JUDICIAL COUNCIL OF CALIFORNIA

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

MARTIN HOSHINO
*Administrative Director*

CORY T. JASPERSON
*Director, Governmental Affairs*

September 12, 2018

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: Senate Bill 1155 (Hueso) – Request for Veto

Dear Governor Brown:

The Judicial Council respectfully requests your veto on Senate Bill 1155 because the most recent amendments repeal Section 116.550 of the Code of Civil Procedure, which is needed to provide context for the proposed amendment to Section 68560.5 of the Government Code.

The courts are committed to the goal of providing interpreters in small claims proceedings. There remains, however, the concern that, as amended, SB 1155 creates an ambiguity in the law that could be interpreted to remove the flexibility for small claims courts to appoint temporary interpreters for LEP litigants when a certified, registered, or provisionally qualified interpreter is not available in the litigant's language.

If interpreted in this way, the bill would impede access to justice for LEP small claims litigants. If a certified, registered, or provisionally qualified interpreter were not available in the LEP small claims litigant's language, the proceeding would need to be continued. Even a second trip to court to address a small claims issue could effectively deprive litigants of justice because of the need to take time off from work and other actions that may pose logistics hardships or be cost-prohibitive. As stated in Code of Civil Procedure sections 116.210 and 116.510, the purpose of

small claims court is to provide an informal judicial forum accessible to all parties to resolve minor civil disputes promptly, fairly, and inexpensively. The delay imposed on a small claims litigant for whom there is not available a certified, registered, or provisionally qualified interpreter may be a hardship far more prejudicial than allowing the use of a court-approved temporary interpreter.

For these reasons, the Judicial Council requests your veto on SB 1155.

Should you have any questions or require additional information, please contact me at 916-323-3121.

Sincerely,

*Mailed on September 13, 2018*

Cory T. Jasperson
Director, Governmental Affairs

CTJ/AL/yc-s

cc: Hon. Ben Hueso, Member of the Senate
Hon. Lorena Gonzalez Fletcher, Member of the Assembly
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California

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April 13, 2018

Hon. Hannah-Beth Jackson, Chair
Senate Judiciary Committee
State Capitol, Room 2032
Sacramento, California 95814

Subject: Senate Bill 1155 (Hueso), as amended April 2, 2018 – Support/Sponsor
Hearing: Senate Judiciary Committee – April 24, 2018

Dear Senator Jackson:

The Judicial Council is pleased to support and sponsor SB 1155 which seeks to improve access to justice for millions of LEP (limited-English proficiency) Californians by expanding language access services within our courts. Specifically, the bill clarifies that courts may assign interpreters in small claims actions. SB 1155 also provides the court and parties discretion to delay a proceeding (ideally just one time) to allow the court to find an available certified/registered interpreter, as well as to appoint a temporary interpreter in the interests of justice when a certified/registered interpreter is not available.

To complete the expansion of language access services, including the provision of court interpreters in small claims actions when court resources allow, the council is sponsoring SB 1155 to delete an exception that could be misunderstood as not requiring interpreters in small claims proceedings, and authorize courts to appoint certified/registered interpreters in small claims proceedings. The latter amendment, to Code of Civil Procedure section 116.550, also provides judicial officers with discretion to appoint a temporary interpreter if an attempt to

secure a certified/registered or provisionally qualified interpreter is not successful. In the absence of such an amendment, existing CCP 116.550 does not provide any parameters as to the appointment of non-certified/registered interpreters. The amendments proposed in SB 1155 are necessary to clarify such procedures. The amendments support recommendations 71 and 72 in the Strategic Plan for Language Access in the California Courts *(www.courts.ca.gov/ documents/ CLASP_report_060514.pdf)*.

Effective January 1, 2015, Evidence Code section 756 provides that qualified interpreters should be provided to LEP court users in all court proceedings, including small claims proceedings, at no cost to the parties, regardless of the income of the parties. If sufficient funding is not available to provide interpreters in all civil matters, the statute sets forth an order of priority for courts to follow in deploying interpreters. Small claims matters are in priority group eight (8), "All other civil actions or proceedings"—the last of the priority groups (Assembly Bill 1657, Stats. 2014, ch. 721). Separate statutes currently exempt small claims cases from the definition of court proceedings in which qualified interpreters must be appointed (Gov. Code, § 68560.5), and specifically authorize a court to permit an individual other than an attorney to assist an LEP party in small claims proceedings (Code Civ. Proc., § 116.550).

LAP recommendations 71 and 72 recommend amendments to both of these statutes to ensure that, as resources permit, court interpreters are provided to LEP court users in small claims matters. The recommended statutory changes also conform to recent changes to rule 2.893 of the California Rules of Court as recommended by the Court Interpreters Advisory Panel regarding the appointment of noncertified interpreters in court proceedings, including civil matters. That rule change went into effect on January 1, 2018.

SB 1155 will bridge the gap between limited-English proficient court users and the courts by clarifying that courts may appoint interpreters in small claims proceedings, and by allowing LEP court users to use temporary interpreters in the interests of justice when certified/registered interpreters are not available. By providing more interpreters and making a greater variety of languages available for people in small claims court, we can increase access to justice in California.

This proposal supports the Judicial Council's Language Access Plan Goal I, which outlines fundamental due process goals. These include:

- All persons will have equal access to the courts, and court proceedings and programs
- Court procedures will be fair and understandable to court users

Access to the court system for all Californians is a critical component of our judicial system and builds trust and confidence in our system of laws. Senate Bill 1155 seeks to improve access for millions of Californians by expanding language access services within our justice system.

For these reasons, the Judicial Council is pleased to support and sponsor SB 1155.

Should you have any questions or require additional information, please contact Andi Liebenbaum at 916-323-3121.

Sincerely,

*Mailed on April 13, 2018*

Cory T. Jasperson
Director, Governmental Affairs

CTJ/AL/yc-s
cc: Members, Senate Judiciary Committee
Hon. Ben Hueso, Member of the Senate
Ms. Margie Estrada Caniglia, Chief Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California

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June 21, 2018

Hon. Mark Stone, Chair
Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, California 95814

Subject: Senate Bill 1155 (Hueso), as proposed to be amended – Support/Sponsor
Hearing: Assembly Judiciary Committee – June 26, 2018

Dear Assembly Member Stone:

The Judicial Council is pleased to support and sponsor SB 1155, which will improve access to justice for millions of LEP (limited-English proficiency) Californians by expanding language access services within our courts. Specifically, the bill clarifies that courts may assign interpreters in small claims actions; requires that, if a certified, registered or provisionally qualified interpreter is unavailable, the court shall delay a proceeding so that an appropriate interpreter can be found; and, provides that a court may, in the interests of justice and to avoid undue burdens on a litigant, proceed without delay at the request of the litigant and with a temporary interpreter under limited circumstances and so long as specified findings are made. The bill, as recently amended, also requires the Judicial Council to collect and report annually on information from courts about the availability and utilization of interpreters. This data collection and reporting requirement, which sunsets in 2021, will provide the Legislature with quality information that will assist in making future decisions about and allocating resources for interpreter services.

To complete the expansion of language access services, including the provision of court interpreters in small claims actions when court resources allow, the council is sponsoring SB 1155 to delete an exception that could be misunderstood as not requiring interpreters in small claims proceedings, and authorize courts to appoint certified/registered interpreters in small claims proceedings. The latter amendment, to Code of Civil Procedure section 116.550, also provides judicial officers with discretion to appoint a temporary interpreter if an attempt to secure a certified/registered or provisionally qualified interpreter is not successful. In the absence of such an amendment, existing CCP 116.550 does not provide any parameters as to the appointment of non-certified/registered interpreters. The amendments proposed in SB 1155 are necessary to clarify such procedures. The amendments support recommendations 71 and 72 in the Strategic Plan for Language Access in the California Courts *(www.courts.ca.gov/ documents/ CLASP_report_060514.pdf)*.

Effective January 1, 2015, Evidence Code section 756 provides that qualified interpreters should be provided to LEP court users in all court proceedings, including small claims proceedings, at no cost to the parties, regardless of the income of the parties. If sufficient funding is not available to provide interpreters in all civil matters, the statute sets forth an order of priority for courts to follow in deploying interpreters. Small claims matters are in priority group eight (8), "All other civil actions or proceedings"—the last of the priority groups (Assembly Bill 1657, Stats. 2014, ch. 721).

Separate statutes currently exclude small claims cases from the definition of court proceedings in which qualified interpreters must be appointed (Gov. Code, § 68560.5), and specifically authorize a court to permit an individual other than an attorney to assist an LEP party in small claims proceedings (Code Civ. Proc., § 116.550). LAP recommendations 71 and 72 recommend amendments to both of these statutes to ensure that, as resources permit, court interpreters are provided to LEP court users in small claims matters. The recommended statutory changes also conform to recent changes to rule 2.893 of the California Rules of Court as recommended by the Court Interpreters Advisory Panel regarding the appointment of noncertified interpreters in court proceedings, including civil matters. That rule change went into effect on January 1, 2018.

SB 1155 will bridge the gap between limited-English proficient court users and the courts by clarifying that courts may appoint interpreters in small claims proceedings, and by allowing LEP court users to use temporary interpreters at the request of a litigant and in the interests of justice when a certified, registered or provisionally qualified interpreter is not available. SB 1155 is a positive step in providing more interpreters and making a greater variety of languages available for people in small claims court, thereby increasing access to justice in California.

This proposal supports the Judicial Council's Language Access Plan Goal I, which outlines fundamental due process goals. These include:

- All persons will have equal access to the courts, and court proceedings and programs
- Court procedures will be fair and understandable to court users

Access to the court system for all Californians is a critical component of our judicial system and builds trust and confidence in our system of laws. Senate Bill 1155 improves access for millions of Californians by expanding language access services to small claims cases.

For these reasons, the Judicial Council is pleased to support and sponsor SB 1155.

Should you have any questions or require additional information, please contact Andi Liebenbaum at 916-323-3121.

Sincerely,

*Mailed on June 21, 2018*

Cory T. Jasperson
Director, Governmental Affairs

CTJ/AL/yc-s
cc: Members, Assembly Judiciary Committee
Hon. Ben Hueso, Member of the Senate
Mr. Nicholas Liedtke, Counsel, Assembly Judiciary Committee
Mr. Paul Dress, Consultant, Assembly Republican Office of Policy
Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California

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August 30, 2018

Hon. Ben Hueso
Member of the Senate
State Capitol, Room 4035
Sacramento, California 95814

Subject: Senate Bill 1155 (Hueso), as amended August 20, 2018 – Remove sponsorship and support

Dear Senator Hueso:

The Judicial Council regretfully removes its sponsorship and support of SB 1155 because the most current amendments repeal Section 116.550 of the Code of Civil Procedure, which is needed to provide context for the proposed amendment to Section 68560.5 of the Government Code. The council is concerned that, as amended, SB 1155 would not provide sufficient flexibility for small claims courts to appoint temporary interpreters for LEP litigants when a certified, registered, or provisionally qualified interpreter is not available. The delay imposed on a small claims litigant for whom there is not available a certified, registered, or provisionally qualified interpreter would be a hardship far more prejudicial than allowing the use of a court-approved temporary interpreter.

For these reasons, the Judicial Council is removing its sponsorship and support on SB 1155.

Sincerely,

*Mailed on August 30, 2018*

Cory T. Jasperson, Director
Governmental Affairs

CTJ/AL/yc-s
cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California

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CORY T. JASPERSON
*Director, Governmental Affairs*

August 30, 2018

Hon. Ben Hueso
Member of the Senate
State Capitol, Room 4035
Sacramento, California 95814

Subject: Senate Bill 1155 (Hueso), as amended August 20, 2018 – Oppose

Dear Senator Hueso:

The Judicial Council regretfully opposes Senate Bill 1155 because the most current amendments repeal Section 116.550 of the Code of Civil Procedure, which is needed to provide context for the proposed amendment to Section 68560.5 of the Government Code.

The council is concerned that, as amended, SB 1155 creates an ambiguity in the law that could be interpreted to remove the authority and flexibility for small claims courts to appoint temporary interpreters for LEP litigants when a certified, registered, or provisionally qualified interpreter is not available in the litigant's language.

If interpreted in this way, the bill would impede access to justice for LEP small claims litigants. If a certified, registered, or provisionally qualified interpreter were not available in the LEP small claims litigant's language, the proceeding would need to be continued. Multiple trips to court effectively deprive litigants of their day in court because of the need to take time off from work and take other actions that may be cost-prohibitive. As stated in Code of Civil Procedure sections 116.210 and 116.510, the purpose of small claims court is to provide a judicial forum accessible to all parties to resolve minor civil disputes expeditiously, inexpensively, and fairly. The delay

imposed on a small claims litigant for whom there is not available a certified, registered, or provisionally qualified interpreter would be a hardship far more prejudicial than allowing the use of a court-approved temporary interpreter.

For these reasons, the Judicial Council has removed its sponsorship and is now opposed to SB 1155.

Sincerely,

*Mailed on August 30, 2018*

Cory T. Jasperson, Director
Governmental Affairs

CTJ/AL/yc-s
cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California