



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

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TANI CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

March 11, 2011

Hon. Noreen Evans, Chair
Senate Judiciary Committee
State Capitol, Room 4034
Sacramento, California 95814

Subject: Senate Bill 731 (Committee on Judiciary), as introduced – Support/Sponsor
Hearing: Senate Judiciary Committee – March 22, 2011

Dear Senator Evans:

The Judicial Council is pleased to sponsor SB 731, which amends the law governing judicial arbitration in order to encourage settlements and reduce the number of unnecessary trial de novo requests, saving time and money for both litigants and the courts. The bill also makes several changes to the law to improve practice and procedure involving vexatious litigants.

Judicial arbitration: Under the existing judicial arbitration program, after holding a hearing the arbitrator issues an award in the case, but this award is not binding. The law currently provides that the parties to such judicial arbitrations have 30 days after the arbitrator files his or her award to request a trial de novo, and if the request is not filed, the arbitrator's award will be entered as the judgment of the court.

The current statutory structure appears to encourage parties to file requests for a trial de novo even if they are satisfied with the arbitrator's award and do not need a new trial. There are many reasons that parties may not want a judgment entered against them in court. For example, job and credit applications often ask whether a judgment has been entered against the applicant, so entry of a judgment could affect parties' employability or creditworthiness. Thus, even if a party is satisfied with the arbitrator's award, the party may not want that award to become a judgment. Under the current statutes, however, the only way for a party to prevent the award from being

entered as a judgment is to file a request for a trial de novo, even if the party does not intend to bring the matter to trial.

SB 731 will reduce costs for the parties and the courts associated with preparing, filing, and processing unnecessary trial de novo requests. Specifically, SB 731: (1) provides that a party need not file a request for a trial de novo to stop entry of the arbitrator's award as the judgment in the case but instead could file a request for dismissal; and (2) gives parties up to 60 days after the filing of the arbitrator's award to file either of the requests.

Providing parties with the option of filing a request for dismissal to stop entry of the arbitrator's award as the judgment will allow parties who are satisfied with that award, or who are able to reach agreement with the help of that award, to settle their cases without also having to file a trial de novo request. In addition, giving parties an additional 30 days before the arbitrator's award is entered as the judgment should also increase the number of cases in which the parties have sufficient time to work out the details of a settlement, further reducing the number of unnecessary trial de novo requests that are filed. These changes will reduce costs for both the litigants and the courts.

Vexatious litigants: Current law authorizes a judge to enter an order that prohibits a vexatious litigant from filing any new litigation as a self-represented litigant without first obtaining leave of the presiding judge (a pre-filing order). Courts have held that the vexatious litigant statutes also apply in the appellate courts, but this has not been codified. Moreover, the statutory scheme governing vexatious litigants does not currently authorize a presiding justice or presiding judge to designate another justice or judge to carry out his or her duties under this statute. SB 731 would clarify that the vexatious litigant statute applies to matters in the Courts of Appeal, as well as the trial courts, and that a presiding justice or judge may delegate authority to make the pre-filing determination that an individual is a vexatious litigant or is permitted to file an action.

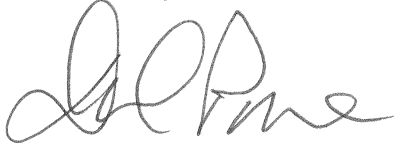
The law also allows a party to give notice of a vexatious litigant's status if the clerk mistakenly accepts for filing new litigation by the vexatious litigant without an order from the presiding judge permitting the filing. However, the statute does not currently authorize a presiding justice or judge, in the situation in which a defendant may not know that the plaintiff is a vexatious litigant subject to a pre-filing order, to direct the clerk to notify the parties of the plaintiff's status. SB 731 corrects this problem by authorizing the presiding justice or presiding judge to order that notice be given of a vexatious litigant's status if the clerk mistakenly files litigation without a pre-filing order.

On occasion, a vexatious litigant subject to a pre-filing order seeks to be removed from the vexatious litigant list. SB 731 provides specific procedures for an application to vacate a pre-filing order and remove a litigant's name from the Judicial Council's list of vexatious litigants, along with guidance for the courts in deciding the application.

Hon. Noreen Evans
March 10, 2011
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In sum, SB 731 makes several important changes that will increase the efficiency of the judicial arbitration process and streamline the handling of vexatious litigation, all of which will save time and money for both litigants and the courts. For these reasons, the Judicial Council supports SB 731 and urges your Aye vote on the measure.

Sincerely,

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

Daniel Pone
Senior Attorney

DP/lp

cc: Members, Senate Judiciary Committee

Ms. Elizabeth Dietzen Olsen, Counsel, Senate Judiciary Committee

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

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

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



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Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

June 7, 2011

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

Subject: SB 731 (Committee on Judiciary), as amended March 29, 2011 – Support/Sponsor
Hearing: Assembly Judiciary Committee – June 14, 2011

Dear Assembly Member Feuer:

The Judicial Council is pleased to sponsor SB 731, which amends the law governing judicial arbitration in order to encourage settlements and reduce the number of unnecessary trial de novo requests, saving time and money for both litigants and the courts. The bill also makes several changes to the law to improve practice and procedure involving vexatious litigants.

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entered as a judgment is to file a request for a trial de novo, even if the party does not intend to bring the matter to trial.

SB 731 will reduce costs for the parties and the courts associated with preparing, filing, and processing unnecessary trial de novo requests. Specifically, SB 731: (1) provides that a party need not file a request for a trial de novo to stop entry of the arbitrator's award as the judgment in the case but instead could file a request for dismissal; and (2) gives parties up to 60 days after the filing of the arbitrator's award to file either of the requests.

Providing parties with the option of filing a request for dismissal to stop entry of the arbitrator's award as the judgment will allow parties who are satisfied with that award, or who are able to reach agreement with the help of that award, to settle their cases without also having to file a trial de novo request. In addition, giving parties an additional 30 days before the arbitrator's award is entered as the judgment should also increase the number of cases in which the parties have sufficient time to work out the details of a settlement, further reducing the number of unnecessary trial de novo requests that are filed. These changes will reduce costs for both the litigants and the courts.

Vexatious litigants: Current law authorizes a judge to enter an order that prohibits a vexatious litigant from filing any new litigation as a self-represented litigant without first obtaining leave of the presiding judge (a pre-filing order). Courts have held that the vexatious litigant statutes also apply in the appellate courts, but this has not been codified. Moreover, the statutory scheme governing vexatious litigants does not currently authorize a presiding justice or presiding judge to designate another justice or judge to carry out his or her duties under this statute. SB 731 would clarify that the vexatious litigant statute applies to matters in the Courts of Appeal, as well as the trial courts, and that a presiding justice or judge may delegate authority to make the pre-filing determination that an individual is a vexatious litigant or is permitted to file an action.

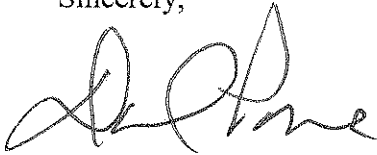
The law also allows a party to give notice of a vexatious litigant's status if the clerk mistakenly accepts for filing new litigation by the vexatious litigant without an order from the presiding judge permitting the filing. However, the statute does not currently authorize a presiding justice or judge, in the situation in which a defendant may not know that the plaintiff is a vexatious litigant subject to a pre-filing order, to direct the clerk to notify the parties of the plaintiff's status. SB 731 corrects this problem by authorizing the presiding justice or presiding judge to order that notice be given of a vexatious litigant's status if the clerk mistakenly files litigation without a pre-filing order.

On occasion, a vexatious litigant subject to a pre-filing order seeks to be removed from the vexatious litigant list. SB 731 provides specific procedures for an application to vacate a pre-filing order and remove a litigant's name from the Judicial Council's list of vexatious litigants, along with guidance for the courts in deciding the application.

Hon. Mike Feuer
June 7, 2011
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In sum, SB 731 makes several important changes that will increase the efficiency of the judicial arbitration process and streamline the handling of vexatious litigation, all of which will save time and money for both litigants and the courts. For these reasons, the Judicial Council supports SB 731 and urges your Aye vote on the measure.

Sincerely,

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Daniel Pone
Senior Attorney

DP/lp

cc: Members, Assembly Judiciary Committee

Mr. Anthony Lew, Counsel, Assembly Judiciary Committee

Ms. Elizabeth Dietzen-Olsen, Counsel, Senate 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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RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

June 21, 2011

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

Subject: SB 731 (Committee on Judiciary) – Request for Signature

Dear Governor Brown:

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Hon. Edmund G. Brown, Jr.

June 21, 2011

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For these reasons, the Judicial Council requests your signature on SB 731.

Sincerely,

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Daniel Pone
Senior Attorney

DP/lp

cc: Ms. Elizabeth Dietzen-Olsen, Counsel, Senate Judiciary Committee

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