

First Supplement to Memorandum 2005-11

Equitable Relief in Limited Civil Case (Material Received at Meeting)

The following material was received by the Commission at the meeting on March 18, 2005, in connection with Study J-1323 on equitable relief in a limited civil case, and is attached as an Exhibit:

- Exhibit p.*
1. State Bar of California, Committee on Administration of Justice 1

Respectfully submitted,

Nathaniel Sterling
Executive Secretary



THE STATE BAR OF CALIFORNIA

– COMMITTEE ON ADMINISTRATION OF JUSTICE

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TO: The California Law Revision Commission

FROM: The State Bar of California's Committee on Administration of Justice

DATE: March 16, 2005

SUBJECT: Equitable Relief in Limited Civil Cases – Memorandum 2005-11

The State Bar of California's Committee on Administration of Justice ("CAJ") has reviewed and analyzed California Law Revision Commission ("CLRC") Memorandum 2005-11 addressing equitable relief in limited civil cases. CAJ believes the memorandum is well reasoned, and generally supports the ideas raised in that memorandum, subject to the comments and questions below.

A. Revisions to Code of Civil Procedure Section 86(b)(1) – real property

The CLRC memorandum recommends revising this section to read: "A case to try title to and interest in real or personal property if the case otherwise satisfies the amount in controversy and other requirements of Section 85." This revision excludes the specific dollar amount of \$25,000 in favor of referencing the specified amount in controversy in Section 85. Additionally, CAJ agrees with the insertion of the words "amount in controversy" in order to conform to the more commonly used term in defining jurisdiction.

CAJ agrees with having the term "interest in" in front of the word "property" in Section 85(a), to address the issue of gross value versus individual interest value. Thus, according to the proposed revision to Section 85(a), the amount in controversy would include the value of an interest in property, rather than the gross value of property. CAJ believes this is an appropriate way to address access to limited jurisdiction for suits relating merely to an interest in real property, such as an easement or leasehold.

The CLRC memorandum recommends basing the valuation on the initial determination of value, as reflected in the allegation of value in the complaint. This raises the issue of whether an appraisal is necessary to be submitted with a complaint. CAJ's sense is that an appraisal will not be necessary, at least in the first instance. The plaintiff who chooses limited jurisdiction has, in effect, limited his or her own recovery. In the event the defendant challenges that jurisdiction, and a dispute arises over value, it may in some cases be necessary to obtain an appraisal.

CAJ discussed the issue of when a junior mortgage lien-holder plaintiff forecloses on a lien within the \$25,000 jurisdiction of the limited court, forces a sale of the real property, and then seeks to buy out a senior lien-holder whose lien value is beyond the jurisdictional amounts of the limited jurisdiction court. What is the value of the plaintiff's interest in the property under such circumstances? Would such a junior lien-holder plaintiff then have to move to transfer the case to unlimited jurisdiction? Would a junior lien-holder plaintiff under such circumstances be making an election of remedies by participating in limited jurisdiction? Would a junior lien-holder be deemed to have waived the right to buy out a senior?

B. Revisions to Code of Civil Procedure Section 86(a)(7) – declaratory relief

The proposed changes to Code of Civil Procedure Section 86(a)(7) would expand declaratory relief authority in limited civil cases. CAJ discussed the potential impact of a non-monetary interest being embraced by equitable relief. In civil rights actions, for example, a case may arise when valuation of the relief could be quite difficult. A question was also raised as to how the amount in controversy would be determined if an insurance carrier is seeking a declaration of non-coverage, where the unknown cost of defense under the insurance policy may need to be included as part of the amount in controversy, along with the coverage limits otherwise applicable under the policy.

CAJ discussed the issue raised in the CLRC memorandum of whether amending the statute would “increase the potential for abusive manipulation of the process” but found it difficult to answer that question in the abstract. CAJ did discuss insurance coverage cases in particular, and believes that insurance carriers would be inclined to invoke limited jurisdiction in cases where, for example, a carrier is seeking a declaration of non-coverage. This would allow the carrier to move forward quickly for declaratory relief, along with the discovery limitations in limited cases, and would result in a change in process for both plaintiff and defendant.

CAJ had a separate question about the potential impact of a finding in a declaratory relief trial that *exceeds* the jurisdictional limitation, if the relief could not be readily apportioned to meet the jurisdictional limitations. For example, if at the beginning of a case, the “value” of the declaratory relief sought was at \$25,000 or less, but at trial declaratory relief is granted in an amount that is arguably in excess of \$25,000 or for something which is unclear as to the valuation, what happens? It would be difficult or impossible to “cap” declaratory relief at \$25,000, thereby raising an issue that does not exist with a monetary recovery in limited jurisdiction cases.

C. Revising Code of Civil Procedure Section 871.3 - good faith improver claims

CAJ agrees with the proposed revision, which it believes is minor and reflects improved drafting of the statutory language.

D. Revision to Code of Civil Procedure Section 580

CAJ agrees with the recommendation to revise this section to conform with the specific revisions as proposed.

DISCLAIMER

This position is only that of the State Bar of California's Committee on Administration of Justice. This position has not been adopted by the State Bar's Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this position are funded from voluntary sources.