



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

July 15, 2016

Hon. William W. Monning
Member of the Senate
State Capitol, Room 313
Sacramento, California 95814

Subject: SB 1065 (Monning), as amended June 30, 2016 – Oppose

Dear Senator Monning:

The Judicial Council regrets to inform you of its opposition to SB 1065, which creates an expedited appeal process for hearing appeals from a trial court's order denying or dismissing a motion to compel arbitration in matters where the plaintiff has made a claim of elder abuse and where the plaintiff has been granted a statutory trial preference. It is important to note that the Judicial Council's concerns regarding SB 1065 are limited solely to the court impacts of the legislation, which are detailed below. The Judicial Council is not expressing any views on the use of binding arbitration in, or the underlying merits of, the cases covered by this bill as those are issues which are outside the council's purview.

The Judicial Council has a long history of opposition to legislation that creates statutory calendar preferences, especially bills like SB 1065 that would micromanage every step of the process. SB 1065 would impose extremely tight timelines for handling an appeal involving a claim of elder abuse, which appears to be infeasible for the Courts of Appeal to meet. Also, the expedited judicial review requirements under SB 1065 will likely have an adverse impact on other cases. Like other types of calendar preferences, setting an extremely tight timeline for deciding these cases has the practical effect of pushing other cases on the dockets of the Courts of Appeal to the back of the line. This means that other cases, including cases that have statutorily mandated

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calendar preferences, such as juvenile cases, criminal cases, and even civil cases other than those involving a claim of elder abuse in which a party is also at risk of dying, will take longer to decide. In addition, delays in the administration of justice that would likely result from this expedited judicial review approach would be even more pronounced in light of the ongoing fiscal limitations faced by the judicial branch.

Moreover, specifying in statute detailed timelines for procedural steps in the appellate process is inconsistent with longstanding practice; since the 1940's, the power to adopt the rules of practice and procedure on appeal has been vested in the Judicial Council. Finally, by creating special judicial review tracks that mandate unprecedentedly short case disposition timelines, the enactment of SB 1065 arguably threatens the independence of the judicial branch by interfering with the ability of the courts to manage their own calendars and fashion appropriate relief.

For these reasons, the Judicial Council must respectfully oppose SB 1065.

Sincerely,



Daniel Pone
Attorney

DP/ka

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Mr. Eric Dang, Counsel, Assembly Judiciary Committee
Ms. Ronak Daylami, Counsel, Senate Judiciary Committee
Ms. Nancy Peverini, Legislative Director, Consumer Attorneys of California



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TANI G. CANTIL-SAKAUYE
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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 2, 2016

Hon. William W. Monning
Member of the Senate
State Capitol, Room 313
Sacramento, California 95814

Subject: SB 1065 (Monning), as amended August 1, 2016 – Oppose

Dear Senator Monning:

The Judicial Council regrets to inform you of its continued opposition to SB 1065, which creates an expedited appeal process for hearing appeals from a trial court's order denying or dismissing a motion to compel arbitration in matters where the plaintiff has made a claim of elder abuse and where the plaintiff has been granted a statutory trial preference. It is important to note that the Judicial Council's concerns regarding SB 1065 are limited solely to the court impacts of the legislation, which are detailed below. The Judicial Council is not expressing any views on the use of binding arbitration in, or the underlying merits of, the cases covered by this bill as those are issues which are outside the council's purview.

The Judicial Council has a long history of opposition to legislation that creates statutory calendar preferences. The Judicial Council appreciates the most recent amendments to the bill, which replace the overly prescriptive provisions in the prior version of the bill with a mandate that the Court of Appeal issue its decision in these cases within 100 days after the notice of appeal has been filed, and that the council adopt implementing rules of court by July 1, 2017. The 100-day decisional timeline for these appeals remains problematic as it is likely infeasible for the Courts of Appeal to meet. However, leaving the specifics of how to handle each of the other phases of

Hon. William W. Monning

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the appeal to the Judicial Council through its rulemaking process should provide some additional flexibility that will hopefully make the cases covered by the bill somewhat more workable for the courts.

Notwithstanding the positive change to the rulemaking approach, the expedited judicial review requirements under SB 1065 will still likely have an adverse impact on other cases. Like other types of calendar preferences, setting an extremely tight timeline for deciding these cases has the practical effect of pushing other cases on the dockets of the Courts of Appeal to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and even civil cases other than those involving a claim of elder abuse in which a party is also at risk of dying, will take longer to decide. Moreover, delays in the administration of justice that would likely result from this expedited judicial review approach would be even more pronounced in light of the ongoing fiscal limitations faced by the judicial branch.

For these reasons, the Judicial Council must respectfully continue to oppose SB 1065.

Sincerely,



Daniel Pone
Attorney

DP/ka

cc: Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Martin Hoshino, Administrative Director, Judicial Council of California
Mr. Eric Dang, Counsel, Assembly Judiciary Committee
Ms. Ronak Daylami, Counsel, Senate Judiciary Committee
Ms. Nancy Peverini, Legislative Director, Consumer Attorneys of California



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TANI G. CANTIL-SAKAUYE
Chief Justice of California
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MARTIN HOSHINO
Administrative Director

CORY T. JASPERSON
Director, Governmental Affairs

August 29, 2016

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

Subject: SB 1065 (Monning), as amended August 1, 2016 – Oppose

Dear Governor Brown:

The Judicial Council regrets to inform you of its opposition to SB 1065, which creates an expedited appeal process for hearing appeals from a trial court's order denying or dismissing a motion to compel arbitration in matters where the plaintiff has made a claim of elder abuse and where the plaintiff has been granted a statutory trial preference. It is important to note that the Judicial Council's concerns regarding SB 1065 are limited solely to the court impacts of the legislation, which are detailed below. The Judicial Council is not expressing any views on the use of binding arbitration in, or the underlying merits of, the cases covered by this bill as those are issues which are outside the council's purview.

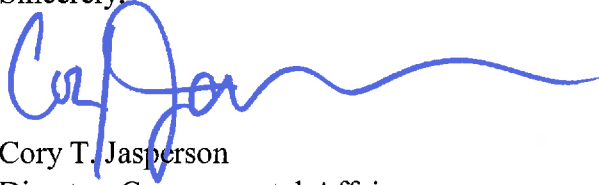
The Judicial Council has a long history of opposition to legislation that creates statutory calendar preferences. The Judicial Council appreciates the most recent amendments to the bill, which replace the overly prescriptive provisions in the prior version of the bill with a mandate that the Court of Appeal issue its decision in these cases within 100 days after the notice of appeal has been filed, and that the council adopt implementing rules of court by July 1, 2017. The 100-day decisional timeline for these appeals remains problematic as it is likely infeasible for the Courts of Appeal to meet. However, leaving the specifics of how to handle each of the other phases of

the appeal to the Judicial Council through its rulemaking process should provide some additional flexibility that will hopefully make the cases covered by the bill somewhat more workable for the courts.

Notwithstanding the positive change to the rulemaking approach, the expedited judicial review requirements under SB 1065 will still likely have an adverse impact on other cases. Like other types of calendar preferences, setting an extremely tight timeline for deciding these cases has the practical effect of pushing other cases on the dockets of the Courts of Appeal to the back of the line. This means that other cases, including cases that have statutorily mandated calendar preferences, such as juvenile cases, criminal cases, and even civil cases other than those involving a claim of elder abuse in which a party is also at risk of dying, will take longer to decide. Moreover, delays in the administration of justice that would likely result from this expedited judicial review approach would be even more pronounced in light of the ongoing fiscal limitations faced by the judicial branch.

For these reasons, the Judicial Council opposes SB 1065.

Sincerely,



Cory T. Jasperson

Director, Governmental Affairs

CTJ/ka

cc: Hon. William W. Monning, Member of the Senate

Mr. Daniel Seeman, Deputy Legislative Affairs Secretary, Office of the Governor

Mr. Martin Hoshino, Administrative Director, Judicial Council of California

Mr. Eric Dang, Counsel, Assembly Judiciary Committee

Ms. Ronak Daylami, Counsel, Senate Judiciary Committee

Ms. Nancy Peverini, Legislative Director, Consumer Attorneys of California