

## First Supplement to Memorandum 2014-51

### **Trial Court Unification: Publication of Legal Notice (Public Comment)**

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The Commission<sup>1</sup> has received the attached comment on the tentative recommendation from Judicial Council. The staff has not prepared an analysis of the comment at this time, but will do so for the December meeting.

Respectfully submitted,

Kristin Burford  
Staff Counsel

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1. 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.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.



## JUDICIAL COUNCIL OF CALIFORNIA

770 L Street, Suite 1240 • Sacramento, California 95814-3368  
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

TANI G. CANTIL-SAKAUYE  
*Chief Justice of California*  
*Chair of the Judicial Council*

MARTIN HOSHINO  
*Administrative Director*

CORY T. JASPERSON  
*Director, Governmental Affairs*

October 28, 2014

California Law Revision Commission  
4000 Middlefield Road, Room D-2  
Palo Alto, CA 94303-4739  
Attention: Kristin Burford, Staff Counsel

RE: CLRC Tentative Recommendation, Trial Court Unification: Publication of Legal Notice  
(September 2014) – Judicial Council Opposition

Dear Chairperson King and Members:

The Judicial Council regrets to inform you of its opposition to the California Law Revision Commission's September, 2014 Tentative Recommendation on Publication of Legal Notice. The council's opposition to CLRC's tentative recommendation is based on a number of significant operational and fiscal concerns, which are detailed below.

First, the Commission's proposal to designate the Judicial Council as the custodian of the information about the boundaries of each public notice district is based on an incorrect and unfounded assumption that the council "would have ready access to historical information on judicial district boundaries." (Tentative Recommendation at p.10.) As CLRC staff have noted, the judicial district boundaries that are the focus of this proposal are, and always have been, maintained at the *county* level.<sup>1</sup> The Judicial Council historically has had no role in or responsibility for compiling or maintaining judicial district boundary information or maps, nor

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<sup>1</sup> See Govt. Code sec. 71042.6, which provides "[f]or the purpose of establishing boundaries under Section 71042.5, a map approved by the county surveyor shall be kept on file with the county recorder showing the boundaries of all consolidated or unified districts and component districts as of the date of consolidation or unification. The map shall be conclusively presumed to be accurate and may be used in evidence in any proceeding involving application of Section 71042.5."

does it have any authority over the county governmental entities that have had this longstanding, statutory obligation.

Second, switching this statutory obligation from the counties to the Judicial Council would appear to be unworkable. As noted above, the council has no authority over the counties. In addition, CLRC's proposal as presently drafted does not contain a process for the counties to certify the publication notice boundary information, nor does it impose a corresponding obligation on the counties to transfer such information to the council.

Third, the tentative recommendation fails to adequately address the significant operational problems, which were well-recognized by the Commission's staff, that are presented when individual counties are either unable to produce any publication notice district boundary information whatsoever, or are unable to do so in a readable and accessible format. After performing a quick check of several county recorder websites, CLRC staff stated in one of its study memoranda that "it appears these maps are, at a minimum, not easy to find online and may not be available online at all." The staff memo continues by noting that "staff time and resources may be required to answer inquiries about the maps and provide the maps upon request." However, the Commission's proposal provides no guidance or method for how the Judicial Council (or any other entity for that matter) would handle requests for publication district boundary information in cases where such information is not obtainable or impossible to access in a reliable fashion.

Fourth, although the Judicial Council has not yet conducted a formal fiscal analysis of CLRC's proposal, the costs to the council for complying with these new statutory mandates are likely to be significant and ongoing. CLRC staff acknowledges that "exhaustive research" will likely be required in an effort to compile the publication notice boundary information for the entire state. However, the Commission's proposal lacks an identified source of funding for this purpose. The Judicial Council does not currently have the requisite staff and resources to take on this significant new program, and it is unlikely that it would be able to do so in the foreseeable future given the ongoing fiscal crisis facing the council and the entire judicial branch.

Finally, although we are understand the Commission's overall goal in having a statewide resource for publication notice boundary information, it does not appear to be feasible for the Judicial Council to assume this responsibility at the present time. In the current era of limited resources, and in the absence of an identified alternative statewide resource, continued county-by-county maintenance of publication notice boundary information seems a more practical solution. Each county already has its own website, and should be able to post whatever information it has available regarding the judicial districts it is already required to maintain. This approach has the advantage of spreading the costs of the program across 58 counties, rather than the Judicial Council or any other statewide entity having to bear all of the costs. Moreover,

personnel at the county level should be more familiar with the locales at issue rather than a staff member at one central location (e.g., the Judicial Council's main office in San Francisco). Since the main function of notice by publication is to target notice to a *less-than-countywide, local* population that is intended to receive it, keeping the obligation of maintaining the publication district boundary information at the county level and requiring the counties to post it online, while not ideal, appears to us to be the most practical and cost-effective method of addressing the underlying problem.

For these reasons, the Judicial Council opposes the tentative recommendation. However, we remain available to consult with Commission members and its staff in a cooperative effort to explore alternative approaches to addressing the underlying problem in a more cost-efficient and workable manner.

Respectfully,

A handwritten signature in black ink, appearing to read "Daniel Pone". The signature is fluid and cursive, with the first name "Daniel" and last name "Pone" clearly distinguishable.

Daniel Pone  
Senior Attorney

cc: Members, Policy Coordination and Liaison Committee, Judicial Council  
Mr. Martin Hoshino, Administrative Director, Judicial Council  
Mr. Cory Jasperson, Director, Governmental Affairs, Judicial Council