CALIFORNIA LAW REVISION COMMISSION

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NEWS RELEASE November 13, 2008 For Immediate Release Contact: Catherine Bidart Staff Counsel 916-739-7051

Attorney-Client Privilege After Client's Death

Request for Public Comment

The Law Revision Commission seeks public comment on a tentative recommendation relating to the attorney-client privilege after the client's death.

For the most part, the proposal would continue existing law. The privilege would continue to survive the client's death so long as there is a personal representative (Evid. Code §§ 953-954).

The tentative recommendation proposes minor refinements to existing law, which would:

- Clarify that an existing exception in Evidence Code Section 957, which applies when all parties claim through the deceased client, applies when one or more of the parties claims under a nonprobate transfer. (Evid. Code § 957).
- Clarify that the privilege is held by a personal representative who is appointed for purposes of subsequent estate administration (i.e., estate administration that occurs after the original estate administration has ended, as when a new asset is discovered) (Evid. Code § 953(c); Prob. Code § 12252).

The tentative recommendation is available from the California Law Revision Commission, 4000 Middlefield Road, Room D-2, Palo Alto, CA 94303-4739. The tentative recommendation is also available at the Commission's website (www.clrc.ca.gov) in the pull-down "Reports" menu.

The Commission often substantially revises its recommendations as a result of public comment. To receive timely consideration, comments should be submitted by **January 23, 2009**.
