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Deering's California Codes Annotated
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*** This document is current through the 2015 Supplement ***
(All 2014 legislation)

CODE OF CIVIL PROCEDURE
Part 1. Of Courts of Justice
Title 1. Organization and Jurisdiction
Chapter 6. General Provisions Respecting Courts of Justice
Article 2. Incidental Powers and Duties of Court

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Cal Code Civ Proc § 128.5 (2015)

Second of 2 versions of this section

§ 128.5. (Second of two; Operative January 1, 2018) Expenses for frivolous action, bad faith or delay; Punitive damages

(a) A trial court may order a party, the party's attorney, or both to pay any reasonable expenses, including attorney's fees, incurred by another party as a result of bad-faith actions or tactics that are frivolous or solely intended to cause unnecessary delay. This section also applies to judicial arbitration proceedings under Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3.

(b) For purposes of this section:

(1) "Actions or tactics" include, but are not limited to, the making or opposing of motions or the filing and service of a complaint or cross-complaint only if the actions or tactics arise from a complaint filed, or a proceeding initiated, on or before December 31, 1994. The mere filing of a complaint without service thereof on an opposing party does not constitute "actions or tactics" for purposes of this section.

(2) "Frivolous" means totally and completely without merit or for the sole purpose of harassing an opposing party.

(c) Expenses pursuant to this section shall not be imposed except on notice contained in a party's moving or responding papers, or the court's own motion, after notice and opportunity to be heard. An order imposing expenses shall be in writing and shall recite in detail the conduct or circumstances justifying the order.

(d) In addition to any award pursuant to this section for conduct described in subdivision (a), the court may assess punitive damages against the plaintiff upon a determination by the court that the plaintiff's action was an action maintained by a person convicted of a felony against the person's victim, or the victim's heirs, relatives, estate, or personal representative, for injuries arising from the acts for which the person was convicted of a felony, and that the plaintiff is guilty of fraud, oppression, or malice in maintaining the action.

(e) The liability imposed by this section is in addition to any other liability imposed by law for acts or omissions

within the purview of this section.

(f) This section shall become operative on January 1, 2018.

HISTORY:

Added Stats 2014 ch 425 § 2 (AB 2494), effective January 1, 2015, operative January 1, 2018.