



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

April 6, 2015

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

Subject: SB 470 (Jackson), as proposed to be amended – Sponsor/Support
Hearing: Senate Judiciary Committee – April 14, 2015

Dear Senator Jackson:

The Judicial Council is co-sponsoring SB 470 with the California Judges Association. The bill, as proposed to be amended (see attached mockup), provides that in deciding a motion for summary judgment, the court need rule only on those objections to evidence that it deems material to its disposition of the motion for summary judgment. SB 470 also provides that any and all objections not ruled on are deemed overruled and preserved on appeal. Substantial research attorney and judicial officer time would be saved by this important efficiency proposal, thus providing more time for trial courts to handle other motions and proceedings.

Motions for summary judgment are some of the most time-consuming pretrial matters that civil courts handle. Judges may spend hours ruling on evidentiary objections for a single summary judgment motion. Frequently, the number of objections that pertain to evidence on which a court relies in determining whether a triable issue of fact exists is a small subset of the total number of objections made by the parties.

This proposal originated with the Judicial Council's Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, and it was jointly developed by the council's Civil and Small Claims Advisory Committee and Appellate Advisory Committee. Although the courts have not collected comprehensive data on the time and resources expended in ruling on objections to evidence offered in support of or opposition to summary judgment motions, anecdotal reports from advisory committee members (both judges and attorneys) indicate that they are substantial. Some advisory committee members state that many objections are unnecessary, and that there is no need for rulings on those objections.

Hon. Hannah-Beth Jackson

April 6, 2015

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Published opinions illustrate the large number of objections made in summary judgment papers and the huge volume of motion papers overall. “We recognize that it has become common practice for litigants to flood the trial courts with inconsequential written evidentiary objections, without focusing on those that are critical [footnote omitted].” (*Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 532.) In one reported case, the moving papers in support of summary judgment totaled 1,056 pages, plaintiff’s opposition was nearly three times as long and included 47 objections to evidence, and the defendants’ reply included 764 objections to evidence. (*Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 249, 250–251, and 254.)

Until the Supreme Court issued its opinion in *Reid*, the effect of a trial court’s failure to rule on evidentiary objections that were properly presented was unclear. Some Courts of Appeal had held that objections made in writing were waived if not raised by the objector at the hearing and ruled on by the court. In *Reid*, at pages 531–532, the court disapproved this prior case law as well as its own prior opinions to the extent that they held the failure of the trial court to rule on objections to summary judgment evidence waived those objections on appeal. The court also held that the trial court must expressly rule on properly presented evidentiary objections, disapproving a contrary procedure outlined in *Biljac Assocs. v. First Interstate Bank* (1990) 218 Cal.App.3d 1410, 1419–1420. “[I]f the trial court fails to rule expressly on specific evidentiary objections, it is presumed that the objections have been overruled, the trial court considered the evidence in ruling on the merits of the summary judgment motion, and the objections are preserved on appeal.” (*Reid, supra*, 50 Cal.4th at p. 534.)

To reduce the burden on trial courts in ruling on numerous objections to evidence in summary judgment proceedings, Code of Civil Procedure section 437c would be amended by providing that a court need rule only on those objections to evidence that it deems material to its disposition of the summary judgment motion, and that objections not ruled on are deemed overruled and preserved on appeal. This significant efficiency proposal is intended to reduce burdens on trial courts associated with evidentiary objections in summary judgment proceedings without resulting in a corresponding negative impact on the litigants or the appellate courts

For these reasons, the Judicial Council supports SB 470.

Sincerely,



Daniel Pone
Senior Attorney

DP/lmb

Enclosure

cc: Members, Senate Judiciary Committee

Ms. Ronak Daylami, Counsel, Senate Judiciary Committee

Mr. Mike Petersen, Consultant, Senate Republican Office of Policy

Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Lexi Purich Howard, Legislative Director, California Judges Association

SB 470 (Jackson)
as introduced
Mockup of Proposed Amendments

On page 3, lines 38-39 and on page 4, lines 1-2, subdivision (d) of Code of Civil Procedure section 437c would be amended to read:

(d) The court ~~may, in its discretion,~~ need rule only on those objections ~~made~~ to evidence that is it ~~deems~~ material to ~~the~~ its disposition of the motion for summary judgment. Any and all ~~Objections to evidence that are not ruled on for purposes of the motion shall be~~ are deemed overruled and preserved on appeal.



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Director, Governmental Affairs

June 3, 2015

Hon. Mark Stone, Chair
Assembly Judiciary Committee
State Capitol, Room 5155
Sacramento, California 95814

Subject: SB 470 (Jackson), as amended May 28, 2015 – Sponsor/Support
Hearing: Assembly Judiciary Committee – June 16, 2015

Dear Assembly Member Stone:

The Judicial Council is pleased to support SB 470, which it is co-sponsoring with the California Judges Association. The bill provides that in granting or denying a motion for summary judgment or summary adjudication, the court need rule only on those objections to evidence that it deems material to its disposition of the motion, and that objections to evidence that are not ruled on for purposes of the motion are preserved for appellate review. Substantial research attorney and judicial officer time will be saved by this important efficiency measure, thus providing more time for trial courts to handle other motions and proceedings.

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The proposal underlying SB 470 originated with the Judicial Council's Ad Hoc Advisory Committee on Court Efficiencies, Cost Savings, and New Revenue, and it was jointly developed by the council's Civil and Small Claims Advisory Committee and Appellate Advisory Committee. Although the courts have not collected comprehensive data on the time and resources expended in ruling on objections to evidence offered in support of or opposition to summary judgment motions, anecdotal reports from advisory committee members (both judges and attorneys) indicate that they are substantial. Some advisory committee members state that many objections are unnecessary, and that there is no need for rulings on those objections.

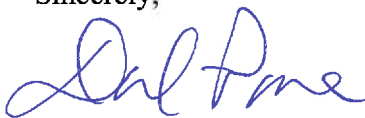
Published opinions illustrate the large number of objections made in summary judgment papers and the huge volume of motion papers overall. “We recognize that it has become common practice for litigants to flood the trial courts with inconsequential written evidentiary objections, without focusing on those that are critical [footnote omitted].” (*Reid v. Google, Inc.* (2010) 50 Cal.4th 512, 532.) In one reported case, the moving papers in support of summary judgment totaled 1,056 pages, plaintiff’s opposition was nearly three times as long and included 47 objections to evidence, and the defendants’ reply included 764 objections to evidence. (*Nazir v. United Airlines, Inc.* (2009) 178 Cal.App.4th 243, 249, 250–251, and 254.)

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To reduce the burden on trial courts in ruling on numerous objections to evidence in summary judgment and summary adjudication proceedings, Code of Civil Procedure section 437c would be amended by providing that in granting or denying a motion for summary judgment or summary adjudication, the court need rule only on those objections to evidence that it deems material to its disposition of the motion, and that objections to evidence that are not ruled on for purposes of the motion are preserved for appellate review. This important efficiency proposal is intended to reduce burdens on trial courts associated with evidentiary objections in summary judgment and summary adjudication proceedings without resulting in a corresponding negative impact on the litigants or the appellate courts.

For these reasons, the Judicial Council supports SB 470.

Sincerely,



Daniel Pone
Senior Attorney

DP/lmb

cc: Members, Assembly Judiciary Committee
Hon. Hanna-Beth Jackson, Member of the Senate
Ms. Khadijah Hargett, Counsel, Assembly Judiciary Committee
Mr. Paul Dress, Consultant, Assembly Republican Office of Policy
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Mike Belote, Lobbyist, California Judges Association



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Director, Governmental Affairs

July 16, 2015

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

Subject: SB 470 (Jackson), as amended July 9, 2015 – Request for Signature

Dear Governor Brown:

The Judicial Council is pleased to support SB 470, which it is co-sponsoring with the California Judges Association. The bill provides that in granting or denying a motion for summary judgment or summary adjudication, the court need rule only on those objections to evidence that it deems material to its disposition of the motion, and that objections to evidence that are not ruled on for purposes of the motion are preserved for appellate review. Substantial research attorney and judicial officer time will be saved by this important efficiency measure, thus providing more time for trial courts to handle other motions and proceedings.

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Hon. Edmund G. Brown, Jr.

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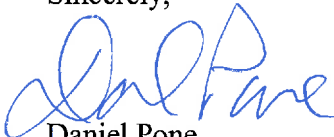
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For these reasons, the Judicial Council respectfully requests your signature on SB 470.

Sincerely,



Daniel Pone
Senior Attorney

DP/lmb

cc: Hon. Hanna-Beth Jackson, Member of the Senate
Ms. June Clark, Deputy Legislative Affairs Secretary, Office of the Governor
Mr. Mike Belote, Lobbyist, California Judges Association