

Minutes

February 16, 2016

## Memorandum 2016-10

**Minutes of Meeting on February 4, 2016 (Draft)**

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The California Law Revision Commission<sup>1</sup> held a meeting on February 4, 2016. A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Brian Hebert  
Executive Director

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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.

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**DRAFT** MINUTES OF MEETING  
CALIFORNIA LAW REVISION COMMISSION  
FEBRUARY 4, 2016  
SACRAMENTO

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A meeting of the California Law Revision Commission was held in Sacramento on February 4, 2016.

**Commission:**

*Present:* Taras Kihiczak, Chairperson  
Diane F. Boyer-Vine, Legislative Counsel  
Assembly Member Ed Chau  
Thomas Hallinan  
Susan Duncan Lee  
Jane McAllister

*Absent:* Crystal Miller-O'Brien, Vice Chairperson  
Damian Capozzola  
Victor King  
Senator Richard D. Roth

**Staff:** Brian Hebert, Executive Director  
Barbara Gaal, Chief Deputy Counsel  
Kristin Burford, Staff Counsel  
Steve Cohen, Staff Counsel

**Other Persons:**

Lazaro Cardenas, Office of Assembly Member Chau  
Eric Dang, Assembly Committee on Judiciary  
Prof. William Dodge, U.C. Davis School of Law  
Lawrence Doyle, Conference of California Bar Associations  
Robert Flack  
Brian Flemmer, Office of Senator Roth  
Prof. Katherine Florey, U.C. Davis School of Law  
Ann Gilmour, Administrative Office of the Courts  
Meredith Hankins  
Donn Hoffman, Los Angeles County District Attorney's Office  
Ron Kelly  
Jeff Kichaven  
Elizabeth Dietzen Olsen, Senate Office of Research  
Delia Parr, California Indian Legal Services  
Phyllis G. Pollack, PGP Mediation

Ana Sambold, National Conflict Resolution Center  
Judy Yee, Office of Assembly Member Chau  
Harold Thomas, Butte County District Attorney’s Office  
John S. Warnlof, California Dispute Resolution Council  
Nancy Neal Yeend

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APPROVAL OF ACTIONS TAKEN

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Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted in connection with the affected decision.

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MINUTES OF DECEMBER 10, 2015, COMMISSION MEETING

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Memorandum 2016-1 presented a draft of the Minutes of the December 10, 2015, Commission meeting. The Commission approved the Minutes as submitted. (*Commissioner Chau was not present when this decision was made.*)

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ADMINISTRATIVE MATTERS

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**Report of Executive Director**

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The Executive Director reported that the Governor’s proposed budget for Fiscal Year 2016-2017 would continue the existing level of Commission funding, paid as reimbursements from the Office of Legislative Counsel.

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The Executive Director introduced Meredith Hankins, a third-year student at U.C. Davis School of Law, who is currently serving as a Commission extern.

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1 **Commissioner Suggestions**

2 No Commissioner suggestions were made.

3 **Meeting Schedule**

4 The Commission changed the date of its April 1, 2016, meeting. The meeting  
5 will now be held on April 14, 2016.

6 The Commission changed the location of its December 1, 2016, meeting in San  
7 Diego. The meeting will now be held in Los Angeles.

8 At the April meeting, the Commission will consider a possible change to the  
9 date of its May 26, 2016, meeting in Sacramento.

10 *(Commissioner Chau was not present when those decisions were made.)*

11 **Open Government Laws**

12 The Commission considered Memorandum 2016-3, summarizing “open  
13 government” laws applicable to the Commission. No Commission action was  
14 required or taken.

15 **2016 LEGISLATIVE PROGRAM**

16 The Commission considered Memorandum 2016-4, discussing the status of its  
17 2016 Legislative Program. No Commission action was required or taken.

18 **STUDY D-1200 — RECOGNITION OF TRIBAL AND FOREIGN COURT MONEY JUDGMENTS**

19 The Commission considered Memorandum 2016-6 and its First Supplement,  
20 discussing the jurisdictional standards applicable to the recognition of foreign  
21 and tribal court money judgments.

22 With respect to foreign court judgments, the Commission decided that  
23 California’s Uniform Act should be revised to make clear that recognition of a  
24 foreign judgment may be opposed for one or both of the following reasons:

- 25 (1) The foreign court lacked personal jurisdiction under its own laws.
- 26 (2) The foreign court’s exercise of personal jurisdiction was  
27 inconsistent with due process rights applicable in a California  
28 court.

29 With respect to tribal court judgments, the Commission did not propose any  
30 changes to the jurisdictional standards. The Commission indicated its intention  
31 to revisit the matter if it receives further input from interested groups.

1        *(Commissioner Chau was not present for those decisions).*

2        STUDY G-301 — GOVERNMENT INTERRUPTION OF COMMUNICATION SERVICES

3        The Commission considered Memorandum 2016-5 and its First and Second  
4        Supplements, discussing the interruption of area communications in order to  
5        protect public health, safety, and welfare from a dangerous public assembly. The  
6        Commission made the following decisions regarding such action:

- 7        • Before approving such action, a magistrate should be required to  
8        find that the action would leave open “ample alternative channels  
9        for communication.”
- 10       • The staff should prepare language, for Commission review, that  
11       would require a state or local agency to attest that it has  
12       considered the practical disadvantages of taking such action,  
13       before doing so.
- 14       • The staff should prepare draft Comment language, for  
15       Commission review, to provide guidance on relevant First  
16       Amendment concerns when government takes such action.
- 17       • Any future written analysis of the First Amendment implications  
18       of such action will take into account the observations of Professor  
19       Ashutosh Bhagwat and Professor Brian Soucek, both of U.C. Davis  
20       School of Law, as discussed in the First and Second Supplement.
- 21       • The staff will also research cases that address the constitutionality  
22       of gang injunctions that limit public assembly.

23       More broadly, future memoranda in this study will discuss three further  
24       communication interruption scenarios: (1) the interruption of communications of  
25       persons under government custody or control, (2) the interruption of  
26       communications incident to the lawful seizure of communications equipment  
27       pursuant to a search warrant, and (3) the interruption of Internet  
28       communications to protect against a cyber attack.

29       The staff reiterated its intention to meet with the California Homeland  
30       Security Advisor, to discuss the intersection between California statutory law  
31       and the federal Emergency Wireless Protocol.

