

## Memorandum 99-73

**Trial Court Unification: Catalog of Cases with Jurisdiction of  
Court of Appeal on June 30, 1995**

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Proposition 220 (the trial court unification measure) amended Article VI, Section 11, of the California Constitution to state in part that “courts of appeal have appellate jurisdiction when superior courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute.” In light of this amendment, the Commission’s report on trial court unification recommends studying whether to prepare a catalog of cases within the appellate jurisdiction of the courts of appeal on June 30, 1995. The Judicial Council was given primary responsibility for this study. (Gov’t Code § 70219; *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm’n Reports 51, 84 (1998).) This memorandum is an update on the progress of that study.

Attached is a letter from Joshua Weinstein of the Judicial Council staff, reporting on a recent presentation of this matter to the Judicial Council’s Appellate Advisory Committee. The letter states that the committee reached the following conclusions:

- (1) Instead of constructing a catalog now, it would be “best to wait for the issue to be ripe and better defined.”
- (2) Resolution through a constitutional amendment is worth investigating.
- (3) Practitioners should be alerted to the issues.

Mr. Weinstein will be present at the Commission’s meeting to provide further information on these points.

Respectfully submitted,

Barbara S. Gaal  
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September 22, 1999

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Law Revision Commission  
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Dear Mr. Sterling:

I write to inform you on the status of our collaborative project, the proposed catalogue of cases within the appellate jurisdiction of the courts of appeal on June 30, 1995. We last addressed the subject at the June 1999 meeting of the Law Revision Commission. There, I told the commission that I would present the issue to the Judicial Council's Appellate Advisory Committee and inform the commission of the status at its October meeting.

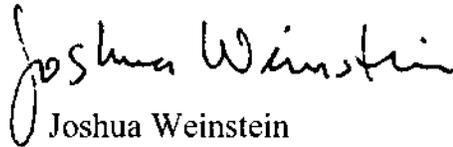
On August 31, 1999, Professor J. Clark Kelso and I presented this issue to the Appellate Advisory Committee. The committee acknowledged that guidance to the bar on appellate jurisdiction might be helpful. But it concluded that, rather than constructing a catalogue in the abstract, it was best to wait for the issue to be ripe and better defined. The committee arrived at this conclusion because it is not clear what questions the catalogue should attempt to clarify (e.g., should the catalogue define what are "causes of a type" or should it simply list every cause of action that fits within the definition? how are future causes of action defined?). However constructed, the catalogue most likely would not bind the courts, thus having no authoritative value. Since the catalogue would not resolve these issues, it might instead mislead practitioners. If that were to happen, the catalogue's intent — to protect practitioners against malpractice — would certainly not be achieved. The committee also observed that the catalogue would have to be rife disclaimers, also diminishing its value. Thus, the committee recommended that a catalogue not be

undertaken unless and until the issue has been sufficiently addressed by the appellate courts. The committee also embraced the possible resolution through a constitutional amendment.

Although the committee recommended that the catalogue not be undertaken, it did applaud alerting practitioners to the issues. Professor Kelso and I assured the committee that we will investigate several methods to highlight this issue to the bar.

I know that the Law Revision Commission is interested in our progress on this subject. I, of course, plan to attend the next meeting to discuss the matter with the commission. In the meantime, please feel free to call me at 415-865-7688 if you have any questions.

Very truly yours,

A handwritten signature in black ink that reads "Joshua Weinstein". The signature is written in a cursive style with a large initial "J".

Joshua Weinstein  
Attorney

JW:sw

cc: Melissa Johnson  
Clark Kelso