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

CONTENTS

Approval of Actions Taken........................................................................................................2
Minutes of December 10, 2015, Commission Meeting..........................................................2
Administrative Matters .............................................................................................................2
  Report of Executive Director .................................................................................................2
  Commissioner Suggestions .....................................................................................................3
Meeting Schedule .....................................................................................................................3
Open Government Laws ...........................................................................................................3
2016 Legislative Program .........................................................................................................3
Study D-1200 — Recognition of Tribal and Foreign Court Money Judgments........................3
Study G-301 — Government Interruption of Communication Services...............................4
Study K-402 — Relationship Between Mediation Confidentiality and Attorney Malpractice and Other Misconduct..................................................5
Study R-100 — Fish and Game Law ......................................................................................5

APPROVAL OF ACTIONS TAKEN

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.

MINUTES OF DECEMBER 10, 2015, COMMISSION MEETING

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.)

ADMINISTRATIVE MATTERS

Report of Executive Director

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.

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.
**Commissioner Suggestions**

No Commissioner suggestions were made.

**Meeting Schedule**

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

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

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

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

**Open Government Laws**

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

**2016 Legislative Program**

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

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

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

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

1. The foreign court lacked personal jurisdiction under its own laws.
2. The foreign court’s exercise of personal jurisdiction was inconsistent with due process rights applicable in a California court.

With respect to tribal court judgments, the Commission did not propose any changes to the jurisdictional standards. The Commission indicated its intention to revisit the matter if it receives further input from interested groups.
(Commissioner Chau was not present for those decisions).

STUDY G-301 — GOVERNMENT INTERRUPTION OF COMMUNICATION SERVICES

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

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

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

The staff reiterated its intention to meet with the California Homeland Security Advisor, to discuss the intersection between California statutory law and the federal Emergency Wireless Protocol.
STUDY K-402 — RELATIONSHIP BETWEEN MEDIATION CONFIDENTIALITY AND ATTORNEY MALPRACTICE AND OTHER MISCONDUCT

The Commission considered Memorandum 2016-8 and Memorandum 2016-9. The Commission also considered the materials attached to the First Supplement to Memorandum 2016-8. No Commission action was required or taken.

STUDY R-100 — FISH AND GAME LAW

The Commission considered Memorandum 2016-7, presenting a draft of provisions concerning commercial fishing and related activity. The Commission provisionally approved the draft for inclusion in a draft tentative recommendation, with revisions to correct identified typographical errors.

In addition, the staff will do all of the following:

- Contact the Office of Legislative Counsel to discuss the use of the terms “fee” and “tax” in existing Fish and Game Code Section 15003.
- Consider adding language to the Commission’s Comments to proposed Sections 15135 and 15140, discussing the effect of res judicata or collateral estoppel when suspending a license based on a prior criminal conviction.
- Consider whether to revise existing Fish and Game Code Section 7707 to include a cross-reference to other law governing nuisance.

The Commission also decided to continue use of the word “fisherman” in the proposed Fish and Wildlife Code, rather than “fisher.” (Commissioner Kihiczak abstained from that decision. Commissioner Chau was not present for any of the decisions made in connection with this study.)