

## First Supplement to Memorandum 98-25

### Trial Court Unification: Miscellaneous Issues

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In its continuing review of the codes, the staff has found the following new issues relating to implementation of SCA 4:

#### RELIEF AWARDABLE (CODE CIV. PROC. § 580)

Consistent with the current jurisdictional limit of the municipal court, proposed Code of Civil Procedure Section 85 (limited civil cases) would restrict the amount in controversy in a limited civil case to \$25,000 or less. Similarly, proposed Code of Civil Procedure Section 580 would restrict the relief awardable in a limited civil case to \$25,000 or less (exclusive of attorney fees, interest, and costs):

580. (a) The relief granted to the plaintiff, if there is no answer, cannot exceed that which he or she shall have demanded in his or her complaint or in the statement required by Section 425.11; but in any other case the court may grant the plaintiff any relief consistent with the case made by the complaint and embraced within the issue. The court may impose liability, regardless of whether the theory upon which liability is sought to be imposed involves legal or equitable principles.

(b) Notwithstanding subdivision (a), the following types of relief may not be granted in a limited civil case:

(1) Relief exceeding twenty-five thousand dollars (\$25,000), exclusive of attorney fees, interest, and costs.

(2) A permanent injunction.

(3) A determination of title to real property.

(4) Enforcement of an order under the Family Code.

(5) Declaratory relief, except as authorized by Section 86.

As presently drafted, each time Section 85 is amended to change the maximum amount in controversy for a limited civil case, a corresponding amendment of Section 580 will be necessary. **This could be avoided by revising proposed Section 580(b)(1) as follows:**

(b) Notwithstanding subdivision (a), the following types of relief may not be granted in a limited civil case:

(1) Relief exceeding ~~twenty-five thousand dollars (\$25,000)~~ the maximum amount in controversy for a limited civil case as provided in Section 85, exclusive of attorney fees, interest, and costs.

**The staff believes this revision would be helpful.**

#### ENFORCEMENT OF LIABILITY ON BOND (CODE CIV. PROC. § 996.430)

Code of Civil Procedure Section 996.430 concerns enforcement of liability on a bond. In light of the differentiation between limited civil cases and other cases in a unified superior court, **the following amendment of Section 996.430 should be added to the SCA 4 implementing legislation:**

##### **Code Civ. Proc. § 996.430 (amended). Enforcement of liability on bond**

996.430. (a) The liability on a bond may be enforced by civil action. Both the principal and the sureties shall be joined as parties to the action.

(b) If the bond was given in an action or proceeding, the action shall be commenced in the court in which the action or proceeding was pending. If the bond was given other than in an action or proceeding, the action shall be commenced in any court of competent jurisdiction, and the amount of damage claimed in the action, not the amount of the bond, determines the ~~jurisdiction of the court~~ classification of the case (limited civil case or otherwise).

(c) A cause of action on a bond may be transferred and assigned as other causes of action.

**Comment.** Section 996.430 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

#### PETITION TO DECLARE A MINOR A WARD OF THE COURT (WELF. & INST. CODE § 656)

Welfare and Institutions Code Section 656 specifies the content of a petition to declare a minor a ward of the court. **A minor technical change is necessary to reflect trial court unification:**

**Welf. & Inst. Code § 656 (amended). Petition to declare minor ward of court**

656. A petition to commence proceedings in the juvenile court to declare a minor a ward of the court shall be verified and shall contain all of the following:

....

(i) In a proceeding alleging that the minor comes within Section 601, notice to the parent, guardian, or other person having control or charge of the minor that failure to comply with the compulsory school attendance laws is an infraction, which may be charged and prosecuted before the juvenile court judge sitting as a municipal court judge or as a superior court judge in a county in which there is no municipal court. In those cases, the petition shall also include notice that the parent, guardian, or other person having control or charge of the minor has the right to a hearing on the infraction before a judge different than the judge who has heard or is to hear the proceeding pursuant to Section 601. The notice shall explain the provisions of Section 170.6 of the Code of Civil Procedure.

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**Comment.** Section 656 is amended to accommodate unification of the municipal and superior courts in a county. Cal. Const. art. VI, § 5(e). See Section 85 (limited civil cases) & Comment.

The Commission has already proposed a similar amendment of Welfare and Institutions Code Section 661 (notice and citation).

Respectfully submitted,

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