

Does a New California Law Threaten Your Business? Has Your License Been Revoked? The Writ of Mandate is an Effective Tool to Challenge Government Action.

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It is rare to find a business these days that is not subject to government regulation, especially in the State of California. Many California businesses are required to obtain and maintain licenses with various governmental agencies (for example, the Department of Consumer Affairs). At times, clients find such regulation and licensure requirements burdensome and may look to pursue relief through litigation or to take some other remedial action. For example, a new state law or regulation may impose a significant financial burden on a business. Or a licensing agency may decide to revoke a license that

is necessary for a company to even stay in business. In deciding whether to bring a lawsuit against the State to challenge such decisions, the length, cost, and hassle of the process weighs heavily.

Often times the most efficient and direct way for a business to challenge an adverse decision by a governmental agency is through a writ. Writ proceedings are specialized procedures for challenging government action, administrative and quasi-judicial decisions, and interim orders issued in the trial courts. While there are different types of writs, the most common are the "ordinary writ" (brought under California Code of Civil Procedure section 1085) and the "administrative writ" (brought under California Code of Civil Procedure section 1094.5). The good news for businesses is that writ litigation—as opposed to traditional civil lawsuits—offer procedures that are often far more streamlined than a typical civil litigation. That, of course, can mean faster and more efficient results.

Despite their name, writs can seem daunting to the uninitiated. They are, however, relatively commonplace in Sacramento where the Superior Court has several departments dedicated specifically to hearing them. Writ proceedings are typically commenced with the filing of a petition for writ of mandate. The petition is akin to a complaint and it often seeks declaratory and/or injunctive relief.

While procedures vary by jurisdiction, the court generally sets the writ petition for a hearing, triggering a briefing schedule similar to a regularly-noticed motion. The parties submit points and authorities, together with written evidence. The judge then holds a hearing and issues a decision either directing issuance of a writ or denying the petition. In contrast to the years it can take a traditional lawsuit to make its way through our congested court system, the writ process usually only takes a few months.

This can be good news for California businesses who believe the government has gone too far.



Mr. Rodriguez is a litigation partner at Lewis Brisbois Bisgaard and Smith. He represents clients in connection with writs against California state agencies. If you would like to speak to Mr. Rodriguez about a challenging a state law or regulation, disputing a licensure decision or any other dispute with a governmental agency, he can be reached at 916.646.8204 or by e-mail at Chris.Rodriguez@lewisbrisbois.com.