



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

KATHLEEN T. HOWARD
Director, Office of Governmental Affairs

April 18, 2007

Hon. Dave Jones, Chair
Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, California 95814

Subject: AB 926 (Evans), as amended April 17, 2007 - Sponsor
Hearing: Assembly Judiciary Committee – April 24, 2007

Dear Assembly Member Jones:

The current version of AB 926 (Evans), which is sponsored by the Judicial Council, amends three discovery statutes to clarify the time for production of documents. The statutes on demands for production of documents are currently silent on the time for production. These statutes imply, but do not state, that the date for production is the date specified in the demand for production of the documents. AB 926 makes these time requirements for production of documents explicit, and also provides that parties may agree to extend the time for inspection.

The changes included in AB 926 are non-controversial and will improve the discovery process by clarifying when documents must be produced. The Judicial Council is working cooperatively with the author, the Consumer Attorneys of California, and the California Defense Counsel in an effort to identify broader reforms that could improve the discovery process in ways that would benefit both litigants and the courts. In the event that our cooperative efforts identify additional recommended changes to the discovery statutes, we will consult with you and your staff regarding the appropriateness of adding such provisions to the bill.

Hon. Dave Jones, Chair

April 18, 2007

Page 2

For these reasons, the Judicial Council requests your "aye" vote on AB 926.

Sincerely,

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

Daniel A. Pone
Senior Attorney

DP/op

cc: Members, Assembly Judiciary Committee
Hon. Noreen Evans, Member of the Assembly
Mr. Kevin Baker, Counsel, Assembly Judiciary Committee
Mr. Mark Redmond, Consultant, Assembly Republican Office of Policy
Mr. Mike Belote, Lobbyist, California Defense Counsel
Mr. Eric Csizmar, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Nancy Drabble, Chief Legislative Counsel, Consumer Attorneys of California
Mr. Brent Jamison, Acting Director of Legislation, Office of Planning and Research



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393

Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

June 12, 2008

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

Subject: AB 926 (Evans), as amended May 14, 2008 – Support/Co-Sponsor
Hearing: Senate Judiciary Committee – June 24, 2008

Dear Senator Corbett:

The Judicial Council supports AB 926, which will modernize the civil discovery law by improving the procedures for handling the discovery of electronically stored information. The council is pleased to be a co-sponsor of this important legislation with the Consumer Attorneys of California and the California Defense Counsel, whose members were actively involved in the development and drafting of the proposal.

AB 926 essentially takes the provisions on electronic discovery from the recently enacted federal rules and the National Conference of Commissioners on Uniform State Laws rules, and integrates these into the California Civil Discovery Act. More specifically, AB 926 adds definitions of “electronic” and “electronically stored information” to the Civil Discovery Act; amends the act to expressly authorize the discovery of electronically stored information; and authorizes the “copying, testing or sampling” of such information. AB 926 allows a party to specify the form in which electronically stored information is to be produced, and if no form is specified, the responding party must produce the information in the form or forms in which it

is ordinarily maintained or in a form that is reasonably usable. Under the bill, a party will not need to produce the same electronically stored information in more than one form.

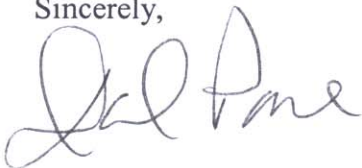
AB 926 also establishes procedures for motions to compel and motions for protective orders relating to the discovery of electronically stored information. The bill further establishes a procedure for handling disputes over the production of electronically stored information that is subject to claims of privilege or attorney work-product protection.

The Judicial Council supports AB 926 because it improves the practices and procedures for addressing the discovery of electronically stored information within the basic framework of California civil discovery law. Some commentators have suggested that existing California law is adequate to deal with electronic discovery. The Judicial Council and its co-sponsors disagree with this position. There are compelling reasons to modernize the Code of Civil Procedure at this time to address the discovery of electronically stored information. Most information today is created and maintained in electronic form. Discovery disputes increasingly involve such information.

The proposed legislative changes in AB 926 will provide direction and guidance for attorneys and judicial officers who are required to consider issues relating to the discovery of electronically stored information. Absent such direction, the practice in this area is likely to evolve in a piece-meal manner over a long period of time. As recent cases involving electronic discovery issues demonstrate, practitioners would benefit substantially from having more guidance and improved procedures in this important area of the law. AB 926 promotes the proper management of electronic discovery, which should significantly reduce the cost of discovery and minimize disputes in this area, thereby benefitting both litigants and the courts.

For these reasons, the Judicial Council supports AB 926.

Sincerely,



Daniel Pone
Senior Attorney

DP/op

cc: Members, Senate Judiciary Committee
Hon. Noreen Evans, Member of the Assembly
Ms. Kathy Bañuelos, Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy
Mr. Chris Ryan, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Brent Jamison, Director of Legislation, Governor's Office of Planning and Research



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 "L" Street, Suite 700 • Sacramento, California 95814-3393

Telephone 916-323-3121 • Fax 916-323-4347 • TDD 800-735-2929

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

August 12, 2008

Hon. Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: AB 926 (Evans) – Request for Signature

Dear Governor Schwarzenegger:

The Judicial Council supports AB 926, which will modernize the civil discovery law by improving the procedures for handling the discovery of electronically stored information. The council is pleased to be a co-sponsor of this important legislation with the Consumer Attorneys of California and the California Defense Counsel, whose members were actively involved in the development and drafting of the proposal.

AB 926 essentially takes the provisions on electronic discovery from the recently enacted federal rules and the National Conference of Commissioners on Uniform State Laws rules, and integrates these into the California Civil Discovery Act. More specifically, AB 926 adds definitions of "electronic" and "electronically stored information" to the Civil Discovery Act; amends the act to expressly authorize the discovery of electronically stored information; and authorizes the "copying, testing or sampling" of such information. AB 926 allows a party to specify the form in which electronically stored information is to be produced, and if no form is specified, the responding party must produce the information in the form or forms in which it is ordinarily maintained or in a form that is reasonably usable. Under the bill, a party will not need to produce the same electronically stored information in more than one form.

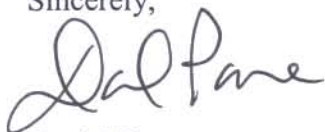
AB 926 also establishes procedures for motions to compel and motions for protective orders relating to the discovery of electronically stored information. The bill further establishes a procedure for handling disputes over the production of electronically stored information that is subject to claims of privilege or attorney work-product protection.

The Judicial Council supports AB 926 because it improves the practices and procedures for addressing the discovery of electronically stored information within the basic framework of California civil discovery law. Some commentators have suggested that existing California law is adequate to deal with electronic discovery. The Judicial Council and its co-sponsors disagree with this position. There are compelling reasons to modernize the Code of Civil Procedure at this time to address the discovery of electronically stored information. Most information today is created and maintained in electronic form. Discovery disputes increasingly involve such information.

The proposed legislative changes in AB 926 will provide direction and guidance for attorneys and judicial officers who are required to consider issues relating to the discovery of electronically stored information. Absent such direction, the practice in this area is likely to evolve in a piece-meal manner over a long period of time. As recent cases involving electronic discovery issues demonstrate, practitioners would benefit substantially from having more guidance and improved procedures in this important area of the law. AB 926 promotes the proper management of electronic discovery, which should significantly reduce the cost of discovery and minimize disputes in this area, thereby benefitting both litigants and the courts.

For these reasons, the Judicial Council requests your signature on AB 926.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Pone", written in a cursive style.

Daniel Pone
Senior Attorney

DP/ljb

cc: Hon. Noreen Evans, Member of the Assembly
Mr. Chris Ryan, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Brent Jamison, Director of Legislation, Governor's Office of Planning and Research