

Memorandum 2001-80

AB 223 (Frommer): Unnecessary Procedural Differences Between Limited and Unlimited Civil Cases

AB 223 (Frommer) would implement numerous reforms, including the Commission's recommendation on *Unnecessary Procedural Differences Between Limited and Unlimited Civil Cases*, 30 Cal. L. Revision Comm'n Reports 443 (2000), which was prepared in connection with the test project for the Commission's joint study with the Judicial Council. While the bill was pending before the Senate Appropriations Committee, the California Association of Collectors ("Collectors Association") raised a concern regarding one of the reforms proposed by the Commission and the Judicial Council. The bill was amended to address that concern. It has since been passed by the Senate Appropriations Committee, passed by the Senate, and sent back to the Assembly for concurrence. This memorandum describes the amendments that were made and urges the Commission to ratify those amendments.

FILING FEE FOR FIRST PAPER IN A LIMITED CIVIL CASE

Government Code Section 72055 specifies the fee for filing the first paper in a limited civil case. The fee is \$90 where the demand exceeds \$10,000, but only \$83 where the demand is \$10,000 or less. The amount of the demand must be stated on the first page of the paper, immediately below the caption.

Proposal of the Commission and the Judicial Council

The Commission and the Judicial Council proposed to amend Section 72055 to set a uniform fee of \$87 for filing the first paper in a limited civil case, and eliminate the requirement that the amount of the demand be stated on the first page:

72055. (a) The total fee for filing of the first paper in a limited civil case, ~~case shall be ninety dollars (\$90), except that in cases where the amount demanded, excluding attorney's fees and costs, is ten thousand dollars (\$10,000) or less, the fee shall be eighty-three dollars (\$83).~~ The amount of the demand shall be stated on the first

page of the paper immediately below the caption eighty-seven dollars (\$87).

....

Comment. For purposes of simplification, Section 72055 is amended to establish a uniform filing fee for filing the first paper in a limited civil case, regardless of the amount of the demand. Formerly, the amount of the fee depended on whether the demand exceeded \$10,000, or was \$10,000 or less. 1998 Cal. Stat. ch. 93, § 315; see also 1992 Cal. Stat. ch. 696, § 73; 1997 Cal. Stat. ch. 850, § 37.

Section 72055 is further amended to delete the requirement that the amount of the demand be stated on the first page of the first paper immediately below the caption. This requirement is no longer necessary, because the amount of the demand no longer affects the amount due under the statute. To permit differentiation between limited and unlimited civil cases, however, a plaintiff in a limited civil case is still required to state in the caption that the case is a limited civil case. Code Civ. Proc. § 422.30 (caption).

Technical changes are also made for conformity with preferred drafting style.

This amendment was intended to alleviate administrative burdens resulting from charging different fees for different types of limited civil cases. *Unnecessary Procedural Differences Between Limited and Unlimited Civil Cases*, 30 Cal. L. Revision Comm'n Reports at 464-67. The amendment was not intended to increase or decrease the revenue of the courts. *Id.* at 466.

Objection of the Collectors

The Collectors Association objected to the proposed amendment of Government Code Section 72055, contending that the fee should continue to be \$83 where the demand is \$10,000 or less, and \$90 in other limited civil cases. Staff from the Administrative Office of the Courts ("AOC") met at length with representatives of the Collectors Association, attempting to resolve this concern. The Collectors Association refused to alter its position in the context of AB 223, but expressed willingness to revisit the matter next session as part of more comprehensive negotiations concerning filing fees.

Amendments to Address the Collectors' Objection

After it became clear that the Collectors Association would oppose AB 223 unless the current fee differentiation in Government Code Section 72055 was preserved, AOC staff and Commission staff discussed how to amend the bill to eliminate this opposition. The proposed amendment of the statute could not

simply be deleted, because the statute requires that the amount of the demand be stated on the first page of the first paper, and this requirement would conflict with another of the test project proposals in AB 223: The proposal to amend Code of Civil Procedure Sections 425.10 and 425.11 to apply the same rules for pleading damages to all actions for personal injury and wrongful death, regardless of the jurisdictional classification of the case. *Unnecessary Procedural Differences Between Limited and Unlimited Civil Cases*, 30 Cal. L. Revision Comm'n Reports at 450-54, 469-70.

AOC staff and Commission staff agreed to revise the amendments of Code of Civil Procedure Section 425.10 and Government Code Section 72055 to read as follows:

Code Civ. Proc. § 425.10 (amended). Contents of complaint

SEC. _____. Section 425.10 of the Code of Civil Procedure is amended to read:

425.10. (a) A complaint or cross-complaint shall contain both of the following:

(a) (1) A statement of the facts constituting the cause of action, in ordinary and concise language.

(b) (2) A demand for judgment for the relief to which the pleader claims to be entitled. If the recovery of money or damages be is demanded, the amount thereof demanded shall be stated, unless the.

(b) Notwithstanding subdivision (a), where an action is brought in the superior court to recover actual or punitive damages for personal injury or wrongful death, in which case the amount thereof demanded shall not be stated, except in a limited civil case but the complaint shall comply with Section 422.30 and, in a limited civil case, with Section 72055 of the Government Code.

Comment. Section 425.10 is amended to conform the pleading requirements in limited and unlimited civil cases. In a complaint seeking actual or punitive damages for personal injury or wrongful death, the amount demanded should not be stated, regardless of the jurisdictional classification of the action. If the case is a limited civil case, however, the first page of the complaint must (1) identify the case as a limited civil case as required by Section 422.30, and (2) state whether the amount demanded exceeds \$10,000, so as to permit determination of the filing fee. See Gov't Code § 72055 (first filing fee in limited civil case). For format requirements, see Cal. R. Ct. Rule 201(f)(8).

Technical changes are also made for conformity with preferred drafting style.

Gov't Code § 72055 (amended). First filing fee in limited civil case

SEC. _____. Section 72055 of the Government Code is amended to read:

72055. (a) The total fee for filing of the first paper in a limited civil case, case shall be ninety dollars (\$90), except that in cases a case where the amount demanded, excluding attorney's fees and costs, is ten thousand dollars (\$10,000) or less, the fee shall be eighty-three dollars (\$83). ~~The amount of the demand shall be stated on the first page of the paper immediately below the caption~~ The first page of the first paper shall state whether the amount demanded exceeds or does not exceed ten thousand dollars (\$10,000).

(b) This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 704.750, or 708.160 of the Code of Civil Procedure.

(c) The term "total fee" as used in this section and Section 72056 includes any amount allocated to the Judges' Retirement Fund pursuant to Section 72056.1, any automation fee imposed pursuant to Section 68090.7, any construction fee imposed pursuant to Section 76238, and the law library fee established pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code. The term "total fee" as used in this section and Section 72056 also includes any dispute resolution fee imposed pursuant to Section 470.3 of the Business and Professions Code, but ~~the board of supervisors of each county may~~ Judicial Council may authorize any trial court to exclude any portion of this dispute resolution fee from the term "total fee."

(d) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

Comment. Subdivision (a) of Section 72055 is amended to delete the requirement that the amount of the demand in a limited civil case be stated on the first page of the first paper immediately below the caption. It is sufficient to state whether the amount demanded exceeds \$10,000, so as to permit determination of the proper filing fee. For formatting requirements, see Cal. R. Ct. 201(f)(8). See also Code Civ. Proc. § 422.30 (caption of complaint in limited civil case

shall identify case as a limited civil case). Technical changes are also made for conformity with preferred drafting style.

These amendments would preserve the current fee differentiation for the first paper in a limited civil case, and facilitate determination of that fee, yet eliminate the requirement that the amount of the demand be stated in the complaint. (The revision of Government Code Section 72055(c) is not mentioned in the proposed Comment, because that revision was independently proposed by the Judicial Council and is unrelated to the joint study.) **The Commission should ratify these amendments and revised Comments.**

Respectfully submitted,

Barbara S. Gaal
Staff Counsel