

Third Supplement to Memorandum 91-23

Subject: Study L-603 - Self-Proving Will (Letter From State Bar Team 3)

Exhibit 1 is a letter from Melitta Fleck for Team 3 of the State Bar Probate Section opposing any legislation on this subject.

To summarize, the staff draft attached to the basic memorandum is supported by the Executive Committee of the Probate and Trust Law Section of the Los Angeles County Bar, and is opposed by Team 3 of the State Bar Probate Section. The draft attached to the First Supplement is supported by attorneys Harold Boucher, Richard Kinyon, and Irving Kellogg, and is opposed both by the LA Bar and Team 3 of the State Bar.

Respectfully submitted,

Robert J. Murphy III
Staff Counsel

**ESTATE PLANNING, TRUST AND
PROBATE LAW SECTION
THE STATE BAR OF CALIFORNIA**

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July 22, 1991

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REPLY TO:

Valerie J. Merritt, Esq.
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Dear Valerie:

I am writing on behalf of Team 3 of the Executive Committee with respect to Memorandum 91-23 (Self-Proving Will).

As previously indicated, Team 3 believes that while some lawyers in some counties may be experiencing difficulty with probate judges who exercise the discretion granted under current law to require evidence in addition to a self-proving attestation clause in order to establish the validity of a will, the proposed solution to the problem may create more problems than it solves.

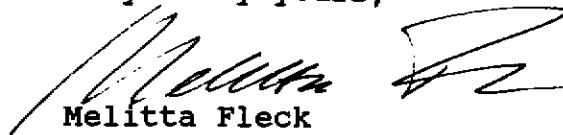
The draft proposal attached to the first supplement to Memorandum 91-23 proposes a self-proving attestation clause which conclusively establishes that the will was validly executed. Team 3 believes that the size of the problem, which some Team members believe only exists in one county, does not warrant completely removing the court's discretion to require additional evidence of the valid execution of a will. The problem should be solved by the local bar in the county in which it exists and does not warrant a change in state law which would require all lawyers to conform to a new statutory standard.

The Committee also believes that the new statutory provisions may result in the promulgation of local rules which would require hard and fast compliance with the new statute thereby requiring additional submission of evidence or personal appearance for any wills executed prior to the effective date of

Valerie Merritt, Esq.
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the new statute which would create a more significant problem
then the existing problem.

Very truly yours,



Melitta Fleck
for
GRAY, CARY, AMES & FRYE

MF/pd

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