pending. [Amended Gov.C. §65009(f)(1)]
- [4:1759.61] **Challenging real estate subdivision decisions—90 days:** Challenges to the reasonableness of the conditions for approving a tentative tract map are subject to the 90-day limitations period of Gov.C. §66499.37, whereas challenges “unique to CEQA,” such as CEQA procedural violations or the failure to analyze or disclose a project’s environmental impacts, are subject to the 30-day limitations period in Pub.Res.C. §21167(b). [*Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2024) 105 CA5th 1143, 1150, 326 CR3d 515, 519]
- [4:1758] **Trust contest action—120 days:** A petition to establish a pre-amendment version of a trust constituted an action to contest the amended trust, and the 120-day limitations period of Prob.C. §16061.8 applied. [*Hamilton v. Green* (2023) 98 CA5th 417, 424-425, 316 CR3d 632, 636-637]
- [4:1758] **Sherman Act—continuing violations:** Keeping an anticompetitive rate in place was not a continuing violation of the Sherman Act as the conduct did not inflict new harm causing new injury. [*CSX Transp., Inc. v. Norfolk So. Ry. Co.* (4th Cir. 2024) 114 F4th 280, 283, 288-289; *see also* ¶3.91.1a]

### Residual (“Catch-All”) Statutes of Limitations

- [4:1894] **Suit by IRS to recover erroneous refund:** The IRS must file an action under 26 USC §7405 to recover an erroneous refund within two years and the limitations period begins to run when the refund check clears, not when the taxpayer receives the check. [26 USC §6532(b); *United States v. Page* (9th Cir. 2024) 116 F4th 822, 827-828]

## CHAPTER 5

### STATUTORY TOLLING

#### General Considerations

##### Statutes limiting tolling

- [5:38] **Breach of fiduciary duty under Fam.C. §1101(d)(2):** Only claims for breach of fiduciary duty by a spouse pertaining to community property (*not* separate property) are exempt from an otherwise applicable limitations period. [*Marriage of Wiese* (2024) 102 CA5th 917, 924, 322 CR3d 336, 339; *see also* ¶4:139.1]

#### Particular Grounds for Tolling

##### Plaintiff's minority

- [5:54.1] **Statutory waiver of claim presentation requirement:** Legislation retroactively waiving the claims presentation requirement for childhood sexual abuse claims is not a constitutionally infirm gift of public funds. [*West Contra Costa Unified School Dist. v. Sup.Ct. (A.M.M.)* (2024) 103 CA5th 1243, 1264, 323 CR3d 904, 918-919]

## CHAPTER 6

### EQUITABLE TOLLING

#### General Considerations

##### Statutes may expressly prohibit or limit equitable tolling

- [6:14] **Two-year limit on holding competency hearing under Pen.C. §1370(c)(1) may be tolled for delays or continuances occurring at defendant's "behest":** [*Rodriguez v. Sup.Ct. (People)* (2024) 103 CA5th 601, 629, 323 CR2d 230, 249]

#### Situations Justifying Equitable Tolling

##### Seeking relief while pursuing federal lawsuit

- [6:66] **Federal class actions where certification denied:** Where class definition is narrowed, tolling stops only to putative class members who have been unambiguously excluded from the revised proposed class. [*DeFries v. Union Pac. R.R. Co.* (9th Cir. 2024) 104 F4th 1091, 1105] Additionally, under *American Pipe*, a putative class member can also become the class representative prior to ruling on class certification. [*In re Allstate Corp. Secur. Litig.* (7th Cir. 2020) 966 F3d 595, 614-615]

#### Equitable Tolling of Federal Claims

##### Claims subject to federal statutes of limitations

- [6:111] **Equitable tolling in immigration proceedings:** The statute of limitations may be equitably tolled until a reasonable person would be on notice of an error underlying a motion to reopen removal proceedings. [*Bent v. Garland* (9th Cir. 2024) 115 F4th 934, 941-942]

## CHAPTER 8

### RELATION BACK DOCTRINE

#### Amendments Alleging New Claims After Statute of Limitations has Run

##### Same general set of facts

- [8:180] **Relation back not applicable—zoning ordinance implementation:** An untimely challenge to the adoption of a plan *implementing* zoning ordinances did not relate back to the original complaint challenging the adoption of the ordinances themselves. Relation back did not apply to an act that post-dated the act challenged in the original complaint—one that had not yet arisen. [*Fix the City, Inc. v. City of Los Angeles* (2024) 100 CA5th 363, 375, 319 CR3d 119, 127; see ¶4:1686.4]