



California Government to Claim 75% of All Punitive Damages Claims Awarded Between August 2004 and June 2006

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On August 16, 2004, California enacted Civil Code section 3294.5 which, upon the entry of a final judgment including a punitive damages award, commands judgment debtors to pay 75% of all punitive damages to a newly created "Public Benefit Trust Fund" established by the State of California. This trust shall be available for annual appropriation in the state budget but is to be used for purposes consistent with the nature of the award Civ. Code § 3294.5(b)(1). The remaining 25% of punitive damages awards are payable to the plaintiff. The law has a sunset provision which limits its effective period to July 1, 2006 unless further extended by the Legislature.

The law contains three safeguards to curb perceived abuses. **First**, the law on its face prohibits jurors from being told of this damages splitting provision. Civ. Code § 3294.5(g). There does remain a risk that sophisticated jurors will learn of this law and, out of sympathy for a plaintiff, render larger punitive damages awards than otherwise would have been awarded. A juror's independent knowledge of this damages splitting law does not invalidate a punitive damages award. Civ. Code § 3294.5(g). **Second**, in order to eliminate incentives for judges awarding and/or upholding punitive damages award, the Public Benefit Trust may not be used to fund court or judicial programs. Civ. Code § 3294.5(b)(1). **Third**, the state is not permitted to intervene in lawsuits or file amicus briefs in appeals for the sole purpose of enforcing its right to receive punitive damages.

The Legislature clearly views this provision as a stop gap measure to meet a temporary budget shortfall. Hence, the preface of the new law states:

The Legislature finds and declares that extraordinary and dire budgetary needs have forced the enactment of this extraordinary measure to allocate temporarily for the state's Public Benefit Trust Fund a substantial portion of any punitive damages paid from a judgment during the limited time period specified in the statute. The Legislature further finds and declares that this uniquely extraordinary legislative action shall not be construed or interpreted in any way to establish any policy, precedent, presumption, or inference in any case or in any other setting, including future legislatures, regarding the award of punitive damages, its allocation, or the payment of attorney's fees arising in connection therewith.

Civ. Code § 3294.5(a)

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