

## Memorandum 99-29

### **Trial Court Unification: Followup Legislation**

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This memorandum reports on two aspects of trial court unification: (1) the status of the Commission's pending clean-up legislation (SB 210 (Senate Judiciary Committee)), and (2) progress on the Commission's joint study with the Judicial Council on revising civil procedure to take advantage of unification.

#### **Pending Clean-up Legislation**

SB 210 has been amended to incorporate decisions made at the Commission's April meeting, as well as earlier decisions. The bill has not yet been set for hearing in the Assembly Judiciary Committee. Assuming that the bill is passed by the Assembly Judiciary Committee and the Assembly floor, it will need to go back to the Senate for concurrence before being sent to the Governor.

#### **Joint Study on Civil Procedure**

The Commission's 1998 implementing legislation for trial court unification (SB 2139 (Lockyer), 1998 Cal. Stat. ch. 931) preserved existing procedural distinctions between traditional superior court cases, traditional municipal court cases (now known as "limited civil cases"), and small claims cases. As recommended in the Commission's report on trial court unification, however, the Legislature has directed the Judicial Council and the Commission to undertake a joint study reexamining this three-track system and its underlying policies in light of unification. Gov't Code § 70219. "Such a study may entail elimination of unnecessary procedural distinctions, reassessment of the jurisdictional limits for small claims procedures and economic litigation procedures, and reevaluation of which procedures apply to which type of case." *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 82-83 (1998) (footnotes omitted).

As discussed at the Commission's April meeting, Judicial Council staff and Commission staff have jointly assembled a consultative panel of experts to assist in this study of civil procedure. On June 9, 1999, the panel met for a roundtable discussion at the offices of the Judicial Council.

Participants in this meeting included:

- (1) Prof. Walter Heiser (University of San Diego)
- (2) Prof. Deborah Hensler (Stanford University)
- (3) Prof. David Jung (Director, Hastings Public Law Research Institute)
- (4) Prof. Clark Kelso (Institute for Legislative Practice, McGeorge School of Law)
- (5) Prof. Richard Marcus (Hastings College of Law)
- (6) Hon. William Schwarzer (U.S. District Court for the Northern District of California)
- (7) Larry Sipes (President Emeritus of the National Center for State Courts)
- (8) Judicial Council and Law Revision Commission staff members.

Prof. William Slomanson (Thomas Jefferson University) and Prof. Keith Wingate (Hastings College of Law) were invited to participate but were unable to attend.

The goals of the meeting were to:

- Identify key problem areas in civil procedure that unification may help to address.
- Identify the kinds of information we need to gather.
- Develop questions that need to be asked (e.g., in the form of surveys directed to judges, court personnel, attorneys, and/or others).
- Identify existing resources helpful to this study.
- Identify important policy factors to consider in revising civil procedure.

The meeting proved very productive. Judicial Council and Commission staff gave introductory presentations on trial court unification and ongoing projects, and Prof. Jung summarized a working paper on unification experiences in other states and procedural alternatives in California. A lively discussion covering numerous topics and ideas followed. Judicial Council and Commission staff are preparing follow-up communications, including minutes and a detailed list of the concepts under consideration. After exchanging written communications with the participants (as well as the panelists who were unable to attend), we will assess the need for a second meeting.

**Suggestions from Commissioners and other interested persons on points to consider in this study would be extremely helpful.** The better we can specify upfront what information to collect and approaches to consider, the more useful the empirical studies and other background work for this study will be.

Respectfully submitted,

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