

First Supplement to Memorandum 2000-55

Civil Procedure After Trial Court Unification: Comments of Prof. Slomanson

Prof. William Slomanson (Thomas Jefferson Law School), a member of the consultative panel for this joint study, has provided input on the draft staff report attached to Memorandum 2000-55.

Prof. Slomanson is generally complimentary about the work. He has offered some editorial suggestions, which the staff will incorporate in its next draft. He also makes the following substantive points:

- *Confession of judgment filing fee.* Instead of a standard \$15 filing fee for all confessions of judgment, Prof. Slomanson would use the \$10 figure now applicable in a limited civil case. He can foresee public dissatisfaction with unifying at the higher rather than the lower fee. Given the infrequent use of confessions of judgment, the difference between a \$15 fee and a \$10 fee is unlikely to have a significant budgetary effect either way. We will discuss this further at the Commission meeting.
- *Pleading personal injury and wrongful death damages.* Prof. Slomanson is “delighted” that we are proposing to conform the pleading requirements for all personal injury and wrongful death cases. He has never been able to satisfactorily explain the different pleading rules for larger and smaller personal injury and wrongful death cases to his students.
- *Statement of jurisdictional facts.* Prof. Slomanson is also “delighted to see that California is moving further away from the much criticized federal approach to venue.” The draft legislation “would continue the rational approach whereby the ‘next nearest/most accessible’ venue would apply.”
- *Undertakings.* Prof. Slomanson points out that the proposed \$10,000 figure for the undertakings discussed in the draft report (undertaking for writ of attachment or protective order; undertaking by creditor where third party claims ownership or possession; undertaking of creditor where third party claims security interest or lien) is “arbitrary.” He proposes giving the trial

court complete discretion to assess the amount of damages. We will discuss this suggestion further at the Commission meeting.

Respectfully submitted,

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