

Second Supplement to Memorandum 87-91

Subject: Annual Report (Request for Authority to Study New Topic)

At the July meeting, the Commission decided to request the authority to study liability for attorneys' fees. Following is a draft of the request for authority to study this new topic for inclusion in the 1987 Annual Report:

Topic for Future Consideration

The Commission recommends that it be authorized to study a new topic: a study to determine whether the law relating to the payment of attorneys' fees and the shifting of attorneys' fees between litigants should be revised. The California Judges Association has requested that the Commission seek authority to study this topic with the purpose of developing a consistent and rational plan for the payment of fees and the determination of the consequences of shifting fees. The liability for fees influences the decision of potential litigants concerning whether to file an action and thus has an effect on the workload of the courts. Existing provisions bearing on attorneys' fees are scattered throughout the codes and do not appear to be drafted to accomplish a comprehensive policy.

The staff is attempting to get additional background from the California Judges Association, but the contact person is currently out of the country. When we discuss this matter with him upon his return, this request for authority may need to be revised or expanded.

Respectfully submitted,

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