NS23k
12/01/87

First Supplement to Memorandum 87-101

Subject: Topics and Priorities for 1988 and Thereafter (Additional Material)

Attached to this supplementary memorandum as Exhibit 1 is material from Valerie Merritt urging a Commission study of the Uniform Management of Institutional Funds Act, with the view to extending the Act to nonprofit organizations generally. The staff would add this matter to the rather extensive list of probate "back burner" topics the Commission has developed, the idea being to study these matters carefully when the Commission and staff have more time available after completion of the basic Probate Code rewrite. The Commission has most recently acted to add a study of the Uniform Fiduciary Accounting Standards to the probate back burner list. The complete list is set out in Exhibit 1 to Memorandum 87-101.

Attached to this supplementary memorandum as Exhibits 2 to 22 are letters suggesting Commission study of new topics. These letters are referred to by exhibit number in Memorandum 87-101.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary

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REFER TO FILE NO.

November 18, 1987

FEDERAL EXPRESS

Mr. John DeMoully
California Law Revision Commission
4000 Middlefield Road, No. D-2
Palo Alto, California 94303-4739

Re: Uniform Management of Institutional Funds Act, California Education Code Section 94600, et seq.

Dear John:

I am not writing this letter as the representative of any Bar Association, but as an individual.

In the course of doing the comprehensive revision of California trust law, the Uniform Management of Institutional Funds Act (hereafter "Uniform Act") was moved from the Civil Code to the Education Code. So far as I can tell from the material I have, there was no attempt at the time to study the current version of the Uniform Act and to consider suggestions for its revision. I would like to suggest that further changes be made to this Act, and that its location in the California Education Code be reconsidered.

In general, public policy favors the uniform and universal adoption of uniform acts. On the other hand, California has a history of adopting uniform acts with revisions made to improve them. While I support improvements, I believe it is important to examine deviations between California law and the uniform acts to make sure each such deviation is an improvement.

I enclose a copy of the entire section on the Uniform Management of Institutional Funds Act, annotated to show the adoption of various portions of it by various states and to show the comments of the Commission on Uniform State Laws. If you compare Section 1 of the Uniform Act to California Education Code Section 94600, it is immediately evident that the scope of application of California Education Code 94600 is much more limited. I would like to suggest that this section be modified so that it contains the same breadth of application as the Uniform Act. I see no reason why the Uniform Act should be

restricted only to private educational organizations. I believe it should be expanded to non-profit organizations generally, including public institutions. A broad definition of "institution" will mean that a broader group of organizations will be able to avail themselves of the greater flexibility that the Uniform Act provides for investment management. In addition, because the California version of the Uniform Act provides that any institution availing itself of the powers granted under the Uniform Act shall file with the Registrar of Charitable Trusts such reports as may be required by the Attorney General, it may also increase the scope of supervision of the Attorney General over charitable institutions. All in all, I perceive only salutary effects of expanding the definition of "institution" and no detrimental effects.

I also enclose with this letter a copy of the historical note which is an annotation to former Civil Code Section 2290.1 found in West Annotated California Codes. Section 4 of Statutes 1973, Chapter 950, page 1789, provided in part: "The Legislature declares, therefore, that it is in the public interest to authorize a pilot study for a limited period of time of these expanded investment and expenditure policies by a limited class of reputable, substantially endowed educational institutions faced with these problems." Apparently, in 1978, the Legislature was sufficiently pleased with the success of the "pilot study" that the sunset provision contained in the 1973 law was repealed. However, there was no expansion of the limited class of eligible institutions at the same time. I believe that this failure to enlarge the class of eligible institutions was inadvertent. Given the success under the Uniform Act for those institutions covered by it, I believe it would be appropriate to enlarge the class of institutions which may avail themselves of this act.

Obviously, if the definition of "institution" is broadened so that it includes institutions other than educational institutions, you should consider whether the Uniform Act should be relocated. If it is not limited solely to educational institutions, it should be removed from the Education Code and placed elsewhere. I suggest placing it with the provisions governing charitable trusts in the Probate Code.

I recognize that the Commission has a great deal on its agenda with regards to trying to complete the Probate Code revision process as soon as possible. However, I believe that this is a matter of some importance. I would submit that it is at least equal in importance to the revision of the Uniform Dormant Mineral Interests Act which is on the November agenda. I request that this matter be brought to the attention of the Commission at the November meeting and that you seek to prepare a

brief staff report on this issue and set it for the December meeting. Alternatively, this issue could be incorporated in the "clean-up" legislation to be considered in the next session.

Sincerely,

Valerie J. Merritt

Valerie J. Merritt, Esq.

VJM:brm
Enclosure

Memo 87-101 EXHIBIT 2

BCD

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Mike Bennett
Managing Editor

June 3, 1985

Nathan G. Gray
1009 Financial Center Building
405 Fourteenth Street
Oakland, California 94612

Re: Deering's Civil Practice Codes, CCP § 87
(Your letter of May 28)

Dear Mr. Gray:

I am very familiar with this section and with the Merco case; the question you raise has been discussed both among the members of our editorial staff and with readers. Whether or not you agree with the position I take on this question I hope you will realize that it is a position that has been reached only after long and careful consideration.

CCP § 87 is one of the few unrepealed California statutes that is a complete nullity, and, if this was the extent of the problem, I would not hesitate to include a warning note. But I see no clear distinction between the complete nullity of this section and the partial invalidity of any number of statutes that have been declared unconstitutional in part or unconstitutional in certain applications. By noting the clear case I feel that we would lead the reader to rely on such warnings and misinterpret the absence of warning with respect to a partially invalid section. You point out in your letter that the Deering's unannotated codes include general references. These do not in any way constitute an editorial commentary but are simple practice references--access to the major California practice works. The last time I looked at the question the Merco case had not been treated in the secondary sources. Presumably the new edition of Witkin Procedure will treat this point and we will pick up a reference.

At best an unannotated code can only present a fragment of the jurisdiction's statutory law. The fact that some California codes are available in four different unannotated

editions demonstrates the popularity of the unannotated code but it does not resolve the question of their use without benefit of judicial interpretations, notes preserving uncodified law, and similar explanatory materials. This problem is one that we are careful to point out in the Foreword to each of our uncodified volumes.

I am sending a copy of this correspondence to the Legislative member of the California Law Revision Commission. That Commission has the responsibility of recommending repeal of statutes held to be unconstitutional. Given that Section 87 is more or less addressed to nonattorneys who can not be expected to understand the complexities of Marbury vs. Madison I think that some Legislative action is called for.

Best regards,

Mike Bennett

MB/pb

C: The Honorable Alister McAlister

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May 28, 1985

Bancroft-Whitney Company
301 Brannan Street
San Francisco, California 94107

Gentlemen:

We am a subscriber to Parts 1 and 2 of Deering's California Civil Practice Codes. In Part 2, CCP Section 87 (enacted in 1976) permits appearances in behalf of a corporation by one who is not an attorney at law.

In 1978 the California Supreme Court in Merco Const. etc. vs. Municipal Court, 21 Cal. 3d 724, invalidated this statute, declaring it to be unconstitutional. Although I realize that this is not an annotated code, other sections are followed by at least general references.

In view of the fact that this section became a nullity approximately seven years ago, it seems to me that the least that could have been done is that the code section should be followed by some notation alerting the reader accordingly.

Very truly yours,

NATHAN G. GRAY

NGG:FLR

EXHIBIT 3

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November 28, 1984

John H. DeMoully, Executive Secretary
California Law Revision Commission
4000 Middlefield Road, Room D-2
Palo Alto, California 94306

Dear John:

Pursuant to our telephone conversation a few weeks ago, I am enclosing ten copies of the most recent edition of the State Bar Business Law News that contains my comment on the Seaman's case.

As the comment suggests, the issue whether contract damages under existing rules provide adequate compensation for breach of contract may merit consideration by the Commission.

With all good wishes.

Sincerely,

Michael Traynor

MT:ss
enclosures (10)

business law news

Vol. 8, No. 1 Official Publication of the State Bar of California Business Law Section Fall 1984

New California Banking Authority Clashes with Federal Law

by
John D. Wright
Wilson, Ryan & Campilongo
San Francisco

As legislation expanding bank and bank holding company powers has stalled in Congress, recent California statutes granting broader authority to state chartered banks have taken on new importance. The state statutes raise difficult and as yet unresolved questions regarding the interplay of state and federal banking laws. These questions are likely to receive increasing attention as banks seek to diversify their sources of earnings and to develop products and services competitive with those of other financial services firms.

Several provisions of state law contain general or specific authority for state banks to engage in activities far beyond those permitted to national banks or nonbank subsidiaries of bank holding companies.

Section 206 of the Corporations Code provides that "subject to any limitation contained in the articles and to compliance with any other applicable laws . . . a corporation subject to the Banking Law . . . may engage in any business activity not prohibited by the respective statutes and regulations to which it is subject." With the exception of Section 1643 of the Insurance Code limiting insurance agency activities of state banks, limitations on holding real estate, and a few other restrictions, California law does not specifically limit the types of businesses which a state bank might wish to undertake.

AB 3469, enacted in September 1982, expressly authorized state banks to engage in management consulting, data processing and transmission, real estate appraisal, and other activities. The Chief Counsel of the State Banking Department stated in a December 1982 letter to the California Bankers Association that these activities were already permissible for state banks by virtue of Section 206. The Chief Counsel also stated that these activities did not appear to be unsafe or unsound activities which could be prohibited by the Superintendent of Banks under Sections

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Bad Faith Breach of a Commercial Contract: A Comment on the *Seaman's* Case

By Michael Traynor
Cooley, Godward, Castro, Huddleson & Tatum
San Francisco

Introduction

If a breach of contract is also a tort, the injured party may be able to recover damages significantly different from the damages that contract law allows. Consequential damages are not limited to those within the contemplation of the parties when they made the contract;[1] instead, "all the detriment proximately caused" by the tort may be recovered "whether it could have been anticipated or not."[2] Damages for noncommercial losses such as emotional distress may be obtained.[3] Punitive damages may also be imposed if the tort is accompanied by oppression, fraud, or malice.[4]

The prospect of larger compensatory awards as well as punitive damages is a powerful incentive to litigants seeking to break down the barriers between contract and tort, particularly when they are demanding redress of a loss caused by another's action in bad faith. Such litigants

[1]*Hadley v. Baxendale*, 9 Ex. 341, 156 Eng. Rep. 145 (1854); *Hunt Bros. Co. v. San Lorenzo Water Co.*, 150 Cal. 51, 56, 87 Pac. 1093, 1095 (1906); Farnsworth, *Contracts*, 873-81 (1982); Danzig, *Hadley v. Baxendale: A Study in the Industrialization of the Law*, 4 J. Legal. Stud. 249 (1975); Restatement (Second) of Contracts § 351 (1981); Dobbs Remedies, 803-817 (1973); Adams, *Hadley v. Baxendale and The Contract/Tort Dichotomy*, 8 Anglo-American L. Rev. 147 (1979); Gilmore, The Death of Contract 49-53, 82-84 (1974); CEB, California Attorney's Damages Guide, § 1.18 (1974 and Supp. 1984); CEB, California Breach of Contract Remedies, § 4.7 (1980).

[2]Cal. Civ. Code § 3333.

[3]*E.g., Crisci v. Security Ins. Co.*, 66 Cal.2d 425, 426 P.2d 173, 58 Cal.Rptr. 13 (1967); *see* CEB, California Attorney's Damages Guide, §§ 1.24, 1.36 and App. I, § 82 (1974 and Supp. 1984); Dobbs, Remedies 805-807, 819-821 (1973). *See also Molien v. Kaiser Foundation Hosp.*, 27 Cal.3d 916, 616 P.2d 813, 167 Cal. Rptr. 831 (1980).

[4]Cal. Civ. Code § 3294.

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A Comment on the *Seaman's* Case . . .

Continued from page 1

have achieved notable success in holding insurance companies liable for tort damages and punitive damages for breach of the implied covenant of good faith and fair dealing with their insureds.[5] The next major area for expanded liability in tort is currently developing in lawsuits by former employees claiming that their employers wrongfully discharged them.[6] It is thus no surprise if a case elicits widespread interest when it tests whether tort damages and punitive damages are available for breach of the implied covenant of good faith and fair dealing in commercial contracts other than insurance or employment.

When the Supreme Court of California handed down its decision a few weeks ago in *Seaman's Direct Buying Service, Inc. v. Standard Oil Company of California,*[7] it refrained from holding broadly that a party who breaches a commercial contract in bad faith is subject to tort liability and punitive damages. The court did, however, hold that such exposure is present when a bad faith breach occurs in the context of a special relationship such as insurer and insured or when a breach of contract is accompanied by a denial, in bad faith and without probable cause, that a contract exists. The court also sought to clarify the intent requirements of a cause of action for intentional interference with contract or prospective advantage.[8]

In this comment, I will examine briefly the implications of the court's decision on the availability of tort remedies and suggest the alternative of providing adequate compensation by developing contract damage principles in a commercially reasonable and orderly way.

The *Seaman's* Case

Seaman's leased space for a marine fuel dealership and supply business in a new marina of the City of Eureka. Before leasing the space, the City required Seaman's to have a binding agreement with an oil supplier. Seaman's obtained from Standard a letter stating that Standard proposed to sign a dealership agreement under which Standard would supply oil to Seaman's at a discounted price for an initial term of ten years. Seaman's signed its acceptance of the letter, presented the letter to the City, signed a forty-year lease of the marina space, and discontinued dealership negotiations with Mobil. Within a year, an oil shortage occurred, federal quotas were imposed, and Standard declined to supply the oil. The dealership agreement contemplated by the letter was never signed. Seaman's obtained a federal agency decision requiring Standard to fulfill its supply obligations if the letter arrangement with Seaman's was a valid contract. Standard then refused to stipulate to the existence of a contract and told Seaman's, "See you in court."[9] Seaman's discontinued business shortly before the marina opened.

Seaman's sued Standard for breach of contract, fraud, breach of the implied covenant of good faith and fair dealing, and interference with Seaman's contractual relationship with the City. The jury returned a verdict for Seaman's on all but the fraud claim and awarded $397,050 as compensatory damages for breach of contract; the same sum as compensatory damages for breach of the implied covenant of good faith, plus $11,058,810 in punitive damages; and $1,588,200 as compensatory damages on the interference claim plus $11,058,810 in punitive damages. Seaman's consented to a reduction of punitive damages to $1 million on the good faith count and $6 million on the interference count and judgment was entered accordingly. On appeal, the Court of Appeal affirmed only the judgment for compensatory damages for breach of contract, reversed on the interference claim, and ruled that punitive damages are not available for bad faith breach of the implied covenant in commercial contracts outside the

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[5] *E.g., Egan v. Mutual of Omaha Ins. Co.*, 24 Cal.3d 809, 818, 620 P.2d 141, 169 Cal.Rptr. 691 (1979); *Gruenberg v. Aetna Ins. Co.*, 9 Cal.3d 566, 573, 510 P.2d 1032, 108 Cal.Rptr. 480 (1973); *see* Kornblum, *Recent Cases Interpreting the Implied Covenant of Good Faith and Fair Dealing*, 30 Def. L. J. 411 (1981); Levine, Shernoff & Kornblum, Bad Faith 1984 (1984).

The cases, both third party cases and first party cases, are critically analyzed in a forthcoming book. Ashley, Bad Faith Actions: Liability and Damages (Callaghan & Co. 1984).

[6] *See, e.g., Tameny v. Atlantic Richfield Co.*, 27 Cal.3d 167, 179, fn. 12, 610 P.2d 1330, 164 Cal.Rptr. 839 (1980); *Cleary v. American Airlines, Inc.*, 111 Cal.App.3d 443, 168 Cal.Rptr. 722 (1980); *Pugh v. See's Candies, Inc.*, 116 Cal.App.3d 311, 171 Cal.Rptr. 917 (1981); *Shapiro v. Wells Fargo Realty Advisors*, 152 Cal.App.3d 467, 199 Cal.Rptr. 613 (1984). *See generally*, CEB, Handling Wrongful Discharge Litigation (1984); Lopatka, *The Emerging Law of Wrongful Discharge*, 40 Bus. Law 1 (1984).

[7] 36 Cal.3d 752, 686 P.2d 1158, 206 Cal.Rptr. 354 (1984). A petition for rehearing is pending and the court has extended, until November 29, 1984, the deadline for granting or denying a rehearing.

For a leading article preceding the *Seaman's* case, *see* Diamond, *The Tort of Bad Faith Breach of Contract: When, If at All, Should it be Extended Beyond Insurance Transactions?* 64 Marq. L. Rev. 425 (1981). For analysis of the Diamond article, *see* Ashley, *supra*, n.5 at §§ 11.13, 11.14.

[8] 36 Cal.3d at 765-767. This comment concentrates on the issue of bad faith breach of contract and hence does not analyze the interference question in the *Seaman's* case. For discussion of interference claims, *see* Restatement (Second) of Torts §§ 762-774B (1979); Palmer, Law of Restitution § 2.6 (1978 and Supp. 1982); Friedmann, *Restitution of Benefits Obtained Through the Appropriation of Property or the Commission of a Wrong*, 80 Colum. L. Rev. 504, 525-529, 553-554 (1980). The court also has pending before it, as of October 22, 1984, *Petrich v. Nurseryland Garden Centers, Inc.* (LA 31759). 140 Cal.App.3d 243 (1983).

[9] In reviewing the evidence of bad faith, the court stated: "The timing of the denials and the circumstances in which they were made would support the conclusion that Standard was cynically attempting to avoid *both* performance *and* liability for nonperformance of contractual obligations which it privately recognized to be binding." 36 Cal.3d at 771. "On the other hand, Standard offered conflicting evidence from which the jury could have concluded that it acted in good faith." *Id.*

A Comment on the *Seaman's* Case . . .

Continued from page 9

area of insurance or comparable relationships.[10] The Supreme Court granted a hearing in May 1982 and handed down its decision on August 30, 1984.[11]

The court ruled that the letter signed by Standard and accepted by Seaman's was an enforceable requirements contract notwithstanding Standard's defenses that the letter did not specify a quantity provision, was uncertain, and did not satisfy the Statute of Frauds.[12] It then reversed the judgment for Seaman's on the interference count on the ground that there was no evidence "that Standard acted with the purpose or design of causing Seaman's to breach its contract with City."[13] Instead, "the breach was merely an incidental, if foreseeable, consequence of Standard's action."[14]

The court then addressed the principal issue of bad faith. It declined to enter "largely uncharted and potentially dangerous waters" with a broad ruling that a breach of the implied covenant always gives rise to an action in tort.[15] Instead, it referred to the insurance cases as involving a " 'special relationship' between insurer and insured, characterized by elements of public interest, adhesion, and fiduciary responsibility."[16] Inviting further expansion of the "special relationship" category, it stated, "no doubt there are other relationships with similar characteristics and deserving of similar legal treatment,"[17] citing a leading termination of employment case[18] and a recent law review article.[19]

Perhaps most significantly, the court held also that "it is not even necessary to predicate liability on a breach of the implied covenant. It is sufficient to recognize that a party to a contract may incur tort remedies when, in addition to breaching the contract, it seeks to shield itself from liability by denying, in bad faith and without probable cause, that a contract exists."[20] Holding further that the trial court erred in failing to instruct the jury that Standard's denial would not have been tortious if made in good faith, and that the error was prejudicial, the court reversed the judgment for Seaman's and remanded the case for retrial.[21] The court did not elaborate on the precise nature of the instructional error,[22] or discuss the effect on the bad faith issue of the jury's award of punitive damages based on malice or oppression,[23] or explain its "without probable cause" test or state whether it was imposing both an objective test and a subjective test of the conduct of a party who denies the existence of a contract.

In justifying its establishment of the tort of denial of a contract's existence, in bad faith and without probable cause, the court relied on an Oregon case imposing restitutionary liability and punitive damages on a party who coerces payment of more than is due by threatening unjustifiable litigation.[24] "There is little difference, in principle, between a contracting party obtaining excess payment in such manner, and a contracting party seeking to avoid all liability on a meritorious contract claim by adopting a 'stonewall' position ('see you in court') without probable cause and with no belief in the existence of a defense. Such conduct goes beyond the mere breach of

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[10]181 Cal.Rptr. 126 (1982). *See also Wagner v. Benson*, 101 Cal.App.3d 27, 33-35, 161 Cal.Rptr. 516 (1980); *Glendale Fed. Sav. & Loan Assn. v. Marina View Heights Dev. Co.*, 66 Cal.App. 3d 101, 135, fn. 8, 135 Cal.Rptr. 802 (1977); *Battista v. Lebanon Trotting Assn.*, 538 F.2d 111, 118 (6th Cir. 1976); *Nifty Foods Corp. v. Great Atlantic and Pacific Tea Co.*, 614 F.2d 832 (2d Cir. 1980); *Iron Mtn. Sec Storage Corp. v. American Specialty Foods, Inc.*, 457 F.Supp. 1158, 1168 (E.D. Pa. 1978); *Wild v. Rarig*, 302 Minn. 419, 234 N.W.2d 775, 790 (1975), *appeal dismissed and cert. denied*, 424 U.S. 902 (1976); *Tibbs v. Nat. Homes Const. Corp.*, 52 Ohio App.2d 281, 369 N.E.2d 1218 (1977).

[11]*See* n.7, *supra*. As of October 22, 1984, the court still has pending before it important cases in this area: *Smithers v. Metro-Goldwyn-Mayer Studios, Inc.* (LA 31739), 139 Cal.App.3d 643, 189 Cal.Rptr. 20 (1983); *MPB Assocs. v. United California Bank*, (SF 24508) (no former published opinion).

[12]36 Cal.3d at 762-765.

[13]36 Cal.3d at 765-767.

[14]36 Cal.3d at 767.

[15]36 Cal.3d at 769.

[16]36 Cal.3d at 768.

[17]36 Cal.3d at 769.

[18]*Tameny v. Atlantic Richfield Co., supra*, n.6. For a recent application of the *Seaman's* case to a post-employment payment contract, see *Wallis v. Kroehler Mfg. Co.*, 160 Cal. App. 3d 1109 (1984). For claims by commercial lessees that the lessor's consent to an assignment was wrongfully withheld, *see Schweiso v. Williams*, 150 Cal. App. 3d 883, 198 Cal. Rptr. 238 (1984); *Cohen v. Ratinoff*, 147 Cal. App. 3d 321, 195 Cal. Rptr. 84 (1983); *Prestin v. Mobil Oil Corp.*, ... F. 2d ... (9th Cir. 1984) (84 Daily Journal D.A.R. 3465).

[19]Louderback & Jurika, *Standards for Limiting the Tort of Bad Faith Breach of Contract*, 16 U.S.F. L. Rev. 187, 220-226 (1981) (four criteria: superior bargaining power; security or peace of mind motive, not profit; weaker party places trust in larger entity; larger entity intends to frustrate weaker party's enjoyment of contract rights). For critical analysis, *see* Ashley, *supra*, n.5 at §§ 11.11, 11.12 (criteria are underinclusive and do not adequately explain insurance cases). See generally Prosser, Torts 613-622 (4th ed. 1971).

For careful analysis of the enforceability of promises in contexts that may involve unconscionability, *see* Eisenberg, *The Bargain Principle and Its Limits*, 95 Harv. L. Rev. 741 (1982).

[20]36 Cal.3d at 769.

[21]36 Cal.3d at 770-774.

[22]There may be a difference, for example, between erroneously rejecting a proposed instruction and merely giving an unclear or incomplete instruction that counsel does not attempt to clarify or amplify. *See* Richman, *Jury Instructions*, Chapter 17, § 17.31 in CEB, 2 California Civil Procedure During Trial 350-351 (1984).

[23]Proof of bad faith does not necessarily establish malice or oppression. *See, e.g., Neal v. Farmer's Ins. Exchange*, 21 Cal.3d 910, 921 n.5, 582 P.2d 980, 148 Cal.Rptr. 389 (1978); *Silberg v. California Life Ins. Co.*, 11 Cal.3d 452, 462-463, 521 P.2d 1103, 113 Cal.Rptr. 711, 718 (1974). Proof of malice or oppression, however, will in many cases indicate bad faith. *See, e.g., Adams v. Crater Well Drilling Inc.*, 276 Or. 789, 556 P.2d 679, 681 (1976) ("the jury in assessing punitive damages must have found defendant's conduct to be in bad faith").

[24]*Adams v. Crater Well Drilling, Inc., supra*, n.23.

Continued from page 10

contract. It offends accepted notions of business ethics."[25] The court concluded its brief rationale for the new tort by stating that "acceptance of tort remedies in such a situation is not likely to intrude upon the bargaining relationship or upset reasonable expectations of the contracting parties."[26]

The Oregon case relied on by the court is a familiar type of case requiring the restitution of money obtained by tortious conduct, namely, duress.[27] It is not a breach of contract case and does not involve the defense that no contract exists.[28]

The Chief Justice concurred in the court's ruling that a contract existed and in its effort to clarify the law of interference with contract. She dissented in part however, from the ruling on the bad faith issue and stated that the court "should forthrightly recognize the principle that, under certain circumstances, a breach of contract may support a tort cause of action for breach of implied covenant."[29] Because the implied covenant of good faith and fair dealing exists in every contract,[30] this view, had it prevailed, would have opened the door widely to the imposition of tort liability and punitive damages in breach of contract cases.

[25]36 Cal.3d at 769-770, citing *Jones v. Abriani*, 169 Ind. 556, 350 N.E.2d 635 (1976). The *Jones* case states that punitive damages may be available when an independent tort such as fraud is committed, not for breach of contract. 350 N.E.2d at 649-650. *See* Restatement (Second) of Contracts § 355 (1981).

[26]36 Cal.3d at 770.

[27]*See*, e.g., 2 Palmer, Law of Restitution, §§ 9.3, 9.7 (1978 and Supp. 1982).

[28]The Supreme Court of Oregon recently made clear that *Adams v. Crater Well Drilling, Inc., supra*, n.23, is a tort case, not a contract case. *Davis v. Tyee Industries*, 295 Or. 467, 668 P.2d 1186 (1983). It bears noting that the court in *Seaman's* recognized a new tort of "stonewalling" and avoided ruling that the tort results from a breach of the implied covenant of good faith and fair dealing. Even in the insurance cases, it has been a minor mystery just why it is that breach of a contract obligation becomes a tort. The courts have had no little difficulty explaining or containing this theory. *See* Ashley, *supra*, n.5, Chapter 11, and *passim* (tracing history of the implied covenant and critically analyzing its development); Kornblum, *supra*, n.5; Diamond, *supra*, n.7.

[29]36 Cal.3d at 775 (separate opinion). Although this comment concentrates on the majority opinion, the view here expressed that it is premature to turn to tort remedies and punitive damages before utilizing the resources of contract law would apply as well to the separate opinion. Space does not permit separate critical analysis of that opinion. *See* Ashley, *supra*, n.5 at § 11.15.

[30]*E.g., Egan v. Mutual of Omaha Ins. Co.*, 24 Cal.3d 809, 818, 620 P.2d 141, 169 Cal.Rptr. 691 (1979); *Crisci v. Security Ins. Co.*, 66 Cal.2d 425, 429, 426 P.2d 173, 58 Cal.Rptr. 13 (1967); *Comunale v. Traders & General Ins. Co.*, 50 Cal. 2d 654, 658, 328 P.2d 198 (1958); *Brown v. Superior Court*, 34 Cal.2d 559, 564, 212 P.2d 878 (1949); Restatement (Second) of Contracts § 205; (1981); Cal. Comm. Code § 1203. *Compare* Summers, *The General Duty of Good Faith—Its Recognition and Conceptualization*, 67 Cornell L. Rev. 810 (1982); *with* Burton, *Breach of Contract and The Common Law Duty to Perform in Good Faith*, 94 Harv. L. Rev. 369 (1980) *and* Burton, *More on Good Faith Performance of a Contract: A Reply to Professor Summers*, 69 Iowa L. Rev. 497 (1984).

Some Lessons From The *Seaman's* Case

The immediate lessons of the *Seaman's* case for negotiating and drafting seem obvious. Decide at the outset whether the relationship is contractual and, if not, make clear that no contract is intended; the stakes for denying a contract are now higher. Avoid relationships, letters of intent or other documents or statements that are ambiguous unless ambiguity is important. If ambiguity is important (as it might be in occasional letter of intent or requirements situations), inform your client that denying a contract later may create the risk of tort liability and punitive damages. If the relationship is contractual, either express or disclaim (depending on your client's interests) a "special relationship" of trust and confidence or comparable relationship calling for special treatment. Consider drafting remedies clauses more specifically, for example, on the availability of specific performance, consequential damages, attorney's fees, interest, and liquidated or limited damages, and providing that contract termination or nonrenewal in your client's discretion will not be deemed to be a breach of the implied covenant of good faith and fair dealing.

In the contract dispute area, when claiming contractual liability, assert that a contract exists and consider provoking a response that it does not. On the other hand, when denying contractual liability, distinguish carefully between denying that a contract exists and merely denying that an obligation exists under the contract, for example, on grounds of interpretation, the other party's nonperformance, or your client's excuse from performance. Assure yourself that any defense of nonexistence of a contract is well-grounded. Do not lightly assert the Statute of Frauds, incapacity, lack of mutual assent, fraud in the formation, revocation of an offer before acceptance or other claim that an enforceable contract was never formed. Avoid "stonewalling." Recognize that you as well as your client may be sued for conspiring tortiously and without privilege in a bad faith denial of the existence of a contract just as lawyers advising insurance carriers on coverage issues are sometimes being sued along with their clients when coverage is denied. Although the risk of actual liability may not seem substantial, you may be obliged to defend yourself, be a witness, and possibly withdraw as counsel for your client because of the potential conflicts.

If you find these lessons troubling, as I do, you may find the implications for rational development of the law equally troubling. A distinction between denying the existence of a contract and denying a contractual obligation under an existing contract seems artificial, and applying it to oral contracts or loosely written contracts seems unworkable. The distinction may spawn more artificial dis-

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tinctions, particularly since the court provided no guidance for implementing the idea that denying a contract relationship should be treated more severely than denying a contract obligation. Consider the following defense to a claimed employment or requirements contract: "I agreed to an indefinite term, terminable on reasonable notice, not to a five year term." Does that statement admit a contract and merely deny its scope or does it deny the existence of a contract, one with a five-year term? "Stonewalling" in any form, whether by denying a contract or denying a particular obligation under a contract arguably may become tortious behavior as the court's theory is developed in litigation.

Consider also an agent's claim for commissions payable out of the net proceeds from sales of the principal's equipment in the territory. Is a defense in bad faith that "net proceeds" excludes sales by the principal itself, or that the item sold was not "equipment" or that the place of delivery was not in the "territory" only a matter of interpretation or, especially if incautiously phrased—"we never contracted for that"—does it become a denial of a contract? Artful pleadings setting forth additional causes of action for the bad faith denial of a contract's existence are already beginning to appear in the trial courts. As these cases proceed, we may see a refined body of doctrine develop, akin to the old forms of action, drawing nice distinctions between contract existence issues and interpretation and performance issues. To what end?

Apart from damages and other remedies, the critical issues in contract law concern formation, interpretation, performance, the rights of third parties, and, in some cases, unconscionability.[31] These issues are frequently interrelated. Treating the formation of contract issue differently from the others by placing it in the arena of tort liability and punitive damages seems likely to distort the law, the way that contracts are entered into, interpreted and performed, and the way that contract disputes are negotiated and litigated. It may also weaken and facilitate evasion of the statutory rule that punitive damages are not available for breach of contract.[32]

An Alternative Approach: Amplified Contract Damages For Bad Faith Breach

It is possible to look beyond the immediate difficulties of the *Seaman's* case and to interpret the case more generously. The decision may be read as a signal that the court is concerned about bad faith conduct by contracting parties, is not prepared to go so far as to convert every claim of bad faith breach into a claim for tort liability and punitive damages, but is willing to consider ways of imposing more than ordinary contract liability in appropriate cases. The "by the court" authorship of the opinion and the long period of twenty-seven months the court took to decide the case may reflect an intellectual struggle that yielded only a majority of votes for a result, not any agreement on the rationale for developing the law coherently.

When Robert Frost wrote of mending a wall, he asked to know what he "was walling in or walling out."[33] The court has not resolved that question in looking askance at a so-called "stonewall" in the field of contracts. What is the *ratio decidendi* for walling in or walling out? It might better serve the future of contractual relations to make reasonable adjustments in the serviceable walls of contract law than to make mischief with a rockpile in a hit or miss game of punitive damages.

With this perspective, I would like to venture some suggestions for consideration by lawyers, the courts, the Law Revision Commission, and the Legislature:

The central question is whether compensatory damages for breach of contract should be amplified in appropriate cases, especially when the breach is in bad faith. A crucial related question is whether punitive damages should ever be permitted in such cases.

If judges, legislators, and lawyers focus on the adequacy of compensation for breach of contract, they will be focusing on the central problem.[34] Spending energy and refined analysis on whether a breach of contract is also or alternatively a tort diverts attention from this central economic problem, results in an unproductive search for an elusive rationale, creates opportunities for clever pleading and position-taking strategems, stimulates litigation over categories such as "special relationships" and "denial of the existence of a contract," and encourages evasion of the present statutory mandate that punitive damages are not available for breach of contract.

There are several ways in which damages for bad faith breach of contract could be amplified to yield an adequate compensatory award without radically altering the existing framework of contract law:

First, the *Hadley v. Baxendale* rule that consequential damages are limited to those in contemplation of the parties when the contract was made could be relaxed in accordance with the current trend; both the applicable statutory language and existing case law support compensatory damages that go beyond that limit

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[31] *See* Eisenberg, *supra*, n.19.

[32] Cal. Civ. Code § 3294.

For historical review and analysis of the policies involved, *see* Sullivan, *Punitive Damages in the Law of Contract: The Reality and the Illusion of Legal Change*, 61 Minn. L. Rev. 207 (1977).

[33] *See* Frost, Mending Wall, in Collected Poems 47 (Holt, Rinehart & Winston 1964).

[34] *See, e.g.*, Cal. Civ. Code §§ 3306, 3307 (for breach of real estate sales contracts, allows consequential damages and interest).

A Comment on the *Seaman's* Case . . .

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and that approach or are comparable to compensatory damages in tort cases.[35]

Second, contractual limitations on the amount of damages or on the availability of consequential damages could be denied enforcement or circumscribed; doing so would provide a second look, at the damages phase, at clauses whose mere existence might not cause the bargain to be unconscionable but whose enforcement in a bad faith case could produce an unconscionable result.[36]

Third, the present discretion of courts to award prejudgment interest when the amount of the liability is not certain could be exercised more broadly to ameliorate the loss of opportunity and delay that results from the breach.[37]

Fourth, by legal rule and jury instruction, trial courts and juries could be encouraged as well as guided in bad faith cases to award a higher rather than a lower compensatory award within the leeways and the range of uncertainty that presently exist in the law of contract damages; such a development would recognize what now occurs frequently, although ad hoc, in practice.[38]

Fifth, in appropriate cases, a court could consider invoking principles of restitution and unjust enrichment to take away the profits resulting from a bad faith breach and award them to the party whose expectations were destroyed.[39]

The foregoing suggestions are by no means exhaustive; there may be additional opportunities for rationally developing the resources of contract law to improve compensatory damages when a contract is broken in bad faith.[40]

The exposure to punitive damages should be strictly curtailed, if not eliminated, in commercial breach of contract cases and the present legislative judgment should be respected that punitive damages are not available for breach of contract.[41] Exposing contracting parties to punitive damages injects excessive uncertainty into an area of law intended in part to promote certainty of expectations and inhibits commercial decisions such as the "efficient" although intentional breach of contract that may result in a gain to the economy.[42] Given the reality that a breach of contract is frequently a breach of faith (although not necessarily in bad faith) and that contract law traditionally permits intentional breaches at the risk of paying dam-

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[35]Cal. Civ. Code §§ 3300 provides that "for the breach of an obligation arising from contract, the measure of damages, except where otherwise expressly provided by this Code, is the amount which will compensate the party aggrieved for all the detriment proximately caused thereby, or which, in the ordinary course of things, would be likely to result therefrom."

See Overstreet v. Merritt, 186 Cal. 494, 505, 200 Pac. 11, 16 (1921); Harris & Graham, *A Radical Restatement of the Law of Seller's Damages: California Results Compared,* 18 Stan. L. Rev. 553, 554 n.8 (1966) (historical note on Cal. Civ. Code § 3300). For insurance cases, *see, e.g., Silberg v. California Life Ins. Co.,* 11 Cal.3d 452, 460-462, 521 P.2d 1103, 1108-1110, 113 Cal.Rptr. 711, 716-718 (1974); Diamond, *supra,* n.7, 64 Marq. L. Rev. at 434 n.38. *Compare* Note, *Moral Damages for Breach of Contract: The Effect on Recovery of an Obligor's Bad Faith,* 42 La. L. Rev. 282 (1981) (discussing Louisiana law).

[36]*Cf.* Samuels, *The Unconscionability of Excluding Consequential Damages Under the Uniform Commercial Code When No Other Meaningful Remedy is Available,* 43 U. Pitt. L. Rev. 197, 245-246 (1981); Cal. Civ. Code § 1670.5(a); Cal. Comm. Code § 2719(3); *see* Eisenberg, *supra,* n.19.

[37]Cal. Civ. Code § 3287(b). *See* Note, *Prejudgment Interest: Survey and Suggestions,* 77 Nw. U. L. Rev. 192 (1982); Note, *Prejudgment Interest: An Element of Damages Not to be Overlooked,* 8 Cumb. L. Rev. 521 (1977).

[38]*See Farber, Reassessing the Economic Efficiency of Compensatory Damages for Breach of Contract,* 66 U. Va. L. Rev. 1443, 1473 (1980); 5 Corbin, *Contracts,* § 1077 at 440 (1964); *cf.* Farnsworth, *Legal Remedies for Breach of Contract,* 70 Colum. L. Rev. 1145, 1175 (1970) (jury discretion to fix reasonable damages between the market value differential and the cost of completion); *Donahue v. United Artists Corp.,* 2 Cal. App. 3d 794, 804, 83 Cal. Rptr. 131 (1969) (party who willfully breaches bears risk of uncertainty or difficulty of computing damages).

[39]*See* Farber, n.38, *supra* 66 U. Va. L. Rev. at 1449 n.27 and 1455 n.46; 1 Palmer, *Law of Restitution,* § 4.9; Friedmann, *supra,* n.8, 80 Colum. L. Rev. at 515-527 (1980); Simon & Novack, *Limiting the Buyer's Market Damages to Lost Profits: A Challenge to the Enforceability of Market Contracts,* 92 Harv. L. Rev. 1395, 1437 (1979); Jones, *The Recovery of Benefits Gained from a Breach of Contract,* 99 Law Q. Rev. 443 (1983); *cf. Snepp v. United States,* 444 U.S. 507 (1980).

[40]*See* Farber, *supra,* n.38, 66 U. Va. L. Rev. at 1470-1473 ("when repair or completion costs exceed market value loss, many courts award the higher measure of damages if the breach was willful"); Yorio, *In Defense of Money Damages for Breach of Contract,* 82 Column. L. Rev. 1365, 1391-92, 1408-13 (1982); *cf. United States v. Behan,* 110 U.S. 338 (1884) (reliance losses).

Modification of the general rule that attorney's fees are not available unless provided for by express covenant or statute might also be considered. *See* Cal. Code Civ. Proc. § 1021; Cal. Civ. Code § 1717.

[41]Cal. Civ. Code § 3294. *See* Restatement (Second) of Contracts § 355 (1981). *See generally,* Mallor & Roberts, *Punitive Damages: Toward a Principled Approach,* 31 Hastings L. J. 639 (1980); *Symposium: Punitive Damages,* 56 So. Calif. L. Rev. 1-203 (1982). Even in the tort and insurance cases, punitive damages awards have created much controversy. Does the court really wish to open up new areas for comparable controversy in relationships such as vendor and purchaser, lender and borrower, owner and contractor or architect, trustee and beneficiary, landlord and tenant, attorney and client, doctor and patient, or even husband and wife (notwithstanding "no-fault" dissolution)?

[42]*See* Farber, *supra,* n.38, *passim,* for discussion of the "efficient" breach theory and citations to relevant authorities; Note, *Efficiency and a Rule of "Free Contract": A Critique of Two Models of Law and Economics,* 97 Harv. L. Rev. 978 (1984). How would the court deal with a party who admits that a contract exists but adamantly refuses to perform it?

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ages,[43] the introduction of punitive damages to contract cases will undermine the nonfault premises of contract law, impede negotiated settlements of disputes, and stimulate litigation. Moreover, as adequate compensatory damages become available, any purported need for punitive damages should be correspondingly reduced. Increased awards of compensatory damages in bad faith breach of contract cases are in accord with developing trends in contract law;[44] they are limited by the well-established principle of compensation; and they should not unduly upset the commercial expectations of contracting parties. By contrast, punitive damages are a rare occurrence in contract cases not involving insurance;[45] they are not limited except by vague concepts of punishment, net worth of the defendant, and some indefinite relationship to compensation;[46] and they bring volatility to an area that is meant to function with stability. Why should courts and juries be able to award punitive damages in contract cases when the parties themselves are foreclosed from providing for penalties and forfeitures?[47]

Let us test this contract-oriented approach by applying it to the *Seaman's* case. The jury verdict awarding compensatory damages of less than $400,000 on the breach of contract claim but over $1.5 million on the interference claim indicates that Seaman's suffered substantial and foreseeable economic losses and that the breach of contract award may have been inadequate. The jury's implicit finding of malice or oppression underlying its award of punitive damages reflects a serious issue of bad faith. Although punitive damages should not be available, an opportunity to obtain an adequate award of compensatory damages should be available. One party should not be able through a bad faith breach to put the other in such distress that it is forced out of business without full recovery in contract. The court accordingly might have remanded the case for retrial on compensatory damages under instructions that would have authorized the jury to grant a larger award, not limited by *Hadley v. Baxendale*, if it found that Standard breached its implied covenant of good faith and fair dealing. Prejudgment interest should also be available.

If the alternative of gradually expanding compensatory damages does not deter bad faith breaches of contract and if serious uncompensated losses continue to result from such breaches, then it may be appropriate for courts to begin articulating principles of tort liability and attendant punitive damages. It seems premature at this juncture, however, to move in that direction without first exploring the possibility of improving contract damage rules in contract cases.

Conclusion

The court struggled to meet the growing challenge that existing principles of contract law may not afford adequate compensation for breach of contract, particularly when the breaching party has acted in bad faith. It did so, however, not by reexamining those principles and addressing the problem at its roots, but by confirming the existing tort category of special relationship cases such as insurance and creating a separate tort category of the denial of a contract's existence, in bad faith and without probable cause. Although the court was concerned and cautious, appropriately so, about introducing the risk of punitive damages into commercial transactions, it nonetheless enlarged that risk via these categories. In doing so, it undermined the statutory mandate that punitive damages are not available for breach of contract. The alternative of allowing the law of contract damages to grow in a commercially reasonable way that improves the prospect of adequate compensatory awards, not discussed by the court, remains to be developed. The case was a difficult one and although the court did not resolve the central issue of compensation in bad faith cases or address it in a compelling way, it did recognize the need for clarifying the law of intentional interference with contract. Perhaps with its next bad faith breach of contract case, the court can advance the law within the context of reasonable contract principles, curbing the unseemly growth of punitive damages in commercial settings while also assuring an adequate award.

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[43]*See Iron Mountain Sec. Storage Corp. v. American Specialty Foods, Inc.*, 457 F.Supp. 1158 (E.D. Pa. 1978), discussed in Diamond, *supra*, n.7, 64 Marq. L. Rev. at 432; Holmes, The Common Law 236 ([1881] Howe ed. 1963); Gilmore, The Death of Contract 14-16 (1974).

[44]*See* notes 1, 34-40, *supra*.

[45]*See* Ashley, *supra*, n.5; Kornblum, *supra*, n.5; Diamond, *supra*, n.7.

[46]*See* n.41, *supra*.

[47]Cal. Civ. Code §§ 1671, 3275, 3358, 3359; Cal. Comm. Code § 2718.

EXHIBIT 4

JACK E. COOPER
ATTORNEY AT LAW
225 BROADWAY, SUITE 1500
SAN DIEGO, CALIFORNIA 92101
(619) 232-4525

December 14, 1984

California Law Revision Commission
4000 Middlefield Rd., Ste. D-2
Palo Alto, CA 94306

Re: Business & Professions Code, section 6068 (d) & (e)

Gentlemen:

The above referenced code provisions provide:

"It is the duty of an attorney:
. . . .
(d) to employ, for the purpose of maintaining the causes confided to him such means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law.

(e) to maintain inviolate the confidence, and at every peril to himself to preserve the secrets of his client.
. . . ."

The December issue of the California Lawyer contains an article ETHICS Perjury In Civil Cases concerning the action to be taken by attorneys when they discover their clients have been giving false testimony. The article seems to indicate that if all else fails, the attorney should disclose the perjury to the court.

Formal Opinion No. 386 of the Los Angeles County Bar considers the same question and concludes the attorney must not disclose the perjury.

It seems clear that when a client commits perjury the attorney must elect to abide by one or the other of the above-referenced code provisions, but at the same time will be violating the other. If you read the L.A. County Opinion No. 386 you will quickly see that there is a wide diversity of opinion as to what the attorney is to do. I respectfully submit that it is something that should properly be resolved by legislative action. An legislative action should be with regard to both civil and criminal matters, although they do not necessarily have to be the same.

Very truly yours,

Jack E. Cooper

Jack E. Cooper

EXHIBIT 5

February 4, 1987

John H. DeMoully
Exec. Secretary
Law Revision Commission
4000 Middlefield Rd., D-2
Palo Alto CA 94306

Dear Mr. DeMoully,

I ask for your assistance. There is a gap in the California Code of Civil Procedure, and it has become my lot to fall through. With your help, we can close the gap and make my life whole.

Sections 1275-1279 of the Code create a procedure for modifying the public record when a citizen changes his or her name. The Code fails to define what a name is.

I applied in 1981 to change the public record of my name. The Trial Court judge, J. Anthony Kline, reacted by engaging in correspondence with the Attorney General's office (Exhibits A1 and A2 are photocopies of that correspondence). In the second of two hearings, he decided that the lack of a definition in the blackletter law compelled him to seek judicial review of my application. His only mechanism for obtaining that review was to deny my application in trial court, which he did.

In September of 1984, the Court of Appeals upheld the Trial Court denial (Exhibit B is a photocopy of the Court of Appeals decision, which was certified for publication). I observe that the prime directive of the Appeals Court is to uphold Trial Court, regardless. Their Opinion speaks for itself.

I attempted to pursue the matter in State Supreme Court. As part of that effort, I enlisted the Acting Chairman of the Linguistics Department at Berkeley to help sort out the semantic and linguistic issues. Doctor Kay's paper (photocopied as Exhibit C) responds directly to the Court of Appeals Opinion. The Supreme Court chose not to hear my appeal of the Appeals Court ruling.

I turned for help to the legislative process. Assemblyman Art Agnos was supportive of my intention to include a definition of "name" in the Civil Code, and found himself unable to carry the necessary leglislation, due to his obligations to larger constituencies. He was able to have the Legislative Counsel in Sacramento draft a change to the Civil Code, and made it available to me in the hope that I might be able to find another avenue for carrying the change through Sacramento. Exhibit D is a photocopy of the write-up and Assemblyman Agnos' letter to me.

I understand that your office can recommend legislation that serves to clean up loose ends. I ask that you seek a change to the Code of Civil Procedure, based on the draft from the Legislative Counsel, so that I can start all over again--once the law has been upgraded--to have the public record reflect current reality.

I have also included exhibits that demonstrate the widespread and comfortable use of my name by Federal agencies, the State of California, San Francisco County, corporations large and small, professional organizations, and other record-keeping entities.

My request for your help is based on more than redress of past grievances. The U.S. State Department has declined to issue me a passport in my new name without a Court Order that certifies my name change; my life insurance company has declined to change the name on my policy without a Court Order; and, my mother's attorney has advised her to exclude me from consideration in her affairs until my name has formal approval.

I hope that sufficient time remains before the closing date for submission of proposed legislation for the 1987 legislative calendar. If I can provide further information, or be of assistance in any way, please feel free to call upon me.

Thank you for your time and consideration. I look forward to hearing from you.

peace

III - bismark

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540 LONG FORM

This Booklet Contains:

Form 540
Long Form Tax Return

Schedule A
Itemized Deductions

Schedule B
Interest & Dividends

Schedule C-E-F
Business, Supplemental and Farm Income

Schedule D
Capital Gains and Losses

Schedule G
Income Averaging

Schedule H
Renter's Credit

Form 540ES
Estimated Tax

FTB 3805N
Employee Business Expense

FTB 3885
Depreciation and Amortization

File Form 540 if:

- You were a resident of California for the entire year.
- You file, in addition to the Form 540, one or more of the schedules or forms listed on the front or back cover of this booklet.

Use the Pre-addressed Label

Peel off the label above and place it in the address area of the Form 540 you file. If someone else prepares your return, please give the preparer this label and ask the preparer to use it. Make corrections on the label. Use of the label will help ensure accuracy and speed the processing of your return.

Resident Personal Income Tax

1985

UNIVERSITY OF CALIFORNIA, S.F.
HOSPITALS AND CLINICS

OUTPATIENT SERVICES

Closing Date: 2/28/86

Account Number	P.C.	F.C.	S.C.	RCC
911370-3	3	Q	0	000

Always refer to these numbers when calling or writing.

Account Date

Date	Description	Procedure Number	Amount
2 11 86	XRO FOOT	42700 649	57.00
2 11 86	**RADIOLOGIST FEE	42799 649	28.00
2 11 86	SAC VISIT-00	[illegible]00 771	39.00
2 12 86	ORTHO VISIT-BRIEF	770	40.00
2 12 86	F HOAGLUND MD	[illegible] 990	

If you have any questions call this number.
476-3071

CLOSING BALANCE 164.00

RETAIN FOR YOUR RECORDS

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SF CA 94107

PLEASE RETURN THIS STUB WITH YOUR PAYMENT.

Make checks payable to:
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P.O. Box 39157, San Francisco, California 94139

Closing Date: 2/28/86

02

Account Number	P.C.	F.C.	S.C.	RCC
911370-3	3	Q	0	000

Account Date

Message

OUR RECORDS INDICATE YOU DO NOT HAVE MEDICAL INSURANCE, MEDICARE OR MEDI-CAL. IF YOU DO, PLEASE CONTACT FINANCIAL SERVICES, (415) 476-4714. IF NOT, PLEASE PAY THE AMOUNT DUE BY MARCH 25TH. THANK YOU.

Amount you are paying

If you wish to pay by using your Master Charge Bank Card or your BankAmericard complete the following information.

☐ B of A ☐ M.C.

Expiration Date

Number

Authorized Signature

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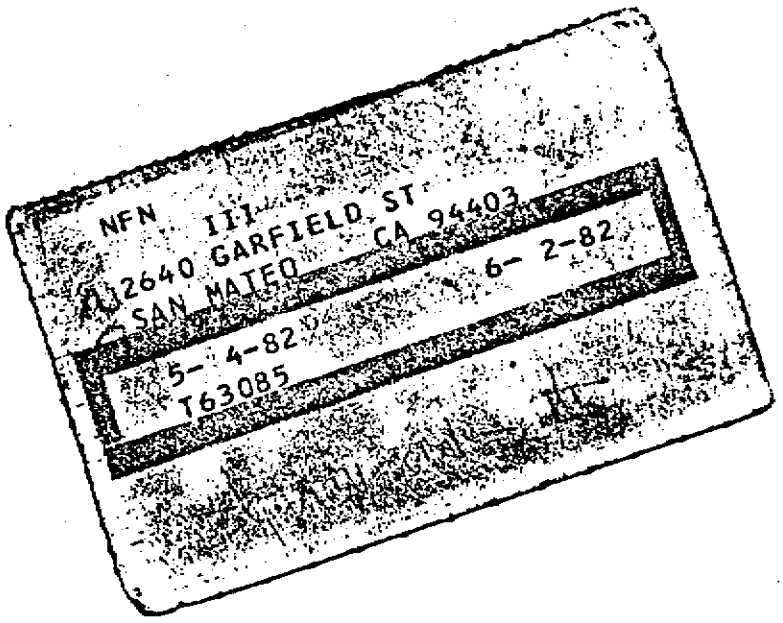
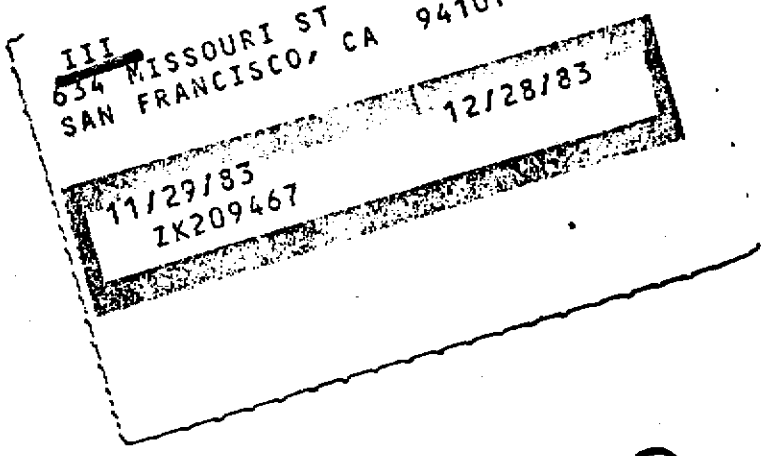
591 VERMONT ST
SF CA 94107

IF ABOVE ADDRESS IS INCORRECT, PLEASE FILL OUT REVERSE SIDE.





S.F. REGISTRAR OF VOTERS

Bank of America

Bank-Depositor Agreement
Individual, Informal Trustee, Sole Proprietor

TO: Bank of America NT&SA

By signing this agreement, I open a deposit account with you. You will handle the account chosen below according to your arrangements for services of this type.

The publication(s) which you give me as part of this agreement tell(s) how these services now work. You will inform me of any changes in these services that affect my rights as a depositor.

I want my account to be: (check one)
- XXX INDIVIDUAL (mine alone – my signature only)
- ☐ INFORMAL TRUSTEE (mine alone – my signature only; beneficiary has right of survivorship)
- ☐ SOLE PROPRIETOR: I certify that I am the SOLE OWNER of this firm.
  - ☐ I am the only signer on this account.
  - ☐ I authorize additional signers as shown below.

You may:
- Endorse checks for me which you receive for deposit.
- Cash and deposit all checks payable to me or to this account name when endorsed.

I want you to:
- X MAIL all my statements and other notices.
- ☐ HOLD all my statements and other notices. Mail them to me if I don't call for them in 30 days. If the statements and other notices are returned to you undelivered, you may destroy them after 2 years.

I agree that you're not responsible for items lost while not in your possession.
☐ I want a unified Timesaver Statement®
My ☐ checking ☐ savings account number is ______ – ______
☐ I want TIMESAVER SPACESAVER™ service (sole proprietor accounts are not eligible).
You or I can end this banking relationship at any time.

Name Change 3 9 9 OCT 1 7 '8

(CK) III [redacted] (SV)

ACCOUNT NAME ______ 02999-07851 ACCOUNT NUMBER

Under penalties of perjury, I certify that the taxpayer information I provide on the reverse of this form is correct and complete.
Authorized signature(s): Please circle (optional) Mr., Mrs., Ms.

1. X III – his mark (Mr. Mrs. Ms. MY SIGNATURE) Oct 17, 1984 (DATE)

You may pay out funds with my signature or any ______ (NUMBER) of the signatures below.

2. X ______ Mr. Mrs. Ms. OTHER AUTHORIZED SIGNATURE ______ DATE
3. X ______ Mr. Mrs. Ms. OTHER AUTHORIZED SIGNATURE ______ DATE
4. X ______ Mr. Mrs. Ms. OTHER AUTHORIZED SIGNATURE ______ DATE

BankAmericard

VISA

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OR ADDRESS OR TELEPHONE CHANGE, CIRCATE AT RIGHT AND PUNCH OUT RED SQUARE BOTTOM OF THIS COUPON.

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591 VERMONT
SAN FRANCISCO CA 94107

Payment Coupon

PAYMENT DUE DATE
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▼ ENTER AMOUNT ENCLOSED

TO AVOID ADDITIONAL PERIODIC CHARGES, PAYMENT OF THE TOTAL "NEW BALANCE" MUST BE RECEIVED BY PAYMENT DUE DATE. MINIMUM PAYMENTS WILL BE PAST DUE IF NOT RECEIVED BY THE PAYMENT DUE DATE.

CLOSING DATE
03-24-86
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MINIMUM MONTHLY PAYMENT DUE
.00

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WRITE YOUR ACCOUNT NUMBER ON YOUR CHECK.

◀ MAIL PAYMENT TO:

BANK CARD CENTER
P.O. BOX 54000
SAN FRANCISCO, CA 94154

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PUNCH ➘ FOR ADDRESS OR TELEPHONE CHANGE

RETURN PAYMENT COUPON WITH YOUR CHECK AND KEEP THE STATEMENT PORTION BELOW FOR YOUR RECORDS.

TO AVOID ADDITIONAL PERIODIC CHARGES, PAYMENT OF THE TOTAL "NEW BALANCE" MUST BE RECEIVED BY PAYMENT DUE DATE. MINIMUM PAYMENTS WILL BE PAST DUE IF NOT RECEIVED BY THE PAYMENT DUE DATE.

Account Number: 4019-0121-8284-2696 Name: MR III

BankAmericard® Statement

Account Type	Total Credit Line	Credit Available	Closing Date	Payment Due Date
VISA	300	300	03-24-86	04-18-86

ACCOUNT ACTIVITY	BankCard sub-Account	ValueAmerica™ sub-Account	Total Account
Previous Balance	00		00
New Activity (+)			
Cash Advances (+)			
Service Transactions (+)			
Payments (−)			
Credits (−)			
Sub-Account Credit Transfers (+)|(−)			
FINANCE CHARGE (+)			
Late Charge (+)			
Credit Insurance Premium (+)			
NEW BALANCE (=)	00		00

FINANCE CHARGES PAID IN 1985: .00

FINANCE CHARGE CALCULATION	Amounts Subject to Charge	X's Rate (%) (or Periodic Rate)	= Corresponding Finance Charge	Corresponding Annual Percentage Rate (%)
BankCard sub-Account Average Adjusted Daily Balance		1.65		19.80
Cash Advances		2.00		24.00
Service Transactions		1.50		18.00
ValueAmerica sub-Account				
$ 3000 and under		.00		.00
over $ 3000		.00		.00

ANNUAL PERCENTAGE RATE (%)

BankCard sub-Account	ValueAmerica sub-Account	Total Account
.00	.00	.00

BANK CARD CENTER
P.O. BOX 37129
SAN FRANCISCO, CA 94137

◀ SEND BILLING INQUIRIES TO

Current Amount Due ▶
Amount Past Due ▶
Amount Over Credit Line ▶
Minimum Monthly Payment Due ▶

POSTING DATE NO.	POSTING DATE DAY	REFERENCE NUMBERS	ACTIVITY SINCE LAST STATEMENT	TRANSACTION DATE IF AVAILABLE	CHARGES	PAYMENTS AND CREDITS
			INCREASE YOUR TAX ADVANTAGE!! ADD TO YOUR IRA WITH A CASH ADVANCE. YOU CAN GET A BANKAMERICARD CASH ADVANCE AT MOST BANKS ACROSS THE COUNTRY.			

940024392
STATEMENT NUMBER

PAGE 1 OF 1

FOR CUSTOMER SERVICE CALL:
8:30 AM - 4:30 PM PACIFIC TIME
1-800-227-5458
LOCAL CALLS (415) 622-8000

FOR LOST OR STOLEN CARD CALL:
(415) 622-5695
24-HOUR TELEPHONE NUMBER

TOTAL CHARGES

TOTAL PAYMENTS AND CREDITS

* designates a ValueAmerica sub-Account transaction. Any transactions not marked with an asterisk are BankCard sub-Account transactions.

NOTICE: SEE REVERSE SIDE FOR IMPORTANT INFORMATION.

PACIFIC BELL

415 282-8241-944-N

JAN 5 1984

PLEASE MAIL THIS PAGE WITH PAYMENT
OR PRESENT ALL PAGES OF THIS BILL WHEN PAYING IN PERSON

TOTAL AMOUNT DUE BY JAN 30	$68.31

PLEASE ENTER AMOUNT YOU ARE PAYING

SF/NZ

III
[redacted] MISSOURI
SAN FRANCISCO CA 94107

**CR15

37
PACIFIC BELL
SAC CA 95887

42222L
00001701

2828241 944 415 158

030

000 037 89026 6831

PG and E Pacific Gas and Electric Company

407301222917020662800525894Y

MAIL PAYMENTS TO
ADDRESS SHOWN ON
REVERSE SIDE OF BILL

Your Account Number	Service To	
KRG26 62805-1	1 12 84	2589

2589 KRG
26
62805-1

III
634 MISSOURI ST
SN FRANCISCO CA 94107-2839

RG

PLEASE PAY THIS AMOUNT **$25.89**

06175

073
01/16

Please return this portion with payment *Bring entire bill when making payment in office.*

When making inquiries contact our office at
245 MARKET ST
SAN FRANCISCO CA 94106
981-3232

JANUARY, 1984

Your Account Number
KRG26 62805-1

Rate Schedule(s)	
G 1TH	D 1TB

ROTATING OUTAGE BLOCK 12

III
634 MISSOURI ST
SN FRANCISCO CA 94107

*GAS THERMS = DIFFERENCE BETWEEN METER READINGS TIMES MULTIPLIER

PG and E

Type of Service	SERVICE PERIOD From	To	Billing Days	METER READINGS Prior	Present	Reading Difference	Multiplier	Gas - Therms* Elec KWH	AMOUNT
GAS	1212	112	31	4048	4098	50	1.041	52	23.44
ELEC	1212	112	31	4019	4065	46	1	46	2.44
ENERGY COMMISSION TAX									.81

TOTAL CURRENT CHARGES	25.89
PREVIOUS BALANCE	26.95
12/31 PAYMENT-THANK YOU	26.95-
TOTAL AMOUNT NOW DUE	**$25.89**

THERE WERE RATE CHANGES DURING YOUR BILLING PERIOD. SEE NOTE BELOW.

THE NEW RATES SHOWN BELOW BECAME EFFECTIVE ON 01/01. YOUR BILL WAS CALCULATED BASED ON THE NUMBER OF DAYS THE OLD AND NEW RATES WERE IN EFFECT DURING YOUR SERVICE PERIOD. BECAUSE OF THIS CHANGE, A CALCULATION USING ONLY THE RATES LISTED BELOW WILL NOT EQUAL THE ACTUAL CHARGES.

	GAS - 82 THERMS	ELECTRIC - 240 KWHRS
LIFELINE ALLOWANCES		
LIFELINE USAGE	52 THERMS @ $0.46124	46 KWHRS @ $0.05528
OVER LIFELINE USAGE	0 THERMS @ 0.79397	0 KWHRS @ 0.07182
		0 KWHRS @ 0.09333

HOW MUCH DOES IT COST TO HEAT YOUR HOME? OUR "KNOW WHERE YOUR ENERGY DOLLAR GOES..." BROCHURE CAN TELL YOU THIS AND MORE. FIND OUT HOW MUCH ENERGY ALL OF YOUR APPLIANCES USE. FOR A FREE COPY OF THIS BROCHURE, CALL YOUR LOCAL PG&E OFFICE.

BILL PERIOD	GAS THERMS DAYS	GAS THERMS BILLED	GAS THERMS PER DAY	ELECTRIC KWH DAYS	ELECTRIC KWH BILLED	KWH PER DAY
THIS MONTH THIS YEAR	31	52	1.7	31	46	1.5
THIS MONTH LAST YEAR	NOT AVAILABLE					

COMPARE YOUR AVERAGE DAILY USE WITH LAST YEAR

KRG26
62805-1

FORM 61-4451 REV. 5/83

THIS BILL IS NOW DUE AND PAYABLE

A5A74

Declarations Page

STATE FARM MUTUAL AUTOMOBILE INSURANCE CO.
REGIONAL OFFICE
NO CALIF OFF ROHNERT PARK CA 94926

G 4978k 1

NAMED INSURED
III
594 VERMONT
SAN FRANCISCO
CA 94107

POLICY NUMBER: 8062 444-D03-05J
POLICY PERIOD: OCT-03-84 TO APR-03-85

DO NOT PAY PREMIUMS SHOWN ON THIS PAGE. SEPARATE STATEMENT ENCLOSED IF AMOUNT DUE.

DESCRIBED VEHICLE MAKE	YEAR	BODY STYLE	VEHICLE IDENTIFICATION NUMBER	CLASS	PREMIUM FOR THIS POLICY PERIOD
VW MICRO	79	VAN	2202015212	1AOHE	$283.82

COVERAGES (AS DEFINED IN POLICY)
A $168.72, C $20.90, D50 $13.30, G200 $55.10, U $23.40, S $2.40

LIMITS OF LIABILITY A—LIABILITY Bodily Injury Each Person	Bodily Injury Each Accident	Property Damage Each Accident	C—MEDICAL PAYMENTS Each Person	U—UNINSURED MOTOR VEHICLE Bodily Injury Each Person	Each Accident	W—UNDERINSURED MOTOR VEHICLE Bodily Injury Each Person	Each Accident
25000	50000	25000	5000	25000	50000		

EXCEPTIONS AND ENDORSEMENTS
6890J.1 AMEND POL PROV

Persons Insured Coverage S	AMOUNTS
III	$10000

AGENT 5677

YOUR POLICY CONSISTS OF THIS PAGE, ANY ENDORSEMENTS, AND THE POLICY BOOKLET FORM 9805.3 PLEASE KEEP TOGETHER.

REPLACED POLICY 8052444-35I
NEW POLICY FORM, ATTACH THIS FORM TO POLICY BOOKLET 9805.3

BULK RATE
U.S. POSTAGE
PAID
AT&T

AT&T

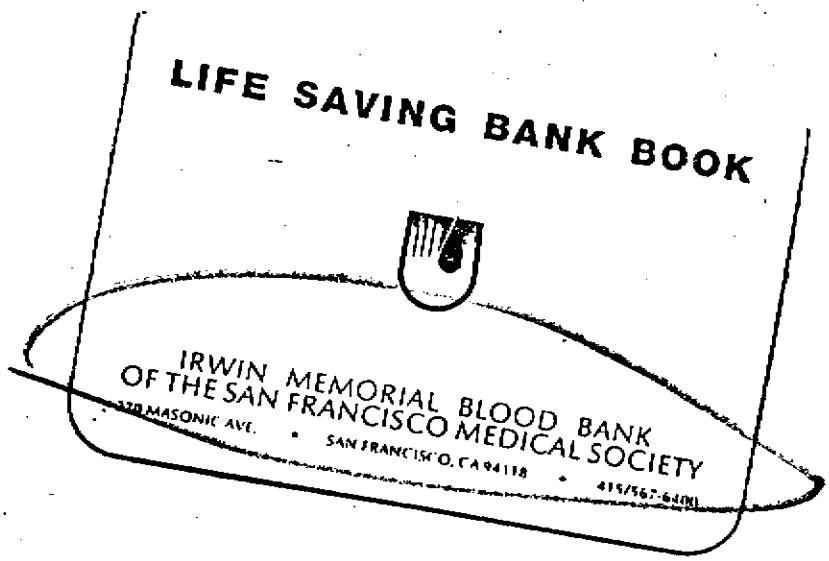
295 North Maple Avenue
Basking Ridge, NJ 07920

CAR-RT SORT **CR09

111 VERMONT
SAN FRANCISCO CA 94107

INSIDE:
IMPORTANT ADVANCE NOTICE

LIFE SAVING BANK BOOK



CERTIFIES BLOOD DONOR III

A

Rh factor **POSITIVE**

"Assigned Credits" are applied immediately and are not available for future use. "Deposits" give future credit for one year for the donor or group.

Date	Assigned Credits		Deposits	
	Replacement	Other	Individual	Group
11-11-83				X

Carry this book with you at all times and present whenever making another blood donation.

RAY H. MEYERS, D.D.S.
490 POST STREET - SUITE 606
SAN FRANCISCO, CALIFORNIA 94102
TELEPHONE: 362-7848

STATEMENT TO:

III
~~116~~ Burlingame Ave.
Burlingame, Ca. 94010

TEAR OFF AND RETURN UPPER PORTION WITH PAYMENT

DATE	PAYMENTS: BANK NUMBER	PAYMENTS: BY CHECK OR P.M.O.	PAYMENTS: BY COIN OR CURRENCY	PROFESSIONAL SERVICE	FEE	LAST AMOUNT IN THIS COLUMN IS BALANCE DUE
12/13				Bal Fwd		50=
8/18			50=	Cash		—

PROFESSIONAL SERVICE CODES:

1. OFFICE VISIT, EXAMINATION
2. X-RAYS
3. PROPHYLAXIS
4. STUDY MODELS
5. FLUORIDE DE-SENSITIZING
6. TOPICAL FLUORIDE TREATMENT
7. GOLD INLAY
8. CROWN
9. PORCELAIN CROWN
10. SILVER RESTORATION
11. PORCELAIN OR PLASTIC FILLING
12. BRIDGE
13. CAPPING EXPOSED NERVE
14. ROOT CANAL TREATMENT
15. EXTRACTION
16. DENTURE
17. DENTURE ADJUSTMENT OR REPAIR
18. PARTIAL DENTURE
19. SPACE MAINTAINER
20. SURGICAL
21. CONSULTATION
22. NO CHARGE
23. ADJUSTMENT OR CORRECTIONS
24. TOTAL CARE

RAY H. MEYERS, D.D.S.

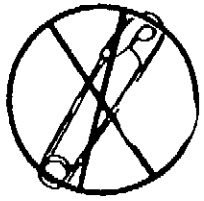
STATE LICENSE #10818

EXAMINER

25092

1985 SAN FRANCISCO EXAMINER BAY TO BREAKERS

DO NOT PIN



DO NOT DETACH

№ 25092

25092

III

591 VERMONT
SAN FRANCISCO CA 94107

DO NOT PIN

OFFICIAL FINISH TAG--DO NOT DETACH UNTIL IN FINISH CHUTES

TeleGraph TraveL

150 Lombard at Sansome San Francisco, CA 94111
415/391-8360

ITINERARY INVOICE
PAGE NO. 1

16507

TO:

III
591 VERMONT ST
SAN FRANCISCO CA 94107

TRAVELER

III/MR

Agent		Customer Name	Account No.	Date
SHERRI				180CT85

Day	Date	City-Airport	Time	Carrier	Flight-Class Status	Service-Amount
A MO	28OCT	LV SAN FRANCISCO	930A	NORTHWEST	101V OK	BREAKFAST
		AR HONOLULU	1255P			OSTOP D10
A MO	28OCT	LV HONOLULU	225P	HAWAIIAN	74V OK	
		AR KAHULUI	251P			OSTOP M80
A TU	29OCT	LV KAHULUI	1010A	HAWAIIAN	257V OK	
		AR HONOLULU	1040A			OSTOP M80
A TH	31OCT	LV HONOLULU	215P	HAWAIIAN	35V OK	
		AR LIHUE	240P			OSTOP M80
A MO	04NOV	LV LIHUE	1005A	HAWAIIAN	232Q OK	
		AR HONOLULU	1030A			OSTOP M80
A MO	04NOV	LV HONOLULU	235P	NORTHWEST	102V OK	LUNCH
		AR SAN FRANCISCO	920P			OSTOP D10

AIR FARE	542.09
TAX	6.22
TOTAL AIR FARE	548.31
AMOUNT DUE	548.31

THANK YOU FOR YOUR BUSINESS

IMPORTANT INFORMATION: Check in for domestic flights at least 30 minutes prior to scheduled departure. International flights 60 minutes. Reconfirm all flight reservations upon arrival at stop-over cities, and verify flight times. If your flight plans change, cancel your reservations as soon as possible to avoid possible cancellation charges.

BUSINESS CARDS - 1979-1987

YOURDON

III

YOURDON, inc., 851 Traeger Avenue, Suite 350, San Bruno, CA 94066
800-223-2452 212-730-2670 Telex: 234972

III
Member of the Professional Staff
Professional Services Operation West

informatics general corporation

2900 North Loop West
Suite 1300
Houston, Texas 77092
(713) 680-2100

AHRD ASSOCIATES, INC.

III

2271 Union Street, Suite 1
San Francisco, CA 94123

(415) 922-4706

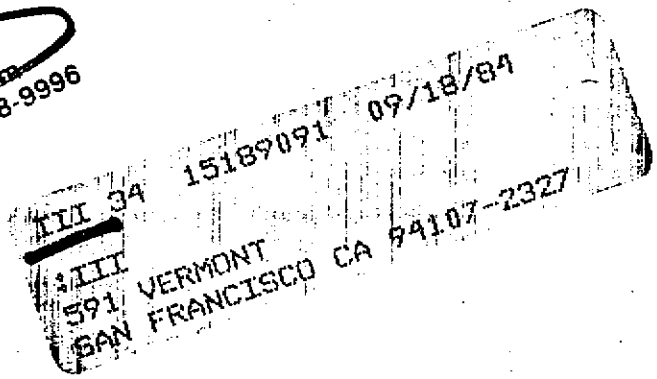
LOGICAL CONCLUSIONS
CONSULTING/TRAINING
IN SUPPORT OF
QUALITY INFORMATION SYSTEMS

III

450 KINGS ROAD
BRISBANE, CA 94005

415/468-1880

U.S. Postal Service
Central Forwarding System
San Francisco, CA 94188-9996

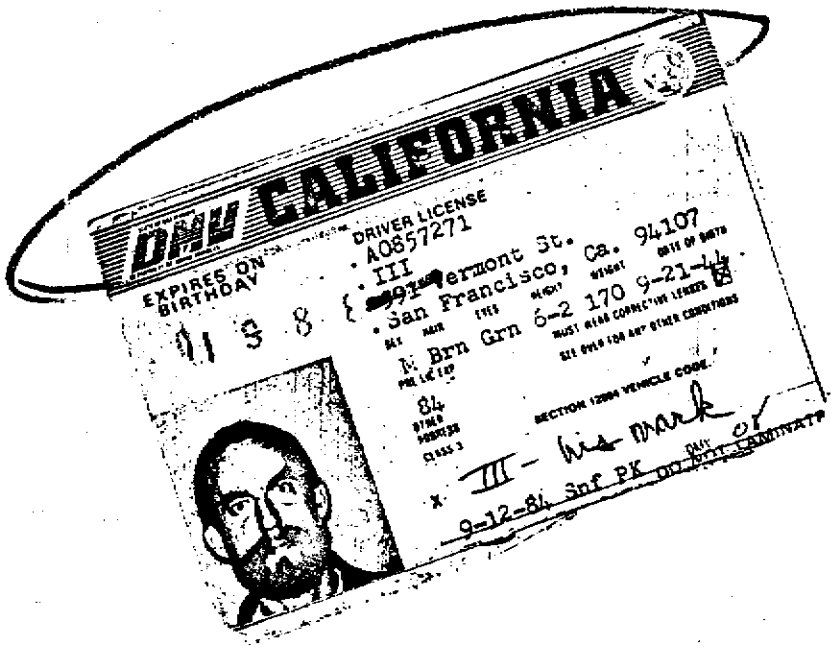


9410

U.S. MAIL

PENALTY FOR PRIVATE
USE TO AVOID PAYMENT
OF POSTAGE, $300

Is this address
←correct?
If not, see oth
side!


DMV CALIFORNIA
DRIVER LICENSE
A0857271
EXPIRES ON BIRTHDAY
III
[redacted]ermont St.
San Francisco, Ca. 94107
Brn Grn 6-2 170 9-21-44
84
SECTION 12804 VEHICLE CODE
III - Lisa Mark
9-12-84 Snf PK

10989

CERTIFIED FOR PUBLICATION

SEE CONCURRING OPINION

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT, DIVISION THREE

FILED

SEP 10 1984

CLERK

In re THOMAS BOYD RITCHIE III, for Change of Name.

THOMAS BOYD RITCHIE III,

Petitioner and Appellant,

v.

THE SUPERIOR COURT OF THE CITY AND COUNTY OF SAN FRANCISCO,

Objector and Respondent.

A016713

(Super. Ct. No. 787090)

This is an appeal from the trial court's order denying petitioner's application for a name change.

Petitioner Thomas Boyd Ritchie III (appellant) filed an application to change his name as a matter of public record (Code Civ. Proc.,[1] § 1275, et seq.) to the roman numeral "III" (pronounced "Three"). The application stated in essence that appellant was born Thomas Boyd Ritchie III. Approximately six years prior to the filing of the application appellant began to use III as his name primarily for the sake of convenience. Thereafter, he kept using the new name because it gave him a greater sense of personal identity and his friends, peers and business associates knew him by that name. Appellant

1. Unless otherwise indicated, all further references are to the Code of Civil Procedure.

EXHIBIT B

finally alleged that an official recordation of his new name was essential in order to obtain crucial documents (driver's license, credit cards, etc.) from agencies and financial institutions.

After hearing the trial court denied the application on the grounds that a change to a roman numeral did not constitute a name change within the meaning of the law and that the new "name" used by appellant was inherently confusing.

Appellant contends that the denial of his petition was an abuse of discretion. We disagree with appellant and affirm the order.

The common law recognizes the right of a person to change his name without the necessity of legal proceedings; the purpose of the statutory procedure is simply to have, wherever possible, the change recorded. (In re Ross (1937) 8 Cal.2d 608, 609; Weathers v. Superior Court (1976) 54 Cal.App.3d 285, 288.) While California case law seems to favor the legal change of a name to conform to usage, and while these cases uniformly teach us that there must be a substantial reason for the denial, they nonetheless recognize that the statute does vest the trial court with discretion in granting or denying an application for a name change. (§ 1278[2]; In re McGehee

---

2. Section 1278 provides in pertinent part that "On the hearing, the court may examine on oath any of the petitioners, remonstrants, or other persons, touching the application, and may make an order changing the name or dismissing the application, as to the court may seem right and proper." (Emphasis added.)

(1956) 147 Cal.App.2d 25, 26; In re Useldinger (1939) 35 Cal.App.2d 723, 727.) While it has been said that the trial court may properly deny the application if the name was adopted to defraud, intentionally confuse or intrude into someone's privacy (Weathers v. Superior Court, supra, 54 Cal.App.3d at pp. 288-289), it is well settled that each case must be decided on its own facts, and that in adjudicating the issue additional reasons may also be considered. (In re Weingand (1964) 231 Cal.App.2d 289, 293; In re Useldinger, supra, 35 Cal.App.2d at 727.) Lastly, it is blackletter law that the exercise of the trial court's discretion will be disturbed only for a clear abuse (Weeks v. Roberts (1968) 68 Cal.2d 802, 806), and that if there is any basis upon which the action can be sustained, the ruling of the trial court must be upheld on appeal. (Denham v. Superior Court (1970) 2 Cal.3d 557, 564.)

The question squarely presented here then is whether the trial court abused its discretion in denying appellant's petition when no opposition thereto was presented and no evidence indicated an intent by petitioner to defraud anyone or to "cash in" on someone else's reputation.3/

The trial court correctly observed that the requested change to a roman numeral did not constitute a name change

---

3. Note that the only California case upholding the trial court's denial of petitioner's application is reported in In re Weingand, supra, 231 Cal.App.2d 289 wherein the trial court found petitioner's purpose was to "cash in" on the reputation of a famous movie star, to wit: Peter Lorre.

within the purview of the law. At common law a person's name consisted of a given name and of a surname or family name. (65 C.J.S. Names, § 3, at p. 3.) In the definition of the case law, "The name of a person is the distinctive characterization in words by which he is known and distinguished from others." (Putnam v. Bessom (Mass. 1935) 197 N.E. 147, 148, emphasis added.) While the words may consist of letters or letters and symbols, it is common knowledge that words do not consist solely of numbers or symbols. It follows that the purported name suggested by appellant failed to qualify as a name within the meaning of either the common law or the statute and that as a consequence the trial court's refusal to grant the application may be justified on this basis alone.

The reasoning of Petition of Dengler (N.D. 1976) 246 N.W.2d 758 is persuasive. In Dengler, Michael Herbert Dengler petitioned the court to change his name to the arabic numerals "1069." The trial court denied the petition. In upholding the trial court's ruling the North Dakota Supreme Court stressed that the "name" as understood by the common law did not include a number. Moreover, the Supreme Court held that in denying the petition the trial court did not abuse its discretion because "Innovative ideas, even though bordering on the bizarre, are frequently encouraged and may be protected by the law and the courts, but to use the court or law to impose or force a number in lieu of a name upon society is another matter. The law may permit a person to use a number but will not force its

acceptance." (Petition of Dengler, supra, at p. 764, emphasis added.)

Three years later the Minnesota Supreme Court upheld the lower court's denial of Michael Herbert Dengler's petition to change his name to "1069," because the number was not a "name": ". . . it was not the intention of the legislature in adopting . . . [the applicable statute] to authorize a court order which changes to a numeral an alphabetical 'name' as that word has been historically and traditionally understood." (Application of Dengler (Minn. 1979) 287 N.W.2d 637, 639.)

The trial court herein also based its denial upon the observations that in an era of high technology where all important data are processed by computers, it is not unreasonable to conclude that the usage of numbers for designating or describing persons might cause inherent confusion in public records which, in turn, may well facilitate deception or fraud of individuals, institutions or the public as a whole. Such reasoning clearly demonstrates the proper exercise of the court's discretion.

In so upholding the trial court's exercise of discretion in dismissing petitioner-appellant's petition, we do not depart from the long settled common law principle that a person may change his name without the necessity of legal proceedings (see In re Weingand, supra, 231 Cal.App.2d at p. 292, and In re Ross, supra, 8 Cal.2d at p. 609); we merely withhold our sanction. Petitioner is still free to call himself what he will.

But to call himself a number, even roman, does not a new "name" make. Historically and chronologically it may 1984 be, but novelistically we do not with Orwell such foresee.

The order is affirmed.

CERTIFIED FOR PUBLICATION.

Anderson, J.

I concur:

Barry-Deal, J.

I concur in the judgment. I agree with the lead opinion and the North Dakota and Minnesota Supreme Courts that a number is not a name. (Petition of Dengler (N.D. 1976) 246 N.W.2d 758; Application of Dengler (Minn. 1979) 287 N.W.2d 637, 639.) Here petitioner wants to be called "Three" but he wants to have it spelled "III." "III" is simply not a word, it is a symbol. A person might change his name to "number" but surely he could not spell that name "#." The same rationale would apply to the name "period" spelled "." or "question mark" spelled "?".

Where I part from the lead opinion is in its suggestion that the validity of the trial court's decision turns on whether it abused its discretion. The implication is that the trial court in its discretion could have approved petitioner's change of name request. I think not. In my view the trial court could not have ruled otherwise. The trial court does not have the discretion to approve a name change wherein the petitioner requests that he be permitted to use a symbol in place of a word in the spelling of his name.

Scott, Acting P.J.

UNIVERSITY OF CALIFORNIA, BERKELEY

BERKELEY • DAVIS • IRVINE • LOS ANGELES • RIVERSIDE • SAN DIEGO • SAN FRANCISCO

SANTA BARBARA • SANTA CRUZ

DEPARTMENT OF LINGUISTICS

BERKELEY, CALIFORNIA 94720

October 17, 1984

Mr. Richard J. Hicks
James, Gack, & Freeman
50 Old Courthouse Square
PO Box 1498
Santa Rosa, CA 95402

Dear Mr. Hicks:

I have reviewed the documents you sent me regarding the petition of Thomas Boyd Ritchie, III to change his name to III. You asked if there are issues arising in these documents to which the facts and findings of scientific linguistics can bring clarification. I believe there are such issues. In particular, there are two confusions regarding linguistic matters which occur in the Appellate Court Opinion (No. A016713, filed 10 September 1984) and the accompanying Concurring Opinion. I will address myself here to these two confusions.

The first confusion regards the meaning of the word name, which is in turn based on a confusion regarding the meaning of the word word. Briefly, the writers of these Opinions appear to hold the mistaken belief that a word is a sequence of written letters. I will explain the problem in more detail below.

The second confusion involves a specifically sociolinguistic, rather than a broadly linguistic, issue. Since I have done research in the subfield of sociolinguistics as well as in linguistics generally (see publications numbered 32, 33, 39, 40, 41, 44 of the attached curriculum

EXHIBIT G

vita), I believe I am qualified to speak to this issue as well. (Sociolinguistics is the subfield of linguistics that studies the mutual effects of language and social practices.) The sociolinguistic issue here concerns the notion that adoption of III as a legal name would be likely to have deleterious social consequences, for example, that it "might cause inherent confusion in public records which, in turn, may well facilitate deception or fraud..." I find no scientific evidence to support this view and some evidence to support the opposite view.

Before taking up these points in detail, I must beg your indulgence for establishing some standard conventions of linguistic notation. This brief technical excursus is unavoidable, because it is the very confusion of the distinctions that these notations have been devised to maintain which has led the appellate judges into error. Linguistic science makes a three-way distinction between (1) a word as an abstract linguistic object, (2) the representation of a word in the medium of speech, its phonetic value, and (3) the representation of a word in the medium of writing, its graphic value(s). According to standard practice, abstract words are designated by underlining (or in printed matter by italics); thus the abstract word with which we are concerned here may be equally well designated three, 3, III, iii, THREE, etc. The phonetic value of a word, which as we shall see is its primary value, is represented in writing by special symbols, designed by the International Phonetic Association, and which are enclosed in square brackets ; the phonetic representation with which we are concerned with here is [θri], where [θ] is a phonetic symbol for the sound that begins the spoken form of the English words three, throw,

thrice, and so on. The graphic or written value of a word, its secondary value, I will denote by the use of 'single quotation marks'; thus: 'three,' 'III,' '3,' etc. Finally, I will use "double quotation marks" to indicate words that are cited from the actual speech or writing of persons; thus, this paragraph begins with the words, "Before taking up..."

The confusion regarding what a word is and hence what a possible name is

This confusion is apparent in the words of the concurring opinion: ' "III" is simply not a word, it is a symbol,' and in the words of the lead opinion, "While the words of a name may consist of letters or letters and symbols, it is common knowledge that words do not consist solely of numbers or symbols." It is evident in these passages and elsewhere, that the judges mistakenly believe a word to consist in a sequence of letters. This is not the way word is defined either by linguists or by the makers of standard dictionaries. Standard practice identifies the concept word primarily with an abstract linguistic object, independently of any physical representation, the type of object we are here denoting with underlining. Standard practice further identifies the primary representation of a word with its phonetic value. The identification of the concept word with one of its written values, either in letters or in other written signs, is in standard practice at most secondary. In this connection, it is a common observation of linguistics that the vast majority of human languages have no system of writing attached. Yet the words of these languages are words in exactly the same sense as are the words of a language like English, French, or German, which are also possessed of an associated system of writing.

The primacy of the phonetic representation of a word over its optional written representation is evident in the relevant parts of the entry for word taken from the two most authoritative dictionaries of English: Webster's Third New International Dictionary (hereafter Webster's III) and the Oxford English Dictionary (hereafter OED). (I have used the Shorter Oxford English Dictionary for convenience, because the definitions there are exactly the same as in the longer version, the difference being only that there are more historical citations of actual word usage in the long version.) On page 2633 of Webster's III we find the relevant part of the entry for word:

> **2**a(1): a speech sound or series of speech sounds that symbolizes and communicates a meaning without being divisible into smaller units capable of independent use : linguistic form that is a minimum free form ⟨the order of the ~s in a phrase⟩ ⟨the meaning of a ~⟩ (2) : the entire set of linguistic forms produced by combining a single base with various inflectional elements (as affixes) without change in the part of speech ⟨man, man's, and men's are different forms of one ~⟩ -- see PARADIGM b : a written or printed character or combination of characters representing a spoken word; esp : any segment of written or printed discourse ordinarily appearing between spaces or between a space and a punctuation mark ⟨average number of ~s to a line⟩

Note that section a(1) of this entry defines word in terms of speech sounds that symbolize a meaning. Section a(2) emphasizes the abstract linguistic form (base and affixes) of words. Finally, section b defines the written word as derivative of the spoken word. We are reminded that most of the languages of the world have no writing, though to be sure they have words. (A photocopy of the cited page of Webster's III is appended.)

The relevant part of the entry from the OED (p. 2447, photocopy appended) follows the same pattern. It again begins by defining a word as the use of sounds to express an idea. Then turns its attention to the word as an abstract object: "name, title, appellation,...term, expression." Finally it defines the written words as "A written...character or set of characters representing this [i.e., the abstract linguistic object] (italics added)." Again the derivative nature of the graphic representation of a word is apparent. The relevant part of the OED entry for word follows:

> II. An element of speech: A combination of vocal sounds, or one such sound, used in a language to express an idea (e.g. to denote a thing, attribute, or relation), and constituting an ultimate minimal element of speech having a meaning as such; a vocable OE. b. (a) A name title, appellation. (b) A term, expression. OE. c. A written (engraved, printed, etc.) character or set of characters representing this OE.

In short, sequences of letters are not words, although they may be graphic representations of words. All languages have words, but most languages do not have graphic representations of their words. When the appellate judge wrote, ' "III" is not a word,' he evidently intended to designate by "III" the graphic object: 'III.' In a trivial sense, and one irrelevant to the petition at hand, what he said was true. But by the same token he could also have truthfully written, ' "Three" is not a word,' or ' "Chair" is not a word.' No graphic representation of a word IS the word it represents, in the same way that neither my copy of War and Peace (written in English) nor my cousin's copy of War and Peace (written in French) IS the conceptual object

War and Peace, which was composed by Tolstoi (in Russian). Frequently, we confuse representations of conceptual objects with the objects they represent, and in most contexts no harm is done thereby. But in the present context it is essential not to confuse the word three (or 3 or III) with any of its possible graphic representations: 'three,' '3,' or 'III,' and so on. A name must be, by common agreement, a word or sequence of words, but the graphic object 'III' represents a common word in a standard way and is by any linguistic criterion a good graphic representation of that word. Since no graphic representation of a word IS that word, to point out that the graphic object 'III' is not a word is otiose.

This confusion over what a word is is illustrated perhaps most clearly in the final clause of the last sentence of the Concurring Opinion, which states, "...the petitioner requests that he be permitted to use a symbol in place of a word in the spelling of his name." What the judge no doubt had in mind to inveigh against was the following: "to use a symbol in place of a SEQUENCE OF LETTERS in the spelling of his name." Graphic representation of a word always involves some kind of graphic symbol, whether letters or some other kind of graphic device. The writer of the cited clause has confused word with sequence of letters. But we note that when the confusion is cleared up, by substituting "sequence of letters" for "word" in the cited passage, that the apparent relevance to the case at hand disappears. This follows because, while linguistic science, common usage, practical lexicography, and the law all agree that a name must consist of a word or words, none

of these authorities say that the word or words in question must be represented orthographically by a sequence of letters. In fact, to my knowledge none of these authorities mentions letters in any way in connection with defining name. I have appended, without recopying them here, the pages from Webster's III and the OED which give the definition of name. It is noteworthy that the word letter does not appear in either of these definitions. Nor do I know of any other definition of name, technical, legal, linguistic, or commonsensical, that involves either the notion LETTER or the word letter in any form. The authors of the Opinion and the Concurring Opinion mistook word for sequence of letters. Since they held 'III' not to be a sequence of letters, they held 'III' not to "be" a word and hence not to be a potential name. But once we see that the equation of word with sequence of letters is an error, the foundation of this reasoning crumbles. The doctrine that a name must consist of a word or words (used to designate someone or something) is unconcerned with the graphic representation of that word or those words. Hence this doctrine, both explicitly and implicitly relied on in the Opinions does not touch the issue of the graphic representation: 'III.'

To summarize the foregoing: (1) A name consists of a word or words which designate someone or something. (2) A word is an abstract linguistic object. The primary value of this abstract object is its sound or phonetic representation. For most of the world's language, the story ends here because there is no writing. (3) In languages for which there is writing, a word may also be represented by either a sequence of

letters or by other graphic signs, for example numerals in the case that the word is the name of a number. (4) The representation of a word by a graphic sign or sequence of graphic signs is not to be confused with the word itself! (5) It is precisely this confusion that the apellate judges suffered when they equated a word with a sequence of letters. (6) The confusion of word and sequence of letters is the basis on which it was concluded that 'III' is not a word and hence not a (possible) name.

The issue of deleterious social consequences arising from the use of III as a name

As I see it, this issue breaks down into two subissues. The first is whether the specific graphic representation 'III' of the name III or Three would occasion confusion, facilitation of deception or fraud, unwonted inconvenience or expense to governmental authorities, undesirable strain on public institutions such as banks, and so on. The graphic representation 'III' does not appear to have either linguistic or social properties that would lead to any of these or to other analogous deleterious effects. It is not of excessive length, which might make it difficult to accommodate in automated record keeping systems. It is not composed of signs not generally available. It is most unlikely to be confused with the graphic rendering of any other name. The relation of its graphic representation to its pronunciation is considerably less obscure than many existing names. For example, when I was growing up in Louisiana there was a fairly common name spelled 'Guillot' that was pronounced by its various bearers in all of the following (roughly

indicated) ways: [ghee-oh], [ghee-ot], [gill-yo], [gill-yot], none of which would probably have been guessed at by someone not familiar with the region. The fact that the name of the well known heavy equipment firm, spelled 'Schlumberger,' is pronounced (roughly) [slumber-jay], is probably knowable only to those who have had specific experiences leading them to acquire this particular sound-spelling correspondence. I will not bore you with further examples; the connection of the graphic representation 'III' with its intended pronunciation [θri] is more direct and more easily learnable than that of many extant names in our society. It is of course not possible to list all the possible properties of a graphic representation that could have deleterious consequences and show that 'III' does not have any of these properties, since the list would be indefinitely long. For example, an infinite variety of specific shades of color might be required of a graphic representation, or widths of line, or special writing materials in place of common paper, and so on. But no specific deleterious social consequences are mentioned in the Opinions except for the following general statement:

> The trial court herein also based its denial upon the observation that in an era of high technology where all important data are processed by computers, it is not unreasonable to conclude that the usage of numbers for designating or describing persons might cause inherent confusion in public records which, in turn, may well facilitate deception or fraud...

Note that nothing is here said about the specific graphic representation 'III,' but rather a general statement is made about using numbers to designate persons. (I think the statement is factually dubious, but it is not my job to argue that just here. Rather I merely point out that

the statement is general and does not bear on the specific graphic representation 'III.') Aside from this statement, there is nothing in the Opinions that so much as suggests a deleterious social consequence that would arise from the use of III as a name, and I can think of none either.

The second subissue under the heading of possible deleterious consequences is that of opening the floodgates to a rash of extravagant and flamboyant naming practices, where it is foreseen that such practices would in fact engender names having properties like those discussed above, which could lead to deleterious social consequences. From the fact that the only negative social consequence evoked in either of the opinions is of this general type--not specifically tied to the graphic representation 'III'--it is plausibly inferred that fear of opening the floodgates may have been a concern of the authors of the Opinions. But if the general tenor of the preceding discussion is accepted, it is agreed that such potential deleterious social effects will accrue to specific properties of a name or of its graphic or phonetic representation. Indeed, whether or not one accepts the general tenor of the preceding discussion, common sense dictates that if a name or the representation of a name is to have negative social consequences, those consequences will stem from some particular property of the name or representation. In such a case, anyone having discretionary power over the acceptance of words as names, such as a court, will be in a position to exercise that discretion with respect to the particular name proposed. Thus on the sociolinguistic issue of whether acceptance

of 'III' as the graphic representation of a name would open the floodgates to extravagant and socially undesirable naming practices, the reasonable conclusion is that such an action would NOT have such an effect because each proposed name (or name representation) with linguistic properties likely to engender undesirable social effects would still be subject to discretionary rejection on the basis of those same properties.

I have concluded my analysis of the two principal confusions I find in the opinions. I append the following because I think there is another confusion that may arise in connection with this case, which is suggested but not made explicit in the language of the Opinions, and which it is important to avoid. This concerns the confusion of the notions number and numeral. A number is an abstract object and a numeral is a graphic object. Neither a number nor a numeral is a word. But a word can be the name of a number. The number that comes after one has a name which is the word that can be equally well designated two, 2, II, etc., based on its conventional graphic representations 'two,' '2,' 'II,' etc. '2' and 'II' are numerals, but of course 'two' is not a numeral. We say that 'two ' is a word only speaking loosely; more carefully we say that 'two' is the graphic representation of a word. The point is that THE GRAPHIC REPRESENTATION OF A WORD THAT IS THE NAME OF A NUMBER, WHETHER OR NOT THAT GRAPHIC REPRESENTATION IS ITSELF A NUMERAL OR NOT, IS NO LESS THE GRAPHIC REPRESENTATION OF A WORD JUST BECAUSE THE WORD THAT IT GRAPHICALLY REPRESENTS HAPPENS TO BE THE NAME OF A NUMBER. In particular, 'III' and '3' are the graphic representations of the same

word, which is the name of the number that succeeds two. 'III' is the graphic representation of a word; the word of which 'III' is a graphic representation is the name of a number.

Sincerely,

Paul Kay

Paul Kay
Professor of Linguistics
Acting Chairman

PK/jb

Attachments

Attachment 1. Webster's III entry for word

Attachment 2. OED entry for word

Attachment 3. Webster's III entry for name

Attachment 4. OED entry for name

Attachment 5. Curriculum Vita of Paul Kay

ATTACHMENT 1.

woolly-pod \'‥,‥\ *n* : any of several plants of the genus *Astragalus* that have pubescent seed pods

woollypod vetch \'‥,‥-\ *n* : a European vetch (*Vicia dasycarpa*) naturalized in the U. S. and used for forage

woolly py-rol \-'pī,rōl, -rōl\ *n* [*pyrol* fr. NL *Pyrola*] : TIMO

woolly rhinoceros *n* : an extinct 2-horned rhinoceros (*Opsiceros antiquitatis* or *Rhinoceros antiquitatis*) inhabiting the arctic regions during the Pleistocene, having a dense coat of woolly hair, and being found frozen in the ice of Siberia with the flesh and hair well preserved

woolly root *n* : HAIRY ROOT

woolly spider monkey *n* : any of several Brazilian spider monkeys (genus *Brachyteles*) characterized by stocky build, rounded head, and finely woolly fur

woolly thistle *n* **1** : COTTON THISTLE **2** : a thistle (*Cirsium flodmanii*) of western No. America with white woolly leaves

woolly whitefly *n* : a whitefly (*Aleurothrixus howardi*) widespread in the warmer countries of the New World and injurious to citrus fruits, guavas and other trees

woolly wolf *n* : CHANCO

woolly worm *n* **1** : a sawfly larva that covers itself with a white woolly secretion **2** : WOOLLY BEAR 1

wool maggot *n* : the larva of a blowfly (as *Phormia regina*) that causes strike in sheep

wool-man \'wulman\ *n, pl* **woolmen** [ME *wolleman*, fr. *wolle* wool + *man*] : a dealer in wool

wool moth *n* : CLOTHES MOTH

wool-ner's tubercle \'wulnə(r)z-\ *or* **woolner's point** *or* **woolner's tip** *n, usu cap W* [after Thomas *Woolner* †1892 Eng. sculptor and poet] : DARWIN'S TUBERCLE

wool oil *n* **1** : any oil used for oiling wool before spinning **2 a** : an oily substance in wool fiber that makes the fiber soft and pliable **b** : an oil obtained (as by distillation with steam) from wool grease

woolpack \'‥,‥\ *n* [ME *wolpak*, *wullepak*, fr. *wolle*, *wulle* wool + *pak* pack] **1 a** : a wrapper of canvas or other strong fabric into which fleeces are packed for shipment **b** : the complete package of wool and wrapper **2** : something resembling or suggesting a woolpack; *esp* : a rounded cumulus cloud springing from a horizontal base

woolrock \'‥,‥\ *n* : a finely fibrous woollike rock material manufactured from limestone and other rocks

wool rot *n* : RAIN ROT

wools *pl of* WOOL, *pres 3d sing of* WOOL

woolsack \'‥,‥\ *n* [ME *wollesak*, fr. *wolle* wool + *sak* sack] **1** : a sack for wool **2** (so called fr. its being made of a large square bag of wool without back or arms and covered with cloth) **a** : a rectangular divan that is the official seat of the Lord Chancellor in the House of Lords **b** : the office of Lord Chancellor **3** : an official seat in the House of Lords for one of the judges of the High Court of Justice **4** : the office of a judge

wool scour *n, Austral* : a place for scouring wool

wool scourer *n* : an operator of a machine for scouring raw wool

wool-sey \'wulzē, -zi\ *n* -s [by shortening] : LINSEY-WOOLSEY

woolshed \'‥,‥\ *n* : a building or range of buildings (as on an Australian sheep station) in which sheep are sheared and wool is prepared for market

woolskin \'‥,‥\ *n* [ME *wolle skin*] : a sheepskin having the wool still on it

woolsorter \'‥,‥\ *n* : one that sorts wool according to grade specifications

woolsorter's disease *n* : pulmonary anthrax that is an occupational hazard due to inhalation of bacterial spores (*Bacillus anthracis*) from contaminated wool or other hair

woolsower \'‥,‥\ *n* : a multicellular gall on the white oak made by a gallfly (*Andricus seminator*) in which each cell is covered by a coating of woolly filaments

wool sponge *n* : a soft-fibered durable commercial sponge; *esp* : a sponge (*Hippiospongia lachne*) occurring in the Gulf of Mexico, the Caribbean sea, and off the southeastern coast of Florida

wool stapler *n* : one that deals in wool; *esp* : one that buys raw wool and sorts it before selling to a manufacturer

wool table *n* : a strong table with various devices for collecting and handling loose wool for marketing

wool-ton pie \'wultən-\ *n, usu cap W* [after Frederick James Marquis, 1st Baron *Woolton* †1964 Eng. businessman] : a vegetable pie

ON *sverja* to say, *rhēma* word, *rhētōr* orator, Lith *vardas* name] **1 a** : something that is said : UTTERANCE, STATEMENT (my father loved you; he said he did, and with his deed did crown his ~ —Shak.) (not a ~ about his plans) (said a ~ to his employer on behalf of a friend who was looking for work) **b words** *pl* (1) : TALK, DISCOURSE, SPEECH, LANGUAGE (putting one's feelings into ~s) (wonderful beyond ~s) (2) : the text of a vocal musical composition (trivial ~s set to splendid music) **c** (1) : a short conversation (would like to have a ~ with you) (2) : a short remark (a ~ of advice) **2 a** (1) : a speech sound or series of speech sounds that symbolizes and communicates a meaning without being divisible into smaller units capable of independent use : linguistic form that is a minimum free form (the order of the ~s in a phrase) (the meaning of a ~) (2) : the entire set of linguistic forms produced by combining a single base with various inflectional elements (as affixes) without change in the part of speech (*man, man's, men,* and *men's* are different forms of one ~) — see PARADIGM **b** : a written or printed character or combination of characters representing a spoken word; *esp* : any segment of written or printed discourse ordinarily appearing between spaces or between a space and a punctuation mark (average number of ~s to a line) **c** : CODE GROUP **d** : a combination of electrical or magnetic impulses conveying a quantum of information in communication and computer work **3** : ORDER, COMMAND, INSTRUCTION (don't move till I give the ~) (his ~ is law) **4** *or* **word of god** *usu cap W & cap G* **a** : the divine Wisdom esp. as finding manifestation in the world and man and above all in Jesus Christ : LOGOS; *specif* : the second person of the Trinity (the Logos is both the reason and the *Word of God* —W.F.Howard) (Christ is the *Word* become flesh —J.A.Mackay) **b** : the gospel message : GOSPEL 1; *also* : the content, communication, and effectual implementation of the gospel in the lives of men (the Bible contains the *Word of God* to man —L.A.Weigle) (preach the *Word* in the mountains of eastern Tennessee —H.L.Mencken) **c** : a self-revelation from God to men : God's disclosure of himself to men; *also* : the expressed or manifested mind and will of God (God's *Word* was one of the most general terms used by Israel for revelation —G.E.Wright) **d** : God's creative and redemptive activity esp. as manifested in the creation and preservation of the world and in acts of salvation in the lives of men (by the *Word of God* heavens existed long ago — 2 Pet 3:5 (RSV)) (upholding the universe by his *Word* of power —Heb 1:3 (RSV)) (for the *Word of God* is living and active, sharper than any two-edged sword —Heb 4:12 (RSV)) **e** : a holy book : canon or collection of sacred scriptures divinely inspired by God (will be readings from the *Words of God* — the Torah, the Bible, the Koran —Edris Rice-Wray) **5 a** : NEWS, REPORT, ACCOUNT, MESSAGE, INFORMATION — used in the singular and often with no article (brought ~ that a financial backer of the expedition . . . had died —*Amer. Guide Series: Maine*) (sent ~ . . . that he planned to attend —*N.Y. Times*) (in Washington when the ~ came of a great defeat at Bull Run) **b** : common talk or report : RUMOR — used in the singular and often with no article (~ of the prowess of the twelve-year-old got about —*Current Biog.*) (the ~ has gone about that there will be no prosecution —Tom Fitzsimmons) **6** : the act of speaking or of making verbal communication of any kind (loyal in ~ and deed) : product of such an act (what people learn from the written ~) **7 a** : SAYING, PROVERB, MAXIM **b** : a motto esp. in heraldry **8 a** (1) : PROMISE (I give you my ~) (kept her ~) (as good as his ~) (2) : the honor involved in the keeping of a promise (pledged himself on his ~ to be present) **b** : an assertion implying the authority or truthfulness of the person making it (not that I doubt your ~) (take my ~ for it) (has the doctor's ~ for it that no operation is needed) **9** : a quarrelsome utterance or conversation (one ~ led to another) — usu. used in pl. (some ~s between him and his father) (he and his friend had ~s and parted) and sometimes with an adjective modifier (some hard ~s passed between them) **10 a** : a verbal signal : PASSWORD, WATCHWORD **b** : the most appropriate term to indicate what kind of action is required or prevalent — used in the predicate after *the* (in dealing with difficult children, patience is the ~) **c** : the most appropriate term to express the idea intended — used in the predicate after *the* (mediocre is not the ~ for his performance; it was incredibly bad)

syn WORD, VOCABLE, and TERM can mean any letter or combination of letters or any sound or combination of sounds capable of being pronounced and expressing an idea that is by

words (as in a contest) with the use of only those letters found in a particular word or phrase

word-catcher \'‥,‥\ *n* **1** : one that cavils at words **2** : one that collects words and their different senses : LEXICOGRAPHER — used disparagingly

word-catching \'‥,‥\ *n* -s : concern with minute points of wording

word class *n* : a linguistic form class whose members are words; *esp* : PART OF SPEECH 1

word-deaf \'‥,‥\ *adj* : afflicted with word deafness

word deafness *n* : loss or lack of the ability to recognize words that are heard

word-er \'wardər\ *n* -s **1** *obs* : a verbose person **2** : one that puts something into words

word family *n* : a group of cognate words esp. within a single language (the *word family* to which English *write, rewrite, writer,* and *writ* belong)

word field *n* : FIELD 8c

word-formation \'‥'‥\ *n* : the formation of words in a language by the processes of derivation and composition

word for word *adv* [ME] : in the exact words : VERBATIM, LITERALLY, EXACTLY (repeated the message *word for word*)

word-for-word \'‥'‥\ *adj* [*word for word*] : being in or following the exact words (a *word-for-word* translation) : VERBATIM (the *word-for-word* transmission of legends — George Grey)

word game *n* : a game in which players compete in forming, thinking of, or guessing words according to a set of rules

word-hoard \'‥,‥\ *n* [trans. of OE *wordhord*] : a supply of words : VOCABULARY (given to much free and easy unlocking of his *word-hoard* —G.K.Anderson)

word-ie \'wardi\ *n* -s ['*word* + -*ie*] *Scot* : a mere word : WORD

wordier *comparative of* WORDY

wordiest *superlative of* WORDY

word-i-ly \'wərd³lē, 'wəd], 'wəid[, [əl],]l\ *adv* : in a wordy manner

word-i-ness \-dēnəs, -din-\ *n* -ES : the quality or state of being wordy

wording *n* -s [fr. gerund of ¹*word*] **1** : the act of talking or of uttering as words **2** : the act or manner of expressing in words : PHRASING, PHRASEOLOGY (mystical writing where the ~ takes on poetic quality —Thomas Munro)

word-ish \-dish\ *adj* **1** *obs* : made up of or having to do with words : VERBAL **2** *obs* : containing more words than necessary : VERBOSE, WORDY — **wordishly** *adv, obs* — **wordishness** *n* -ES *obs*

wor-dle \'word³l\ *n* -s [alter. of ME *wirtil* whirtle] : any of several pivoted pieces forming the throat of an adjustable die used in drawing wire or lead pipe

word-less \'wardləs, 'wəd-, 'wəid-\ *adj* [ME *wordles*, fr. ¹*word* + -*les* -less] **1** : not expressed or not expressible in words (choking exasperation and ~ shame —Thomas Wolfe) : involving no use of words (~ intercourse with rude nature — John Burroughs) **2 a** : saying nothing : SILENT, SPEECHLESS (he stood helpless — ~ even —Lew Wallace) **b** : lacking ability or inclination to express oneself freely in words : INARTICULATE, TACITURN (a calm, ~ man —W.A.White) **3** : not consisting of or accompanied by words (with a ~ squeak — P.G.Wodehouse) (the ~ language of architecture —E.M. Bridge) (~ music) — **word-less-ly** *adv* — **word-less-ness** *n* -ES

word-lore \'‥,‥\ *n* : study of or information about words (a modest book on *word-lore* —Ernest Weekley)

word-magic \'‥,‥\ *n* : magic involving the use of words in a manner determined by a belief that the very act of uttering a word summons or directly affects the person or thing that the word refers to

word-man \'‥,‥\ *n, pl* **word-men** : one that is skilled in the use of words

wordmonger \'‥,‥\ *n* : a dealer in words: as **a** : one that uses words for show or without enough regard for meaning **b** : a writer by profession

word-mongering \'‥,‥(‥)‥\ *n* : the use of empty or bombastic words (mere *word-mongering* divorced from actual life — Forrest Morgan)

word-mongery \'‥,məŋg(ə)rē, -məŋ-\ *n* -ES [¹*word* + -*mongery* (as in *ironmongery*)] : WORD-MONGERING

word-music \'‥,‥\ *n* : the musical quality of spoken language or of written language designed to be spoken (as in a play)

word of god *usu cap W & cap G* : WORD 4

word of honor : a promise or engagement made with or con-

ATTACHMENT2.

be in a dreamy or absent-minded state 1553. b. Hence, Indulgence in idle imagining or aimless speculation 1607.

a. Hackyng & hemmyng as though our wittes and our senses were a woll gatheryng 1553. So Woo·l-ga·ther-ing *a.* indulging in wandering thoughts or idle fancies.

Woollen (wu·lĕn, wu·lən), *a.* and *sb.* Also (now *U.S.*) woolen. [Late OE. *wullen*, f. *wull* WOOL *sb.* + -EN⁴.] A. *adj.* 1. Made of or manufactured from wool. †2. Wearing woollen clothing, (*a*) as a mark of penance, (*b*) as a mark of poor or lowly status –1607.

2. *Cor.* III. ii. 9.

B. *sb.* Cloth or other fabric made of wool or chiefly of wool. Now *rare.* ME. b. *pl.* Woollen cloths or clothes 1800.

†*To lie in the w.*, to sleep with a blanket next to one; I could not endure a husband with a beard on his face, I had rather lie in the w. SHAKS. *To be buried in w.*, to have a w. shroud, as required by the Act of 18 and 19 Chas. II for the encouragement of the w. manufacture.

Woo·llen-dra·per. Now *Hist.* 1554. [f. prec. sb. + DRAPER *sb.*] A dealer in woollen goods.

Woolliness (wu·linĕs). 1597. [f. WOOLLY *a.* + -NESS.] The quality or condition of being woolly, in various senses; also *concr.* a woolly substance.

Woolly (wu·li), *a.* (*sb.*) 1578. [f. WOOL *sb.* + -Y¹.] 1. Consisting of wool. Also *transf.* relating to wool; containing wool (or sheep) 1591. 2. Of the nature, texture, or appearance of wool; resembling wool 1586. b. Having a soft and clinging texture; said esp. of edible things which are consequently unpleasant to the palate 1637. 3. Having a natural covering of wool, wool-bearing 1596. b. Having hair resembling wool: applied esp. to negroes 1767. c. In specific names of animals, often rendering L. *lanatus*, *laniger* 1781. d. *Wild and w.*, orig. applied to the Far West of the U.S., on account of its rude and uncivilized character; hence *gen.* barbarous, lacking culture 1891. 4. Of parts of plants: Covered with a pubescence resembling wool; downy, lanate, tomentose 1578. b. In specific names of plants, often rendering L. *lanatus* or *tomentosus* 1597. 5. *gen.* Having a wool-like texture, surface, or covering 1796. 6. *transf.* and *fig.* Lacking in definiteness or incisiveness; confused and hazy; lacking in clearness or definition 1815.

1. Silent was the flock in w. fold KEATS. 3. b. It was a large, w. poodle, snowy white 1856. c. W. bear *colloq.* (esp. *children's*), a large hairy caterpillar, esp. the larva of the tiger-moth. 4. b. W. butt, Australian name for species of *Eucalyptus*, esp. *E. longifolia.* 6. Pusey's w. mind 1865. A drawing to look into, but rather w. at a few paces off 1884.

B. *sb.* A woollen garment or covering; now esp. *pl.*, garments or wraps knitted of (fleecy) wool 1855.

Woo·lly-head. 1859. A person with woolly hair, *esp.* a negro; hence, a nickname for an abolitionist in America.

Woolly-headed, *a.* 1650. Having a woolly head: a. in specific names of plants; b. Woolly-haired 1708; c. *fig.* Dull-witted 1883.

Woo·lman. Now chiefly *Hist.* late ME. A dealer in wool; a wool-merchant.

Woo·l-pack. ME. [PACK *sb.*¹] 1. A large bag into which a quantity of wool or of fleeces is packed for carriage or sale. †b. = next 2. –1710. 2. *transf.* Something resembling a wool-pack. †a. A large mass of white water –1733. b. orig. *w. cloud*: A fleecy cumulus cloud. Chiefly *pl.* (or *collect. sing.*). 1648.

Woolsack (wu·lsæk). ME. [SACK *sb.*¹] 1. A large package or bale of wool. b. Applied joc. to a corpulent person. SHAKS. 2. A seat made of a bag of wool for the use of judges when summoned to attend the House of Lords (in recent practice only at the opening of Parliament); also, the usual seat of the Lord Chancellor in the House of Lords, made of a large square bag of wool without back or arms and covered with cloth. Often *allus.* with ref. to the position of the Lord Chancellor as the highest judicial officer; hence, *the w.*, the Lord-Chancellorship. 1577.

She drags her husband on to the w., or pushes him into parliament 1862.

‖**Woolsaw** (wu·lsǫ). 1757. [Mosquito *wulasha.*] Among people of African descent in Central America, an evil spirit or demon.

Woolsey (wu·lzi), *a.* *rare.* 1839. [f. WOOL *sb.* + *-sey* derived from LINSEY-WOOLSEY.] Woolly; woollen.

Woo·l-sta·ple. 1593. [STAPLE *sb.*²] A market appointed for the sale of wool. So Woo·l-sta·pler, a merchant who buys wool from the producer, grades it, and sells it to the manufacturer.

†**Woo·lward,** *a.* [ME. *wollward*, prob. alteration of **wullewerd*, from OE. **wullwerd*, f. *wull* WOOL *sb.* + *-werd*, *-wered* wearing, clothed (in), f. stem of *werian* WEAR *v.*¹] Wearing wool next the skin, esp. as a penance; chiefly in *to go w.* –1822.

The naked truth of it is, I haue no shirt, I go w. for penance SHAKS. To walk wool-ward in winter SCOTT.

Woolwich (wu·lidʒ). 1794. The name of a town in Kent, used attrib., esp. to designate productions of its old dockyard and the Royal Arsenal, as *W. gun, hulk*; *W. infant*, a joc. name for certain heavy guns.

Woo·l-work. 1475. †1. Working in wool; manufacture of woollen goods –1630. 2. Needlework executed in wool usu. on a canvas foundation. Also, knitted wool fabric. 1871. So Woo·l-worker, one who works in wool. late ME.

Woomera (wū·mərā). *Austral.* 1817. [Native name.] A throwing-stick used by Australian aboriginals. Also = next.

Woomerang (wū·mərəŋ). *Austral.* 1849. [Native name. Cf. BOOMERANG.] A missile club used by Australian aboriginals.

Woon (wūn). 1800. [Burmese *wun.*] A Burmese administrative officer.

Woorali, wourali (wurā·li). 1769. [See CURARE.] A S. Amer. climbing plant, *Strychnos toxifera*, from the root of which one of the ingredients of the poison CURARE is obtained; also, the poison itself.

Wootz (wūts). 1795. [app. orig. misprint for *wook*, repr. Canarese *ukku* (pron. with initial *w*) steel.] A crucible steel made in southern India by fusing magnetic iron ore with carbonaceous matter.

Woozy (wū·zi), *a.* *U.S. slang.* 1897. [Origin unkn.] Fuddled with drink; hence, muzzy.

Wop (wǫp). *U.S. slang.* 1916. [Obscure.] A Mid- or South-European (esp. Italian) immigrant in the United States of America.

Worcester (wu·stəɹ). 1551. The name of the county town of Worcestershire, used *attrib.* to designate articles originating there, e.g. †a fine cloth, (now chiefly) a kind of China ware; also *ellipt.*

W. sauce = Worcestershire sauce (see next).

Worcestershire (wu·stəɹʃəɹ, -ʃiəɹ). 1686. The name of an English county: *attrib.* in *W. sauce*, a sauce made in Worcester; also *ellipt.*

Word (wɔ̄ɹd), *sb.* [OE.:—OTeut. **wurdom* :—pre-Teut. **wṛdho-* (cf. Lett. *wârds*, OPruss. *wirds*), app. ult. cogn. with Gr. ἐρέω I shall say, ῥήτωρ speaker, L. *verbum* word.] I. Speech, utterance, verbal expression. 1. *collect. pl.* Things said, or something said; speech, discourse, utterance; *esp.* with possessive, what the person mentioned says or said; (one's) form of expression or language. b. *spec.* The text of a song or other vocal composition, as dist. from the music; also, the text of an actor's part 1450. 2. *sing.* Something said; a speech or utterance *arch.* OE. b. with negative expressed or implied, or with *every*: Any or the least utterance, statement, or fragment of speech OE. c. *A w.*: a (short or single) utterance or statement; a brief speech or conversation; similarly *a w. or two* 1485. d. *spec.* Something said on behalf of another; esp. in such phrases as *to speak a (good) w. for* 1540. e. *spec.* A watchword or password 1533. †3. *absol.* or *collect. sing.* Speech, speaking; often as dist. from writing, esp. in phr. *by w.*; also, the faculty of speech –1728. 4. *sing.* and *pl.* Speech, verbal expression, in contrast with action or thought OE. 5. *pl.* orig. in various phr. denoting verbal contention or altercation, e.g. †*to be* or *fall at words*, etc., now chiefly *to have words (with)*; hence *words* = contentious or violent talk between persons; altercation 1462. 6. *sing.* (without article). Report, tidings, news, information OE. b. Common report or statement, rumour. Now *rare* or *Obs.* OE. 7. A command, order, bidding; a request OE. 8. A promise, undertaking. Almost always with possessive. late ME. 9. With possessive: Assertion, affirmation, declaration, assurance; esp. as involving the veracity or good faith of the person who makes it 1601. 10. a. An utterance or declaration in the form of a phrase or sentence. *arch.* OE. b. A pithy or sententious utterance; a saying; a maxim, proverb. Now *rare* exc. in BYWORD 1, NAYWORD 2, *household w.* late ME. †c. A significant phrase or short sentence inscribed upon something –1630. 11. Religious and theological uses; often more fully *word of God* (or *the Lord*), *God's word*, freq. with cap. a. A divine communication, command, or proclamation, as one made to or through a prophet or inspired person; *esp.* the message of the gospel OE. b. The Bible, or some part or passage of it, as embodying a divine communication 1553. c. *The W.* (*of God, of the Father*), *the Eternal W.*, etc., as a title of Jesus Christ; = LOGOS. OE.

1. Words can't describe the figures the women dress here 1813. I have no words..to express the very great thanks which I..owe you 1878. *In these, other*, etc. *words*, in (such-and-such) language. *To give words to, to put into words*, to express by means of language. *Beyond words*, incapable of being expressed in language, unutterable. b. Songs without words (tr. G. *Lieder ohne Worte*). 2. At this worde which he coupled with an othe, came I in Foxe. He bless'd the bread, but vanish'd at the w. COWPER. b. They never heard a w. of English DE FOE. c. To speake a worde in season to him that is wearie *Isa.* l. 4. e. *To give the w.*: (*a*) to utter the password in answer to a sentinel's challenge; (*b*) to inform officers or men of the password to be used. 4. Thy actions to thy words accord MILT. 5. High words passed between them. They parted in passion. RICHARDSON. My old man said he was a bloodsucker, and that led to words 1913. 6. Bid you Alexas Bring me w., how tall she is SHAKS. Send me W...whether he has so great an Estate STEELE. b. W. gae'd she was nae canny 1718. 7. In my time a father's w. was law TENNYSON. *To say the w.*, to give the order, say 'go' or the like; Say the w., He have him by the eares HEYWOOD. 8. Having solemnly pledged his w...not to attempt anything against the government MACAULAY. *To be as good as one's w.*, to keep one's promise. *A man of his w.*, one who keeps his promises. 9. I give you my w. that my brother did not leave a shilling to his son THACKERAY. 10. a. The hopelesse w. of Neuer to returne, Breath I against thee SHAKS. c. And round about the wreath this w. was writ, *Burnt I do burne* SPENSER. 11. b. *Merry W.* III. i. 44.

II. An element of speech: A combination of vocal sounds, or one such sound, used in a language to express an idea (e.g. to denote a thing, attribute, or relation), and constituting an ultimate minimal element of speech having a meaning as such; a vocable OE. b. †(*a*) A name, title, appellation. (*b*) A term, expression. OE. c. A written (engraved, printed, etc.) character or set of characters representing this OE. d. In contrast with the thing or idea signified 1450. e. *The w.* (predicatively): the right word for the thing, the proper expression; hence contextually denoting or indicating the thing spoken of, esp. the business in hand (*colloq.*) 1596. U8

Sometimes with ref. to the writing of a word as an indivisible unit, e.g. *as one or a single w.*, *as two words* N.E.D.

d. A business of words only, and ideas not concerned in it 1782. e. Come Sir, are you ready for death?.. Hanging is the w., Sir. SHAKS. Contempt? Why, damsel, when I think of man, Contempt is not the w. 1885.

Phrases. At a or one w.: a. Upon the utterance of a single w.; without more ado; at once, forthwith. b. In short, briefly, in a word. *Obs.* exc. *arch.* or *dial.* *To take* a person *at his w.*, to accept what he says and act accordingly. In a w. In a simple or short, (esp. comprehensive) statement or phrase; briefly, in short. In so many words (tr. L. *totidem verbis*), lit. in precisely that number of words; in those very words. On or upon one's w.: a. On the security of, or as bound by, one's promise or affirmation; hence as an asseveration, *on, upon my w.* = Assuredly, truly, indeed. b. (with ellipsis of prep.) *My w.!* as an ejaculation of surprise (*colloq.* or *vulgar*). A w. and a blow. A brief utterance of anger or defiance, followed immediately by the delivery of a blow, as the beginning of a fight; hence in ref. to hasty or sudden action of any kind. W. of command. A w. or

OED

in southwestern Africa] : a long-tailed African dove (*Oena capensis*)

[2]**namaqua** \"\ *or* **na·ma·quan** \-wən\ *n* -s *usu cap* : [1]NAMA

nam·ay·cush \'namē,kəsh, -ma,-\ *n* -es [of Algonquian origin; akin to Cree *namekus* lake trout] : LAKE TROUT

na·maz \nə'mäz\ *n, pl* **namaz** [Pers *namāz*; akin to Skt *namas* obeisance — more at NEMORAL] : Islamic worship or prayer

nam·be \näm'bē\ *n, pl* **nambe** *or* **nambes** *usu cap* **1** : a Tanoan people occupying a pueblo in New Mexico **2** : a member of the Nambe people

nam·bi·cua·ra *or* **nam·bi·kua·ra** \,nambē'kwärə\ *or* **nham·bi·qua·ra** *or* **nham·bi·cua·ra** *n* -s *usu cap* [Pg *nambicuara*, *nhambicuara*, fr. Tupi, lit., long-eared] **1 a** : a people of Mato Grosso, Brazil **b** : a member of such people **2** : the language of the Nambicuara people

nam·by \'nambē\ *adj or n* [by shortening] : NAMBY-PAMBY

nam·by-pam·bi·ness \,nambē'pambēnəs\ *n* -es : the quality or state of being namby-pamby

[1]**nam·by-pam·by** \,nambē'pambē, ¦nam ... ¦ambē, -bi ... bi\ *adj* [fr. *Namby Pamby*, nickname given to *Ambrose Philips* †1749 Eng. poet by some satirists of his time to ridicule the style of his verses] **1** : characterized by feeble sentimentality or insipid and artificial prettiness or elegance ⟨*namby-pamby* rhymes⟩ **2 a** *of a person* : lacking in vigor or manliness : weak, trifling, or childish in character or behavior ⟨*namby-pamby* boys afraid to leave their mothers' apron strings⟩ **b** : lacking in real worth, substance, or quality : unduly lax, soft, or conciliatory ⟨the *namby-pamby* handling of juvenile delinquents⟩ ⟨*namby-pamby* educational standards⟩

[2]**namby-pamby** \"\ *n* -es : something (as talk, writing, or a person) that is namby-pamby

nam·by-pam·by·ism \"+,izəm\ *n* -s : NAMBY-PAMBINESS

[1]**name** \'nām\ *n* -s [ME, fr. OE *nama*; akin to OHG & Goth *namo* name, ON *nafn*, L *nomen*, Gk *onyma*, *onoma*, Skt *nāma*] **1 a** : a word or sound or a combination of words or sounds by which an individual or a class of individuals (as persons or things) is regularly known or designated : a distinctive and specific appellation ⟨the ~ of the boy is Mark⟩ ⟨the ~ of this fruit is apple⟩ ⟨metal is the ~ of a class of substances each of which has an individual ~ (as gold, silver, lead, copper, iron)⟩ — see LEGAL NAME **b** (1) : a word usu. with little or no connotation that can serve as the subject of a sentence; *also* : the symbolic equivalent of such a word (2) : a designating or identifying expression ⟨"the smallest prime" and "the proposition that all men are equal" may be construed as ~*s*⟩ **2** *usu cap* : a symbol of divinity or an actual vehicle of divine attributes ⟨the ascetics testify that this *Name* has in itself the power of the presence of God —Elizabeth Cram⟩ ⟨*Name* — may mean either character, or manifestations of Jehovah, or Jehovah himself —W.A.Shelton⟩ **3 a** : a descriptive or qualifying appellation based on character, attributes, or acts ⟨his ~ shall be called Wonderful —Isa 9:6 (AV)⟩ **b** : an unpleasant, vulgar, or offensive appellation often based on some attribute ⟨it is wrong to call ~*s*⟩ **4 a** : reputed character : good or bad reputation ⟨had the ~ of a miser⟩ **b** : honorable reputation or illustrious fame ⟨had a ~ for learning⟩ ⟨a ~ to conjure with⟩ **5 a** : the designation of an individual regarded as his individuality or character ⟨one of the most detested ~*s* in history⟩ ⟨polio and cancer are among the most dread ~*s* today⟩ **b** : individuals sharing a name : RACE, FAMILY, CLAN **c** : a person or thing that is outstanding in importance, prominence, or interest ⟨tried to get several ~*s* to give glamor to the party⟩ **6** : the appellation of a thing in distinction to the reality : mere seeming ⟨the place was a town in ~ only⟩ ⟨a poet in ~ but scarcely in production⟩ ⟨gradual attrition reduced it to an empty ~⟩ **7** : the mystic essence, character, or spiritual attribute of a person — **by name** *adv* **1** : with specific personal designation : with the according of individual recognition ⟨mentioned each student *by name*⟩ **2 a** : as individuals : INDIVIDUALLY ⟨knew them all *by name*⟩ **b** : by reputation rather than by personal acquaintance or appearance ⟨knew the new supervisor *by name* only⟩ — **to one's name** : as one's property : among one's possessions

[2]**name** \"\ *vt* -ED/-ING/-S [ME *namen*, fr. OE *namian*, fr. *nama*, n.] **1** : to give a distinctive name or appellation to : ENTITLE, DENOMINATE, STYLE, CALL ⟨*named* the child after her grandmother⟩ **2** : to mention or identify by name : utter or publish the name of ⟨~ one person who would do such a thing⟩ ⟨everyone *named* him with praise⟩: as **a** : to introduce (as oneself) by name ⟨may I ~ these gentlemen⟩ **b** (1) : to mention the name of (a member of a legislative body) in formal reprimand — used of the speaker of the house (2) : to accuse by name ⟨~ the villain if you can⟩ **c** : to identify by naming ⟨~ that tree⟩ : tell over the names of : recognize or recount by name ⟨can ~ the books of the Bible in perfect order⟩ **3** : to appoint specif. or by name : assign to some purpose : NOMINATE ⟨the king *named* his eldest son to succeed him⟩ ⟨let's ~ an early day for the wedding⟩ **4 a** : to speak about : MENTION, STIPULATE, CITE, STATE, QUOTE ⟨will he ~ a price⟩ ⟨refused to ~ the source of the story⟩ **b** : to bring up in conversation : INDICATE, SUGGEST — usu. used with an indefinite *it* as object ⟨if you don't see what you want, ~ it⟩ ⟨I'll ~ it to him the next time we meet⟩ **syn** see INSINUATE, MENTION

[3]**name** \"\ *adj* [[1]*name*] **1** : bearing or intended for a name or names ⟨leather ~ tag⟩ ⟨ornately painted ~ signs⟩ **2 a** : named in honor or remembrance of another ⟨~ child⟩ **b** : being the person for whom another is named ⟨~ ancestor⟩ **3** : giving its or the name to a collection or composition ⟨the anthology opens with the ~ article⟩ **4** : accorded top rank for preeminence in performance under a distinctive name recognized as a mark of celebrity ⟨a ~ band⟩ ⟨a ~ writer⟩ ⟨a ~ train⟩ **5** : bearing a name (as a trade name) accepted by a widely distributed public as the mark of approved or quality products supplied by a particular enterprise ⟨insisting on ~ brands⟩ ⟨sales of ~ merchandise⟩

name·abil·i·ty *also* **nam·abil·i·ty** \,nāmə'bilәd·ē\ *n* : the quality or state of being nameable

name·able *also* **nam·able** \'nāməbəl\ *adj* **1** : capable of being named : IDENTIFIABLE ⟨pick any ~ item⟩ **2** : worthy of being recalled or mentioned : MEMORABLE, NOTEWORTHY

nameboard \'ˌ,ˌ\ *n* : an identifying signboard (as for a station, a shop, or a ship); *also* : an identifying name displayed (as on the side of a ship) other than on a board — see SHIP illustration

name–caller \'ˌ,ˌˌ\ *n* : one that habitually engages in name-calling

name–calling \'ˌ,ˌˌ\ *n* : the use of opprobrious designations esp. to win an argument or to induce rejection or condemnation (as of a person or project) without due and unimpassioned consideration of relevant facts ⟨the campaign degenerated into mere scurrilous *name-calling*⟩ ⟨not above *name-calling* when it served his purposes⟩

named \'nāmd\ *adj* [ME *namyd*, fr. past part. of *namen* to name] **1** : mentioned by name : SPECIFIED ⟨arrived on the ~ date⟩ **2** : having a well-known name : NOTABLE ⟨this highly ~ philosopher⟩ **3** : having or known by a distinctive name ⟨there are hundreds of ~ roses that are no longer planted⟩

name day *n* **1** : the day of the saint whose name one bears **2** : the day under London stock exchange rules on which a ticket giving the name of the buyer of securities and the associates ⟨cultivate an air of Broadway knowingness largely by means of *name-dropping* —Henry Hewes⟩

name·less \'nāmləs\ *adj* [ME *nameles*, fr. [1]*name* + *-les* -less — more at NAME] **1** : lacking a distinguished name : not noted : OBSCURE ⟨understood the ~ men who fought and swore ... and won a war —Merle Miller⟩ **2** : not known, specified, or mentioned by name often to avoid giving offense ⟨the hero of this tale must remain ~⟩ **3** : having no legal right to a name (as by reason of illegitimacy) : BASTARD **4** : having no name : not having been given a name ⟨discovered several ~ species of moss⟩ **5** : not marked with any name ⟨a ~ grave⟩ **6 a** : impossible to identify precisely or by name ⟨the ~ ills of old age⟩ : being such as to defy description usu. by reason of indefiniteness ⟨troubled by ~ fears and uncertainties⟩ **b** : too horrible, repulsive, or distressing to be mentioned ⟨this ~ abomination⟩ ⟨their ~ sensualities⟩ — **name·less·ly** *adv* — **name·less·ness** *n* -es

[1]**namely** *adv* [ME, fr. [1]*name* + *-ly* (adv. suffix)] **1** *obs* : SPECIFICALLY, ESPECIALLY, EXPRESSLY **2** : that is to say : to wit ⟨dropping one preconception, ~ the qualitative distinction between the heavens and the earth —S.F.Mason⟩

[2]**name·ly** \'nāmlī\ *adj* [ME, fr. [1]*name* + *-ly* (adj. suffix)] *Scot* : FAMOUS ⟨~ for witches⟩ ⟨to be a ~ piper it was necessary to study for 7 years —Seton Gordon⟩

name part *n* : the title role in a play

nameplate \'ˌ,ˌ\ *n* **1** : a plate or plaque bearing or designed to bear a name (as of a resident, proprietor, or manufacturer) **2** : the name of a newspaper or periodical as it is regularly displayed usu. on the top of the first page of the newspaper or on the front cover or title page of the periodical

name prefix *n* : a patronymic prefix

nam·er \'nāmə(r)\ *n* -s : one that bestows a name or calls by name

names *pl of* NAME, *pres 3d sing of* NAME

namesake \'ˌ,ˌ\ *n* [prob. fr. *name's sake* (i.e., one named for the sake of another's name)] : one that has the same name as another; *esp* : one named after another

name tape *n* : firmly woven cotton tape with the name of a person interwoven or printed in linear series to be divided into single name-bearing segments for attachment to items (as garments) likely to require identification; *also* : one name-bearing section of such tape ⟨sewed *name tapes* on all her underwear⟩

naming *pres part of* NAME

namnad *var of* NUMDAH

nams *pl of* NAM

na·mu·ri·an \nə'm(y)u̇rēən\ *adj, usu cap* [*Namur*, town and province in Belgium + E *-ian*] : of or relating to a division of the Upper Carboniferous — see GEOLOGIC TIME table

nan \'nan, -aa(ə)-\ *usu cap* [fr. *Nan*, nickname fr. the name *Nancy*] — a communications code word for the letter *n*

NAN *abbr* [L *nisi aliter notetur*] unless otherwise noted

nan- *or* **nano-** *comb form* [F, fr. L *nanus* dwarf, fr. Gk *nanos*, *nannos*; prob. akin to Gk *nanna*, *nenna* female relative, aunt — more at NUN] : dwarf ⟨*nanocephaly*⟩ ⟨*nanoid*⟩ ⟨*nanosomia*⟩

[1]**na·na** \'nanə, 'nänə, 'nānə\ *n* -s [prob. of baby-talk origin] : a child's nurse or nursemaid

[2]**na·na** \nə'nä\ *n* -s [Pg *naná*, fr. Guarani & Tupi] : PINEAPPLE

[3]**nana** \"\ *n* -s [Ar *na'nā'*] : MINT

[4]**na·na** \'nānə\ *adj* [NL, fr. LL, female dwarf, fem. of L *nanus* dwarf — more at NAN-] : DWARF, DWARFISH — used esp. of genetic variants of economic plants ⟨a ~ strain of corn⟩

na·nai·mo \nə'nī(,)mō\ *n, pl* **nanaimo** *usu cap* [Nanaimo *Sanenaimux*, lit., people of Nanoose bay] **1 a** : a Salishan people of the east coast of Vancouver Island, British Columbia **b** : a member of such people **2** : a Salishan language of the Nanaimo people

na·nak·pan·thi \,nänək'pan(t)thē\ *n* -s *usu cap* [Hindi *nānakpanthī*, fr. Guru *Nānak* †1538 Indian religious leader who founded Sikhism + Skt *panthan*, *patha* way, path, course — more at FIND] : a member of a major Sikh party distinguished by its primary emphasis on the peaceful tenets of Guru Nanak — compare KHALSA

na·nan·der \nə'nandə(r)\ *n* -s [*nan-* + *-ander*] : NANNANDER

na·na·wood \'nänə'wu̇d\ *n* [Marathi *nānā* ben-teak (prob. fr. Skt *nandin*, any of various plants) + E *wood*] : BEN-TEAK

[1]**nan·ce** \'nän(t)sā\ *also* **nan·che** \-nchā\ *n* -s [AmerSp, fr. Nahuatl *nantzi*] **1** : a tree of the genus *Byrsonima* **2** : the fruit of a nance and esp. of the golden spoon (*Byrsonima crassifolia*)

[2]**nance** \'nan(t)s\ *n* -s [short for [2]*nancy*] *slang* : an effeminate male : HOMOSEXUAL

nan·chang \'nän'chäŋ\ *adj, usu cap* [fr. *Nanchang*, China] : of or from the city of Nanchang, China : of the kind or style prevalent in Nanchang

[1]**nan·cy** \'nan(t)sē\ *adj, usu cap* [fr. *Nancy*, France] : of or from the city of Nancy, France : of the kind or style prevalent in Nancy

[2]**nancy** \"\ *n* -es *sometimes cap* [fr. the female name *Nancy*] : [2]NANCE

nancy–story \'ˌˌ,ˌˌ\ *also* **nancy** *n* [*nancy* by folk etymology (influence of name *Nancy*) fr. a West African word akin to Twi *ananse* spider, Ewe *ayiyise*] : a folktale of the Negroes of the African Gold Coast or their West Indian descendants

[1]**nan·di** \'nan,dē\ *n, pl* **nandi** *usu cap* **1 a** : a pastoral people on the Uganda-Kenya frontier **b** : a member of such people **2** : a Nilotic language of the Nandi people — called also *Kipsigis*

[2]**nandi** \"\ *n* -s [Skt *nāndī* joy, vigor, freshness] : a benediction or invocation spoken at the beginning of an Indian drama and usu. addressed to Vishnu or Siva but sometimes to Buddha

[3]**nandi** \"\ *n* -s [Telugu, prob. fr. Skt *nandin*, any of various plants] : BEN-TEAK

nan·di bear \'nandē-\ *n, often cap N* [prob. fr. *Nandi*, town in Kenya] : a large carnivorous animal that is said to resemble a bear and has been reported repeatedly from parts of southern and eastern Africa

[1]**nan·did** \'nandəd\ *adj* [NL *Nandidae*] : of or relating to the Nandidae

[2]**nandid** \"\ *n* -s [NL *Nandidae*] : a fish of the family Nandidae

nan·di·dae \'nandə,dē\ *n pl, cap* [NL, fr. *Nandus*, type genus (perh. fr. Skt *nāndī* joy) + *-idae*] : a family of small deep-bodied percoid fishes of warm fresh and salt waters of the southern hemisphere — compare LEAF FISH

nan·di·na \nan'dīnə, -dēnə\ *n* [NL, fr. Jap *nandin* nandina] **1** *cap* : a monotypic genus of Chinese and Japanese evergreen shrubs (family Berberidaceae) having decompound leaves and small white paniculate flowers with numerous sepals that are followed by bright red or purplish fruits and being grown in warm regions as an ornamental **2** *also* **nan·din** \'nandən\ -s : any shrub of the genus *Nandina* — called also *sacred bamboo*

nan·dine \'nandən\ *n* -s [native name in Africa] : either of two spotted ring-tailed African palm civets (*Nandinia binotata* and *N. gerrardi*)

nan·du *also* **nan·dow** \'nan(,)dü\ *n* -s [Pg *nandu*, *nandú*, *nhandu*, *nhandú* & Sp *ñandú*, *ñandú*, fr. Guarani & Tupi] : RHEA

nan·du·bay \,nyandə'bī\ *n* -s [Sp *ñandubay*, fr. Guarani] : a So. American tree or shrub (*Prosopis nandubay*) with rough hard bark and durable wood that is sometimes used for fence posts

na·nif·ic \nā'nid·ik, na'-\ *adj* [*nan-* + *-ific*] : exhibiting or affected with nanism : atypically small ⟨~ worker ants⟩

na·ni·za·tion \,nānə'zāshən, ,nan-\ *n* -s [F *naniser* to dwarf (fr. *nan-* + *-iser* -ize) + E *-ation*] : artificial dwarfing (as of trees by horticulturists)

nan·keen \(')nan'kēn\ *also* **nan·kin** \-kin\ *or* **nan·king** \-kiŋ\ *n* -s [fr. *Nanking*, China, where it was first manufactured] **1 a** : a durable fabric handloomed in China from local cottons that had naturally a yellowish color; *also* : a firm twilled cotton fabric dyed to imitate the Chinese fabric **b** *or* **nankeen cotton** : a tree cotton (*Gossypium religiosum*) used for weaving the original nankeen fabric **2** **nankeens** *pl* : trousers made of nankeen **3** *or* **nankeen yellow** *often cap N* : NAPLES YELLOW 2 **4** *usu cap* : NANKEEN PORCELAIN

nankeen bird *or* **nankeen night heron** *n* : an Australian night heron (*Nycticorax caledonicus*)

nankeen hawk *or* **nankeen kestrel** *n* : a pale yellowish Australian kestrel (*Falco cenchroides* syn. *Cerchneis cenchroides*)

nankeen lily *n* : a hybrid garden lily (*Lilium × testaceum*) with fragrant yellow flowers

nankeen porcelain *n, usu cap N* : chinese porcelain painted in blue on white — used esp. by dealers of all except the roughest sorts both ancient and modern

nankin *n* -s : NAPLES YELLOW 2

nan·king \(')nan¦kiŋ\ *adj, usu cap* [fr. *Nanking*, China] : of or from the city of Nanking, China : of the kind or style prevalent in Nanking

nanking cherry *n, usu cap N* : a large spreading hardy shrub or small compact tree (*Prunus tomentosa*) that has nearly sessile flowers, leaves tomentose on the under surface, and globular light red edible fruit and that is native to Asia but widely cultivated as an ornamental and for its fruit in regions of rigorous climate — called also *Manchu cherry*

nan·mu \'nan(,)mü\ *n* -s [Chin (Pek) *nan² mu⁴*] : a durable fragrant close-grained brown lumber obtained in western China from a lauraceous tree (esp. *Machilus nanmu*) and used by the Chinese esp. for fine framing and architectural adjuncts (as pillars)

nann- *or* **nanno-** *comb form* [NL, fr. Gk *nann-*, fr. *nannos*, *nanos* — more at NAN-] : dwarf ⟨*Nannippus*⟩ ⟨*nannocephaly*⟩

nan·nan·der \nə'nandə(r)\ *or* **nan·nan·dri·um** \-drēəm\ *n, pl* **nannanders** \-(r)z\ *or* **nannan·dria** \-ēə\ [*nannander* fr. *nann-* + *-ander*; *nannandrium*, NL, fr. *nann-* + *andr-* + *-ium*] : DWARF MALE 1

nan·nan·drous \-drəs\ *adj* [*nann-* + *-androus*] : having oogonia borne on normal-sized plants and antheridia borne on greatly reduced plants or filaments — used of green algae of the family Oedogoniaceae; compare MACRANDROUS

nan·nie *or* **nan·ny** \'nanē, -ni\ *n, pl* **nannies** [prob. of baby-talk origin] *chiefly Brit* : a child's nurse : NURSEMAID

nan·ning \(')nän¦niŋ\ *adj, usu cap* [fr. *Nanning*, China] : of or from the city of Nanning, China : of the kind or style prevalent in Nanning

nan·ni·nose \'nanə,nōs\ *n* -s [alter. of earlier *maninose*, *mananosay* — more at MANANOSAY] *dial* : SOFT-SHELL CLAM

nan·nip·pus \nə'nipəs\ *n, cap* [NL, fr. *nann-* + *-hippus*] : a genus of tiny extinct three-toed American Pliocene horses

nan·no·plank·ton \'nanō+\ *n* [NL, fr. *nann-* + *plankton*] : the smallest plankton comprising those organisms (as various flagellates, algae, bacteria) that pass through nets of number 25 mesh silk bolting cloth — compare NET PLANKTON — **nan·no·planktonic** \"+,ˌ¦ˌˌ\ *adj*

nan·ny \'nanē, -ni\ *or* **nanny goat** *n* -es [fr. *Nanny*, nickname for *Anne*] : a female domestic goat : a goat doe

nan·ny·berry \'nanē- — *see* BERRY\ *n* **1** *or* **nannybush** : SHEEPBERRY 1a **2** : SHEEPBERRY 1b

nan·ny·gai \'nanē,gī\ *n* -s [native name in New So. Wales, Australia] : a red iridescent Australian food fish (*Trachichthodes affinis*) of the family Berycidae

nanny plum *n* : SHEEPBERRY 1

nanny tea *n* : a folk remedy for many ailments that consists of a hot infusion of sheep manure in water often with sugar

[1]**nano-** — see NAN-

[2]**nano-** *comb form* [ISV, fr. L *nanus* dwarf — more at NAN-] : one billionth (10^{-9}) part of ⟨*nanosecond*⟩

na·no·gram \'nānə,gram, 'nan-\ *n* [*nan-* + *gram*] : a unit of mass equal to one billionth of a gram

na·noid \'nā,nȯid, 'na,-\ *adj* [*nan-* + *-oid*] : having an abnormally small body : DWARFISH

na·no·phy·e·tus \,nānə,fī'ēd·əs, ,nan-\ *or* **na·no·phy·es** \,ˌˌ'fīēz\ [NL, fr. *nan-* + *-phyetus*, *-phyes* (fr. Gk *phyein* to bring forth) — more at BE] *syn of* TROGLOTREMA

na·no·plank·ton \¦nānō, ¦nanō+\ *n* [NL, fr. *nan-* + *plankton*] : NANNOPLANKTON

na·no·so·mia \,nānə'sōmēə, ,nan-\ *n* -s [NL, fr. *nan-* + *-somia*] : DWARFISM

na·no·so·mus \-məs\ *n* -es [NL, fr. *nan-* + *-somus*] : DWARF

nan·pie \'nan,pī\ *n* [*Nan* (nickname fr. *Anne*) + *pie*] *dial Eng* : MAGPIE

nan·sen bottle \'nan(t)sən-\ *n, usu cap N* [after Fridtjof *Nansen* †1930 Norw. explorer and statesman] : an apparatus used in oceanographic studies for collecting water samples at predetermined depths

nansen passport *n, usu cap N* [after Fridtjof *Nansen*] : a passport issued through the agency of the League of Nations to a person without a home government

nantes \'nan(t)s\ *adj, usu cap* [fr. *Nantes*, France] : of or from the city of Nantes, France : of the kind or style prevalent in Nantes

nan·ti·coke \'nantə,kōk\ *n, pl* **nanticoke** *or* **nanticokes** *usu cap* [Nanticoke *Naiiaquak*, lit., tidewater people] **1 a** : an Indian people of eastern Maryland and southern Delaware **b** : a member of such people **2** : an Algonquian language of the Nanticoke and Conoy peoples **3** : one of a group of people of mixed Indian, white, Negro ancestry in southern Delaware

nan·to·kite \'nantə,kīt\ *n* -s [Sp *nantoquita*, fr. *Nantoco*, village north of Copiapó, Chile + Sp *-ita* -ite] : a native cuprous chloride CuCl

nan·tuck·et·er \nan·'təkəd·ə(r)\ *n* -s *cap* [*Nantucket* Island, Mass. + E *-er*] : a native or resident of Nantucket Island

nan·tuck·et pine tip moth \(')nan-¦təkət-\ *n, usu cap N* [fr. *Nantucket* Island] : a small reddish brown silver-marked olethreutid moth (*Rhyacionia frustrana*) of the eastern and central U.S. with yellowish brown larva that feeds in and damages the new growth of various pines

nantucket sleighride *n, usu cap N* [fr. *Nantucket* Island] : a run in a whaling boat fast to a harpooned whale

nan·tung \(')nän-¦tu̇ŋ\ *adj, usu cap* [fr. *Nantung*, China] : of or from the city of Nantung, China : of the kind or style prevalent in Nantung

nan·yu·ki·an \(')nän¦yükēən\ *adj, usu cap* [*Nanyuki*, town in Kenya + E *-an*] : of or belonging to an Upper Pleistocene culture of Kenya, East Africa, typified by a slightly modified Acheulean industry

nao \'nau̇\ *n* -s [Sp, fr. Catal *nau*, fr. L *navis* ship — more at NAVE] : a medium-sized sailing ship of the late middle ages

na·ol·o·gy \nā'äləjē\ *n* -es [Gk *naos* temple + E *-logy*] : a study of sacred edifices

na·os \'nā,äs\ *n, pl* **na·oi** \-,ȯi\ [Gk, temple; akin to Gk *neisthai* to return home — more at NOSTALGIA] **1** : an ancient temple

ATTACHMENT 4

mied to one subject of contemplation Scott. 4. a. [He] insisted on nailing me for dinner before he would leave me Thackeray. Hence Nai·ler, a nail-maker; one who drives in nails 1440; slang, a marvellously good specimen; a very skilful hand at something 1818. Nai·ling ppl. a. fixing like a nail; slang, excellent, splendid 1884.

Nailery (nē¹·ləri). 1798. [f. Nailer: see -ery.] A place or workshop where nails are made.

Nai·l-head. 1689. [f. Nail sb. + Head sb. II. 2.] 1. The head of a nail. 2. An ornament shaped like the head of a nail 1836. b. attrib., with moulding, ornament, pattern 1845.

2. The n. being an ornament easily cut, was much used in almost all periods of Norman work Parker. So Nai·l-headed a. 1801.

Nain (nēⁱn), a. Sc. ME. [See Own a.] (One's) own. Hence Nainsel·f, -se·ll, (one's) own self; her nainsel', a phr. supposed to be used by Highlanders in place of the 1st pers. pron.

‖**Nainsook** (nē¹·nsuk). 1804. [Urdū (Hindī) nainsukh, f. nain eye + sukh pleasure.] A cotton fabric, a kind of muslin or jaconet, of Indian origin.

‖**Nais** (nē¹·is). Pl. naides (nē¹·idīz). 1697. [L. Nais, Gr. Ναΐς.] 1. Mythol. = Naiad. 2. Zool. A small fresh-water worm allied to the earthworm 1835.

Naissant (nē¹·sǎnt), a. 1572. [a. F. naissant, pr. pple. of naître:—Rom. *nascere for L. nasci to be born; cf. Nascent.] 1. Her. Of animals: Issuing from the middle of the fess or other ordinary. 2. That is in the act of springing up, coming into existence, or being produced (rare) 1885.

‖**Naïve** (na,ī·v, nā·īv, nē¹·v), a. Also naive. 1654. [F., fem. of Naïf:—L. nativum Native a.] Characterised by unsophisticated or unconventional simplicity or artlessness. Hence Naï·vely adv. 1705.

‖**Naïveté** (naīvte, nē¹·vti). 1673. Also naïvety (1708). [F.; see prec. and -ty.] The condition or quality of being naïve; a naïve remark, etc.

He had a sort of n. and openness of demeanour Scott.

‖**Naja** (nē¹·dʒǎ, nā·yǎ). 1753. [mod.L., f. Hindī nāg snake.] A genus of highly venomous snakes, comprising the species N. tripudians of India and N. haje of Africa; the Indian or African cobra; a snake of either of these species.

Naked (nē¹·kėd), a. and sb. [OE. nacod, f. stem *naq- :—*naqw-, which appears in Skr. nagnás, L. nudus, etc.] A. adj. I. 1. Unclothed; stripped to the skin. b. Of a horse or ass: Unsaddled, bare-backed OE. 2. Of parts of the body: Not covered by clothing; bare, exposed ME. 3. Destitute of clothing (implying wretchedness). Also occas. of animals: Stripped of the usual warm covering. OE. b. Bare of means (rare) 1625. †4. Without weapons (or armour); unarmed -1787. b. Defenceless, unprotected; open to assault or injury 1560.

1. To bed he goes; and Jemy euer used to lye n., as is the use of a number 1608. b. A n. man on a n. horse is a fine spectacle Darwin. 2. There is my Dagger, And heere my n. Breast Shaks. transf. He..Had gazed on Nature's n. loveliness Shelley. Phr. N. bed, orig. a bed in which the occupant slept entirely n.; later used with ref. to the removal of the ordinary wearing apparel. Now arch. 3. Poore n. wretches..That bide the pelting of this pittilesse storme Shaks. 4. b. Left n. to infinite temptations 1688.

II. 1. Of a sword, etc.: Not covered by a sheath OE. 2. Free from concealment or reserve; straightforward. Now rare. ME. 3. Uncovered, stripped of all disguise or concealment. late ME. b. Plain, obvious, clear 1569.

1. In her right hand a n. poniard 1634. 2. By this n. confession of my life 1652. The n. truth, the plain truth, without concealment or addition. 3. Nakid is helle before hym Wyclif Job xxvi. 6. b. Chamberlayne laid his plan, in all its n. absurdity, before the Commons Macaulay.

III. †1. Bare, destitute, or devoid of something; unoccupied, blank -1822. 2. Of physical objects or features: Lacking some natural or ordinary covering, as vegetation, foliage 1549. 3. Lacking the usual furniture or ornament. late ME. 4. Unprotected, exposed 1607. 5. Bot. a. Of parts of a plant: Having no covering, leaves, hairs, etc. 1578. 6. Zool. Destitute of hair or scales; not defended by a shell 1769.

1. The maritime Townes..being left halfe n. of defence 1634. 2. Sea-beaten rocks and n. shores Cowper. Let birds be silent on the n. spray Shenstone. Huge precipices of n. stone Macaulay. Phr. N. fallow, a bare fallow, one on which no crop at all is grown. transf. Wild swans struggling with the n. storm Shelley. 3. Some forlorne and n. Hermitage Shaks. N. flooring, the timbers which support the flooring boards. 4. I always felt it on the n. nerve Burke. N. light, one not placed within a case. N. fire, one not closed in any contrivance...

IV. 1. Left without any addition; not overlaid with remarks or comments OE. b. Not otherwise supported or confirmed; (chiefly in legal use) not supported by proof or evidence. late ME. 2. N. eye, the eye unassisted by any aid to vision. So n. sight. 1664.

1. He chooses to suppose..a n. possibility Burke. The n. facts Blackstone. b. A n. and bare promise of affiance 1555. For the evidence of these designs, Mr. Hastings presents his own n. assertion 1817.

B. sb. †1. Art. The n.: the nude 1735-1815. b. The face or plain surface (of a wall, etc.) 1726. †2. Art. A nude figure 1622-1675. Hence Na·kedly adv., -ness.

Naker (nē¹·kəɹ). Current in 14th c.; now Hist. ME. [a. OF. nacre, ad. (ult.) Arab., Pers. naqāra(h).] A kettle-drum.

Pypes, trompes, nakers, and clariounes Chaucer.

†**Nale,** in phr. at (the) or atte nale (= at the ale): see Ale 2.

†**Nam,** am not: see Ne, Be v. OE. -1576.

Namaycush (næ·məkʊʃ). 1785. [Amer. Indian.] The great lake trout (Cristivomer namaycush) of N. America.

Namby-pamby (næ·mbi,pæ·mbi), a. and sb. 1745. [Formed fancifully on the name of Ambrose Philips (died 1749), who wrote pastorals ridiculed by Carey (in Namby Pamby 1726) and Pope (Dunc. iii. 319).] A. adj. 1. Of style, actions, etc.: Weakly sentimental, insipidly pretty. 2. Of persons: Inclined to affected daintiness, of a weak or trifling character 1774.

2. She was a namby-pamby milk-and-water affected creature Thackeray.

B. sb. 1. That which is marked by affected prettiness and feeble sentimentality 1764. 2. A namby-pamby person 1885. Hence Na·mbypa·mbyism 1834.

Name (nē¹m), sb. [OE. nama, with cognates in all Indo-Eur. langs., as Skr. nāman, Gr. ὄνομα, L. nomen.] I. 1. The particular combination of vocal sounds employed as the individual designation of a single person, animal, place, or thing. 2. The specific word or words (term) used to denote a member of a particular class of beings or objects OE.

1. Peter Simple, you say your n. is? Shaks. God needeth not to distinguish his Celestiall servants by names Hobbes. Phr. To keep one's n. on, take one's n. off, the books of a college or hall: (in Oxford and Cambridge use) to continue to be, cease to be, an actual member of the college or hall. 2. Now foloys the naamys of all maner of hawkys 1486. There is a Fault, which, tho' common, wants a N. Steele. To call names: see Call v. III.

II. In pregnant senses, chiefly of biblical origin. 1. The name (sense 1) of God or Christ, regarded as symbolizing the divine nature or power OE. 2. a. The name of a person as implying his individual characteristics. late ME. b. The name (sense 1) of a person or group of persons, as implying all the individuals that bear it; those having a certain name; hence, a family, clan, people. late ME. 3. The name (sense 1) of a person as mentioned by others with admiration or commendation; hence, the fame or reputation involved in a well-known name ME. b. One whose name is well known (rare) 1611. 4. The reputation of some character or attribute ME. b. With a and adj. late ME. c. (Usu. in phr. to get or make (oneself) a n.) A distinguished name. late ME. 5. Without article: Repute, fame, distinction. Now rare. late ME. 6. One's repute or reputation, etc.; esp. one's (good) n. ME. 7. The mere appellation in contrast to the person or thing; reputation without correspondence in fact. late ME.

1. Thee we adore Eternal N. Wesley. 2. a. By the hand Of that black N., Edward, black Prince of Wales Shaks. b. All the clans hostile to the n. of Campbell were set in motion Macaulay. 3. Some to the fascination of a n. Surrender judgment hoodwinked Cowper. Phr. Of no n., without (a) n., implying obscurity. b. I am become a n.; For always roaming..Much have I seen and known Tennyson. 4. b. A good N., for good and faire dealing Bacon. 5. Phr. Of (great, etc.) n., noted, distinguished, famous. Authors of illustrious n...Are sadly prone to quarrel Cowper. 6. I love you so well that your good n. is mine Tennyson. 7. Christian in n., and infidel in heart Cowper.

Phrases. By name. a. Used with verbs of naming or calling, or, later, simply added to the proper appellation of a person, as a spy, John Jones by n. b. With vbs. of summoning, or mentioning, or in enumeration of individuals. c. With know. (a) Individually. (b) By repute only; not personally. In one's n., in the n. of one. a. In phr. expressing invocation of or devotion to the persons of the Godhead. This, in the N. of Heauen, I promise thee Shaks. b. In adjurations, orig. solemn, but latterly freq. trivial; What in the n. of fortune have they been doing to you? 1861. c. Denoting that one acts as deputy for another; or implying that the action is done on account of or on behalf of some other person or persons. Hence, by contrast, in one's own n. †d. = Under the character or designation of, as. e. Indicating the assigned ownership of a thing, as consols standing in the n. of A. B., deceased. By the n. of, called or known by, having the n. of. Now colloq. and U.S. So of the n. of. To one's n. (colloq.), belonging to one.

attrib. and Comb., as n.-giver; 'bearing a name', as n.-card, -plate, etc.; 'named after, or giving a n. to, one', as n.-saint, -sire, etc.; n.-part, the part in a play from which it takes its n.

Name (nē¹m), v. [OE. (ge)namian, f. nama Name sb.] I. 1. trans. To give a name or names to; to call by some name. 2. To call by some title or epithet OE. †b. To allege or declare (a person or thing) to be something -1647. 3. To call (a person or thing) by the right name 1450.

1. Then one of them shal n. the childe, and dippe him in the water Bk. Com. Prayer. A Son..Whom she brought up and Comus nam'd Milt. 2. Ye shalbe named the prestes of the Lorde Coverdale Isa. lxi. 6. 3. Temp. i. ii. 335. I'm sure I've seen that bonie face, But yet I canna n. ye Burns.

II. 1. To nominate, assign, or appoint (a person) to some office, duty, or position OE. 2. To mention or specify (a person or persons, etc.) by name OE. b. Of the Speaker of the House of Commons: To indicate (a member) by name as guilty of disorderly conduct or disobedience to the chair 1792. c. Name! Used in parliamentary practice, etc., to demand that a member be 'named', or that the name of some person alluded to by a speaker shall be given 1817. 3. To mention, speak of, or specify (a thing) by its name or usual designation. late ME. b. To make mention of, to speak about (a fact, etc.); to cite as an instance; to give particulars of 1542. 4. With cogn. obj. late ME. 5. To mention or specify as something desired or decided upon; to appoint or fix (a sum, time, etc.) 1503.

1. Such persons, as shalbe named to be iustices of peace 1542. 2. Now n. the rest of the Players Shaks. Phr. To n. on (or in) the same day or in the same breath (with), to bring into comparison or connexion. Only in neg. and interrog. sentences. c. Loud cries of hear, hear, name, name, order Parl. Deb. 279. 1817. 3. N. not Religion, for thou lou'st the Flesh Shaks. b. The measures we have named were only part of Henry's legislation Green. He names the price for ev'ry office paid Pope. 4. When tongues speak sweetly, then they n. her name Shaks. 5. Phr. To n. the day, of a woman, to fix her wedding day 1748.

Nameable (nē¹·măb'l), a. 1840. [f. prec. + -able.] That admits of being named.

Na·me-child. 1845. [f. Name sb. + Child.] One called after, or named out of regard for, another.

Name-day (nē¹·m,dē¹). Also name's-day. 1721. [f. Name sb. + Day sb.] 1. The day of the saint whose name one bears. (Used chiefly with ref. to continental sovereigns.) 2. London Stock Exch. The day before the account-day, on which the buyers of shares or stock pass to the sellers tickets setting forth the names into which they are to be transferred 1902.

Nameless (nē¹·mlės), a. ME. [f. Name sb. + -less. Senses 5-8 are chiefly poet. or rhet.] 1. Not possessed of a (distinguished) name; unknown by name; obscure, inglorious. b. Not mentioned by name 1535. 2. Left unnamed in order to avoid giving offence, or the

OED

October 1984

VITA

Paul Kay

Born: 1934, New York City

Married: 1956 to Patricia Ann Boehm

Children: two, born 1961 and 1963

Military Service: U.S. Army 1958-1959

Degrees: Tulane University, B.A., economics, 1955, Phi Beta Kappa.
Harvard University, Ph.D., Social Anthropology, 1963.

Major positions held since award of Ph.D.:

1963-64	Social Science Research Council Posdoctoral Fellow, Stanford University
1964-65	Assistant Professor of Polical Science, M.I.T.
1965-66	Fellow, Center for Advanced Study in the Behavioral Sciences
1966-67	Acting Associate Professor, University of California, Berkeley
1967-69	Associate Professor, University of California, Berkeley (Vice-Chairman, 1968-69)
1967-74	Principal Investigator, Language Behavior Research Laboratory, University of California, Berkeley
1974-79	Co-Principal Investigator, Language Behavior Research Laboratory, University of California, Berkeley
1970-	Professor, University of California, Berkeley
1972-73	Visiting Colleague, Department of Linguistics, University of Hawaii, Guggenheim Fellow
1975-78	Chairman; University of California Committee for the Protection of Human Subjects

EXHIBIT "A"

1979– Member, Cognitive Science Group, University of California, Berkeley

1981– Director, Institute of Cognitive Studies (formerly Institute of Human Learning) University of California, Berkeley

1982 (Spring) Professor Visitante, Departamento de Linguística, Universidade Estadual de Campinas, São Paulo, Brasil (Fullbright Lecturer)

1983– Professor of Linguistics, University of California, Berkeley

1984 (Fall) Acting Chair, Department of Linguistics, University of California, Berkeley

Other positions currently held:

Associate Editor: Papers in Linguistics

Associate Editor: Cognitive Science

Member: Editorial Board, University of California Publications in Linguistics

Organizations:

Linguistic Society of America, American Anthropological Association, Polynesian Society, Cognitive Science Society

Publications:

1. 1963a Urbanization in the Tahitian household. In A. Soehr (ed.) Pacific Port Cities and Towns. Honolulu. Bishop:63-75

2. 1963b Tahitian fosterage and the form of ethnographic models. American Anthropologist 65:1027-44.

3. 1963c Aspects of social structure in an urban Tahitian neighborhood. Journal of the Polynesian Society 72:4:325-371.

4. 1964a A Guttman scale model of Tahitian consumer behavior. Southwestern Journal of Anthropolgy 20:2:160-167.

5. 1964b (with William Geoghegan) More structure and statistics: a critique of C. Ackerman's analysis of the Purum. American Anthropologist 86:6(part 1):1351:56.

6. 1965a A generalization of the Cross/Parallel distinction. American Anthropologist 67:1:30-43.

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10. 1967 On the multiplicity of Cross/Parallel distinctions. American Anthropologist 69 (1) 83-85.

11. 1968a Correctional notes on Cross/Parallel. American Anthropologist 70:1:106-107.

12. 1968b On simple Semantic Spaces and Semantic Categories (with A.K. Romney). Language Behavior Research Laboratory. Working Paper No. 2. Berkeley.

13. 1968c Axiomatic theory of taxonomic structure. Language Behavior Research Laboratory. Working Paper No. 18. Berkeley.

14. 1969a Basic Color Terms: Their Universality and Evolution (with Brent Berlin). Berkeley. University of California Press.

15. 1969b Some mathematical problems arising in linguistics and anthropology. Advanced Research Seminar in Scaling and Measurement. Newport Beach, California. June 1969.

16. 1970 Theoretical implications of ethnographic semantics. Current Directions in Anthropology (Bulletin of the American Anthropological Association 3:3 Part 2).

17. 1971a Explorations in Mathematical Anthropology (edited by P. Kay with introduction and introductions to each of the 14 papers). Cambridge, Mass.:M.I.T. Press.

18. 1971b Taxonomy and semantic contrast. Language. 217:866-887.

19. 1972 (with Duane Metzger) On Ethnographic Method. In H. Siverts (ed.) Drinking Patterns in Highland Chiapas. Universitetsforaget, Bergen. 17-34.

20. 1973 On the form of dictionary entries: English kinship semantics. In R. Shuy and C.-J. Bailey (eds.) Toward Tommorrow's Linguistics. Georgetown University Press.

21. 1974a (with Gillian Sankoff) Alanguage-universals approach to Pidgins and Creoles. In D. DeCamp and I Hancock (eds.) Pidgins and Creoles. Georgetown University Press.

22. 1974b Review of Tahitians by R.I. Levy. Mankind 9:335-6.

23. 1975a The generative analysis of kinship semantics: reanalysis of the Seneca data. Foundations of Language 13:201-214.

24. 1975b A model-theoretic approach to folk taxonomy. Social Science Information. 14:151-66.

25. 1975c Synchronic variability and diachronic change in basic color terms. Language in Society 4:257-270.

26. 1975d Color Categories as Fuzzy Sets (with C.K. McDaniel). Language Behavior Research Laboratory. Working Paper No. 44. Berkeley.

27. 1976 Discussion of papers by Paul Kiparsky and Roger Wescott. Annals of the New York Academy of Sciences 280:117-19.

28. 1977a Speech style and language evolution. In B. Blount and M. Sanches (eds.) Ritual, Reality and Innovation in Language Use. Academic Press.

29. 1977b Constants and variables of English kinship semantics. In R.W. Fasold and R.W. Shuy (eds.). Studies in Language Variation. Georgetown. Washington, D.C.

30. 1977c Review of Semantic Fields and Lexical Structure by Adrienne Lehrer. Language 53:469-474.

31. 1977d The myth of nonacademic employment; Observations on the growth of an ideology. Anthropology Newsletter 18:11-12. Reprinted in American Sociologist (1978) vol. 13, no. 4.

32. 1978a Tahitian words for race and class. Journal de la Société des Océanistes (Paris) 39:81-93.

33. 1978b Variable rules, community grammar and linguistic change. In Linguistic Variation, David Sankoff (ed.). Academic. New York.

34. 1978c On the semantics of compounds and genitives in English (with Karl Zimmer). Sixth California Linguistics Association Conference Proceedings. R. Underhill (ed.). Campanile. San Diego.

35. 1978d The linguistic significance of the meanings of basic color terms. (with C.K. McDaniel) Language 54:610-46.

36. 1978e Rejoinder to critiques of "Myth of nonacademic Employment." American Sociologist.

37. 1978f Letter to Anthropology Newsletter responding to critiques of "... Nonacademic Employment." 19:7.

38. 1978g Testimony to National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research (summarized in) Report and Recommendations: institutional Review Boards. National Commission for the Protection of Human Subjects. DHEW Publications No. (05)78-0009.

39. 1979a On the logic of variable rules (with C.K. McDaniel). Language in Society. 8:151-87.

40. 1979b Review of Gossip, Reputation, and Knowledge in Zinacantan (by John Brand Haviland). American Anthropologist. 81:402-4.

41. 1980a On the syntax and semantics of early questions. Linguistic Inquiry. 11:426-9.

42. 1980b Color perception and the meaning of color terms. Proceedings of the Third Annual Conference of the Cognitive Science Society. La Jolla, California.

43. 1981a Prototype semantics: the English word lie. (with Linda Coleman) Language. 57:26-44.

44. 1981b On the meaning of variable rules: discussion (with C.K. McDaniel) Language in Society. 10:251-58.

45. 1981c Foreword to The Folk Classification of Ceramics: A Study of Cognitive Prototypes (by Willett Kempton). Academic. New York.

46. 1982 Linguistic Competence and Folk Theories of Language: Two English Hedges. (Berkeley Cognitive Science Report No 3.) Proceedings of the Ninth Annual Meeting of the Berkeley Linguistic Society. A Dahlstrom, C. Brugman et al. (Eds.).

47. 1983a What is the Sapir Whorf Hypothesis. (with Willett Kempton). Berkeley Cognitive Science Report No. 8. To appear: American Anthropologist, March 198 .

48. 1983b Three Properties of the Ideal Reader. Berkeley Cognitive Science Report No. 7. To appear: Discourse Processes, 1983.

49. 1983c Comments Prepared for UNITYP Conference on Language Universals. Gummersbach, W. Germany. To appear: Volume of conference proceedings. Gunter Narr, Tübingen.

50. 1983d Report of Group IV, Mental Operations. Gummersbach Conference (see item 49.) To appear in conference proceedings volume.

51. 1983e Four brief 'book notes' (Authors/eds.: Gazdar, Givón, Heny, Schnelle). American Anthropologist. 85:487.

Manuscripts

52. The effect of category boundaries on judgements of similarity. (with Willett Kempton).

53. Progress Report: Text Semantic Analysis of Reading Comprehension Tests (with Charles Fillmore).

54. Final Report: Text Semantic Analysis of Reading Comprehension Tests (with Charles Fillmore and the active collaboration of Tom Larsen and M.C. O'Connor).

55. The Role of Cognitive Schemata in Word Meaning: Hedges revisited.

56. Regularity and Idiomaticity in Grammatical Constructions: the Case of let alone (with Charles Fillmore and M.C. O'Connor).

Superior Court of California

San Francisco

Court Exhibit 1

J. ANTHONY KLINE, JUDGE

December 22, 1981

Harold Teasdale, Esq.
Deputy Attorney General
6000 State Building
San Francisco, California 94102

Re: Application of Thomas Boyd Ritchie III
Superior Court No. 787090

Dear Mr. Teasdale:

By this letter I am inviting the Department of Justice to participate in the above-referenced case as amicus curiae. Copies of the Application and supporting documents are enclosed.

I want to emphasize that I am not necessarily asking your Department to take a position on the merits of the Application. My principal purpose in seeking your assistance is to determine whether any state agency (such as, for example, the Department of Motor Vehicles) has a direct or indirect interest in this matter and, if so its position. I will, of course, be grateful for any other assistance you may be able to provide the court.

I plan to return from vacation on Monday, January 18, 1982, and will at that time set a date for a further hearing in this matter.

Very truly yours,

J. ANTHONY KLINE

JAK:BN

Enclosures

cc: Richard J. Hicks, Esq.

A1

State of California
Department of Justice
George Deukmejian
(PRONOUNCED DUKE-MAY-GIN)
Attorney General
(415) 557-2396

350 McALLISTER STREET
SAN FRANCISCO 94102
(415) 557-2544

51

Court Exhibit # 2

January 18, 1982

Honorable J. Anthony Kline
Judge of the Superior Court
City and County of San Francisco
400 Van Ness Avenue
San Francisco, California 94102

Re: Application of Thomas Boyd Ritchie III
S. F. County Superior Court No. 787090

Dear Judge Kline:

Thank you for advising me of the pendency of the above-referenced proceeding.

Following receipt of your letter I contacted several state agencies (including the Department of Motor Vehicles and the Franchise Tax Board) and also discussed the case with several of my colleagues who represent a fairly broad range of state agencies. To my surprise, no one seemed to feel that the name change, if granted, would present any particular problems.

The agency with which I am most familiar, the Department of Motor Vehicles, informed me that it had the record keeping capability to handle the name III, although some minor re-programming of its computer might be necessary.

It thus appears that the State does not have a sufficient interest in this matter to warrant its participation in the proceedings. Thank you again, however, for contacting us.

Respectfully yours,

GEORGE DEUKMEJIAN
Attorney General

Harold W. Teasdale

HAROLD W. TEASDALE
Deputy Attorney General

HWT:msw
cc: Richard J. Hicks, Esq.

A2

SACRAMENTO ADDRESS
STATE CAPITOL
SACRAMENTO 95814
(916) 445-8253

DISTRICT OFFICE
1064 STATE BUILDING
350 MCALLISTER
SAN FRANCISCO, CA 94102
(415) 557-2253

Assembly
California Legislature

ART AGNOS
ASSEMBLYMAN, SIXTEENTH DISTRICT
CHAIRMAN
JOINT LEGISLATIVE AUDIT COMMITTEE

COMMITTEES
AGING AND LONG TERM CARE
HUMAN SERVICES
LABOR AND EMPLOYMENT
WAYS AND MEANS

JOINT COMMITTEES
REFUGEE RESETTLEMENT AND IMMIGRATION
LEGISLATIVE BUDGET COMMITTEE

March 11, 1986

III
591 Vermont Street
San Francisco, California 94107

Dear III:

I am sorry that we weren't able to be of more assistance to you in furthering your adoption of a name change.

As my administrative assistant, Mr. Tim Johnson, explained to you, we were never able to find a satisfactory vehicle for an amendment to the California Code of Civil Procedure.

As well, my own bill load is so heavy this year that I did not feel that I could carry a bill that although reasonable, was so narrow in whom it would be likely to effect.

I have enclosed a copy of the Legislative Counsel's language which we had drafted in the hope that you might be able to find another author before the bill deadline.

I am sorry that I wasn't able to be of more assistance to you.

Sincerely,

ART AGNOS

AA/tjn

EXHIBIT D

An act to add Section 1275.5 to the Code of Civil Procedure, relating to change of names.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1275.5 is added to the Code of Civil Procedure, to read:

1275.5. For the purposes of this title, a name consists of any combination of letters of the alphabet.

- 0 -

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

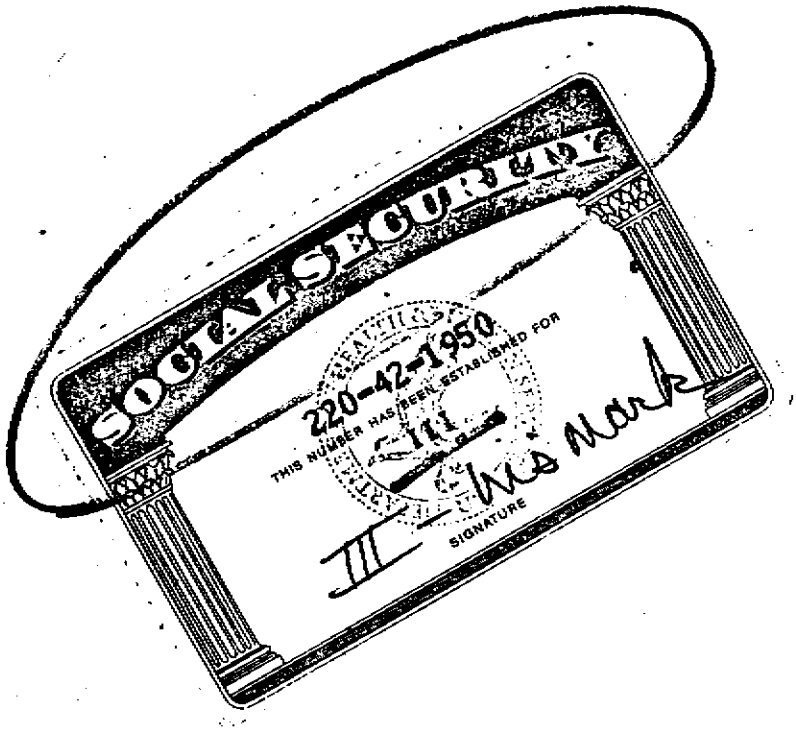
as introduced, ____.

General Subject: Change of Names.

Existing law provides a procedure for the granting of a change of name by the superior court.

This bill would specify the meaning of a name for the purpose of those provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.


SOCIAL SECURITY
220-42-1950
THIS NUMBER HAS BEEN ESTABLISHED FOR
SIGNATURE

Department of the Treasury
Internal Revenue Service

1985 1040 Federal Income Tax Forms and Instructions

This package contains:

Form 1040 U.S. Individual Income Tax Return

Schedules A&B Itemized Deductions and Interest and Dividend Income

Schedule C Profit or (Loss) From Business or Profession

Schedule D Capital Gains and Losses and Reconciliation of Forms 1099-B

Schedule E Supplemental Income Schedule

Schedule SE Computation of Social Security Self-Employment Tax

Schedule W Deduction for a Married Couple When Both Work

Form 2441 Credit for Child and Dependent Care Expenses

Form 4562 and Instructions Depreciation and Amortization

Tax Table (Pages 34-39)

Order Blank for Forms

From the Commissioner

Here is the information you need to prepare Form 1040 and related schedules. You may, however, be able to file one of our shorter forms, Form 1040A or 1040EZ, instead. Check "Which Form To File" on page 3 of the instructions to see which form you should use this year.

There have been a number of changes to the forms this year because of tax law changes that are effective for 1985. Most importantly, the Tax Table and Tax Rate Schedules have been adjusted so that inflation will not increase your tax. Similarly, the amount allowed as a deduction for each exemption has been increased to $1,040 and the zero bracket amounts for all filing statuses have been increased. Other major changes are explained on page 2 under "Important Tax Law Changes." I urge you to read these carefully before you begin to prepare your return this year.

Be sure to report all your income. In fairness to the vast majority of taxpayers who correctly report all their income, we make every effort to identify others who understate their income. If we must increase your tax liability after you file your return, it can be more costly for you than accurate reporting when you file because of interest and penalties you may be charged.

Many people find that rounding off cents to whole dollars makes calculations easier. Rounding is easy too. Just drop amounts under 50 cents and increase amounts that are 50 cents or more to the next whole dollar. See the instructions on page 8.

After completing your return, check to make sure it is correct, sign it, and mail it early. Please be sure to keep a copy for your records. If you have any suggestions for improving the forms or instructions, please write and let us know.

Finally, last year some of you received your refunds later than usual because of problems that arose from major changes we made to our returns processing system. We regret the difficulties and inconvenience that resulted. The changes were necessary to enable us to keep pace with increased demands on our employees and equipment. We believe that last year's problems have been resolved, and we are continuing to make every effort to improve the level of service to the public.

Roscoe L. Egger, Jr.
Commissioner of Internal Revenue

Internal Revenue Service
P. O. Box 6950
Florence, KY 41042

Official Business
Penalty for Private Use, $300
Forwarding and Return Postage Guaranteed

Peel off the label and place it in the address area of the Form 1040 you file. If someone else prepares your return, please give the preparer the pre-addressed label and the envelope and ask the preparer to use them. Make necessary corrections on the label.

Bulk Rate
Postage and Fees Paid
Internal Revenue Service
Permit No. G-48

CAR-RT SORT
UA 220-42-1950
591 VERMONT
SAN FRANCISCO CA
94107
**CR 09
589 30
933

TREASURY
BUREAU OF GOVERNMENT FINANCIAL OPERATIONS

SAN FRANCISCO, CALIFORNIA

Check No. 94,675,751
SYMBOL 3129

United States Treasury 11-51/000

PAY TO THE ORDER OF - III

MONTH	DAY	YEAR
05	27	83

% HILL 138 EVERGREEN
MILL VALLEY CA 94941

12/82

DOLLARS	CTS
$**1620	35

SI TAX REF
220421950 FRESNO 94

Chemical Bank

KNOW YOUR ENDORSER — MAY REQUIRE IDENTIFICATION
DO NOT FOLD, SPINDLE OR MUTILATE

⑈31295⑈ ⑆000000518⑆ 94675751⑈

Payment-Vouchers (T

1040-ES 1983
Department of the Treasury
Internal Revenue Service
Payment-Voucher

OMB No. 1545-0

Return this voucher with check or money order payable to the Internal Revenue Service.
Please do not send cash or staple your payment to this voucher.

(Calendar year—Due Sept. 15, 1983)

1 Amount of payment $

2 Fiscal year filers enter year ending

(month and year)

Your social security number: 220-42-1950

Spouse's social security number:

68 831

- III
% HILL 138 EVERGREEN
MILL VALLEY CA 94941

If name, address, or social security number above is incorrect, a
was not previously corrected, please change.

For Paperwork Reduction Act Notice, see instructions on page 3.

840806

Department of the Treasury
Internal Revenue Service
FRESNO, CA 93888

OMB NO 1545-0519

If you have any questions, refer to this information:
Date of This Notice: AUG. 6, 1984
Taxpayer Identifying Number: 220-42-1950*
Document Locator Number: 89212-083-52520-4
Form 1040 Tax Year Ended: DEC. 31, 1983

Call: 1-800-424-1040 ST OF CALIFORNIA

or

Write: Chief, Taxpayer Assistance Section
Internal Revenue Service Center
FRESNO, CA 93888

If you write, be sure to attach the copy of this notice.

KEEP THIS PART FOR YOUR RECORDS.

21C

- III
634 [redacted]ISSOURI
SAN FRANCISCO CA 94107

STATEMENT OF CHANGE TO YOUR ACCOUNT 89254-594-15418-4

AS YOU REQUESTED WE CHANGED YOUR TAX RETURN FOR THE ABOVE TAX YEAR TO CORRECT YOUR ABATEMENT OF PENALTY.

ACCOUNT BALANCE BEFORE CHANGE	
AMOUNT YOU OWED (THIS AMOUNT MAY INCLUDE PAYMENTS YOU MADE AFTER YOUR RETURN WAS FILED)	$229.92
ACCOUNT BALANCE AFTER CHANGE	
PENALTY REDUCED -- SEE CODE 02 ON BACK	229.92CR
DECREASE IN AMOUNT YOU OWED	$ 229.92
AMOUNT YOU NOW OWE	NONE

See codes on the back of this notice that provide further explanations and instructions.

If you have any questions, you may call or write us--see the information in the upper right corner of this notice. To make sure that IRS employees give courteous responses and correct information to taxpayers, a second IRS employee sometimes listens in on telephone calls.

April 17, 1987

California Law Revision Committee
4000 Middlefield Rd. Suite D-2
Palo Alto, CA 94303

SUBJECT: TV EVANGELISTS

I just saw an editorial on Channel 20 (KTZO, SF) by James Gabbert. He stated my exact feelings: (paraphrased)

Oral Roberts went up to his prayer tower and cried that he needed $8 million or he would die (reminds me of a child holding his breath). He has a mansion here, there and elsewhere. The jet they sent to pick up that fellow who gave $1.3 million cost them over $1 million to purchase the month before.

Jim and Tammy Baker are secluded in their Beverly Hills mansion.

Most of the contributors to there TV Evangelists are the lonely shut-ins living on Social Security and can least afford to give.

In Mr. Gabbert's words, "This has got to stop."

I think it's fraud. When it comes to money, there should be stringent laws. More than just making financial reports "available." They should be required to put ON THE AIR immediatelyfollowing ALL pleas for donations a chart of the financial report stating the exact amounts of allocations, including executive salaries, properties, investments, tax shelters, special projects, charity projects, any expenses that benefit employees and their families. The chart should be shown for a length of time equal to the length of the plea. A plea would be defined as including words, phrases or scriptures that state or IMPLY generosity or giving, etc.

Please let me know if your are introducing legislation on this subject.

Sincerely,

Diane Stafford

Diane Stafford
3112 Lonee Ct.
Concord, CA 94518

Dear Sir

Enclosed is a brochure of legal forms. And on each form our laws and Code # stating laws which pertain to each form. Would be much easier for like other forms like deeds, that the laws are printed on the back. Might help clear alot of confusion for Courts and people who cannot afford an Attorney. Also would be much easier if standard price list where available for filing each form.

Also enclosed is a Contempt of Court. Which can be acted on with out my appearance in Court. Next to me is Unconstitutional Can be used to incarcerate a person by Courts and believe that something should be done about it.

Because if you had ever been in jail that once you were in there you try writing letters to anyone to help you get out. The people

that work in the jail tears up your letters.

Now I can't understand what difference it makes to them they are just employees. And if people are put into jails unjustly should be given to freedom granted them by the Constitution of the United States. After all this is supposed to be America. Is a federal offence to tamper with the mail.

I can understand if letters are drug related or escapes by not if there is no really somebody in jail that was put there unjustly.

And Really believe if this country has a deep Respect for our Constitutional Rights Something should be done to set those prisoners free.

God be with you Tina S. Blackwell

CARLOS R BLACKWELL (619)862-6502
P.O.BOX 562
BIG BEAR LAKE, CALIFORNIA 92372
ATTORNEY FOR (NAME) Carlos R. Blackwell

FILED - Central District
SAN BERNARDINO COUNTY CLERK
JAN 06 1986
BY Evelyn A Holmes DEPUTY

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

☒ Central District 351 North Arrowhead Avenue San Bernardino, CA 92415
☐ West District 1540 North Mountain Avenue Ontario, CA 91762
☐ Desert District 14455 Civic Drive Victorville, CA 92392

MARRIAGE OF
PETITIONER CARLOS R. BLACKWELL
RESPONDENT TINA S. BLACKWELL

ACIS NUMBER:

CASE NUMBER: FL 34185

ORDER TO SHOW CAUSE AND DECLARATION FOR CONTEMPT

NOTICE!

A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence and fine.

You are entitled to the services of an attorney who should be consulted promptly in order to assist you. If you cannot afford an attorney, the court may appoint an attorney to represent you.

¡AVISO!

Un procedimiento de contumacia es de índole criminal. Si la corte le encuentra en contumacia, los castigos posibles incluyen sentencia en la cárcel y multa.

Usted tiene el derecho de los servicios de un abogado a quien se le debe consultar enseguida para que pueda asistirle. Si usted no está en condiciones de pagar los servicios de un abogado, la corte le podrá nombrar un abogado que le represente.

1. TO CITEE (Name): TINA S. BLACKWELL

2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS TO GIVE ANY LEGAL REASON WHY THIS COURT SHOULD NOT FIND YOU GUILTY OF CONTEMPT AND PUNISH YOU FOR WILLFULLY DISOBEYING ITS ORDERS AS SET FORTH IN THE DECLARATION BELOW AND REQUIRE YOU TO PAY, FOR THE BENEFIT OF THE MOVING PARTY, THE ATTORNEY FEES AND COSTS OF THIS PROCEEDING

a. date: 2-4-86 time: 8:30 a.m. in ☒ Dept.: 3 ☐ Div.: ☐ Rm.:

b. Address of court:
CENTRAL DISTRICT
351 NORTH ARROWHEAD AVENUE
SAN BERNARDINO, CALIFORNIA

Dated: JAN 06 1986

Judge of the Superior Court

DECLARATION

3. Citee has willfully disobeyed certain orders of this court as set forth in this declaration
   a. Citee had knowledge of the order in that (specify):
   Interlocutory Judgment dated October 4,1977
   Sale of Property: Location 603 Baldwin, Redlands, California
   Not Secured by Deed of Trust $5,000.00 plus interest
   b. Citee was able to comply with each order when it was disobeyed.

4. Based on the instances of disobedience described in this declaration, there have been
   a. ☒ No prior applications
   b. ☐ Prior applications as follows (specify applications and dispositions):

(Continued on reverse)

A copy of the moving party's Income and Expense Declaration must be attached when attorney fees are requested. The declaration under penalty of perjury must be signed in California, or in a state that authorizes use of a declaration in place of an affidavit, otherwise an affidavit is required.

5. Each order disobeyed and each instance of disobedience is described as follows

a. ☒ Orders for child support, spousal support, attorney fees, and court or other litigation costs:

DATE DUE	TYPE OF ORDER AND DATE FILED	PAYABLE TO	AMOUNT ORDERED	AMOUNT PAID	AMOUNT DUE
			$	$	$

☐ Continued on attachment 5a.

Recapitulation of orders for:	TOTAL AMOUNT ORDERED	TOTAL AMOUNT PAID	TOTAL AMOUNT DUE
Child support	$	$	$
Spousal support			
Attorney fees			
Court and other costs . To be included later. Time loss from work @ $100.00 per day			
Total	$	$	$

b. ☒ Injunctive or other order (Describe each order and disobedience with particularity)

☐ continued on attachment 5b.

SALE OF PROPERTY:
Note Recorded May 1,1977
Sale Recorded September 9,1985
Original Note ; $5,000.00 plus interest @ 8% per annum
Amount due thru December 31,1985 $9,748.61

c. ☒ Other material facts:

Petitioner has repeatedly asked for Respondent to sign a check to clear up this matter. Respondent refuses to do so. Petitioner also asks for loss of work payment over this at his current wages of $100.00 per day due to aggrevation of trying to collect the amount due him in September 1985 .

JAN 28 1986

I declare under penalty of perjury under the laws of the State of California that the foregoing declaration, including any attachment, is true and correct and that this declaration is executed at (place): San Bernardino County, California, on (date): December 30, 19

CARLOS R. BLACKWELL
(Type or print name)

(Signature)

FORM TITLE	FORM NO.	FORM COST	QUANTITY
CIVIL PLEADING FORMS (Rule 982.1):		$	
Answer — Contract	15935	.07	
Answer — Personal Injury, Property Damage, Wrongful Death	15915	.07	
Answer — Unlawful Detainer	15995	.07	
Cause of Action — Breach of Contract	15921	.07	
Cause of Action — Common Counts	15922	.07	
Cause of Action — Fraud	15923	.07	
Cause of Action — General Negligence	15903	.07	
Cause of Action — Intentional Tort	15904	.07	
Cause of Action — Motor Vehicle	15902	.07	
Cause of Action — Premises Liability	15905	.07	
Cause of Action — Products Liability	15906	.07	
Complaint — Contract	15920	.07	
Complaint — Personal Injury, Property Damage, Wrongful Death — 2 pgs.	15901	.14	
Complaint — Unlawful Detainer	15990	.07	
Cross-Complaint — Personal Injury, Property Damage, Wrongful Death — 2 pgs.	15914	.14	
Exemplary Damages Attachment	15913	.07	
FORM INTERROGATORIES:			
Form Interrogatories — 4 pgs.	16967	.28	
Form Interrogatories — Economic Litigation — 2 pgs.	16966	.14	
Form Interrogatories — Unlawful Detainer — 4 pgs.	16968	.28	
Request for Admissions	16093	.07	
HARRASSMENT FORMS:			
Instruction for Lawsuits to Prohibit Harassment	14860	.07	
Order After Hearing on Petition for Injunction Prohibiting Harassment	14859	.07	
Order to Show Cause (Harassment) and Tempory Restraining Order	14858	.07	
Petition for Injunction Prohibiting Harassment	14855	.07	
Proof of Service — Domestic Violence, Harassment, Emancipation	15352	.07	
Response to Petition for Injunction Prohibiting Harassment	14856	.07	
DOMESTIC VIOLENCE/UNIFORM PARENTAGE FORMS:			
Application and Declaration (Domestic Violence) — 2 pgs.	15356	.14	
Application and Order for Re-Issuance of Order to Show Cause (Domestic Violence)	15493	.07	
Complaint to Establish Parental Relationship	16725	.07	
Instruction Booklet (Domestic Violence) — 7 pgs.	15355	.49	
Order Prohibiting Domestic Violence	15350	.07	
Order to Show Cause and Temporary Restraining Order	15351	.07	
Proof of Service — Domestic Violence, etc.	15352	.07	
Responsive Declaration to Order to Show Cause (Domestic Violence)	15353	.07	

FORM TITLE	FORM NO.	FORM COST	QUANTITY
ENFORCEMENT OF JUDGMENT/WAGE GARNISHMENT FORMS:			
Application for and Renewal of Judgment — Enforcement	16248	.07	
Application for Earnings Withholding Order — Wage Garnishment	15166	.07	
Claim of Exemption — Enforcement of Judgment	16251	.07	
Claim of Exemption — Wage Garnishment	15167	.07	
Declaration for Rehearing on Homestead Exemption — Enforcement of Judgment	16721	.07	
Earnings Withholding Order — Wage Garnishment	16724	.07	
Earnings Withholding Order for Support — Wage Garnishment	16723	.07	
Employee Instructions — Wage Garnishment	16718	.07	
Employer's Return — Wage Garnishment	16722	.07	
Exemptions from the Enforcement of Judgments	16250	.07	
Financial Statement — Enforcement of Judgment/Wage Garnishment	16253	.07	
Memorandum of Garnishee — Enforcement of Judgment	16726	.07	
Notice of Hearing on Claim of Exemption — Enforcement of Judgment/Wage Garnishment	15171	.07	
Notice of Hearing on Right to Homestead Exemption — Enforcement of Judgment	16720	.07	
Notice of Levy — Enforcement of Judgment	16727	.07	
Notice of Lien — Enforcement of Judgment	16732	.07	
Notice of Opposition to Claim of Exemption — Enforcement of Judgment	16252	.07	
Notice of Opposition to Claim of Exemption — Wage Garnishment	15170	.07	
Notice of Renewal of Judgment — Enforcement of Judgment	16249	.07	
Notice of Termination or Modification of Earnings Withholding Order — Wage Garnishment	16719	.07	
Order Determining Claim of Exemption — Wage Garnishment	15168	.07	
ADOPTION FORMS:		$	
Accounting Report (Adoptions only)	7916	.07	
Affidavit/Certificate/Declaration Re: Military Service in Adoption and Related Matters	9007	.07	
Agreement and Consent (Stepparent Adoption)	6478	.07	
Application for Publication of Citation (Abandonment)	9005	.07	
Citation — Freedom from Parental Custody and Control (Abandonment Re: Adoption)	9003	.07	
Consent and Agreement (Independent Adoption)	6476	.07	
Court Report of Adoption	VS 44	.07	
Order for Publication of Citation Re: Abandonment	9004	.07	
Petition for Freedom From Parental Custody and Control	9006	.07	
Request to Set Uncontested Matter	15148	.07	

FORM TITLE	FORM NO.	FORM COST	QUANTITY
CIVIL FORMS (GENERAL):		$	
Abstract of Judgment	1478	.07	
Acknowledgment of Satisfaction of Judgment	13547	.07	
Amendment to Complaint	1638	.07	
Appearance, Stipulation and Waivers	15125	.07	
Application for Entry of Judgment on Sister State Judgment	14626	.07	
Application for Publication of Summons or Citation	1744	.07	
At-Issue Memorandum	858	.07	
Certificate of Assignment	16503	.07	
Certificate of Readiness	9634	.07	
Citation	1252	.07	
Cost Bill After Judgment	1223	.07	
Declaration and Order for Appearance of Judgment Debtor	9935	.07	
Declaration and Order for Issuance of Writ of Execution/Abstract of Judgment	1961	.07	
Declaration and Order for Release of Exhibits	12075	.07	
Declaration for Subpena Duces Tecum	6685	.07	
Declaration in Support of Garnishment from Government Agency	11922	.07	
Declaration of Accrued Interest	2134	.07	
Declaration of Emancipation of Minor After Hearing	15324	.07	
Declaration of Mailing or of Inability to Ascertain Address	12076	.07	
Declaration of Non-Military Status	949	.07	
Decree Changing Name	15837	.07	
General Denial	14621	.07	
Instructions to the Jury (Cover Sheet)	10514	.07	
Judgment by Default by Clerk	1457	.07	
Judgment by Default by Court	11061	.07	
Judgment by Default by Court (Unlawful Detainer)	6276	07	
Judgment for Defendant-Appellant After Trial De Novo on Appeal from Judgment of the Small Claims Court	9187	.07	
Judgment for Plaintiff-Respondent After Trial De Novo on Appeal from Judgment of the Small Claims Court	9186	.07	
Memorandum of Costs and Disbursements	54	.07	
Memorandum of Costs on Appeal	7450	.07	
Notice and Acknowledgment of Receipt	10843	.07	
Notice of Entry of Judgment (NCR Form) — (Civil)	13459	.12	
Notice of Entry of Judgment on Sister State Judgment	14623	.07	
Order Approving Compromise of Minor's Claim (3500 PC)	1813	.07	
Order Approving Compromise of Minor's Claim (372 CCP)	2141	.07	
Order Authorizing Reinvestment of Funds Deposited Pursuant to Section 3500 PC	1749	.07	
Order Authorizing Withdrawal of Funds Deposited Pursuant to Section 3500 PC	1748	.07	
Order for Publication of Summons or Citation	1743	.07	
Order to Deposit Money (NCR Form)	1775	.12	
Order to Show Cause re Change of Name	15836	.07	
Petition for Authority to Withdraw Funds Deposited Pursuant to Section 3500 PC	1747	.07	
Petition for Change of Name	15835	.07	
Petition for Compromise of Disputed Claim of Minor — 2 pgs.	1812	.14	
Petition for Declaration of Emancipation of Minor	15323	.07	
Petition for Writ of _____	*2378	—	
Petition of Guardian Ad Litem for Compromise of Disputed Claim of Minor (372 CCP) — 2 pgs.	2142	.14	
Proof of Personal Service/Service by Mail	15767	.07	
Request for Dismissal	1474	.07	
Request to Conduct Film and Electronic Media Coverage and Order	16560	.07	
Request to Enter Default	8736	.07	
Request to Set Uncontested Matter	15148	.07	
Statement for Registration of Foreign Support Order and Clerk's Notice	15494	.07	
Subpena — Criminal/Juvenile	*12392	—	
Subpena — Civil (Issued)	14854	.07	
Subpena — Civil (Unissued)	14584	.07	

FORM TITLE	FORM NO.	FORM COST	QUANTITY
CIVIL FORMS (GENERAL) -- Continued:		$	
Substitution of Attorney	15732	.07	
Summons	10865	.07	
Summons — Joint Debtor	10842	.07	
Summons — Unlawful Detainer	10866	.07	
Writ of Execution	14622	.07	
ATTACHMENT FORMS:			
Application and Notice of Hearing for Order to Vacate, Modify or Terminate Temporary Protective Order	14181	.07	
Application and Order for Appearance and Examination	16552	.07	
Application for Attachment, Temporary Protective Order, etc. — 2 pgs.	12412	.14	
Application to Set Aside Right to Attach Order and Release Attached Property, etc.	14184	.07	
Ex Parte Right to Attach Order and Order for Issuance of Writ of Attachment (Nonresident)	14183	.07	
Ex Parte Right to Attach Order and Order for Issuance of Writ of Attachment (Resident)	14182	.07	
Notice of Application and Hearing for Right to Attach Order and Writs of Attachment	14186	.07	
Notice of Attachment	9324	.07	
Notice of Lien	16732	.07	
Notice of Opposition to Right to Attach Order and Claim of Exemption	14187	.07	
Order to Set Aside Attachment, to Substitute Undertaking	14188	.07	
Order to Terminate, Modify or Vacate Temporary Protective Order	14189	.07	
Right to Attach Order After Hearing and Order for Issuance of Writ of Attachment	14185	.07	
Temporary Protective Order	12946	.07	
Undertaking by Personal Sureties	12411	.07	
Writ of Attachment	1454	.07	
CLAIM AND DELIVERY FORMS			
Application and Notice of Application and Hearing for Order to Quash Ex Parte Writ of Possession	12942	.07	
Application for Writ of Possession	12936	.07	
Declaration for Ex Parte Writ of Possession	12944	.07	
Declaration for Temporary Restraining Order	12945	.07	
Notice of Application for Writ of Possession and Hearing	12937	.07	
Notice of Exception to Sureties and Hearing on Justification of Sureties	12941	.07	
Order for Release and Redelivery of Property	12943	.07	
Order for Writ of Possession	12938	.07	
Temporary Restraining Order	12940	.07	
Undertaking by Personal Sureties	12411	.07	
Writ of Possession	12939	.07	
IN FORMA PAUPERIS FORMS:			
Application for Waiver of Additional Court Fees and Costs	15487	—	
Application for Waiver of Court Fees and Costs	15490	—	
Information Sheet on Waiver of Court Fees and Costs	15486	—	
Notice of Waiver of Court Fees and Costs	15489	—	
Order on Application for Waiver of Court Fees and Costs	15488	—	

FORM TITLE	FORM NO.	FORM COST	QUANTITY
PROBATE FORMS:		$	
Approval of Claim	973	.07	
Certificate of Assignment	16503	.07	
Citation and Proof of Service (LC)	13688	.07	
Citation (Probate)	14417	.07	
Citation for Conservatorship and Proof of Service	14416	.07	
Community Property Order and Order Approving Fees	13572	.07	
Community Property Petition and Petition for Approval of Fees	13573	.07	
Consent of Guardian, Nomination, and Waiver of Notice	15532	.07	
Creditor's Claim	1746	.07	
Declaration for Final Discharge	771	.07	
Declaration of Medical or Accredited Practitioner	14423	.07	
Decree Terminating Conservatorship (LC)	13690	.07	
Ex Parte Petition for Approval of Sale of Personal Property and Order	13561	.07	
Ex Parte Petition for Authority to Sell Securities and Order	12279	.07	
Increased Bid in Open Court on Sale of Real Property	9460	.07	
Inventory and Appraisement	11548	.07	
Inventory and Appraisement (Attachment)	11548A	.07	
Judgment Establishing Fact of Death	6686	.07	
Letters	490	.07	
Letters of Conservatorship (LC)	13691	.07	
Letters of Conservatorship	15534	.07	
Letters of Guardianship	15533	.07	
Letters of Temporary Guardianship/Conservatorship	15539	.07	
List of Persons Entitled to Notice	Pro-2	.07	
Notice of Death and of Petition to Administer Estate	15169	.07	
Notice of Hearing, Guardianship or Conservatorship	15541	.07	
Notice of Hearing (Probate)	14429	.07	
Notice of Hearing on Petition for Reappointment of Conservator	13686	.07	
Notice of Termination of Conservatorship	13689	.07	
Notification to Court of Address on Conservatorship or Guardianship	14522	.07	
Order Appointing Conservator	14419	.07	
Order Appointing Court Investigator	14422	.07	
Order Appointing Guardian of Minor	446	.07	
Order Appointing Inheritance Tax Referee	436	.07	
Order Appointing Temporary Guardian/Conservator	15538	.07	
Order Authorizing Conservator to Give Consent for Medical Treatment	15536	.07	
Order Confirming Sale of Real Property	13564	.07	
Order Dispensing with Notice — Guardianship/Conservatorship	15540	.07	
Order Establishing Fact of Death	VS109	.07	
Order for Probate	14428	.07	
Order Prescribing Notice	13563	.07	
Order Reestablishing Conservatorship (LC)	13692	.07	
Petition for Appointment of Conservator — 2 pgs.	14425	.14	
Petition for Appointment of Guardian of Minor	7195	.07	
Petition for Appointment of Temporary Guardian/Conservator	15537	.07	
Petition for Authority to Give Consent for Medical Treatment	15535	.07	
Petition for Confirmation of Sale of Real Property	13562	.07	
Petition for Probate	45	.07	
Petition for Probate (Decedents dying after 12/31/84)	16728	.07	
Petition to Reestablish Conservatorship (LC)	13685	.07	
Probate Investigator's Referral Report	14521	.07	
Proof of Holographic Instrument	13559	.07	
Proof of Personal Service/Service by Mail	15767	.07	
Proof of Service by Mail of Order Appointing Guardian or Conservator	14420	.07	
Proof of Subscribing Witness	13560	.07	
Proof of Subscribing Witness (Decedents dying after 12/31/84)	16731	.07	
Spousal Property Petition (Decedents dying after 12/31/84)	16729	.07	
Spousal Property Order (Decendents dying after 12/31/84)	16730	.07	

FORM TITLE	FORM NO.	FORM COST	QUANTITY
FAMILY LAW FORMS:		$	
Addendum to — Order to Show Cause and Declaration Re Order to Show Cause	10993	.07	
Affidavit/Declaration Re: Child Custody	12965	.07	
Appearance, Stipulation and Waivers	15125	.07	
Application for Order and Supporting Declaration	11752	.07	
Certificate of Assignment	16503	.07	
Certificate of Filing with District Attorney/Proof of Service by Moving Party (No Attorneys)	16554	.07	
Confidential Counseling Statement	10670	.07	
Continuation of Property Declaration	15122	.07	
Declaration and Order Continuing Hearing Date for Order to Show Cause	15730	.07	
Declaration for Default or Uncontested Dissolution	15756	.07	
Ex Parte Application for Wage Assignment for Child Support	15757	.07	
Family Law Appraiser's Schedule of Fees and Expense Allowance	15019	.07	
Family Law Inventory and Appraisal	15018	.07	
Findings and Order After Hearing — 2 pgs.	16964	.14	
Income and Expense Declaration (includes Income Information & Expense Information)	15124	.21 ~~.22~~	
Information Re: Pro Per Filing in Marriage Dissolution	12074	.07	
Information Sheet — How to Oppose a Request to Change Child Support (No Attorney)	16551	.07	
Information Sheet — New and Simplified Way to Change Child Support (No Attorney)	16550	.07	
Joint Petition for Summary Dissolution of Marriage	14850	.07	
Judgment	16557	.07	
Memo of Policy Re: Default Hearings	15731	.07	
Minimum Child Support Information Booklet — 5 pgs.	16970	.35	
Minimum Child Support Information Booklet — Appendix A — 12 pgs.	16969	.84	
Minimum Child Support Worksheet	16965	.07	
Notice of Appearance and Response of Employee Pension Benefit Plan	14624	.07	
Notice of Entry of Judgment (Family Law) — NCR Form	10665	.12	
Notice of Hearing and Notice of Opposition to Request to Change Child Support Order (and Proof of Service — No Attorneys)	16555	.07	
Notice of Motion	16963	.07	
Notice of Motion and Declaration for Joinder	11738	.07	
Notice of Request to Change Child Support Order (No Attorneys)	16561	.07	
Notice of Revocation of Petition for Summary Dissolution	14852	.07	
Notice — Order to Show Cause Procedure	15505	.07	
Order Assigning Salary or Wages	13770	.07	
Order Changing Child Support (Uncontested/Contested — No Attorneys)	16556	.07	
Order to Show Cause	10664	.07	
Order to Show Cause and Declaration for Contempt	11753	.07	
Petition	10673	.07	
Petition for Conciliation	6477	.07	
Pleading on Joinder Employee Pension Benefit Plan	14857	.07	
Proof of Personal Service/Service by Mail	15767	.07	
Property Declaration	15121	.07	
Request and Declaration for Final Judgment of Dissolution of Marriage	10667	.07	
Request for Final Judgment (Summary Dissolution)	14851	.07	
Request for Joinder of Employee Pension Benefit Plan and Order	14625	.07	
Request to Enter Default	10669	.07	
Request to Set Uncontested Matter	15148	.07	
Response	10672	.07	
Responsive Declaration to Motion for Joinder — Consent Order of Joinder	11737	.07	
Responsive Declaration to Order to Show Cause or Notice of Motion	11755	.07	
Stipulation for Appraisal of Property, Order and Notice — NCR Form	15020	.12	
Stipulation to Establish or Modify Child or Family Support and Order	16962	.07	
Summary Dissolution Information Booklet — 14 pgs.	15491	.98	
Summons	10671	.07	
Summons (Joinder)	14853	.07	
Temporary Restraining Order	15492	.07	
Age Increase Factor Table	16553	.07	

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TELEPHONE (415) 652-1333

March 14, 1985

California Law Revision Commission
1303 J Street
Suite 600
Sacramento, California 95814

Gentlemen:

In the course of a wide-ranging practice involving much civil litigation, one from time to time runs across errors or ambiguities in the wording of California statutes. I would like to bring to your attention three areas of the law relating to civil litigation that, in my opinion, require revision. They involve technical oversights that have left difficulties of interpretation resulting in disputes affecting my practice. Please consider the appropriateness of proposing legislation to cure these ambiguities.

1. Subpenas of peace officers.

The first problem relates to the requirement that a party issuing a subpena on any one of a class of specified peace officers to reimburse the officer's salary and actual expenses, and follow other special procedures relating to such subpenas. These statutes were originally enacted as Government Code §§68097.1, 68097.2, 68097.3, 68097.4, and 68097.5, by Stats. 1963 ch. 1485. All these sections originally applied only to peace officers within certain traditional police agencies. A 1980 amendment to §68097.2 expanded the definition of peace officer under that section so that if included all peace officers specified in Penal Code Part 2, Title 3, including, for example, a designated officer of the Division of Labor Standards Enforcement. The Legislature's intent appears to have been to require reimbursement of salary and an advance deposit as security upon the issuance of a subpena for the attendance of any peace officer, as defined in the Penal Code. Unfortunately, the language of the amendment failed to accomplish that purpose (and I have obtained a court ruling to that effect). Section 68097.2 requires such a reimbursement only in case of "a subpoena issued pursuant to Section 68097.1". Section 68097.1 was not amended, and describes only the more restrictive class of peace officers included in the original 1963 act. Thus, §§68097.1 and 68097.2 continue to apply only to subpenas issued for the attendance of employees of the Department of Justice, CHP, State Fire Marshal, or a Sheriff, Marshall, fire department or city police department.

Perhaps the Legislature only intended the expanded definition of "peace officer" to apply to deposit of the first day's expenses. If so, only an amendment to §68097.2 is necessary. If, on the other hand, the Legislature also intended to expand the definition for the purposes of method of service of the subpena and deposit of additional days' witness fees, amendments to §§68097.1 and 68097.5, conforming the definitions, will also be necessary.

2. Defaults in civil actions.

The law relating to relief from defaults in civil actions has grown piecemeal since 1872. The original statute on the subject, CCP §473, has been amended several times. In 1969, the Legislature added CCP §473.5, relating to relief where service of the summons has not resulted in actual notice to defendant. CCP §587 contains provisions regarding service of an application for entry of default.

Section 473 generally allows relief from default or default judgment where taken against a party "through his or her mistake, inadvertence, surprise or excusable neglect." The statute places an absolute deadline for an application for such relief at six months after the entry of default or default judgment. Furthermore, case law makes it clear that a court may not grant relief from a default judgment in any case in which the underlying default occurred more than six months before the application; such relief is viewed as useless, standing alone, because unless the underlying default is removed, the defendant will not be entitled to answer and defend the action.

CCP §473.5 allows a somewhat greater period for relief from a default or default judgment where service of the summons has not resulted in actual notice to the defendant. An application for relief in such a case may be made up to two years after the entry of an actual judgment. However, if plaintiff serves a written notice on defendant of the entry of a default or default judgment, the defendant must bring a motion to set aside that proceeding within 180 days thereafter.

The difficulty in interpreting the relationship of these two sections comes about in determining what form of "written notice" commences the running of the 180-day period for a motion under CCP §473.5. I have seen it seriously asserted in Superior Court that the only effective form of notice is one that itself results in <u>actual notice</u> to the defendant. On the other hand, it can plausibly be argued that the mailing of an application to enter default (pursuant to CCP §587) is sufficient to start the 180 days running, at least so long as the address to which it is mailed is a valid address of the defendant. It has been held that the purpose of CCP §587 is to prevent surprise to litigants, so it would seem the mailing required by it should be given some effect in limiting a defendant's time to respond. Upon a proper application to enter default, such entry is a ministerial act of the clerk; notice of the application should thus be deemed the equivalent of notice of the entry of default.

I suggest that, as presently written, CCP §473.5 is unworkable in practice. No one can tell just what sort of notice will trigger the 180-day period. If only actual notice will suffice, the two-year outside period will be the only effective limit in almost every case. In those rare cases where plaintiff is able to prove that the notice of entry of default has resulted in actual notice to defendant, even though service of the summons did not, the "reasonable time" language would surely bar a motion to set aside default within a short period, certainly within the 6 months allowed on grounds of "excusable neglect" under §473. Thus, according to this scenario, the six-month limitation of §473.5(a)(ii) would never come into play. Surely the Legislature did not intend such a result. It must have seen the "written notice" needed to invoke the six-month limit as something less than actual notice. Just what notice it intended to be effective is not clear.

Amendments are badly needed to clarify what sort of notice will suffice. I suggest a notice mailed, or otherwise delivered as provided for by the statutes regarding service generally, to a true business or residence address of defendant should be sufficient. If defendant alleges that, by misfortune, the notice was not given to him by whomever physically received the notice, such an allegation is beyond the capability of the typical plaintiff to disprove; plaintiff should not be penalized if such an event transpires, for typically it will have been the result of defendants' negligence in failing to make suitable arrangements for mail handling at his home or place of business.

Also, the law should specify that proper service of the application for Entry of Default pursuant to CCP §587 is to be deemed sufficient notice of entry of the default within the meaning of §473.5.

All of this should be part of a comprehensive rearrangement of the provisions regarding entry of default and relief therefrom. The present sections are scattered and confusing to read.

3. Enforcement of judgments law.

Finally, several sections of the Enforcement of Judgments Law contain cross-references to §§693.010-693.060, which were repealed in 1984. Conforming amendments are needed.

I hope these suggestions assist your work. The Law Revision Commission has done much to make the lawyer's work easier. We rely heavily on your continued efforts.

Very truly yours,

Chris Valle-Riestra

CHRISTOPHER P. VALLE-RIESTRA

CVR:lmh

Memo 87-101

EXHIBIT 9

LAW OFFICES

COSKEY, COSKEY & BOXER

A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION

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TELEPHONE (213)
473-4583 · 879-9558

February 7, 1986

California Law Revision
Commission
4000 Middlefield Road
Suite D-2
Palo Alto, CA 94303

Dear Sir/Madam:

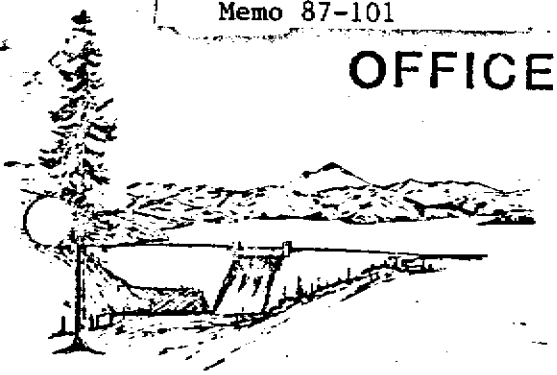
As you are probably aware, the Municipal Court jurisdiction in California was recently raised to $25,000 by California Code of Civil Procedure Section 86. I recently had occasion to refer to California Code of Civil Procedure Section 1710.20 regarding applications for entry of a judgment based on a sister-state judgment. California Code of Civil Procedure Section 1710.20 states that the application shall be filed in the Municipal or Justice Court in all cases in which the sister-state judgment amounts to $15,000 or less. I believe that this statute was overlooked by the legislature when they raised the Municipal Court jurisdiction to $25,000. I bring this to your attention so that you may so advise the legislature.

Very truly yours,

David G. Justl

David G. Justl for
COSKEY, COSKEY & BOXER

DGJ:rr



OFFICE OF COUNTY COUNSEL

COUNTY OF SHASTA

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DEPUTY COUNTY COUNSEL
DAVID R. FRANK
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October 18, 1984

John H. DeMoully
Executive Secretary
California Law
Revision Commission
4000 Middlefield Road
Suite D-2
Palo Alto, CA 94306

Re: Action to Set Aside Sale of Real Property Made to Satisfy Judgment - CCP §§701.680 and 701.630

Dear Mr. DeMoully:

Recently this office encountered an ambiguity regarding the above code sections, enacted as portions of the Enforcement of Judgments Law. The first sentence of paragraph (1) of subdivision (c) of section 701.680 states that an action may be commenced within six months after an execution sale to set aside that sale if the purchaser is the judgment creditor. The ambiguity is that the paragraph does not identify who may bring such an action.

Our problem arises from a civil case in San Mateo Superior Court in which defendant defaulted and plaintiff, represented by counsel, proceeded to compel the sale of the defendant's property in Shasta County. At the sale, plaintiff, as judgment creditor, bid an even $43,000, about $350 more than was required for the judgment creditor to break even. The judgment creditor credited all of the judgment against the purchase price, leaving the $350 "overage" to be paid to the sheriff for transmission to the judgment debtor. Now, two months after the sale, the sheriff has been served with an order to show cause issued out of the San Mateo Superior Court as to why the sale should not be set aside because of irregularity in the sale proceedings. Note that the order to show cause was issued in the same action - in which the sheriff is not a party - and was obtained by the judgment creditor not the judgment debtor. The allegation in the application for the order to show cause is that the sheriff somehow mislead the judgment creditor into believing that the judgment creditor had to bid some amount higher than the amount of his judgment.

It appears to us that the statute does not contemplate any such action by a judgment creditor. Rather, the provision appears to exist solely for the benefit of the judgment debtor. (The judgment creditor, having chosen to enforce his judgment by forced

sale, and having further chosen to bid in the judgment amount plus cash, is hardly in a position to complain about "irregularities". Moreover, an action to set aside a sale appears to be wholly separate from the action in which the judgment sought to be enforced was originally obtained. Hence, the use of the order to show cause procedure against the sheriff and the judgment debtor appears to be unauthorized by statute.) This reading of paragraph (1) is consistent with the provision of paragraph (2) of this subsection which permits only a judgment debtor to recover damages for impropriety in the sale.

Assuming that I'm not misunderstanding the Enforcement of Judgments Law, I suggest that this paragraph be amended to read:

> "An action may be commenced by the judgment debtor within six months after the date of sale to set aside the sale if the purchaser at the sale is the judgment creditor. . . . . "

The second problem involves the construction of the second sentence of paragraph (1) of subdivision (c) of Section 701.680. It provides that if the sale is set aside, the judgment is revived to reflect the amount that was satisfied from the proceeds of the sale. The judgment creditor is entitled to interest on the amount of the judgment, as if there had been no sale. This sentence does not address the revival of any liens extinguished by operation of section 701.630. Unless I (again) misunderstand something in the Enforcement of Judgments Law, I would suggest that this sentence be amended to read:

> "~~Subject to paragraph (2), if the sale is set aside,~~ If the sale is set aside, (i) all liens extinguished by operation of Section 701.630 are revived as if the sale had not been made, and (ii) subject to paragraph (2), the judgment of the judgment creditor is revived to reflect the amount that was satisfied from the proceeds of the sale and the judgment creditor is entitled to interest on the amount of the revived judgment ~~as so revived~~ as if the sale had not been made."

The thoughts of you or your staff on these suggestions would be appreciated. Thank you for your time and consideration.

Very truly yours,

DAVID R. FRANK
Deputy County Counsel

DRF:je

County Recorders' Association of the State of California

Vera L. Lyle • P.O. Box 1750 • San Diego, CA 92101 • (619) 236-3255

January 10, 1985

Mr. John R. DeMoully
California Law Revision Commission
4000 Middlefield Road, Suite 2
Palo Alto, California 94303

Dear Mr. DeMoully:

This is in regard to obsolete sections of the Government Code affecting county recorders.

Sections 27371 and 27375 are no longer used by county recorders. Section 27371, which allows for the computation of fees for copying a map, is no longer applicable since recorders now exclusively use some type of photocopy method. Section 27375 also needs to be repealed since recorders no longer are permitted to take acknowledgments of instruments since Civil Code Section 1181 was amended about three years ago.

This Association would appreciate your assistance in reviewing these sections for possible repeal.

Please let me know if you have any questions.

Very truly yours,

DICK HUGHES
Co-Chairman, Legislative Committee
227 North Broadway, Suite 35
Los Angeles, CA 90012
(213) 974-6603

ao
cc: Board of Directors
Legislative Committee
Leesa Speer

EXHIBIT 12

Richard O. Burke
1780 Pleasant Valley Road
Oakland, Ca. 94611
428-1107

May 15, 1985

Mr. John H. De Moully
California Law Revision Commission
4000 Middlefield Road, Suite D-2
Palo Alto, Ca. 94303

Dear John:

As per our phone conversation today these are the three changes that must be made to the foreclosure auction system before it can attract the bidders necessary to make it viable.

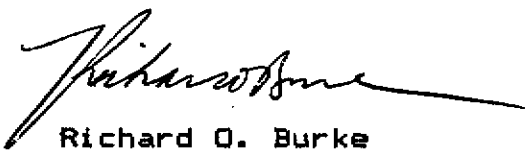
1 - PROPERTIES SHOULD BE ADVERTIZED ONLY WHEN THEY ARE READY TO BE SOLD. The most major problem is that the majority of the good auctions advertized are cancelled (about 95% of those I follow), often at the last minute. After the bidder has gone to the time and expense of estimating the value of a property he is not allowed to physically inspect, and perhaps paying for a title report on the property. If 95% of the time you ran down to Safeway to buy something they had advertized you were told they had cancelled the sale on that item, how long would you bother following their adds?

2 - BIDDERS SHOULD BE TOLD HOW MUCH THEY ARE PAYING FOR THE PROPERTY. Currently it is up to each bidder to obtain their own title report. Even then you are likly to run into a situation where for example you see Bank of America placed a $100,000 deed of trust on the property in 1975. You call up the bank and tell them you will be bidding on the property at the auction and need to know their loan balance inorder to determine how much you will be paying at the auction. The bank replies that they can only disclose that information to the owner and that after you buy the property they will be glad to tell you how much you paid for it.

3 - THE SUCCESSFUL BIDDER SHOULD BE ENTITLED TO POSSESSION OF THE PREMISES AND MARKETABLE TITLE QUICKLY AND SIMPLY. Should a question arise as to whether the auctioneer or the beneficiary made an error in selling the property, this should not effect the successful bidder. As long as the bidder must bear the consequences of a bad buy on a property he is not allowed to physically inspect then on a good buy he should be entitled to either the property or the benefit of his bargain.

Until these changes are made, foreclosure auctions will remain worst buyer beware market place imaginable. I have some suggestions on how to implement these changes. Please call me if you are interested or have any questions.

Sincerely,



Richard O. Burke

Memo 87-101 EXHIBIT 13

Rec'd

SECKELMAN, PERKOWITZ & MIROWSKI

Attorneys at Law

JOSEPH D. SECKELMAN, (A.P.C.) LL.M.
WILLIAM T. PERKOWITZ
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March 7, 1986

California Legislative Assembly
Committee on Judiciary State
Capital
Sacramento, California 95814

Dear Sir/Madam:

Recently, I have been in contact with your office concerning the workings of the Prejudgment Attachment Law in California. A number of legislative offices have suggested that I provide them with proposed changes to that law for their review and evaluation. Accordingly, I make the following proposals:

1. Prejudgment attachment has been described as a "harsh remedy at best in that the alleged debtor losses control of his property before the claim against him has been adjudicated." Barceloux v. Dow, (1959) 174 Cal.App.2d 170, 174. Because of this, the provisions relating thereto have been strictly construed by the courts. See Arcturus Manufacturing Company v. Superior Court, (1963) 223 Cal.App.2d 187, 190 and Nakasoni v. Randall, (1982) 129 Cal.App.3d 757. This is to prevent the prejudgment writ of attachment from becoming an instrument of cohersion allowing the plaintiff to force the defendant to settle before the issues have been adjudicated. See Barceloux v. Dow, supra, 174 Cal.App.2d at 174.

One of the problems with the present prejudgment attachment law is the burden of proof necessary to obtain a prejudgment attachment relative to the harm it will do to the defendant before his rights have been adjudicated. Under the noticed prejudgment procedure, the court must find that the plaintiff has established the "probable validity of the claim upon which the attachment is based. See California Code of Civil Procedure §484.090(a)(2). This "probable validity" is defined in California Code of Civil Procedure §481.190 as:

> Where it is more likely then not that the plaintiff will obtain a judgment against the defendant on that claim.

Therefore, the judge must find that there is greater than fifty percent (50%) chance that the plaintiff will win on his claim.

One of the problems occurs in that there is no correlation between the amount of proof necessary and the potential damage that can be done to a defendant. "More probable then not" is not a very high standard considering that at the beginning of a case when this remedy is usually requested issues have not been pinpointed nor evidence collected. This is fine when the attachment is not very intrusive. For example, one can record a prejudgment lien of attachment against real property. See CCP §487.010 and CCP §700.015. When the person has no immediate reason for selling the property, he is usually not harmed. In this way, the plaintiff's interest are protected and the defendant is not coerced into settling the case even though he has a rightful counterclaim. On the other hand, the plaintiff can also, with the same amount of proof, obtain a prejudgment attachment against all of the assets of a defendant's business. See CCP §487.010(c). This sort of action almost always results in the defendant being forced to settle on any terms he can get. The tying up of business assets can mean the end of that business and, therefore, the defendant is usually coerced into settling whether he is right or wrong.

Therefore, my first proposal is to structure the burden of proof necessary for obtaining the prejudgment writ of attachment to the sought after relief. As noted above, these procedures are not intended to be cohersive.

2. Another grave problem is that the standards of proof when a claim is opposed are not clearly understood in the legal community. In a noticed hearing, the plaintiff must prove three things.

a. The claim upon which the attachment is based is one upon which an attachment may be issued;

b. The plaintiff has established the probable validity of the claim upon which the attachment is based; and

c. The attachment is not sought for a purpose other than the recovery on the claim upon which the attachment is based.

See CCP §484.090. As noted above, if the plaintiff does obtain a prejudgment writ of attachment, he is in the driver's seat. The danger is that the court is giving the plaintiff this advantage at the very start of the case before evidence has been considered or collected if the plaintiff merely convinces the court by proponderance of the evidence that he will ultimately win. Because of the danger of plaintiffs taking advantage of this wrongly, it has been suggested that in the contested hearing, a sufficient showing on these issues may be as much as at the time of trial. See Fainer, Robert, The Prejudgment Attachment Remedy in California, (1975) 51 L.A. Bar Journal 95, 108. (Note: references in this article are to the Interim Prejudgment Attachment Law, yet they are equally applicable to the present law which is almost a strict copy of the interim law.)

Because of this danger, the code specifies that the amount to be secured by attachment is reduced by the amount of a cross-complaint or an affirmative defense and an answer if either of these claims is "one upon which an attachment could be issued." See CCP §483.015(b). The confusion occurs in whether the phrase, "claim upon which an attachment could be issued" requires the court to find the first element under CCP §484.090(a) or all three elements thereunder. The first element requires that the court find that the claim upon which the attachment is based is one upon which an attachment may be issued. The answer to that question is found in CCP §483.010 which defines claims upon which an attachment may be issued. This is the most logical reading of those code sections. If one adheres to this reading, then the defendant merely has to state a claim coming within the perimeters of CCP §483.010 within a cross-complaint or an affirmative defense to defeat the attachment. On the other hand, in recent history, two judges before whom I have appeared, have read the code to require the defendant to prove all three elements of CCP §484.090(a).

The end result is, if the court must only find the first element, then the mere stating of a claim within the perimeters of CCP §483.010 makes it mandatory for the court to discount the plaintiff's claim by whatever sum is demanded by the defendant. On the other hand, if the full test of all three

elements is required to be proven, then the court should be required to make its findings as such as it is required to do for the plaintiff pursuant to CCP §484.090. I propose that CCP §483.015(b) specifies exactly what sort of finding the judge must make to insure that the defendant is protected against outlandish actions of the plaintiff.

A recent case of mine illustrated this problem. I represented the defendant in a contractual dispute. The plaintiff suffered from paranoid tendencies and started harassing the defendant in ways which made it difficult for the defendant to carry out her contract. The plaintiff then took the extraordinary step of suing the defendant when there had been in fact no actual breach of the contract. This, itself, is a breach of the contract and was also the cause of the defendant not being able to further perform her part of the contract. By stating a numer of untruths about the defendant, the plaintiff was able to obtain an ex parte prejudgment writ of attachment. Under California Civil Code §1511 and §1512, where a plaintiff hinders or prevents a defendant's performance of a contract, further performance is not only excused but an affirmative breach of the contract occurs. See Whitkin, B., Summary of California Law, vol. 1, Contracts §618. My client, the defendant in this case, counter-sued on this basis and also stated an affirmative defense which should have constituted a complete offset under CCP §483.015(b). It was a tough job convincing the judge that he was required to apply CCP §483.015(b) and when I did, the judge decided that he should apply all three elements of CCP §484.090(a). The end result was that the plaintiff was able to attach all of the defendant's assets and force her into a settlement. A wealthier person could have appealed this issue and then it would have been clarified. Unfortunately, the plaintiff had effectively prevented that by obtaining his relief, attaching all of her assets. Before she could get into court and prove that she had in fact not been in breach of the contract, she had lost everything.

The prejudgment writ of attachment is a tool which should be used sparingly. The real source of the problem is that the courts are not taking enough time to consider what they are doing. These matters are relegated to law and motion departments which, depending upon the district, may have thirty or more matters to be heard in the morning. Therefore, even though a judge is authorized to take additional evidence so that

he can realistically make a prejudgment determination of liability, the reality is that no judge is inclined to tie up the court for that long. The result is that if the procedures are not strictly defined, the prejudgment writ of attachment can be abused by an unscrupulous plaintiff. I believe that prejudgment attachments should only be available in the clearest of cases or taken out of law and motion and made into a full fledged evidentiary hearing. Against those who deceive others, it is a tremedous tool. Against those who are wrongly accused, it is the grossest example of an injustice which further deteriorates faith in our legal system.

If you have any questions, please do not hesitate to contact me.

Sincerely,

SECKELMAN, PERKOWITZ & MIROWSKI

Paul J. Mirowski
Attorney at Law

PJM:bb

EXHIBIT 14

LAW OFFICES

COSKEY, COSKEY & BOXER

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TOBIAS COSKEY (1896-1974)
HAL L. COSKEY
A PROFESSIONAL CORPORATION
SANDOR T. BOXER
MARY ELLEN BALDRIDGE
KEVIN B. WITT

August 27, 1985

Mr. John H. DeMoully
Executive Secretary
The California Law Revision
Commission
4000 Middlefield Road
Suite D-2
Palo Alto, CA 94306

Dear Mr. DeMoully:

I am writing to bring to the attention of the Commission some difficulties currently being encountered in the implementation of the California Attachment Law.

As you may recall, our office appeared before the Commission on several occasions with respect to the most recent revision of the California Attachment Law. We typically represent unsecured lenders who frequently seek the protection of the Attachment Law.

I am enclosing a copy of the "Policy re Consideration of Plaintiff's Supplemental or 'Reply' Papers in Attachment Proceedings" issued by Department 66 of the Los Angeles Superior Court. Department 66 is the department to which all attachment matters in the Central District of Los Angeles Superior Court are assigned. It handles a great volume of attachment cases and thus its policies carry substantial impact.

The thrust of the enclosed policy memorandum is that not only must the plaintiff's prima facie case be supported, the Los Angeles Superior Court views the current attachment law as also requiring that all known defenses be anticipated. We are unable to find any support for that position in the Claifornia Attachment Law.

Furthermore, the enclosed memorandum proceeds upon the previously announced position of Department 66 that the mere completion of the Judicial Council form of application for attachment, together with an appropriately verified complaint will, in and of itself generally be insufficient to provide the basis for the issuance of a writ of attachment. It is that Court's position that the Judicial Council form of application for attachment is conclusionary and thus legally insufficient to support the issuance of a writ of attachment. Again, we can find no basis in the law for such a position. We also wonder as to the practicality of presenting forms to the State Bar which are considered by the Court to be legally insufficient.

Department 66 is not the only trial Court which views the attachment law in the fashion set forth by the enclosed memorandum. Similar rulings have been obtained from the Orange County Superior Court. The latter Court has gone one step further. The additional step which the Orange County Superior Court has taken is to also suggest that if the writ is denied, the plaintiff has forever lost the opportunity to obtain any writ of attachment in that case.

We do not believe that unduly restrictive interpretations of the attachment law were the intent of the California Law Revision Commission in the promulgation of the recent attachment law. We seek the Commission's assistance or suggestions as to how the current situation can be rectified.

Respectfully,

Sandor T. Boxer
of Coskey, Coskey & Boxer

STB:gp

Encl.

- DEPARTMENT 66 -

POLICY RE CONSIDERATION OF PLAINTIFFS' SUPPLEMENTAL OR "REPLY" PAPERS IN ATTACHMENT PROCEEDINGS

Not uncommoningly, the plaintiff or applicant seeking a writ of attachment will attempt to submit supplemental or "Reply" papers in response to the defendant's written opposition. This practice is questionable.

The Attachment Law (CCP §481.010 et seq.) prescribes in detail those papers which may be filed either in support of or opposition to the issuance of a writ. As numerous cases have held, these provisions are to be strictly construed and applied. (See, e.g., Nakasone v. Randall (1982) 129 Cal.App.3d 757, 761.) If the defendant asserts a claim of exemption, the plaintiff is authorized to challenge that claim in writing, filed ". . . not less than two days before the date set for the hearing . . ." (CCP §484.070(c).) Beyond that, however, there is no specific provision for the filing of additional papers by the plaintiff.

Nonetheless, it must be recognized that the plaintiff will occasionally be taken off guard by a "surprise" defense contained in the defendant's opposition papers. Thus, the Legislature has allowed the Court some discretion to receive additional proof:

> "The court's determinations shall be made upon the basis of the pleadings and other papers in the record; but, upon good cause shown, the court may receive and consider at the hearing additional evidence, oral or documentary, and additional points and authorities, or it may continue the hearing for the production of the additional evidence or points and authorities." (CCP §484.090(d) - (Emphasis added).)

In view of these provisions, and considering the practical realities of legal practice, the policy of this Department will be as follows:

1. As authorized by Section 484.070(c), the plaintiff may file written opposition to any claim of exemption. To be considered, however, that opposition must be timely served and filed. Also, if other papers are being filed at the same time, this document should be prepared separately, with its own cover sheet. Otherwise, it may be marked "unauthorized" and not considered (see below).

2. The Attachment Law provides that papers may be served personally or by mail on counsel of record. (CCP §482.070(a)&(e).)

generally be overlooked, at least if the Court is satisfied that the copies presented are reasonably trustworthy. Foundational objections are usually considered a matter of affirmative defense.

However, if the defendant does file opposition in which technical defects of this nature are properly asserted, the plaintiff may be out of luck. It is therefore essential that plaintiff's attorney pay close attention to details in preparing the application. If potential deficiencies are overlooked in hopes that the defendant will not appear, the consequences may be fatal to any chance of obtaining a writ.

EXHIBIT 15

DAVID H. SPENCER
ATTORNEY AT LAW
220 STATE STREET, SUITE H
LOS ALTOS, CALIFORNIA 94022
(415) 949-1660

August 20, 1985

Mr. John De Moully
California Law Revision Commission
4000 Middlefield Road, D-2
Palo Alto, CA 94303

Dear Mr. De Moully:

It is common practice for attorneys who represent judgment creditors to have judgment debtors served with a subpoena duces tecum at the same time they are served with an order for examination. The affidavit attached to the subpoena requires the judgment debtor to bring to the examination such evidence of asset ownership as car registration certificates, deeds to property, stock certificates, bonds, insurance policies, etc. Unfortunately, it is also common practice for judgment debtors not to comply with the subpoena.

Although judges and commissioners promptly issue a bench warrant for failure to appear for an examination, they have refused to apply the $500.00 penalty for disobeying the subpoena set forth in Code of Civil Procedure section 1992. Because of the wording of section 1992 that forfeiture of the $500.00 and damages may be recovered in a civil action, the bench takes the position that section 1992 applies only to prejudgment discovery.

It is respectfully submitted that section 1992 should be reworded so that it and the following sections apply to miscellaneous creditors' remedies as contained in Code of Civil Procedure sections 708.000 et seq. as well as to prejudgment discovery.

Very truly yours,

David H. Spencer

DAVID H. SPENCER

DHS:vmn

EXHIBIT 16

OSCAR LAWLER
1896-1986
MAX FELIX
1922-1954
JOHN M. HALL
1918-1973

H. NEAL WELLS III
PARTNER

LAW OFFICES OF
LAWLER, FELIX & HALL
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(213) 629-9300

December 23, 1986

Mr. John DeMoully
Executive Secretary
California Law Revision Commission
4000 Middlefield Road
Suite D-2
Palo Alto, California 94303-4739

Dear John:

Thank you for providing to me the two Recommendations and Studies I requested.

Page E6 of the Recommendation and Study relating to Rights of Surviving Spouse in Property Acquired by Decedent while Domiciled Elsewhere dated December 20, 1956 reflects the following intent of the Commission: "The limitation recommended would make it clear, however, that Section 201.5, as revised in accordance with the commission's second recommendation to include real property, is not intended to apply to real property acquired in this State by a married person domiciled elsehwere at the time of acquisition unless the owner is a domiciliary of California at the time of his death."

The confussion I recently experienced came about by Stats 1983 Chapter 842 which transferred to new Probate Code Section 66 the substance of portions of former Probate Code Section 201.5 without the modifying qualification "upon the death of any married person domiciled in this State". As a consequence

of the omission, Probate Code Section 66 now literally provides that separate property of a non-resident which is invested in California real property may become the quasi-community property of the investor and his or her spouse even though neither spouse becomes domiciled in California.

Probate Code Section 101 retains the qualifying language. This makes the section inapplicable to quasi-community property if the decedent does not die domiciled in this state, but does not provide what happen to the quasi-community property of a non-resident. The answer is that there is no quasi-community property unless the decedent was domiciled in this state at the time of death. It is in this respect that Probate Code Section 66 could be clarified.

I would be happy to work with a member of the Commission staff in clarifying the section once my work on this year's legislation (creditor's claims and estate administration) is concluded, or at least in limbo.

Thank you once again for your help.

Best wishes for the holidays.

Sincerely yours,

per § #83089

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WRITER'S DIRECT DIAL #
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CA [illegible]

JAN 20 1987

RECEIVED

January 16, 1987

John DeMoully
Executive Secretary
California Law Division Commission
4000 Middlefield Road, Suite D2
Palo Alto, CA 94303-4739

Dear Mr. DeMoully:

Do you see any benefit to the enactment of a Probate Code section that would incorporate by reference certain Civil Code sections that define separate and community property rights and obligations, more specifically, Civil Code Sections 4800.1, 4800.2, 4803, 4804, 5104, 5105, 5107, 5108, 5110, 5110.710, 5110.720, 5110.730, 5111, 5118, and Chapter 3, Articles 1, 2 and 3?

I am considering a proposal of a resolution to the Conference of Delegates for 1987 which would recommend the above, but before doing so, I would appreciate your input.

Thank you for your attention to this matter.

Sincerely,

Timothy C. Wright

TIMOTHY C. WRIGHT

TCW:bbs

EXHIBIT 18

LAW OFFICES
W.S. MCCLANAHAN
10850 WILSHIRE BOULEVARD, SUITE 400
LOS ANGELES, CALIFORNIA 90024

(213) 470-7477

October ~~29~~ 28, 1986

John H. DeMoully, Executive Secretary
California Law Revision Commission
4000Middlefield Road, Suite D-2
Palo Alto, CA 94303-4739

Dear John:

As a commentator on community property law, I guess I have more than the usual desire to find a thread of consistency running through the statutes which define and describe separate property, community property, and quasi-community property (hereinafter referred to as SP, CP and QCP respectively). In reviewing the statutes, some of which are being rewritten in the pending Probate Code revisions, I do not find such a thread in the current California laws.

I made a brief review of some of these statutes in the Probate Code and the Civil Code, and attach a list of these sections, with a brief reference to their content. Some of these are definitions, some are descriptions, some are statements of what CP and QCP is not, and some describe certain property in stating how it is treated at death or upon dissolution. This does not purport to be a complete list; no doubt there are other statutes in this area.

I would like to see a comprehensive review made of all the statutes which define, describe, delineate, and distinguish SP, CP and QCP, in order to make them more consistent. Sometimes it appears to me that our present body of law in this area is like Topsy in Uncle Tom's Cabin, it "just growed." It appears that often the lawmakers, when a problem of interpretation arose, varied the definitions of CP or QCP to fit the outcome desired, rather than to vary the substantive or procedural law to fit the definition.

I will not set my views out in detail here, which would extend this letter too much. My views on the subject were set out in part in my letter of June 4, 1986, commenting on Probate Code Section 28 and Memo 86-51, which referred to my discussion of the background of QCP in my book.

I do not know whether the legislative resolution under which the Commission is now working is broad enough to authorize the Commission to make such a study. I hope it is. If not, perhaps the Commission could secure such authority from the legislature.

It appears to me that such a study would be worthwhile. Over a period of more than fifty years California was the leader in legislation on CP, seeking fairness and equity in its treatment at death and upon dissolution. We invented QCP, and by statute and case law made it work, to bring equity to the treatment of the non-native spouse. See: Cal. Law Rev. Commission Study (October 1960). It has taken more than fifty years for other community property states to adopt this concept (Idaho, 1971; Arizona, 1973 and Texas, 1981). Now we seem to be trying to equate QCP with CP in several of our statutory definitions. As I have previously stated, I believe some of these statutes may be subject to constitutional challenge.

I hope that the Commission can and will undertake such a study in the near future. I am sure that it would result in a set of community property statutes that would be more consistent, logical and workable than our present system.

Sincerely yours,

W. S. McCLANAHAN

WSM/hj

cc: Mr. Charles A. Collier
Mr. James V. Quillinan
Mr. William V. Schmidt
Mr. Lloyd W. Homer

STATUTORY REFERENCES TO SEPARATE, COMMUNITY, AND QUASI-COMMUNITY PROPERTY

Civil Code

687	Definition of C.P.
4800	In dissolution, the court is to divide the C.P. and QCP equally.
4800.1	Upon dissolution, property acquired in joint tenancy form is presumed to be C.P.
4800.5	If real property in another state is involved, court shall divide the C.P. and Q.C.P. so as not to affect out of state property, if possible.
4803	Definition of Q.C.P.
4804	S.P. does not include Q.C.P.
5104	Married persons may hold property as joint tenants, tenants in common OR as C.P.
5105	Interests of husband and wife in C.P. are present, existing and equal interests.
5107	Definition of S.P. of wife.
5108	Definition of S.P. of husband.
5110	Definition of C.P.
5113.5	C.P. transferred by husband and wife to a trustee is C.P.
5120.020	C.P. includes (a) real property in another state that would be C.P. if located in California, and (b) Q.C.P.
5120.120	For purposes of this chapter, Q.C.P. is treated in all respects the same as C.P.
5126	Personal injury money judgment is S.P.
5132	Support of spouse out of S.P., if there is no C.P. or Q.C.P., as those terms are defined is 4803 and 4804.

PROBATE CODE

28	Definition of C.P., (includes language that also describes Q.C.P. in 66 and C.C. 4803.
66	Definition of Q.C.P. (practically the same as C.P. in 28)
100	One-half of C.P. belongs to surviving spouse at death (other half to decedent).
101	One-half of decedent's Q.C.P. belongs to surviving spouse at death (other half to decedent).
103	Disposition of C.P. and Q.C.P. upon simultaneous death of spouses.
650	Petition to confirm to surviving spouse the C.P. and Q.C.P. belonging to spouse under 100 or 101.
5305	As to married persons, their net contribution to a multiple party account is presumed to be and remain their C.P.
6401	(a) As to C.P., the intestate share of surviving spouse is the one-half that belongs to decedent. (b) As to Q.C.P., the intestate share of surviving spouse is the one-half that belongs to decedent.

EXHIBIT 19

Assembly
California Legislature

STEVE PEACE
ASSEMBLY MAJORITY WHIP

COMMITTEES:
Finance and Insurance
Ways and Means
Water, Parks and Wildlife
Elections and Reapportionment
Chairman
SUBCOMMITTEE ON
WORKERS' COMPENSATION

August 1, 1985

Hon. John DeMoully
Executive Secretary
California Law Revision Commission
4000 Middlefield Road
Palo Alto, CA 94303

Re: Revision of laws regarding injunctions.

Dear John,

After discussing the matter with Ray LeBov, this office has decided to submit to the CLRC for study the enclosed proposed bill relating to reform and revision of statutes dealing with injunctions.

We are dealing with you directly to avoid the necessity of introducing the bill and then having Assembly Judiciary referring the bill to the CLRC. We hope the enclosed document will serve as a working model for fufilling the Commision's mandate in this important area.

Sincerely yours,

Irwin J. Nowick

cc: Ray LeBov (w/enclos.)
David Takashima

☐ State Capitol
Sacramento, California 95814
Telephone: (916) 445-7556

☐ 430 Davidson Street - Suite B
Chula Vista, California 92010
Telephone: (619) 426-1617

☐ 1101 Airport Road, Suite D
Imperial, California 92251
Telephone: (619) 352-3101

EXHIBIT 20

May 20, 1986

Mr. John H. DeMoully
Executive Secretary
Law Revision Commission
4000 Middlefield Road
Suite D-2
Palo Alto, California 94303

Dear Sir:

The purpose of this letter is to bring to your attention the inadequacies of the California laws for Custody.

The current laws, as I understand them, do not cover the following areas:

1. The habitual hammering for custody by filing continuous modifications;

2. The unlimited discretion which the attorneys and court have in ordering and controlling the family to the exclusion of the parties and minor children;

3. The unlimited discretion which the attorneys and courts have in making the decisions regarding the raising of the minor children involved;

4. The silence of the code pertaining to an abusive spouse;

5. The silence of the code as to the guide lines and standards the legal profession is to use in making such determinations;

6. There are no guide lines pertaining to the establishment of joint legal and physical custody and many parents are left to the whims of the courts which are extremely inadequate to handle these matters;

7. There are no studies which adequately cover the area as to the effect of bouncing the minor children from one house to

the other over the objections of one or both of the parents;

8. The low, inconsistent standards which each court subjects a parent;

9. The calloused indifference on the part of the court and attorneys who handle these matters;

10. The calloused indifference in which the parents and children are treated;

11. In general the courts take one stance concerning custody no matter what the circumstances;

12. No guide lines as to what constitutes circumstances for a change in custody;

13. None of the terms used are defined, ie. Change of Circumstances, Frustration of Visitation, Best Interests of the Child, the terms are vague enough so that any judge can subject a parent or child to what ever they want;

14. In general the code does not protect children or mothers from the horrendous psychological and emotional trauma of changing custody after a long duration ie. 14 years;

15. The inadequacies of the code have and will continue to cause tremendous problems for mothers and children as the current wave of fathers are pounding for custody.

I personally have been through 5 years of custody modifications, I was blamed for everything, my back child support of $38,000.00 was never collected nor is anyone interested in collecting it. My children and myself have been emotional coerced into everything by the attorneys. My oldest son was told by the judge that if he didn't do what he was told he would be put in juvenile hall. I was told I cannot move from the state unless I leave my children here, which the attorneys when told I

was going to move promptly made sure I did lose custody. My children do not wish to live with their father, I have tried for the past year to have the order changed so I would not be subjected to the abuse which my ex dishes out. I was told that I refused to allow my ex to see his children when in fact he was the one who moved and I had no idea where he was. He has had to pay child support through the d.a.'s office. The minor childrens attorney flatly lied to the judge in an in chambers conference to secure joint physical custody after 14 years. The courts never stated any reasons for their changing custody. The story is endless the file covers four volumes. My ex refused to allow me to see the minor children and I have not seen them since June of 1985. I would think that someone would recognize a problem somewhere. My ex is an alcoholic and doper with which there is no communication, but yet I was required to have a joint legal custody with him. I have been blamed for everything by both my ex and the legal system. I was asked at a hearing if I had any regrets and at that time I had none, however today I can honestly say that after the past five years, my only regret is that I ever had children to begin with. Oh, not to mention the $30,000.00 in attorney fees that have been paid.

I personally would like to see at least some bare minimum terms defined so the definitions do not keep changing depending on who's defining them. I would also like to know if there are any future studies being planned and by whom and if there are any where copies of them may be obtained.

I think Rudolf B. Schlesinger puts it quite nicely in the following excerpt from his text, Comparative Law, Fourth Edition, 1980:

III THE CONTRAST BETWEEN THE PRINTED WORD AND ACTUAL PRACTICE.

NOTE ON THE SUBJECT OF "CORRUPTION"

(1) If we speak of a legal system as "corrupt", we usually mean that a substantial portion of governmental and especially of judicial business is disposed of in a manner which is not in accordance with the substantive and procedural rules announced in the law books. To some extent, as the "realist" school of jurisprudence has taught us, such divergence between the printed word and actual practice can be observed in every legal system. But there are important differences of degree, differences ranging all the way from the stifling atmosphere of a Gestapo-ridden dictatorship to the subconscious bias or occasional indiscretion of a judge or other official from which even a decent system in not entirely free.

(2) There are two principal channels through which, singly or in combination, corruption enters the machinery of the law; political influence and graft. The materials which follow, will deal with the more insidious forms of political corruption of legal systems.

The subject of graft might be equally interesting, but it is some what less susceptible of academic study. Sociologist sand anthropologists have attempted to throw some light on the causes and patterns of graft in certain parts of the world; but those who are in the best position to observe this form of corruption are not inclined to publish the results of their research. There exists as yet no Map of the World in which the various countries and areas are shaded or colored according to the degree of judicial honesty prevailing therein. It is, however, common knowledge that a Judge of the High Court of England is less likely to succumb to the offer of a bribe than a police court judge in certain Mediterranean areas.

International practitioners have a fairly accurate notion, based on experience and gossip, in what countries they can expect an impartial determination of litigated issues. They will try to avoid litigation in the courts of certain geographic areas because they are almost intuitively aware of conditions which as these:...

Experienced practitioners are aware, also of the complexity of the "corruption" issue, especially in reference to developing countries. "Of course in many traditional societies the use of public office or authority for private

> advantage and gain was often expected and in part sanctioned. The officials of the traditional Chinese bureaucracy were permitted to retain a portion of the taxes they collected, and clerks and runners were permitted numerous "customary fees" When modern Western political and legal institutions and standards are imposed on traditional peasant and pre-literate societies, such traditional customs turn in "corruption"....
>
> With its undertone of moral reprobation, "corruption" is an emotive word. We should be cautious in its use when we discuss the--to us--strange conditions of traditional societies in the early stages of modernization. There may be less need, however, to be restrained in making value judgments when we turn--as we now do--to the problem of political perversion of highly developed legal systems.

The area of family law finds itself very low in the status structure of the legal professional and therefore lends itself very well to "corruption" which Mr. Schlesinger so aptly writes of.

I sincerely hope that someone will find some time to at least begin a study or research how the courts handle these matters. Its a real pity to watch and be involved in the psychological murders which the courts perform on families and their members.

Sincerely in Christ,

Charlotte Coats

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February 5, 1987

Law Revision Commission
4000 Middlefield Road, Suite D-2
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To whom it may concern:

I represented a mother as Respondent in an action brought by father under the Uniform Parentage Act (C.C. Sections 7000 et. seq.) in Santa Clara County. Father wanted to establish his paternity which was not contested by mother and to establish his visitation rights of children who would remain in the custody of mother. Father did not ask that a child support order be entered against him. Mother filed an answer, but no cross-complaint, admitting paternity, agreeing to reasonable visitation and requesting the affirmative relief of child support and attorney fees. An Order was entered following a stipulation entered at an Order to Show Cause hearing, ordering father to pay child support and reserving the issue of attorney fee until the time of trial. Father, because he did not want to continue to pay child support or mother's attorney fees, filed a request for clerk's dismissal under former C.C.P. Section 581 (a) (now C.C.P. Section 581 (b) (1) and the clerk entered the dismissal as requested. Of course this also had the effect of cancelling the temporary child support order.

This voluntary dismissal does not seem to have been appropriate under Ford vs. Superior Court (1959) 171 Cal. App. 2d 228, 340 P. 2d 296. Furthermore common sense says that a father should not be permitted to do this.

My first suggestion is that C.C.P. 581, 583.161, and/or related Sections should be amended, or a new section should be added to codify Ford vs. Superior Court, supra, with respect to actions brought under Uniform Parentage Act (particularily when the potential support paying parent is the plaintiff). C.C.P. Section 583.161 currently provides for this only where there is a support order in actions filed under the Family Law Act which does not include actions under the Uniform Parentage Act.

My second suggestion is that some provision be added to the Uniform Parentage Act, California Rules of Court, and/or the C.C.P. allowing the Defendant to an action under the Uniform Parentage Act to raise any issue permitted under the Uniform Parentage Act which is not raised by the complaint as a request

for affirmation relief in his or her answer, without the necessity of filing a cross-complaint. Perhaps one should consider a California Superior Court Rule in Uniform Parentage Act cases similar to that under the Family Law Act (Rules 1215 and 1221) which forbids cross-complaints and requires all relief to be raised in the Petition or Response.

My story continues. A clerk's entry of voluntary dismissal is a minstral act, not a judicial act and although it has the effect of a final judgment in that it finally terminates the case, it is not appealable under C.C.P. section 904.1 because of the holding in Associated Convalescent Enterprises vs. Carl Marks & Co., Inc. (1973) 33 Cal App. 3d 116, 120 108 Cal. Rptr. 282, (although there is contrary authority in Biggs vs. Biggs (1951) 103 Cal. App. 2d 741, 742, 230 P. 2d 32). To avoid this hazard, I elected to fil a timely motion under C.C.P. section 473 to set aside the clerk's voluntary dismissal which was denied by the trial court which distinguished Ford vs. Superior Court, supra. Now I had a judicial act upholding the clerk's entry of the voluntary dismissal which was a final judicial act terminating the action. Surely mother should have an absolute right to appeal from this order denying the mother's C.C.P. section 473 motion.

The briefs on appeal did not raise the appealability of the order as an issue in dispute nor was there any mention of the subject at the oral argument. Nevertheless, the Court of Appeals, on its own motion, refused to decide the appeal on the merits and dismissed the appeal, finding that the order denying the C.C.P. section 473 motion was not an appealable order under C.C.P. section 904.1 (b) because said subsection requires the post-judgment order to relate to a final judgment which was appealable under subsection 904.1 (a) and since the clerk's dismissal was not appealable under 904.1 (a) then the order on the C.C.P. Section 473 motion was not appealable. A Petition for Review in the California Supreme Court was denied.

It seems to me that mother should have had an absolute right to have this matter decided on its merits on appeal. Otherwise, her only remedy is by extrodinary writ which is discretionary, regardless of the merits of the case. I would like to see an amendment it s C.C.P.Section 904.1 to either allow an appeal from a clerk's entry of voluntary dismissal under C.C.P. 581 (b) (1) or to allow an appeal from a court order after an order of voluntary dismissal denying a motion to set said dismissal aside despite the fact that the clerk's entry of voluntary dismissal is

not appealable under C.C.P. Section 904.1 (a).

Thank you for your anticipated consideration.

Very truly yours,

Robert M. Allen

Robert M. Allen

April 16, 1987

California Law Revision Committee
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Dear Mr. De Moully

SURROGATE MOTHERHOOD

If a woman agrees BEFORE CONCEPTION to become a surrogate mother, she should never be allowed to keep the child, nor ever have visitation rights. No child should be subjected to custody battles if we can possibly prevent it. Prohibiting contracts that include visitation for surrogate mothers would prevent destructive custody battles, and might even deter those who are unclear about their committment to the arrangement.

If, during pregnancy, a woman agrees to give her baby up for adoption, the same rules that now exist are probably adequate, as far as I know.

Single men and women should be allowed to arrange to have a child either by surrogate mothers, artificial insemination (both of which would fall under the above guidelines), or by adoption.

Sincerely,

Diane Stafford

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