What is the Statute of Limitations for Personal Injury in California?

In California, the general statute of limitations for personal injury claims is two years from the date of the incident or injury. This means that claims filed more than two years after the injury are barred and will be dismissed by a Court. However, there are many exceptions which is why lawyers are very careful not to give an absolute opinion on a particular case until they have looked carefully at the facts.

Some cases have statutes that are extended by law. For example a lot of sex abuse cases had statutes of limitations extended even after the time had previously been exhausted. This meant that old claims were revived.

In other cases the harm is not known to the victim and the statute does not start until the injured person knows or should have known the cause of their injury. For example a person may have lung cancer but not learn until years later that asbestos was the cause.

There are also statutes that cut off the right to recover. When a claim is against a government entity, where you have six months to file an administrative claim or you can lose your right to file.

In medical malpractice the statute is generally one year. The patient must file a lawsuit within one year of discovering the injury and in most malpractice cases discovery is rather immediate. If the injury is hidden the statute forces the patient to discover the injury within three years of the date of the injury and later discovery does not open the door to a lawsuit past the three year period. However, there can be exceptions if the lack of discovery is due to actual fraud by the doctor or hospital.

Statutes are extended in the sense that the statute does not usually start to run until a person turns 18. The tolling provision for minors is not absolute and is limited to actions mentioned within Chapter 3 of the Code of Civil Procedure (Barker v. Garza, 218 Cal.App.4th 1449 (2013))

Under California law, the statute of limitations is tolled if the person entitled to bring an action lacks the legal capacity to make decisions at the time the cause of action accrued. This means that the time during which the person is under a major mental disability is not counted as part of the time limited for commencing the action (CCP 352)

Equitable Tolling

Equitable tolling is a judicial doctrine that suspends the running of the statute of limitations under certain circumstances to prevent injustice. This doctrine has evolved from cases where plaintiffs were involved in one lawsuit and filed a subsequent case that could lessen the damage or harm that would otherwise have to be remedied through a separate case, or where plaintiffs were required to pursue an administrative remedy before filing a civil action (Saint Francis Memorial Hospital v. State Department of Public Health, 9 Cal.5th 710 (2020))

Equitable tolling can also apply to serve the ends of justice where technical forfeitures would unjustifiably prevent a trial on the merits (Saint Francis Memorial Hospital v. State Department of Public Health, 9 Cal.5th 710 (2020)) However, equitable tolling does not apply to class claims under the American Pipe doctrine, as it would be inconsistent with the policies associated with the application of statutes of limitations (Fierro v. Landry's Restaurant Inc., 32 Cal.App.5th 276 (2019))

Tolling Due to Fraud, Intentional Concealment, or Foreign Bodies

In actions for injury or death against a health care provider based on professional negligence, the statute of limitations can be tolled upon proof of fraud, intentional concealment, or the presence of a foreign body with no therapeutic or diagnostic purpose in the injured person (West's Ann.Cal.C.C.P. § 340.5).

For minors, the statute is tolled for any period during which the parent or guardian and the defendant's insurer or health care provider have committed fraud or collusion in the failure to bring an action on behalf of the injured minor (Young v. Haines, 41 Cal.3d 883 (1986)).

Tolling Due to Advance or Partial Payments

California Insurance Code section 11583 provides that any advance or partial payment of damages made by a person or their insurer must be accompanied by written notice of the statute of limitations applicable to the cause of action. Failure to provide such written notice tolls the statute of limitations from the time of the advance or partial payment until the notice is actually given (West's Ann.Cal.Ins.Code § 11583).

There are other rules including tolling when the defendant is out of state and other equitable exceptions."
Copilot said
Here’s an SEO-optimized blog rewrite:

I am addressing the statute of limitations which is a rule that sets a time limit on filing personally injury claims. After a certain amount of time goes by you can no longer file a lawsuit to collect money from an accident. Today I am speaking only about California law. Every state is different. The federal government rules are different. Also, these rules can potentially vary in every case so don't take this as legal advice. Get a lawyer if you need legal advice. Alright, enough of the caveats, warnings and disclaimers. Here are the rules.

The statute of limitations sets the deadline for filing a legal claim after an injury. Miss it, and you could lose the chance to pursue your case entirely. In California, the standard deadline is two years from the date of injury or incident. But, there are exceptions, so it's important to get legal advice to understand your specific situation.

Now, let's look at some key exceptions.

Delayed Discovery Rule:

Some injuries don't show symptoms right away. The clock begins when you realize or should have realized the harm. For example, exposure-related illnesses like asbestos may not be diagnosed until years later.

Government Claims:

If you're filing against a government entity, you must do so within six months of the incident.

Medical Malpractice:

You generally have one year from discovery of the injury, or three years if the injury was concealed.

Certain situations can pause the deadline, allowing more time to file.

Minors:

The clock doesn't start until the person turns 18.

Mental Disability:

If someone cannot make legal decisions, the statute is tolled until they recover.

Equitable Tolling:

In some cases, courts allow extra time if enforcing the deadline would be unfair.

Some specific circumstances may extend your deadline, such as:

Fraud or Concealment:

If a healthcare provider commits fraud or conceals evidence, the limitation period can be extended.

Partial Payments:

If an insurer makes partial payments, they are required to notify you of the deadline. Failing to do so can toll the clock.

Navigating these rules can be complex. To protect your rights, consult a personal injury attorney early. They can help ensure you file your claim within the correct timeframe and avoid costly mistakes. Thanks for watching! Stay informed, stay protected.