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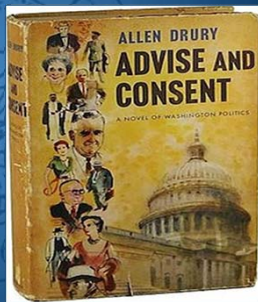
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Advisements & Objections

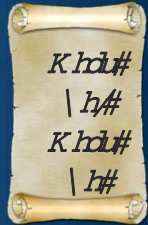
Family
Code 4251



How is advisement given?



Sign here →



JUDICIAL COUNCIL OF CALIFORNIA

❖ Cal. Const. , art. VI, §21



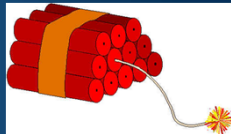
TEMPORARY



JUDICIAL COUNCIL OF CALIFORNIA

Discussion

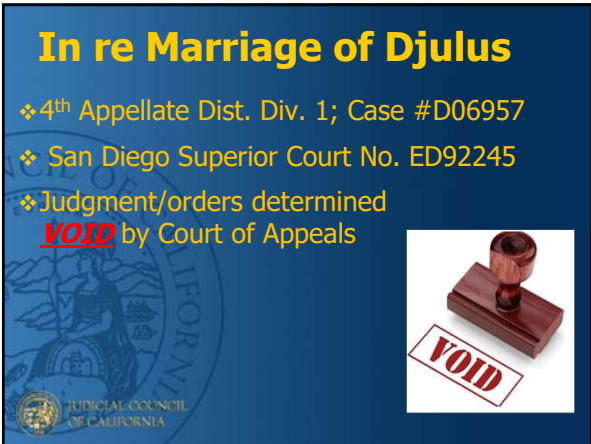
❖ Is it really that big of a deal if the 4251 announcement is not made, or made and not indicated on the record (minutes)?



JUDICIAL COUNCIL OF CALIFORNIA

In re Marriage of Djulus

- ❖ 4th Appellate Dist. Div. 1; Case #D06957
- ❖ San Diego Superior Court No. ED92245
- ❖ Judgment/orders determined **VOID** by Court of Appeals



- ❖ Consent for commissioner must be given prior to commissioner making any substantive rulings

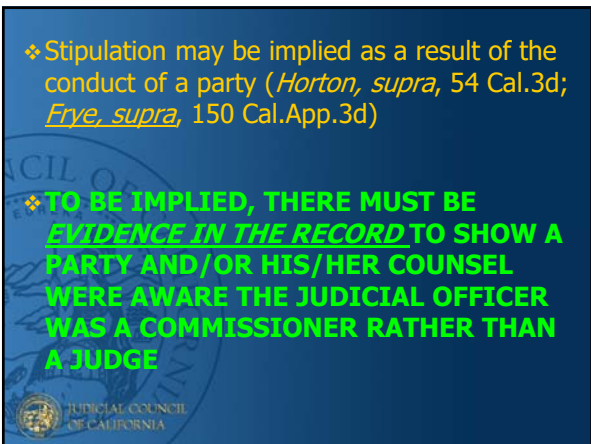


- ❖ Advisement must be given at each hearing, even if it was given at a prior hearing



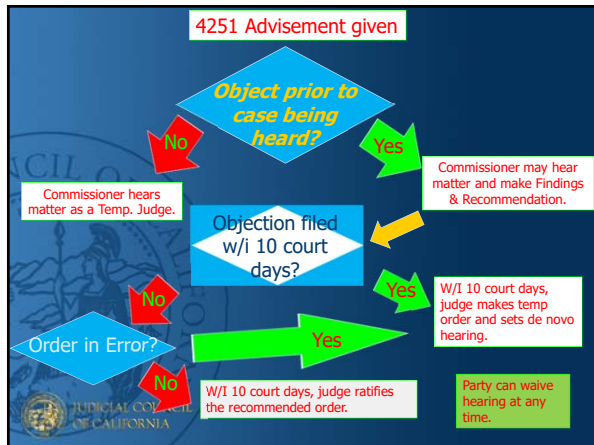
- ❖ Stipulation may be implied as a result of the conduct of a party (*Horton, supra*, 54 Cal.3d; *Frye, supra*, 150 Cal.App.3d)

❖ **TO BE IMPLIED, THERE MUST BE EVIDENCE IN THE RECORD TO SHOW A PARTY AND/OR HIS/HER COUNSEL WERE AWARE THE JUDICIAL OFFICER WAS A COMMISSIONER RATHER THAN A JUDGE**



Objection to Commissioner





Group Discussion #1

- ❖ Hearing 06/27/2019; Obligor objects to commissioner prior to hearing. The same day, Commissioner files recommended order, and clerk serves parties. Obligor files FL-666 on 07/12/2019. Is the objection timely?
- ❖ Why or why not??

Family Code 4251(c)

- ❖ If any party objects to the commissioner acting as a temporary judge, the commissioner **may** hear the matter and make findings of fact and a recommended order.
- ❖ Within ten (10) court days, a judge shall ratify the recommended order unless either party objects to the recommended order, or where a recommended order is in error.
 - ❖ In either case, the judge sets the matter for trial de novo.
 - ❖ Any party may waive his or her right to the review hearing at any time.



Group Discussion #2

- ❖ Same facts as #1, but Obligor file FL-666 on 7/15/19. What does clerk do?
- ❖ What if Obligor does not file FL-666 at all. What happens?



Notice of Objection FL-666

(Mandatory Form)

Note: Code does not specify form must be filed, but Judicial Council forms themselves have the same effect as a rule of court.



NOTICE
 You must file this notice with the clerk of the court where the Findings and Recommendation of Commissioner was made within 10 court days of the date the recommended order was made.

**NOTICE OF OBJECTION
 (Governmental)**

Form Adopted by Mandatory Use
 Judicial Council of California
 FL-665 (Rev. January 1, 2015)

Page 1 of 1
 Family Code, § 411.15
 www.courtinfo.ca.gov

FL-665

ATTORNEY OR PARTY WITHOUT ATTORNEY (NAME, ADDRESS AND AREA)

TELEPHONE NO. FAX NO.

ATTORNEY FOR PARTY:

SUPERIOR COURT OF CALIFORNIA, COUNTY OF

JUDICIAL ADDRESS
 MAILING ADDRESS
 CITY AND ZIP CODE
 COUNTY NAME

PLAINTIFF/PETITIONER:
 DEFENDANT/RESPONDENT:
 OTHER PARTY:

NOTICE OF OBJECTION DATE NUMBER

1. I object to the Findings and Recommendation of Commissioner made on (date):
 by Commissioner (name):

2. I request that the matter be set for a de novo (new) hearing before a superior court judge.
 Date: _____

(TYPE OR PRINT NAME) SIGNATURE OF PERSON REQUESTING HEARING

NOTICE
 You must file this notice with the clerk of the court where the Findings and Recommendation of Commissioner was made within 10 court days of the date the recommended order was made.

**Findings &
 Recommendation of
 Commissioner**

FL-665
 (Alternative Mandatory Use)

JUDICIAL COUNCIL OF CALIFORNIA

Review of Commissioner's Findings of Fact & Recommendation

FL-667 (Mandatory Form)

JUDICIAL COUNCIL OF CALIFORNIA

RESPONDENT/PLAINTIFF
 RESPONDENT/DEFENDANT
 OTHER PARTY

REVIEW OF COMMISSIONER'S FINDINGS OF FACT AND RECOMMENDATION

1. HEARING WAS HELD BEFORE Commissioner (name) on (date) _____.

2. The Findings and Recommendation of Commissioner was filed on (date) _____.

No objection having been filed within 10 court days, the findings of fact and recommended order of the Commissioner are affirmed. Each of the parties is ordered to comply with all the terms of the order.

3. An objection was filed on (date) _____ by (party) _____.

4. The Findings and Recommendation of Commissioner is in error.

5. A hearing de novo is set for:

(1) Date: _____ Time: _____ (2) Court: _____ (3) District: _____ (4) County: _____ (5) Room: _____

(7) The address of the court: is shown above is as follows: _____

6. THE FOLLOWING ARE THE TEMPORARY ORDERS:

(1) The recommended orders of the Commissioner.

(2) Other (specify): _____

Continued in Attachment #0: _____

Number of additional pages attached: _____ Separate Enclosure List attached

REVIEW OF COMMISSIONER'S FINDINGS OF FACT AND RECOMMENDATION (Governmental) Page 1 of 1
 JUDICIAL COUNCIL OF CALIFORNIA



RESPONDENT/PLAINTIFF
 RESPONDENT/DEFENDANT
 OTHER PARTY

CLERK'S CERTIFICATE OF MAILING


I certify that I am not a party to this cause and that a true copy of the Review of Commissioner's Findings of Fact and Recommendation was mailed first class, postage fully prepaid, in a sealed envelope addressed as shown below, and that the form was mailed at (place) _____ California.

Date: _____ Clerk, by _____ (signature)

REVIEW OF COMMISSIONER'S FINDINGS OF FACT AND RECOMMENDATION (Governmental) Page 1 of 1
 JUDICIAL COUNCIL OF CALIFORNIA

Commissioner v. Judge

- ❖ Family Code §4251(d) – (f) states Commissioner shall, where appropriate, do any of the following...



- ❖ Review & determine ex parte applications for orders & writs
- ❖ Take testimony
- ❖ Establish a record, evaluate evidence, make recommendations or decisions
- ❖ Enter judgments/orders based upon voluntary acknowledgments of support liability, parentage & stipulated agreements as to child support
- ❖ Enter default orders/judgments
- ❖ In paternity actions, order parties to submit to genetic testing
- ❖ If requested, join issues re custody, visitation and protective orders in action filed by LCSA
 - ❖ Refer parties to mediation
 - ❖ Accept stipulations re custody, visitation, and protective orders
 - ❖ Refer contested issues of custody, visitation, and protective orders to judge or another commissioner
 - ❖ Or hear the matter if costs related to Title IV-D are segregated
- ❖ **The LCSA shall be served notice by moving party of any proceeding...or any order shall be voidable upon motion of the LCSA**

Commissioner may also hear other matters such as:



- ❖ Small Claims
- ❖ Civil
- ❖ Criminal
- ❖ Unlawful Detainers
- ❖ Dependency
- ❖ Traffic
- ❖ Restraining Orders
- ❖ Mandatory Settlement Conferences
- ❖ Case Management Conference
