



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

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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

June 12, 2006

Hon. Dennis Hollingsworth
Member of the Senate
State Capitol, Room 5064
Sacramento, California 95814

Subject: SCA 27 (Hollingsworth), as introduced – Oppose
Hearing: Senate Judiciary Committee – June 20, 2006

Dear Senator Hollingsworth:

The Judicial Council opposes SCA 27, which vests exclusive original jurisdiction in the Supreme Court for any civil action in which the validity of an initiative, referendum measure, general obligation bond, or other ballot measure or constitutional amendment approved by the voters (hereafter referred to collectively as initiatives or ballot measures) is at issue.

Presently, only appeals from death penalty judgments and State Bar matters may be filed directly in the Supreme Court without proceeding through both the trial court and the Court of Appeal. However, Article VI, Section 10 of the California Constitution gives the Supreme Court concurrent original jurisdiction in proceedings for extraordinary relief in the nature of mandamus, certiorari, and prohibition. Petitions for extraordinary relief are often filed with the Supreme Court, and the Court is required to determine whether to grant such review. In deciding whether its immediate consideration of the issues presented is necessary, the Court weighs factors such as the potential impact of delay, extrinsic time frames affecting the parties or claims, the significance of the questions presented, the costs of delay, and the state of the record upon which it must rely. Using these criteria, the Court carefully exercises its discretion whether to grant hearing on a petition for extraordinary relief, and has granted immediate hearing in challenges to ballot measures and other matters that warranted accelerated consideration.

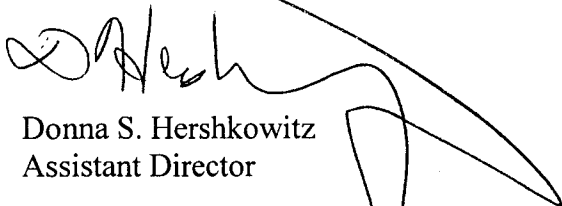
The Judicial Council opposes SCA 27 because it would strip the Supreme Court of its discretion to determine whether the case presented is one that necessitates original review by the Supreme Court. Furthermore, it would strip the Supreme Court of its basic traditional discretion to grant review, and instead would require the court, in every challenge to the validity of a ballot measure approved by the voters, to take the matter under consideration, regardless of the merits of the challenge. On average, Supreme Court review is granted in four percent of petitions filed. SCA 27 would mandate that all challenges to the validity of ballot measures approved by the voters be reviewed by the Supreme Court. This would limit or delay the determination of other causes the Supreme Court decides to hear.

As a general matter, the Supreme Court benefits from having proceedings for extraordinary relief heard first in the lower courts where the issues are discussed and analyzed prior to being presented to the Court. This typically serves to narrow and sharpen claims and controversies. The wisdom of proceeding first in the lower courts as a general matter is even more important in other kinds of civil actions, which also would be covered by this measure. Additionally, lower courts are better equipped to take evidence, hear witnesses, and be the fact finder. The Supreme Court is not structured to be the initial finder of fact. Although it can appoint referees to hold hearings in certain matters, the more efficient and preferred approach is to have the trial court preside over such proceedings. Because SCA 27 would apply not simply to petitions challenging the facial validity of ballot measures, but also any civil action challenging the measure as applied in a particular circumstance the amount of evidence that would have to be taken in many of these actions may well be substantial.

Finally, SCA 27 is also not time limited. Initiative measures challenged years after their effective date, when implementation of the measure is not pending, also would be heard only in the Supreme Court, and not by the lower courts. This measure would set an unfortunate precedent for dictating case management decisions and interfering with the discretion of the Supreme Court to determine the most appropriate cases requiring its intervention.

For these reasons, the Judicial Council opposes SCA 27. Please feel free to contact me if you have any questions.

Sincerely,



Donna S. Hershkowitz
Assistant Director

DH/lb/yt

cc: Mr. Eric Csizmar, Deputy Legislative Secretary, Office of the Governor
Ms. Sue Blake, Director of Legislation, Office of Planning and Research



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Hon. Joseph Dunn, Chair
Senate Judiciary Committee
State Capitol, Room 2080
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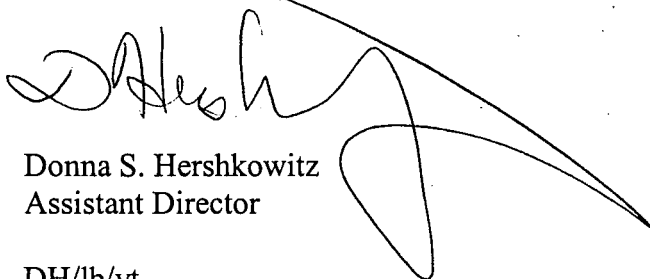
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Assistant Director

DH/lb/yt

cc: Members, Senate Judiciary Committee
Ms. Alexandra Montgomery, Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy
Mr. Eric Csizmar, Deputy Legislative Secretary, Office of the Governor
Ms. Sue Blake, Director of Legislation, Office of Planning and Research



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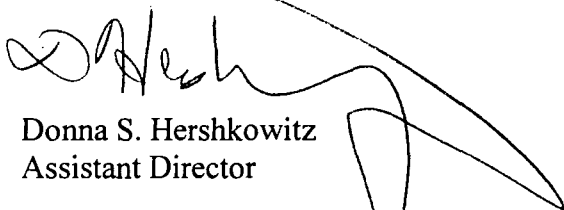
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