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## don't miss the party

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*MSK Client Alert*

January 22, 2019

Express waivers to Section 1542 of the California Civil Code are so ubiquitous in settlement and release agreements that most parties likely just note their presence without actually reading them. On January 1, 2019, California's Senate Bill No. 1431 went into effect, amending Civil Code Section 1542. The prior version of the statute read: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." The amended version of Section 1542 adds "releasing party" and "released party" alongside creditor and debtor, respectively, and also changes "must have materially affected" to "would have materially affected" the releasing party's decision to settle, so that it states: "A general release does not extend to claims **that** the creditor **or releasing party** does not know or suspect to exist in his or her favor at the time of executing the release **and that**, if known by him or her, **would** have materially affected his or her settlement with the debtor **or released party**."

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