

Memorandum 2016-1

Minutes of Meeting on December 10, 2015 (Draft)

The California Law Revision Commission¹ held a meeting on December 10, 2015. A draft of Minutes for that meeting is attached for Commissioners to review.

The attached draft will be deemed final after it is approved by a vote of the Commission. When voting, the Commission may make specific changes to the Minutes. If so, those changes will be memorialized in the Minutes for the meeting at which the vote occurred.

Respectfully submitted,

Brian Hebert
Executive Director

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

DRAFT MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
DECEMBER 10, 2015
LOS ANGELES

A meeting of the California Law Revision Commission was held in Los Angeles on December 10, 2015.

Commission:

Present: Taras Kihiczak, Chairperson
Crystal Miller-O'Brien, Vice Chairperson
Diane F. Boyer-Vine, Legislative Counsel
Damian Capozzola
Thomas Hallinan
Victor King
Susan Duncan Lee
Jane McAllister

Absent: Assembly Member Ed Chau
Senator Richard D. Roth

Staff: Brian Hebert, Executive Director
Barbara Gaal, Chief Deputy Counsel
Kristin Burford, Staff Counsel
Steve Cohen, Staff Counsel

Consultants: None

Other Persons:

Maurice J. Attie
Mark B. Baer
Leon Bennett, LACFLA
Lee Blackman
Susan Viau Chamberlain
Hon. Keith M. Clemens (ret.)
Robert Flack
Wendy Forrester, Southern California Mediation Association
Jami Fosgate, Fosgate Family Law
Frederick J. Glassman, LACFLA, Collaborative Practice California (CP Cal)
Jeffery S. Jacobson
Michelle (Mickey) Katz, LACFLA/LACSCDP
Janet Kaplan

Ron Kelly
Jeff Kichaven
John Adam Lazor
Kelly Cohen-Leider, Jill Cohen Mediation
Mark Lewis
Dvorah Markman, FLAMES - Mediation Study Group
Janet Martinez, Stanford Law School
Judith Nesburn, LACFLA, LAWCDP, FLAMES
Cari M. Pines
Phyllis G. Pollock
Joan Patsy Ostroy, LACFLA, State Bar Family Law Section, Consensual Dispute Resolution
Kelly Chang Rickert
Delilah Knox Rios
Lynette Berg Robe
Karen Rosin
Warren Sacks
Fern Topas Salka, LACFLA, FLAMES
Ana Sambold, San Diego County Bar Association and National Conflict Resolution Center
Joe Spirito
Hon. Gretchen Taylor (ret.)
Heidi S. Tuffias, LAWCDP
Barry Vaughan, Inland Valley Arbitration and Mediation Services (IVAMS)
Karinya Verghese
Darlene Wanger
Jennifer Winestone
Marvin Whistler
Bonnie Yaeger, State Bar Family Law Section, Consensual Dispute Resolution

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APPROVAL OF ACTIONS TAKEN

Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted in connection with the affected decision.

MINUTES OF OCTOBER 8, 2015, COMMISSION MEETING

Memorandum 2015-39 and its First Supplement presented a draft of the Minutes of the October 8, 2015, Commission meeting. The Commission approved the Minutes, with the revision set out in the First Supplement. *(Commissioner Miller-O'Brien was not present when this decision was made.)*

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director had no administrative matters to report.

New Topics and Priorities

The Commission considered Memorandum 2014-41 and its First and Second Supplements, presenting the status of the Commission's current program of work, the new topics suggestions received in 2015, and discussing work priorities for 2016. The Commission made the following decisions:

- The Commission accepted the staff recommendations made in Memorandum 2015-47 and its supplements, including a recommendation to adopt the priority scheme summarized on pages 33-36 of the memorandum.
- The staff will continue including a "Projected Completion of Active Studies" chart in future New Topics and Priorities memoranda.
- Future meeting agendas will include an opportunity for Commissioners to suggest new topics of study.

(Commissioner Miller-O'Brien was not present when these decisions were made.)

1 **Annual Report**

2 The Commission considered Memorandum 2015-48, presenting a draft of the
3 2015-2016 Annual Report. The Commission approved the report for publication
4 and distribution to the Legislature and the Governor, without change.
5 (*Commissioner Miller-O'Brien was not present when this decision was made.*)

6 **Meeting Schedule**

7 The Commission changed the location of its February 4, 2016, meeting to
8 Sacramento. At the February meeting, the Commission will consider a possible
9 change to the date of its April 1, 2016, meeting.

10 STUDY D-1200 — RECOGNITION OF TRIBAL AND FOREIGN COURT MONEY JUDGMENTS

11 The Commission considered Memorandum 2015-50, discussing the standards
12 for recognition of foreign and tribal court defamation judgments.

13 With respect to foreign court defamation judgments, the Commission decided
14 to incorporate the standards of the federal SPEECH Act (28 U.S.C. §§ 4101-4105)
15 into California law by reference. (*Commissioner Boyer-Vine abstained from this*
16 *decision.*)

17 With respect to tribal court defamation judgments, the staff will conduct
18 further review into whether the SPEECH Act governs these judgments. If the
19 SPEECH Act does not govern these judgments, the Commission directed the staff
20 to leave the current provisions on recognition of a tribal court defamation
21 judgment unchanged. If the SPEECH Act governs tribal court judgments, the
22 Commission directed the staff to incorporate the federal SPEECH Act standards
23 for tribal court judgments into California law. (*Commissioner Boyer-Vine abstained*
24 *from these decisions.*)

25 The staff will conduct further research into the Legislative intent with respect
26 to the grounds for declaratory relief under Code of Civil Procedure Section
27 1717(c).

28 STUDY G-300 — STATE AND LOCAL AGENCY ACCESS TO CUSTOMER INFORMATION
29 FROM COMMUNICATION SERVICE PROVIDERS

30 The Commission considered Memorandum 2015-51, discussing relevant 2015
31 legislation and possible next steps in the study. The Commission decided to table

1 provisions, the Commission decided to follow the conservative drafting
2 approach described on page 4 of Memorandum 2015-52. The Commission
3 provisionally approved the draft attached to the memorandum, with the
4 following exceptions:

- 5 • Comment language stating that a section “has been continued
6 without change, except to update cross-references,” will be revised
7 to make clear that the only changes made to cross-references are
8 those required to reflect the renumbering of provisions as a result
9 of recodification.
- 10 • The draft will be revised to correct an apparent error in the
11 application of Fish and Game Code Section 8610.2(b) to a cross-
12 reference in Fish and Game Code Section 8610.13. That issue is
13 described on page 6 of Memorandum 2015-52.

APPROVED AS SUBMITTED

Date

APPROVED AS CORRECTED
(for corrections, see Minutes of next meeting)

Chairperson

Executive Director