

## First Supplement to Memorandum 2007-14

**Trial Court Restructuring: Appellate Jurisdiction of Bail Forfeiture**

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This supplement discusses further comments by Alex Cerul, a staff attorney for the Santa Clara County Superior Court. Mr. Cerul wrote the letter that brought appellate jurisdiction of bail forfeiture to the Commission's attention.

Mr. Cerul communicated with the staff by telephone. He also sent a copy of a recent order by the appellate division of his court. See Exhibit pp. 1-2.

## SANTA CLARA COUNTY SUPERIOR COURT NIGHT COMMISSIONER

The memorandum reserved discussion of bail forfeiture at a probable cause hearing by a Santa Clara County Superior Court night commissioner. See CLRC Memorandum 2007-14, p. 7.

According to Mr. Cerul, the night commissioner has no opportunity to forfeit bail at the probable cause hearing. It is *not* a preliminary examination to determine whether there is probable cause on a felony complaint. Instead, it is to determine whether there is probable cause to continue holding a person arrested without a warrant. The person has not been released on bail, so there can be no forfeiture.

Therefore, there is no need for further attention to this issue.

## NEED FOR CLARIFICATION

In the order Mr. Cerul provided, the Appellate Division of the Santa Clara County Superior Court says that it lacks jurisdiction of a matter and the appeal must be directed to a court of appeal. See Exhibit pp. 1-2. Mr. Cerul informed the staff that the matter in question involved a bail forfeiture at a preliminary examination in a felony case. The order thus shows that the Appellate Division is no longer deciding bail forfeiture appeals in the same way as before unification

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Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website ([www.clrc.ca.gov](http://www.clrc.ca.gov)). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

(when such a matter would have been appealable to the appellate department).  
This departure underscores the need for clarifying legislation.

Respectfully submitted,

Catherine Bidart  
Staff Counsel

UCS

FILED

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KIRI TORRE  
Chief Executive Officer  
Superior Court of CA County of Santa Clara  
BY \_\_\_\_\_ DEPUTY

Elizabeth Pierce

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SANTA CLARA  
APPELLATE DIVISION

PEOPLE OF THE STATE OF CALIFORNIA, )  
Plaintiff and Respondent, )  
v. )  
SKIP MEYERS, )  
Defendant, )  
RANGER INSURANCE COMPANY, )  
Real Party in Interest. )

No. 1-06-AP-000347  
Trial Ct No. CC583257

ORDER

Having considered the threshold issue of jurisdiction, this Court determines that the instant appeal must be heard and considered by the Sixth District.

The matter at issue arises out of a felony case and the Appellate Division has jurisdiction only "over appeals in misdemeanor and infraction cases." (*Snukal v. Flightways*

1 Manufacturing, Inc. (2000) 23 Cal.4th 754, 763, citing Penal Code S  
2 1466. See also People v. Nickerson (2005) 128 Cal.App.4th 33, 36;  
3 "appellate divisions of the superior courts [] have appellate  
4 jurisdiction over appealable orders from 'misdemeanor case[s].'"

5 Real Party in Interest is hereby given thirty days to provide  
6 the additional filing fee upon receipt of which the clerk is  
7 directed to process the appeal for the Sixth District Court of  
8 Appeal.

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11 DATED: 11/1/06

  
LINDA R. CONDRON  
Presiding Judge

  
EDWARD F. LEE  
Judge

  
RANDALL SCHNEIDER  
Judge