



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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*Chief Justice of California
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Administrative Director of the Courts

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Chief Deputy Director

June 9, 2011

Hon. Mike Feuer, Chair
Assembly Judiciary Committee
State Capitol, Room 2013
Sacramento, California 95814

Subject: SB 384 (Evans), as amended May 10, 2011 - Support
Hearing: Assembly Judiciary Committee – June 14, 2011

Dear Assembly Member Feuer:

The Judicial Council supports SB 384, which authorizes partial summary adjudication motions and clarifies the law governing fees in complex civil cases. Current law does not authorize the bringing of a partial summary adjudication motion. The rationale for the legislation which eliminated the ability of parties to move for summary adjudication of issues unless the motion completely disposed of a cause of action or affirmative defense (SB 2594 [Robbins], Stats. 1990, Ch. 1561) was that defense lawyers were bringing too many motions on specific issues which would later need to be relitigated at trial in any event, and that these motions were contributing to judicial delay rather than preventing it.

According to the California Defense Counsel, the sponsor of the partial summary adjudication provision in Section 1 of SB 384, “the problem now is that issues will arise, typically legal rather than factual in nature, whose resolution would actually contribute to judicial economy.” The Judicial Council agrees, and believes that while such motions would be relatively rare, the abuses under the prior law should not occur since both the parties have to stipulate and the court must give prior approval that the motion will further the interests of judicial economy by reducing the time to be consumed in trial, or significantly increase the ability of the parties to resolve the case

by settlement. The partial summary adjudication provisions in SB 384 represent an innovative and flexible approach to motion practice that, in appropriate cases, may serve to speed up final resolution of the case while at the same time guarding against unnecessary delays by allowing the court to control its use.

The Judicial Council also supports Section 2 of SB 384, which would provide needed clarity regarding the amount of fees to be paid in complex civil cases. The existing statute is not a model of clarity. An undetermined, but apparently very small, number of judges around the state have reportedly been imposing multiple complex fees on groups of plaintiffs appearing together in the action. SB 384 would clarify any remaining confusion on the subject by eliminating unnecessary language and stating more definitively that a single complex case fee is required to be paid to the clerk on behalf of all plaintiffs, whether filing separately or jointly, if the case is designated as complex pursuant to the California Rules of Court. The Judicial Council supports this clarifying change, consistent with current law, which should eliminate any ambiguity and assist both litigants and the courts in ensuring that proper fees are being charged in complex civil cases.

For these reasons, the Judicial Council supports SB 384 and urges your Aye vote on the measure.

Sincerely,

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

Daniel Pone
Senior Attorney

DP/lp

cc: Members, Assembly Judiciary Committee

Hon. Noreen Evans, Member of the Senate

Ms. Leora Gershenzon, Counsel, Assembly Judiciary Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research

Mr. Mark Redmond, Consultant, Assembly Republican Office of Policy



Judicial Council of California

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September 15, 2011

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

Subject: SB 384 (Evans) – Request for Signature

Dear Governor Brown:

The Judicial Council supports Sections 3 and 5 of SB 384, which authorizes partial summary adjudication motions and clarifies the law governing fees in complex civil cases. The council does not have a position on the remaining provisions in the bill pertaining to the roles and responsibilities of attorneys in certain disability access cases, as those issues are outside its purview.

Current law does not authorize the bringing of a partial summary adjudication motion. The rationale for the legislation which eliminated the ability of parties to move for summary adjudication of issues unless the motion completely disposed of a cause of action or affirmative defense (SB 2594 [Robbins], Stats. 1990, Ch. 1561) was that defense lawyers were bringing too many motions on specific issues which would later need to be re-litigated at trial in any event, and that these motions were contributing to judicial delay rather than preventing it.

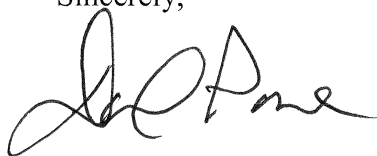
According to the California Defense Counsel, the sponsor of the partial summary adjudication provision in Section 3 of SB 384, “the problem now is that issues will arise, typically legal rather than factual in nature, whose resolution would actually contribute to judicial economy.” The Judicial Council agrees, and believes that while such motions would be relatively rare, the abuses under the prior law should not occur since both the parties have to stipulate and the court must

give prior approval that the motion will further the interests of judicial economy by reducing the time to be consumed in trial, or significantly increase the ability of the parties to resolve the case by settlement. The partial summary adjudication provisions in SB 384 represent an innovative and flexible approach to motion practice that, in appropriate cases, may serve to speed up final resolution of the case while at the same time guarding against unnecessary delays by allowing the court to control its use.

The Judicial Council also supports Section 5 of SB 384, which would provide needed clarity regarding the amount of fees to be paid in complex civil cases. The existing statute is not a model of clarity. An undetermined, but apparently very small, number of judges around the state have reportedly been imposing multiple complex fees on groups of plaintiffs appearing together in the action. SB 384 would clarify any remaining confusion on the subject by eliminating unnecessary language and stating more definitively that a single complex case fee is required to be paid to the clerk on behalf of all plaintiffs, whether filing separately or jointly, if the case is designated as complex pursuant to the California Rules of Court. The Judicial Council supports this clarifying change, consistent with current law, which should eliminate any ambiguity and assist both litigants and the courts in ensuring that proper fees are being charged in complex civil cases.

For these reasons, the Judicial Council requests your signature on SB 384.

Sincerely,

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

Daniel Pone
Senior Attorney

DP/lp

cc: Hon. Noreen Evans, Member of the Senate
Mr. Mike Belote, Lobbyist, California Advocates
Ms. Nancy Drabble, CEO & Chief Legislative Counsel, Consumer Attorneys of California
Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor