

CALIFORNIA LAW REVISION COMMISSION

TENTATIVE RECOMMENDATION

Equitable Relief in a Limited Civil Case

April 2005

This tentative recommendation is being distributed so that interested persons will be advised of the Commission's tentative conclusions and can make their views known to the Commission. Any comments sent to the Commission will be a part of the public record and will be considered at a public meeting when the Commission determines the provisions it will include in legislation the Commission plans to recommend to the Legislature. It is just as important to advise the Commission that you approve the tentative recommendation as it is to advise the Commission that you believe revisions should be made in the tentative recommendation.

COMMENTS ON THIS TENTATIVE RECOMMENDATION SHOULD BE RECEIVED BY THE COMMISSION NOT LATER THAN July 31, 2005.

The Commission often substantially revises tentative recommendations as a result of the comments it receives. Hence, this tentative recommendation is not necessarily the recommendation the Commission will submit to the Legislature.

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SUMMARY OF TENTATIVE RECOMMENDATION

The authority of the superior court to grant equitable relief in a limited civil case is restricted. The restriction on the court's authority dates from the era when a cause of that type was within the jurisdiction of the municipal court. Now that the municipal court has been abolished and the superior court's jurisdiction has been expanded to encompass a limited civil case, some of the equitable relief restrictions may no longer be necessary.

The Law Revision Commission recommends that the superior court should be authorized, in a cause that otherwise is treated as a limited civil case, to award the following types of equitable relief currently prohibited to it:

- Determination of title to real property.
- Declaratory relief.
- Good faith improver relief.

The Commission particularly solicits comment on the advisability of allowing declaratory relief in a limited civil case.

This recommendation was prepared pursuant to Government Code Section 71674.

EQUITABLE RELIEF IN A LIMITED CIVIL CASE

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INTRODUCTION

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The authority of the superior court to grant equitable relief in a limited civil case is restricted. The restriction on the court's authority dates from the era when a cause of that type was within the jurisdiction of the municipal court. Now that the municipal court has been abolished and the superior court's jurisdiction has been expanded to encompass a limited civil case, the equitable relief restrictions may no longer be necessary.

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Trial Court Unification

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Before unification of the trial courts, the jurisdictional division between the superior court and municipal court was reasonably clear. The municipal court was a court of limited jurisdiction; its civil jurisdiction was roughly restricted to cases at law in which the amount in controversy did not exceed \$25,000. The superior court was a court of general jurisdiction; its civil jurisdiction included not only cases at law in larger amounts, but also cases in equity. Some areas of civil law were within the exclusive jurisdiction of the superior court regardless of the amount in controversy, such as family, probate, and real property matters.

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In order to avoid disruption during the unification process, the Legislature adopted the approach of converting a cause traditionally within the civil jurisdiction of the municipal court into a "limited civil case":

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On unification of the trial courts in a county, all causes will be within the original jurisdiction of the superior court. Differentiating among superior court causes will be necessary, however, to preserve filing fees, economic litigation procedures, local appeals, and other significant procedural distinctions for matters that traditionally have been within the municipal court's jurisdiction. If instead all causes in a unified court were treated in the same manner as traditional superior court causes, there would be disparity of treatment between a party appearing in a municipal court and a similarly situated party appearing in a unified superior court. The approach may also be impractical for a number of reasons, including limited trial and appellate court resources.¹

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The limited civil case concept was only an interim solution.² Now that the court system is fully unified, the Law Revision Commission has reexamined the question of equitable relief in a limited civil case.

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1. *Trial Court Unification: Revision of Codes*, 28 Cal. L. Revision Comm'n Reports 51, 64 (1998) (footnote omitted).

2. "Although the proposed legislation would preserve these procedural distinctions intact, they warrant reexamination as unification progresses. Adjustments may be appropriate to eliminate unnecessary rigidity and improve the court system." *Revision of Codes, supra* note 1, at 65 (footnote omitted).

1 **Existing Law**

2 The superior court is a court of general jurisdiction, with original jurisdiction in
3 all causes,³ including both limited⁴ and unlimited⁵ civil cases. The critical
4 differences in treatment between the two categories of civil case are that simplified
5 economic litigation procedures apply in a limited civil case and an appeal in a
6 limited civil case is to the appellate division of the superior court rather than to the
7 court of appeal.⁶ The limited civil case filing fee increase in 2003 made the filing
8 fees in limited and unlimited civil cases comparable; this will change on July 1,
9 2006, when fees in a limited civil case will be reduced.⁷

10 Generally, the court may grant any appropriate relief in a civil case regardless of
11 whether the theory on which liability is predicated involves legal or equitable
12 principles.⁸ However, the law restricts the authority of the superior court to grant
13 the following specific types of relief in a limited civil case:

- 14 • The court may not grant a permanent injunction.⁹
- 15 • The court may not determine title to real property.¹⁰
- 16 • The court may not enforce an order under the Family Code.¹¹
- 17 • The court may not grant declaratory relief, except in connection with certain
18 types of indemnity and fee arbitration proceedings.¹²
- 19 • The court may not grant good faith improver relief, except when pleaded
20 defensively in a cross-complaint in a matter that is otherwise a limited civil
21 case.¹³

22 These restrictions preserve historical limitations on the jurisdiction of the
23 municipal court.¹⁴ It is noteworthy, however, that the general rule that “the court

3. Cal. Const. art. VI, § 10.

4. Code Civ. Proc. §§ 85-86.1.

5. Code Civ. Proc. § 88.

6. See Code Civ. Proc. §§ 90-100 (economic litigation for limited civil case); 904.2 (appeal).

7. See Gov’t Code §§ 26820.4 (first paper filing fee), 72055 (first paper filing fee in limited civil case).

8. Code Civ. Proc. § 580(a).

9. Code Civ. Proc. § 580(b)(2).

10. Code Civ. Proc. § 580(b)(3).

11. Code Civ. Proc. § 580(b)(4).

12. Code Civ. Proc. §§ 86(a)(7), 580(b)(5).

13. Code Civ. Proc. § 871.3.

14. The Law Revision Commission Comment to Code of Civil Procedure Section 580 notes:

Similarly, subdivisions (b)(2)-(b)(5) reflect and preserve limitations on the types of equitable relief awardable in a municipal court. See R. Weil & I. Brown, Jr., *California Practice Guide: Civil Procedure Before Trial, Jurisdiction and Venue* §§ 3:12-3:18.1, at 3-6 to 3-7 (1997). See also *St. James Church of Christ Holiness v. Superior Court*, 135 Cal. App. 2d 352, 362, 287 P.2d 387 (1955) (municipal court lacks jurisdiction to grant permanent injunction); *Pasadena Inv. Co. v. Peerless Casualty Co.*, 134 Cal. App. 2d Supp. 902, 286 P.2d 1014 (1955) (municipal court lacks jurisdiction

1 may grant the plaintiff any relief consistent with the case made by the complaint
2 and embraced within the issue” has been a part of Code of Civil Procedure Section
3 580 since it was enacted in 1872. It has been applied to both superior and
4 municipal courts.¹⁵

5 HISTORICAL BACKGROUND

6 An historical perspective is necessary for an understanding of the reasons for the
7 municipal court’s limited authority to grant certain forms of equitable relief and
8 for proper evaluation of the continued need for those limitations.

9 Establishment of Municipal Court in 1924

10 The California Constitution in 1924 authorized the establishment of the
11 municipal court.¹⁶ The municipal court was given original jurisdiction in all cases
12 *at law* in which the demand or the value of the property in controversy amounted
13 to \$1,000 or less.¹⁷

14 The superior court had original jurisdiction in all other civil cases, including all
15 cases *in equity*.¹⁸

16 The purpose of splitting the superior court’s jurisdiction in this way was to
17 relieve congested superior court calendars.¹⁹ This was done by picking off the
18 relatively small, easily resolved cases. Because an equity case tends to be more

to grant declaratory relief). On enforcement of orders under the Family Code, see Family Code Sections 200, 290; *In re Marriage of Lackey*, 143 Cal. App. 3d 698, 191 Cal. Rptr. 309 (1983).

15. See, e.g., *Janssen v. Luu*, 57 Cal. App. 4th 272, 278, 66 Cal. Rptr. 2d 838 (1997) (“[T]here is *no limitation* on the application of section 580 to municipal courts.”). The provision applies to both legal and equitable relief. See *Walsh v. McKeen*, 75 Cal. 519, 521-22, 17 P. 673 (1888):

As to the alleged change in the nature of the action [from legal to equitable], an answer is found in the fact that we have in this state but one form of civil actions for the enforcement or protection of private rights (Code Civil Proc., sec. 307); and where an answer has been filed, any relief may be granted to the plaintiff which is consistent with the facts stated in the complaint. (Code Civil Proc., sec. 580.) An action does not now, as formerly, fail because the plaintiff has made a mistake as to the form of his remedy. If the case which he states entitles him to any remedy, either legal or equitable, his complaint is not to be dismissed because he has prayed for a judgment to which he is not entitled. “Legal and equitable relief are administered in the same forum, and according to the same general plan. A party cannot be sent out of court merely because his facts do not entitle him to relief *at law*, or merely because he is not entitled to relief *in equity*, as the case may be. He can be sent out of court only when, upon his facts, he is entitled to *no relief*, either at law or in equity.”

(Emphasis in original.) See also *Lacy v. Laurentide Fin. Corp.*, 28 Cal. App. 3d 251, 104 Cal. Rptr. 547 (1972) (plaintiffs who sought to vacate levy of writ of execution but did not pray to vacate judgment were not limited to relief demanded).

16. Cal. Const. art. VI, § 11a (1924).

17. Cal. Const. art. VI, § 11a (1924); 1925 Cal. Stat. ch. 358, § 29.

18. Cal. Const. art. VI, § 5 (1924).

19. See *Wallace v. Payne*, 197 Cal. 539, 548, 241 P. 879 (1925); *Shipp v. Superior Court*, 209 Cal. 671, 675, 289 P. 825 (1930); Ames, *Origin and Jurisdiction of Municipal Courts*, 21 Cal. L. Rev. 117 (1932).

1 complex and time-consuming than a case at law, the municipal court's equity
2 jurisdiction was limited, just as is the small claims court's jurisdiction today.²⁰

3 **Expansion of Municipal Court's Equity Jurisdiction**

4 The limitation on the municipal court's equity jurisdiction caused immediate
5 problems. The procedural interplay between the municipal and superior courts
6 resulted in duplication of effort and in some cases aggravated the congestion
7 problem. For example, if a defendant raised an equitable defense in municipal
8 court to show that the plaintiff was not entitled to a money judgment, a separate
9 superior court action was required.

10 **1928-1929 Constitutional and Statutory Amendments**

11 In 1928, the Constitution was amended to eliminate the grant of equity
12 jurisdiction solely to the superior court. It was replaced by a grant of general
13 jurisdiction to the superior court in all civil actions and proceedings except those
14 in which the Legislature gave jurisdiction to the municipal court.²¹

15 Pursuant to the constitutional amendment, the Legislature in 1929 revised the
16 Municipal Court Act to give the municipal court jurisdiction over mechanics liens
17 of \$2,000 or less and to provide that each municipal court "shall have jurisdiction
18 in all cases in equity, when pleaded as defensive matter or by way of cross-
19 complaint in any case at law commencing in the municipal court, of which it has
20 exclusive jurisdiction."²²

21 The courts have interpreted "cases when equity is pleaded as a defensive matter"
22 to mean an equitable matter pleaded by way of answer, counterclaim, or cross-
23 complaint.²³ However, the equitable matter must still be defensive in nature.²⁴

24 The extension of equity jurisdiction to the municipal court was narrowly focused
25 to relieve the superior court of minor cases without removing its general equity
26 jurisdiction.²⁵

20. Cf. Code Civ. Proc. § 116.220.

21. Cal. Const. art. VI, § 5 (1928).

22. 1929 Cal. Stat. ch. 477, § 2.

23. *Strachan v. American Ins. Co.*, 260 Cal. App. 2d 113, 117, 66 Cal. Rptr. 742 (1968).

24. See *Jacobson v. Superior Court*, 5 Cal. 2d 170, 173, 53 P.2d 756 (1936) (cross-complaint seeking cancellation of insurance policy for nonpayment of premiums was defensive by showing plaintiff was not entitled to recover anything under the insurance policy).

25. See, for example, *Gallagher v. Campodonico*, 121 Cal. App. Supp. 765, 772, 5 P.2d 486 (1931), addressing the municipal court's jurisdiction over the enforcement of a mechanics lien:

Prior to 1929 exclusive jurisdiction over the enforcement of [mechanics] liens was vested in the superior court; but when municipal courts were established and their jurisdiction was extended to cases involving as much as \$2,000, the amendment under review was adopted as part of the plan to relieve congestion in the Superior Court and to promote expedition and efficiency in the administration of the law. With that in view, a certain exclusive jurisdiction in lien cases was transferred to the municipal courts.

1 ***Forty Years of Statutory Expansion***

2 In the years following the limited grant of equity jurisdiction to the municipal
3 court, the Legislature gradually expanded that jurisdiction on a case by case basis.
4 In many instances, the expansion occurred as a result of a case or other writing
5 highlighting the need for extended equity jurisdiction in the municipal court.

6 For example, in 1932, Judge Alden Ames pointed to a number of anomalies in
7 the municipal court's jurisdiction.²⁶ These included:

- 8 • The distinction that permitted a municipal court to hear an equity matter
9 when raised by the defendant in the form of a cross-complaint, but not when
10 raised by the plaintiff.
- 11 • The inability of the municipal court to enforce its own judgments because a
12 creditor's bill was an equity proceeding.
- 13 • The difficulty in determining in some instances whether an action was at law
14 or in equity, for example in a case involving fraud or rescission of contract.
- 15 • The apparent conflict that a plaintiff could not apply for an injunction, even
16 for the purpose of enforcing a judgment, whereas the defendant could.

17 In response the Legislature in 1933 extended the municipal court's equity
18 jurisdiction by deleting the cross-complaint limitation and by giving the court
19 jurisdiction over additional equity matters such as authority to enforce its own
20 judgments, to cancel or rescind a contract, and to issue a temporary restraining
21 order or preliminary injunction to preserve the property or rights of the parties.²⁷

22 In 1969, the California Supreme Court held that a municipal court has no
23 inherent equity jurisdiction to set aside a judgment or order obtained through
24 extrinsic fraud or extrinsic mistake.²⁸ In response, the Legislature extended the
25 municipal court's jurisdiction to permit such equitable relief.²⁹

26 ***Liability Based on Equitable Principles***

27 In 1970, *Castellini v. Municipal Court*³⁰ held that a municipal court could not
28 grant the relief of disregarding the fiction of corporate existence:

29 No sound policy reason occurs to us why in a case otherwise within municipal
30 court jurisdiction, equitable principles should not be generally applicable. Such a
31 rule would tend to obviate the frequent and understandable misapprehension of
32 litigants as to just where jurisdiction lies. It would prevent time consuming delays,
33 such as here, which must at times result in denial of justice. But the state
34 Constitution, article VI, section 5, casts the power to make such a determination
35 on the Legislature, not the courts.

26. See Ames, *The Origin and Jurisdiction of the Municipal Courts in California*, 21 Cal. L. Rev. 117, 125-127 (1932).

27. 1933 Cal. Stat. ch. 743, § 13.

28. *Bloniarz v. Roloson*, 70 Cal. 2d 143, 449 P.2d 221, 74 Cal. Rptr. 285 (1969).

29. See discussion in *Marianos v. Tutunjian*, 70 Cal. App. 3d 61, 65, 138 Cal. Rptr. 529 (1977).

30. 7 Cal. App. 3d 174, 176, 86 Cal. Rptr. 698 (1970).

1 In response the Legislature added a new provision to the Municipal Court Act:³¹

2 In any action that is otherwise within its jurisdiction, the court may impose
3 liability whether the theory upon which liability is sought to be imposed involves
4 legal or equitable principles.

5 The provision has since been relocated to the remedies provisions of the Code of
6 Civil Procedure, where it now applies to the civil jurisdiction of the superior
7 court.³²

8 The provision expressly authorizes liability based on equitable principles, but
9 does not authorize equitable relief as such. The bill enacting the provision had
10 included authority for the municipal court to impose liability “or grant relief” on
11 either a legal or equitable basis.³³ However, the “grant relief” language was
12 stricken from the bill before enactment. Cases addressing the equitable relief issue
13 are inconclusive.³⁴

14 **Quality of Municipal Court**

15 It has been suggested that, besides the desire to reserve the municipal court for
16 smaller and simpler cases, there has historically been concern about extending the
17 court’s equity jurisdiction because a municipal court judge might lack the
18 experience and competence of a superior court judge.

19 Actually, from the creation of the municipal court in 1924 until 1950, the
20 qualifications for Supreme Court justices, appellate court justices, superior court
21 judges, and municipal court judges were the same. All judges, including a
22 municipal court judge, were required to have been a member of the State Bar or a
23 judge of a court of record for five years.³⁵ Municipal court judges were assigned
24 on a temporary basis to serve on the superior court as needed.

25 The Constitution was amended in 1950 to allow a former justice of the peace
26 who was not an attorney to become a municipal court judge.³⁶ Further
27 differentiation between the qualifications of judges occurred in 1966, when the
28 experience required of a superior court judge was increased to ten years.³⁷

31. 1971 Cal. Stat. ch. 1022, § 1.

32. Code Civ. Proc. § 580(a).

33. See Assembly Committee on Judiciary Analysis of SB 599 (Sept. 9, 1971).

34. *Lacy v. Laurentide Fin. Corp.* notes that the “equitable principles” provision was intended to overturn the rule that there is no general equity jurisdiction in the municipal court; however, “the \$5,000 monetary limit still prevails.” 28 Cal. App. 3d at 259-60. *Flowers & Sons Dev. Corp. v. Municipal Court*, 86 Cal. App. 3d 818, 823-24, 150 Cal. Rptr. 555 (1978), holds that the municipal court may grant monetary relief under an equitable theory (fraudulent conveyance), so long as the monetary relief is within the municipal court’s jurisdiction and so long as the cause of action does not fall into one of the areas exclusively within the superior court’s jurisdiction.

35. See, e.g., Cal. Const. art. VI, § 23 (1950); *Helwig v. Payne*, 197 Cal. 524, 526-27, 241 P. 884 (1925).

36. Cal. Const. art. VI, § 23 (1950).

37. Cal. Const. art. VI, § 16 (1966).

1 A 1971 trial court unification study included the following findings:³⁸

2 Some individuals and groups have expressed the opinion that there is a
3 difference in the level of experience and degree of competence between the
4 Superior Court and lower court judges. Many persons believe that it would be
5 impractical to elevate all Municipal Court judges and attorney Justice Court
6 judges to the Superior Court bench where they might be handling cases beyond
7 their existing capacities and experience. It should be noted that Superior Court
8 judges must be members of the Bar for at least ten years and Municipal Court
9 judges must be members for five years. There is no Bar membership requirement
10 for Justice Court judges. Some people feel that newly elected judges to the
11 Superior Court are more experienced than new judges on the Municipal Court.

12 It was a common practice for the Governor to use an appointment to the
13 municipal court to test a judge's ability on smaller, less noteworthy cases — a sort
14 of proving ground before elevation to the superior court.

15 These considerations may have contributed to the Legislature's decision to
16 circumscribe the municipal court's authority to grant equitable relief.

17 **CONSIDERATIONS AFFECTING EQUITABLE RELIEF IN A**
18 **LIMITED CIVIL CASE**

19 Since 1928, when the state Constitution was amended to permit the municipal
20 court to exercise equity jurisdiction, there was nothing to prevent the Legislature
21 from granting the court additional equity jurisdiction. The decision to restrict
22 equity jurisdiction was political and practical. The concerns that brought about
23 creation of the municipal court and restricted its equity jurisdiction do not
24 necessarily apply in a limited civil case in the superior court. However, there are
25 other considerations that suggest caution in expanding the availability of equitable
26 relief in a limited civil case.

27 **Economic Litigation Procedures**

28 Simplified economic litigation procedures now apply in a limited civil case.³⁹
29 An equity case may in some circumstances be more complicated, more fact-
30 intensive, and more time-consuming, than a general damages action. Equitable
31 relief may be harsher in nature and have more long-lasting effects than money
32 damages in some cases. An equity matter should not necessarily be subject to the
33 discovery and pleading restrictions applicable in a limited civil case.

34 The economic litigation procedures are sufficiently flexible, however, to enable
35 additional discovery if warranted in the circumstances of a particular case.⁴⁰ Also,
36 the case may be withdrawn from economic litigation procedures completely on a

38. Booz, Allen & Hamilton, California Unified Trial Court Feasibility Study 54 (1971).

39. Code Civ. Proc. §§ 90-100.

40. Code Civ. Proc. § 95.

1 showing that it is impractical to prosecute or defend the action within the
2 economic litigation restrictions.⁴¹

3 **Judicial Competence**

4 Under trial court unification transitional provisions, a former municipal court
5 judge is exempt from the 10-year qualification requirement for a superior court
6 judge.⁴² However, by the time of enactment of any revisions to the equitable relief
7 statutes, any municipal court judge grandfathered in will have had combined
8 practice and judicial experience of a minimum of 10 years.⁴³

9 It has been suggested that less experienced or able judges may be routinely
10 assigned to handle the limited civil case calendar in superior court, and that the
11 quality of justice in a limited civil case may be inferior to that in an unlimited civil
12 case.

13 Whether or not that is the practice, the presiding judge of the superior court has
14 authority to distribute court business and assign judges to departments based on,
15 among other factors, the knowledge and abilities demanded by the assignment and
16 the judge's judicial and nonjudicial experience.⁴⁴ If a particular judge is not
17 experienced enough to deal with a complex equity matter, the matter can be heard
18 by another judge who has the requisite experience.

19 **Appeals**

20 Ordinarily, a limited civil case is appealed to the appellate division of the
21 superior court and an unlimited civil case is appealed to the court of appeal.
22 However, the California Constitution freezes the jurisdiction of the court of appeal
23 in "causes of a type within the appellate jurisdiction of the courts of appeal on
24 June 30, 1995."⁴⁵ Whether equitable relief would be considered a "cause" within
25 the meaning of this provision, so that a limited civil case in which equitable relief
26 is awarded would be within the appellate jurisdiction of the court of appeal, has
27 not been determined.

28 The "causes of a type" language was added to the Constitution as part of trial
29 court unification. Its purpose was to preserve the appellate jurisdiction of the court
30 of appeal in cases historically within the original jurisdiction of the superior
31 court.⁴⁶

41. Code Civ. Proc. § 91.

42. Cal. Const. art. VI, § 23(b).

43. There are no longer any nonattorney municipal court judges serving.

44. Cal. R. Ct. 6.603(c)(1)(A).

45. Cal. Const. art. VI, § 11(a).

46. *Revision of Codes*, *supra* note 1, at 73; see also *General Elec. Capital Auto Fin. Services, Inc. v. Appellate Division*, 88 Cal. App. 4th 136, 145, 105 Cal. Rptr. 2d 552 (2001).

1 It appears likely that most forms of equitable relief would not be considered a
2 “cause” within the meaning of the constitutional provision.⁴⁷ An appeal in a
3 limited civil case including equitable relief would go to the appellate division of
4 the superior court rather than to the court of appeal.⁴⁸

5 EXPANSION OF EQUITABLE RELIEF IN A LIMITED CIVIL CASE

6 The Law Revision Commission has identified three types of equitable relief as
7 candidates for limited civil case jurisdiction:

- 8 • Determining title to real property.
- 9 • Declaratory relief.
- 10 • Good faith improver relief.

11 **Title to Real Property**

12 Code of Civil Procedure Section 580(b)(3) prohibits a determination of title to
13 real property in a limited civil case.

14 Before unification, a municipal court judge could in some instances determine
15 title to real property. For example, if a determination of title was necessary in
16 order to resolve a claim for damages to real property within the jurisdiction of the
17 municipal court, the court had jurisdiction for that purpose.⁴⁹ Likewise, title could
18 be tried in an unlawful detainer action in municipal court, provided the value of
19 the property was less than the limited civil case jurisdictional limit.⁵⁰ The
20 municipal court did not have equity jurisdiction to determine title to real property
21 for the purpose of applying fraudulent conveyance remedies if the value of the
22 property affected exceeded the jurisdictional limits of the municipal court.⁵¹

23 The cases are consistent in permitting the imposition of liability on equitable
24 principles in a case otherwise within the jurisdiction of the municipal court. This
25 background suggests that there may no longer be good reason to prohibit the
26 determination of title to real property in a limited civil case, so long as the amount
27 involved does not exceed \$25,000. For this purpose, the “amount involved” should

47. *Cf. Lester v. Lennane*, 84 Cal. App. 4th 536, 560, 101 Cal. Rptr. 2d 86 (2000) (temporary custody order not a “cause” within the meaning of Cal. Const. art. VI, § 11, so as to implicate right to appeal). It is also conceivable the matter could go the other way. *Cf. In re Rose*, 22 Cal. 4th 430, 450-51, 93 Cal. Rptr. 2d 298 (2000) (“cause” broadly construed in specified circumstances).

48. In any event, court of appeal review of a limited civil case would not necessarily be undesirable. See Tentative Recommendation on *Appellate and Writ Review Under Trial Court Unification* (Nov. 2001) (available from the Commission, www.clrc.ca.gov).

49. *Hooper v. Miley Oil Co.*, 109 Cal. App. Supp. 767, 770, 288 P. 26 (1930).

50. *Vella v. Hudgins*, 20 Cal. 3d 251, 255, 572 P.2d 28, 142 Cal. Rptr. 414 (1977).

51. *Flowers & Sons Dev. Corp. v. Municipal Court*, 86 Cal. App. 3d 818, 824, 150 Cal. Rptr. 555 (1978) (“The rule is that if there is present in a case any material issue involving the title of real property which property is over the value of \$5,000, the superior court has jurisdiction over the action. (See *Vella v. Hudgins* (1977) 20 Cal.3d 251, 257 [142 Cal.Rptr. 414, 572 P.2d 28]; 1 Witkin, *Cal.Procedure* (2d ed. 1970) Jurisdiction, § 45, p. 569.)”).

1 be the value of the ownership interest affected by the determination of title. If a
2 determination of title would implicate a greater amount than \$25,000 in a limited
3 civil case, a party could obtain reclassification of the cause as an unlimited civil
4 case.⁵²

5 The statute should also be revised to make clear that the \$25,000 jurisdictional
6 limit for a limited civil case is determined by the value of the interest in property
7 that is in controversy, and not by the gross value of the property.⁵³ The existence
8 of a lien or encumbrance on an interest does not affect the determination of the
9 underlying value of the property interest. The existing statute is ambiguous on
10 these points.

11 **Declaratory Relief**

12 Declaratory relief is an equitable remedy, involving a court declaration of the
13 rights and duties of parties.⁵⁴ Declaratory relief was exclusively within the
14 superior court's jurisdiction until unification. On unification, declaratory relief was
15 precluded in a limited civil case except by way of cross complaint.⁵⁵

16 A declaration of rights and duties may occur during routine civil litigation as
17 well as in a declaratory relief proceeding. The procedures involved are not unique.
18 The fact that existing law allows declaratory relief in a limited civil case if brought
19 by way of cross complaint suggests that limited civil case procedures are adequate
20 where the amount in controversy does not exceed \$25,000.

21 Witkin says:⁵⁶

22 An action for declaratory relief may involve a right or claim of small monetary
23 value which would be tried in a legal action if the cause of action was based on a
24 breach or other wrongful act actually committed. In the federal courts the amount
25 in controversy in declaratory relief actions is determined as in ordinary actions, by
26 the amount involved.

27 There are benefits and possible drawbacks to extending declaratory relief
28 authority to a limited civil case. It would be useful to have a simple procedure for
29 declaratory relief in a smaller case. However, that may increase the potential for
30 abusive manipulation of the process by mischaracterizing the value of the case.

31 The Law Revision Commission has concluded it would be useful to obtain
32 broader input on this issue. **The Commission particularly solicits comment on the**
33 **advisability of allowing declaratory relief in a limited civil case.**

52. See Code Civ. Proc. §§ 403.010-403.090.

53. See Code Civ. Proc. § 85(a).

54. Code Civ. Proc. § 1060.

55. Code Civ. Proc. §§ 86(a)(7)(A), 580(b)(5). Also, an action for declaratory relief to conduct a trial after a nonbinding attorney fee arbitration is a limited civil case if the amount in controversy does not exceed \$25,000. Code Civ. Proc. § 86(a)(7)(B).

56. 2 B. Witkin, California Procedure *Jurisdiction* § 53, at 594-95 (4th ed. 1996).

1 **Good Faith Improver Claim**

2 Code of Civil Procedure Sections 871.1 to 871.7 set out rights and remedies of a
3 person that makes an improvement to land in good faith and under the erroneous
4 belief that the person is the owner. Section 871.3(a) provides:

5 An action for relief under this chapter shall be treated as an unlimited civil case,
6 regardless of the amount in controversy and regardless of whether a defendant
7 cross-complains for relief under this chapter. Any other case in which a defendant
8 cross-complains for relief under this chapter shall be treated as a limited civil case
9 if the cross-complaint is defensive and the case otherwise satisfies the amount in
10 controversy and other requirements of Section 85.

11 This scheme is consistent with the general rules of practice that governed
12 equitable claims in municipal court.⁵⁷ A good faith improver claim was not within
13 the jurisdiction of the municipal court unless raised as a defensive matter.

14 The Law Revision Commission recommends that a good faith improver claim be
15 allowed in a limited civil case where an amount under \$25,000 is involved. Under
16 existing law, the court may consider the full range of equitable relief if a good
17 faith improver claim is pleaded defensively in a limited civil case. No sound
18 reason appears to limit the availability of such relief if the matter is pleaded
19 affirmatively.

20 CONCLUSION

21 The restrictions on awarding equitable relief in a limited civil case advance the
22 cause of providing inexpensive and expeditious justice in smaller cases. However,
23 with expansion of the superior court's jurisdiction to include limited civil cases,
24 expansion of the types of relief that may be awarded in those cases is appropriate.

25 The Law Revision Commission recommends that the superior court be
26 authorized, in a cause that otherwise is treated as a limited civil case, to award the
27 following types of equitable relief that are currently prohibited:

- 28 • Determination of title to real property.
29 • Declaratory relief.
30 • Good faith improver relief.

31 The Commission particularly solicits comment on the advisability of allowing
32 declaratory relief in a limited civil case.

57. See *Jurisdictional Classification of Good Faith Improver Claims*, 30 Cal. L. Revision Comm'n Reports 281, 286 (2000).

PROPOSED LEGISLATION

1 **Code Civ. Proc. § 85 (amended). Miscellaneous limited civil cases**

2 85. An action or special proceeding shall be treated as a limited civil case if all
3 of the following conditions are satisfied, and, notwithstanding any statute that
4 classifies an action or special proceeding as a limited civil case, an action or
5 special proceeding shall not be treated as a limited civil case unless all of the
6 following conditions are satisfied:

7 (a) The amount in controversy does not exceed twenty-five thousand dollars
8 (\$25,000). As used in this section, “amount in controversy” means the amount of
9 the demand, or the recovery sought, or the value of the interest in property, or the
10 amount of the lien, that is in controversy in the action, exclusive of attorneys’ fees,
11 interest, and costs.

12 (b) The relief sought is a type that may be granted in a limited civil case.

13 (c) The relief sought, whether in the complaint, a cross-complaint, or otherwise,
14 is exclusively of a type described in one or more statutes that classify an action or
15 special proceeding as a limited civil case or that provide that an action or special
16 proceeding is within the original jurisdiction of the municipal court, including, but
17 not limited to, the following provisions:

18 (1) Section 798.61 of the Civil Code.

19 (2) Section 1719 of the Civil Code.

20 (3) Section 3342.5 of the Civil Code.

21 (4) Section 86.

22 (5) Section 86.1.

23 (6) Section 1710.20.

24 (7) Section 7581 of the Food and Agricultural Code.

25 (8) Section 12647 of the Food and Agricultural Code.

26 (9) Section 27601 of the Food and Agricultural Code.

27 (10) Section 31503 of the Food and Agricultural Code.

28 (11) Section 31621 of the Food and Agricultural Code.

29 (12) Section 52514 of the Food and Agricultural Code.

30 (13) Section 53564 of the Food and Agricultural Code.

31 (14) Section 53069.4 of the Government Code.

32 (15) Section 53075.6 of the Government Code.

33 (16) Section 53075.61 of the Government Code.

34 (17) Section 5411.5 of the Public Utilities Code.

35 (18) Section 9872.1 of the Vehicle Code.

36 (19) Section 10751 of the Vehicle Code.

37 (20) Section 14607.6 of the Vehicle Code.

38 (21) Section 40230 of the Vehicle Code.

39 (22) Section 40256 of the Vehicle Code.

1 **Comment.** Subdivision (a) of Section 85 is amended to make clear that it is the value of the
2 property interest in controversy, rather than the gross value of the property involved, that
3 determines limited civil case jurisdiction. See, e.g., Section 86(b)(1) (case to try title to interest in
4 real or personal property).

5 Thus, if the ownership interest of a cotenant is at issue in a case, it is the value of the cotenant's
6 interest, rather than the value of the undivided fee, that determines the jurisdictional classification
7 of the case. Similarly, if a less than fee interest, such as an easement or leasehold is at issue, it is
8 the value of that interest, rather than the value of the fee, that determines jurisdictional
9 classification.

10 Under this section, the value of an interest in property is determined without reduction for liens
11 encumbering the property. While a lien may entitle the lienholder to priority for sale proceeds, it
12 does not reduce the value of the encumbered property interest for purposes of jurisdictional
13 classification.

14 **Code Civ. Proc. § 86 (amended). Miscellaneous limited civil cases**

15 86. (a) The following civil cases and proceedings are limited civil cases:

16 (1) Cases at law in which the demand, exclusive of interest, or the value of the
17 property in controversy amounts to twenty-five thousand dollars (\$25,000) or less.
18 This paragraph does not apply to cases that involve the legality of any tax, impost,
19 assessment, toll, or municipal fine, except actions to enforce payment of
20 delinquent unsecured personal property taxes if the legality of the tax is not
21 contested by the defendant.

22 (2) Actions for dissolution of partnership where the total assets of the partnership
23 do not exceed twenty-five thousand dollars (\$25,000); actions of interpleader
24 where the amount of money or the value of the property involved does not exceed
25 twenty-five thousand dollars (\$25,000).

26 (3) Actions to cancel or rescind a contract when the relief is sought in connection
27 with an action to recover money not exceeding twenty-five thousand dollars
28 (\$25,000) or property of a value not exceeding twenty-five thousand dollars
29 (\$25,000), paid or delivered under, or in consideration of, the contract; actions to
30 revise a contract where the relief is sought in an action upon the contract if the
31 action otherwise is a limited civil case.

32 (4) Proceedings in forcible entry or forcible or unlawful detainer where the
33 whole amount of damages claimed is twenty-five thousand dollars (\$25,000) or
34 less.

35 (5) Actions to enforce and foreclose liens on personal property where the amount
36 of the liens is twenty-five thousand dollars (\$25,000) or less.

37 (6) Actions to enforce and foreclose, or petitions to release, liens of mechanics,
38 materialmen, artisans, laborers, and of all other persons to whom liens are given
39 under the provisions of Chapter 2 (commencing with Section 3109) of Title 15 of
40 Part 4 of Division 3 of the Civil Code, or to enforce and foreclose an assessment
41 lien on a common interest development as defined in Section 1351 of the Civil
42 Code, where the amount of the liens is twenty-five thousand dollars (\$25,000) or
43 less. However, where an action to enforce the lien affects property that is also
44 affected by a similar pending action that is not a limited civil case, or where the

1 total amount of the liens sought to be foreclosed against the same property
2 aggregates an amount in excess of twenty-five thousand dollars (\$25,000), the
3 action is not a limited civil case.

4 (7) Actions for declaratory relief ~~when brought pursuant to either of the~~
5 ~~following:~~

6 (A) ~~By way of cross-complaint as to a right of indemnity with respect to the~~
7 ~~relief demanded in the complaint or a cross-complaint in an action or proceeding~~
8 ~~that is otherwise a limited civil case.~~

9 (B) ~~To conduct a trial after a nonbinding fee arbitration between an attorney and~~
10 ~~client, pursuant to Article 13 (commencing with Section 6200) of Chapter 4 of~~
11 ~~Division 3 of the Business and Professions Code, where the amount in controversy~~
12 ~~is twenty-five thousand dollars (\$25,000) or less.~~

13 (8) Actions to issue temporary restraining orders and preliminary injunctions,
14 and to take accounts, where necessary to preserve the property or rights of any
15 party to a limited civil case; to make any order or perform any act, pursuant to
16 Title 9 (commencing with Section 680.010) of Part 2 (enforcement of judgments)
17 in a limited civil case; to appoint a receiver pursuant to Section 564 in a limited
18 civil case; to determine title to personal property seized in a limited civil case.

19 (9) Actions under Article 3 (commencing with Section 708.210) of Chapter 6 of
20 Division 2 of Title 9 of Part 2 for the recovery of an interest in personal property
21 or to enforce the liability of the debtor of a judgment debtor where the interest
22 claimed adversely is of a value not exceeding twenty-five thousand dollars
23 (\$25,000) or the debt denied does not exceed twenty-five thousand dollars
24 (\$25,000).

25 (10) Arbitration-related petitions filed pursuant to either of the following:

26 (A) Article 2 (commencing with Section 1292) of Chapter 5 of Title 9 of Part 3,
27 except for uninsured motorist arbitration proceedings in accordance with Section
28 11580.2 of the Insurance Code, if the petition is filed before the arbitration award
29 becomes final and the matter to be resolved by arbitration is a limited civil case
30 under paragraphs (1) to (9), inclusive, of subdivision (a) or if the petition is filed
31 after the arbitration award becomes final and the amount of the award and all other
32 rulings, pronouncements, and decisions made in the award are within paragraphs
33 (1) to (9), inclusive, of subdivision (a).

34 (B) To confirm, correct, or vacate a fee arbitration award between an attorney
35 and client that is binding or has become binding, pursuant to Article 13
36 (commencing with Section 6200) of Chapter 4 of Division 3 of the Business and
37 Professions Code, where the arbitration award is twenty-five thousand dollars
38 (\$25,000) or less.

39 (b) The following cases in equity are limited civil cases:

40 (1) ~~Cases to try title to personal property when the amount involved is not more~~
41 ~~than twenty-five thousand dollars (\$25,000). A case to try title to an interest in real~~
42 ~~or personal property if the case otherwise satisfies the amount in controversy and~~
43 ~~other requirements of Section 85.~~

1 (2) Cases when equity is pleaded as a defensive matter in any case that is
2 otherwise a limited civil case.

3 (3) Cases to vacate a judgment or order of the court obtained in a limited civil
4 case through extrinsic fraud, mistake, inadvertence, or excusable neglect.

5 **Comment.** Subdivision (a)(7) of Section 86 is amended to permit declaratory relief in a case
6 that is otherwise a limited civil case. The provision supersedes former Section 580(b)(5)
7 (restriction on declaratory relief in limited civil case). The expanded provision for declaratory
8 relief encompasses both former subdivision (a)(7)(A) (cross-complaint as to right of indemnity)
9 and former subdivision (a)(7)(B) (trial after nonbinding fee arbitration between attorney and
10 client where amount in controversy is \$25,000 or less).

11 Subdivision (b)(1) is amended to permit determination of real property title in a limited civil
12 case where the value of the property interest involved is within the limited civil case jurisdictional
13 amount. This provision supersedes former Section 580(b)(3) (restriction on determination of real
14 property title in limited civil case) and broadens the rule previously applicable in municipal court.
15 See, e.g., *Vella v. Hudgins*, 20 Cal. 3d 251, 257, 572 P.2d 28, 142 Cal. Rptr. 414 (1977)
16 (determination of title in unlawful detainer action involving property is within jurisdictional limits
17 of municipal court); *Hooper v. Miley Oil Co.*, 109 Cal. App. Supp. 767, 770, 288 P. 26 (1930)
18 (determination of title necessary to resolve claim for damages is within jurisdictional limits of
19 municipal court).

20 Under this provision, the jurisdiction of the court to determine title in a limited civil case is not
21 restricted to an ancillary proceeding in a limited civil case. The court may make an in rem
22 determination of title, provided the value of the property interest being determined does not
23 exceed the limited civil case jurisdictional amount.

24 For the purpose of determining the jurisdictional limit under this section, the relevant amount is
25 not the gross value of the property involved, but the value of the interest being adjudicated. See
26 Section 85(a) & Comment. Thus, if the ownership interest of one of several cotenants is at stake,
27 it is the value of that interest that is the determining factor. If a less than fee interest, such as an
28 easement, is at stake, it is the value of that interest that is the determining factor.

29  **Note.** The Commission particularly solicits comment on the proposal to allow
30 declaratory relief in a case that would otherwise be a limited civil case. There are tradeoffs
31 in this proposal. On the one hand, it could be useful to have a simple procedure for
32 declaratory relief in a smaller case. On the other hand, there may be an increase in the
33 potential for abusive manipulation of the process.

34 **Code Civ. Proc. § 580 (amended). Relief granted**

35 580. (a) The relief granted to the plaintiff, if there is no answer, cannot exceed
36 that ~~which he or she shall have demanded in his or her~~ the complaint, in the
37 statement required by Section 425.11, or in the statement provided for by Section
38 425.115; but in any other case, the court may grant the plaintiff any relief
39 consistent with the case made by the complaint and embraced within the issue. The
40 court may impose liability, regardless of whether the theory upon which liability is
41 sought to be imposed involves legal or equitable principles.

42 (b) Notwithstanding subdivision (a), the following types of relief may not be
43 granted in a limited civil case:

44 (1) Relief exceeding the maximum amount in controversy for a limited civil case
45 as provided in Section 85, exclusive of attorney's fees, interest, and costs.

46 (2) A permanent injunction.

47 (3) ~~A determination of title to real property.~~

- 1 (4) Enforcement of an order under the Family Code.
2 ~~(5) Declaratory relief, except as authorized by Section 86.~~

3 **Comment.** Section 580 is amended to enable a court to grant several types of equitable relief
4 previously precluded in a limited civil case. See Sections 86(b)(1) (title to real property), 86(a)(7)
5 (declaratory relief).

6 The changes to subdivision (a) are technical.

7 **Code Civ. Proc. § 871.3 (amended). Good faith improver**

8 871.3. (a) ~~An A cause of action for relief under this chapter shall be treated as an~~
9 ~~unlimited civil case, regardless of the amount in controversy and regardless of~~
10 ~~whether a defendant cross-complains for relief under this chapter. Any other case~~
11 ~~in which a defendant cross-complains for relief under this chapter except that the~~
12 ~~case shall be treated as a limited civil case if the cross-complaint is defensive and~~
13 ~~the case otherwise satisfies the amount in controversy and other requirements of~~
14 ~~Section 85.~~

15 (b) In every case, the burden is on the good faith improver to establish that the
16 good faith improver is entitled to relief under this chapter, and the degree of
17 negligence of the good faith improver should be taken into account by the court in
18 determining whether the improver acted in good faith and in determining the
19 relief, if any, that is consistent with substantial justice to the parties under the
20 circumstances of the particular case.

21 **Comment.** Subdivision (a) of Section 871.3 is amended to permit the classification of a good
22 faith improver claim as a limited civil case, subject to limited civil case jurisdictional limits. *Cf.*
23 Section 85(a) (amount in controversy not exceeding \$25,000).