



## Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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March 20, 2008

Hon. Van Tran  
Member of the Assembly  
State Capitol, Room 4130  
Sacramento, California 95814

Subject: AB 1880 (Tran), as amended March 11, 2008 - Oppose

Dear Assembly Member Tran:

The Judicial Council regrets to inform you of its opposition to AB 1880, which requires a guardian or conservator to post a separate recovery bond for the benefit of the ward or conservatee and any person interested in the guardianship or conservatorship estate who may bring a surcharge action against the guardian or conservator for breach of duty.

The Judicial Council opposes AB 1880 because the requirement to have two separate bonds will be burdensome for the parties, attorneys, and the courts. It is already difficult for the courts to ensure the proper filing and sufficiency of the unitary bond that is currently required in conservatorship cases. AB 1880 would unnecessarily complicate the situation by requiring probate court orders to address two separate bonds to be filed and, at various junctures, separately increased or decreased.

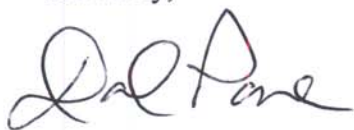
The council is also concerned that the bill would have an adverse effect on the ability of the courts to provide proper oversight and protection of conservatees in these cases. Instead of one larger bond to cover all of the damages that may be suffered by a conservatee due to a breach of fiduciary duty or other improper actions taken by the conservator, the bill would result in

fragmented bonds, thereby increasing the chance of some portion of the conservatee's damages being uncompensated.

Finally, the Judicial Council disagrees with the sponsor's assertion that the current scheme will disadvantage conservatees because the cost of recovery of attorney's fees is not limited to the increased amount of the bond that is required under Rule 7.207 of the California Rules of Court. If a claim for attorney's fees is made based on a successful surcharge action against the conservator, the court's obligation is to determine what constitutes "reasonable" attorney's fees in such circumstances. Requiring two separate bonds is not necessary to address the concern being raised by the sponsor since the court will take into account both the amount of the bond available and the size of the conservatee's estate in deciding whether the attorney's fees being sought are reasonable.

For these reasons, the Judicial Council opposes AB 1880.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Pone", with a stylized, cursive script.

Daniel Pone  
Senior Attorney

DP/op

cc: Members, Assembly Judiciary Committee  
Ms. Leora Gershenzon, Counsel, Assembly Judiciary Committee  
Mr. Mark Redmond, Senior Consultant, Assembly Republican Caucus Office of Policy  
Mr. Philip Vermeulen, Lobbyist, American Contractors Indemnity Company  
Mr. Chris Ryan, Deputy Legislative Affairs Secretary, Office of the Governor  
Mr. Brent Jamison, Director of Legislation, Governor's Office of Planning and Research