



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

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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

CURTIS L. CHILD
Director, Office of Governmental Affairs

April 20, 2011

Hon. Bill Emmerson
Member of the Senate
State Capitol, Room 4082
Sacramento, California 95814

Subject: Senate Bill 848 (Emmerson), as introduced – Oppose
Hearing: Senate Judiciary Committee – May 3, 2011

Dear Senator Emmerson:

The Judicial Council opposes SB 848, which would, among other things, reorganize the court of appeal districts into seven districts by removing the counties of Riverside, San Bernardino, and Inyo (currently Division Two) from the Fourth Appellate District and creating a new Seventh Appellate District consisting of those counties. The Judicial Council believes that the proposed reorganization of the courts of appeal is unnecessary. Over ten years ago, the Judicial Council rejected a similar proposal to convert free-standing divisions into new court of appeal districts, and since that time there has been no study or other effort by the council or any of its advisory committees or task forces calling for such a reorganization.

The Judicial Council also believes that it is inappropriate, as a matter of policy, to create new court of appeal districts based solely on where courthouses are located. Moreover, the council notes that converting Division Two of the Fourth Appellate District into a new court of appeal district would actually be a more inefficient way of handling their caseloads, resulting in greater backlogs that will further delay the administration of justice. The population explosion in the

Inland Empire counties over the last five years has resulted in a significant increase in the number of appeals being filed in Division Two, especially criminal matters. At the same time, the state has experienced one of the worst recessions in history, and this fiscal crisis has made it impossible to secure additional funding for new judicial positions. In apparent recognition of this fiscal reality, SB 848 would not require the Governor to appoint new judges to serve in the newly created Seventh District. However, by converting Division Two into a new appellate district, the bill eliminates the flexibility that currently exists to transfer cases to other divisions within the district to equalize the work of judges.

The California Rules of Court authorize the Chief Justice to designate a presiding justice in a Court of Appeal with more than one division to act as the administrative presiding justice (APJ) for the district. (See Rule 10.1004(a)(1).) The APJ is responsible for leading the court, establishing policies, promoting access to justice for all members of the public, providing a forum for the fair and expeditious resolution of disputes, and maximizing the use of judicial and other resources. (See Rule 10.1004(b).) The duties of an APJ include the responsibility to work in cooperation with the Chief Justice “in expediting judicial business and *equalizing the work of judges* by recommending, when appropriate, the transfer of cases by the Supreme Court... .” (Rule 10.1004(c)(4), emphasis added; see also Rule 10.1008 [“Appeals and original proceedings filed in a Court of Appeal with more than one division ... may be assigned to divisions in a way that will *equalize the distribution of business* among them.” (Emphasis added).])

Pursuant to this authority, the APJ for the Fourth Appellate District has sought and received approval from the Chief Justice for the transfer of approximately 500 criminal appeals (at a rate of about 13 cases per month) from Division Two to the other two divisions within the district to help deal with the significant backlog of cases coming from the Inland Empire counties. Under SB 848, such inter-divisional transfers would no longer be possible.

Finally, the Judicial Council disagrees with the assertion of the bill’s proponents that SB 848 will not result in any adverse fiscal impact to the state, noting that there would be one-time start up costs for printing, signage, and stationery, plus significant ongoing personnel costs associated with promoting current employees into new management roles, as well as the increase in salary for the current presiding justice of Division Two who would become the APJ. In addition, virtually all of the criminal appeals that are being transferred from Division Two are being sent to Division One in San Diego, which is where the offices of counsel for both of the parties – the Attorney General and the Appellate Defenders Incorporated – are located. Requiring all of those cases to be heard in Riverside, which is the current location of Division Two, would likely result in increased travel costs to the state.

In sum, the Judicial Council believes that SB 848 is an ill-timed and unwarranted measure. There is no evidence to suggest that the current organizational structure for the courts of appeal,

Hon. Bill Emmerson
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including the Fourth District, is not working well. The council believes that the asserted benefits of SB 848 not only will not be realized, but the bill will in fact delay the administration of justice by limiting the court's ability to equalize workloads among the justices during a time of increased caseloads and limited judicial resources.

For these reasons, the Judicial Council opposes SB 848.

Sincerely,

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

Daniel Pone
Senior Attorney

DP/lp

cc: Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor
Ms. Kirsten Kolpitzke, Deputy Director of Legislation, Governor's Office of Planning and Research
Ms. Saskia Kim, Chief Counsel, Senate Judiciary Committee
Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



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April 20, 2011

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

Subject: Senate Bill 848 (Emmerson), as introduced - Oppose
Hearing: Senate Judiciary Committee – May 3, 2011

Dear Senator Evans:

The Judicial Council opposes SB 848, which would, among other things, reorganize the court of appeal districts into seven districts by removing the counties of Riverside, San Bernardino, and Inyo (currently Division Two) from the Fourth Appellate District and creating a new Seventh Appellate District consisting of those counties. The Judicial Council believes that the proposed reorganization of the courts of appeal is unnecessary. Over ten years ago, the Judicial Council rejected a similar proposal to convert free-standing divisions into new court of appeal districts, and since that time there has been no study or other effort by the council or any of its advisory committees or task forces calling for such a reorganization.

The Judicial Council also believes that it is inappropriate, as a matter of policy, to create new court of appeal districts based solely on where courthouses are located. Moreover, the council notes that, contrary to the assertions of the bill's author, converting Division Two of the Fourth Appellate District into a new court of appeal district would actually be a more inefficient way of handling their caseloads, resulting in greater backlogs that will further delay the administration

of justice. The population explosion in the Inland Empire counties over the last five years has resulted in a significant increase in the number of appeals being filed in Division Two, especially criminal matters. At the same time, the state has experienced one of the worst recessions in history, and this fiscal crisis has made it impossible to secure additional funding for new judicial positions. In apparent recognition of this fiscal reality, SB 848 would *not* require the Governor to appoint new judges to serve in the newly created Seventh District. However, by converting Division Two into a new appellate district, the bill eliminates the flexibility that currently exists to transfer cases to other divisions within the district to equalize the work of judges.

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Hon. Noreen Evans

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For these reasons, the Judicial Council opposes SB 848.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel Pone". The signature is fluid and cursive, with the first name "Daniel" written in a larger, more prominent script than the last name "Pone".

Daniel Pone
Senior Attorney

DP/lp

cc: Members, Senate Judiciary Committee

Hon. Bill Emmerson, Member of the Senate

Ms. Saskia Kim, Chief Counsel, Senate Judiciary Committee

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

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