

CALIFORNIA LAW REVISION COMMISSION

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NEWS RELEASE
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Statute of Limitations for Legal Malpractice

Request for Public Comment

The California Law Revision Commission seeks public comment on its tentative recommendation relating to the statute of limitations for legal malpractice (Code Civ. Proc. § 340.6).

To reduce the number of disputes and improve the functioning of the provision, the Commission proposes to:

- Add a new tolling provision to the statute, which would apply when an attorney's liability for malpractice may depend on the outcome of an underlying proceeding, such as a lawsuit that the attorney allegedly mishandled.
- Reallocate the burden of proving when the plaintiff discovered, or through the use of reasonable diligence should have discovered, the facts constituting the malpractice.
- Delete an unnecessary and confusing sentence pertaining to "an action based upon an instrument in writing, the effective date of which depends upon some act or event of the future."

The tentative recommendation is available from the California Law Revision Commission, 4000 Middlefield Road, Room D-1, Palo Alto, CA 94303-4739. The tentative recommendation is also available at the Commission's website (www.clrc.ca.gov) through the "Reports" menu.

Persons interested in this matter can electronically subscribe to receive materials relating to the study at the Commission's website through the "Subscribe" menu or the "Projects" menu. Persons who prefer to receive hard copies of the materials should contact the Commission to be added to the Commission's mailing list for the study.

The Commission often substantially revises its recommendations as a result of public comment. To receive timely consideration, comments should be submitted by **March 31, 2005**.

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