



Judicial Council of California

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June 7, 2007

Hon. Ellen Corbett, Chair
Senate Judiciary Committee
State Capitol, Room 3092
Sacramento, California 95814

Subject: AB 467 (Feuer), as amended June 4, 2007 - Sponsor
Hearing: Senate Judiciary Committee – June 12, 2007

Dear Senator Corbett:

The Judicial Council is pleased to sponsor AB 467 (Feuer), which would revise the existing statute governing court fee waivers to ensure that indigent litigants have an opportunity to access the courts in a timely manner, and to provide for recovery of those fees in those cases in which it is appropriate. Ensuring meaningful access to justice for all Californians is one of the Judicial Council's key strategic objectives, and AB 467 will further that objective by clarifying the appropriate procedures to be used to review an application for a court fee waiver.

In August of 2004, the Judicial Council convened a Fee Waiver Working Group to review the current statute, rules of court, and forms that govern the process for litigants to proceed in forma pauperis in California. The membership of the working group included judges, court administrators, and representatives of qualified legal services providers. During the course of their review, the working group determined that the current fee waiver statute needed to be redrafted to ensure that fee waiver applications were processed in a consistent and fair manner that would guarantee that access to the courts was not obstructed for any litigant because he or she was unable to afford the required court fees. In addition, the working group resolved to

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clarify existing provisions concerning the recovery of fees to fulfill the obligation of the court to be fiscally responsible in seeking to recover waived fees in appropriate circumstances.

AB 467 is the product of those efforts. While AB 467 does not significantly change the eligibility criteria for granting a fee waiver, it does place in statute considerably more detail regarding the processing of fee waiver applications, as well as the recovery of waived fees.

The application processing provisions in AB 467 require that: (1) all fee waiver applications be accepted for filing by the clerk; (2) no fee waiver is denied without review by a judicial officer; (3) each applicant whose waiver is not granted in full has an opportunity to be heard by the trial court; and (4) court hearings are set for any application that demonstrates an evidentiary conflict.

On the recovery side, AB 467 will require that waived fees be added to any judgment in favor of a party who has obtained a fee waiver (except in family and unlawful detainer cases), and place a lien in the amount of the waived fees on settlement proceeds obtained by a fee waiver recipient if the settlement amount is \$10,000 or more. In addition, the procedures for the court to reconsider a fee waiver as a result of changed circumstances are clearly spelled out.

Taken together, these new provisions will ensure that indigent litigants can access the courts to pursue or defend their legal claims in a timely manner, and the court can subsequently recover the waived fees when that access is of significant benefit to the litigant or circumstances for the litigant have changed such that the waiver is no longer necessary.

For these reasons, the Judicial Council urges your "aye" vote on AB 467.

Sincerely,

Tracy Kenny
Attorney

TK/yt

cc: Members, Senate Judiciary Committee
Hon. Mike Feuer, Member of the Assembly
Ms. Alexandra Montgomery, Counsel, Senate Judiciary Committee
Mr. Mike Peterson, Consultant, Senate Republican Office of Policy
Mr. Eric Csizmar, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Brent Jamison, Acting Director of Legislation, Governor's Office of Planning and Research