
APPROVED MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
FEBRUARY 4, 2016
SACRAMENTO

A meeting of the California Law Revision Commission was held in Sacramento on February 4, 2016.

Commission:

Present: Taras Kihiczak, Chairperson
Diane F. Boyer-Vine, Legislative Counsel
Assembly Member Ed Chau
Thomas Hallinan
Susan Duncan Lee
Jane McAllister

Absent: Crystal Miller-O'Brien, Vice Chairperson
Damian Capozzola
Victor King
Senator Richard D. Roth

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

Other Persons:

Lazaro Cardenas, Office of Assembly Member Chau
Eric Dang, Assembly Committee on Judiciary
Prof. William Dodge, U.C. Davis School of Law
Lawrence Doyle, Conference of California Bar Associations
Robert Flack
Brian Flemmer, Office of Senator Roth
Prof. Katherine Florey, U.C. Davis School of Law
Ann Gilmour, Administrative Office of the Courts
Meredith Hankins
Donn Hoffman, Los Angeles County District Attorney's Office
Ron Kelly
Jeff Kichaven
Elizabeth Dietzen Olsen, Senate Office of Research
Delia Parr, California Indian Legal Services
Phyllis G. Pollack, PGP Mediation

Ana Sambold, National Conflict Resolution Center
Judy Yee, Office of Assembly Member Chau
Harold Thomas, Butte County District Attorney’s Office
John S. Warnlof, California Dispute Resolution Council
Nancy Neal Yeend

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APPROVAL OF ACTIONS TAKEN

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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.

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MINUTES OF DECEMBER 10, 2015, COMMISSION MEETING

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Memorandum 2016-1 presented a draft of the Minutes of the December 10, 2015, Commission meeting. The Commission approved the Minutes as submitted. (*Commissioner Chau was not present when this decision was made.*)

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ADMINISTRATIVE MATTERS

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Report of Executive Director

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The Executive Director reported that the Governor’s proposed budget for Fiscal Year 2016-2017 would continue the existing level of Commission funding, paid as reimbursements from the Office of Legislative Counsel.

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The Executive Director introduced Meredith Hankins, a third-year student at U.C. Davis School of Law, who is currently serving as a Commission extern.

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1 **Commissioner Suggestions**

2 No Commissioner suggestions were made.

3 **Meeting Schedule**

4 The Commission changed the date of its April 1, 2016, meeting. The meeting
5 will now be held on April 14, 2016.

6 The Commission changed the location of its December 1, 2016, meeting in San
7 Diego. The meeting will now be held in Los Angeles.

8 At the April meeting, the Commission will consider a possible change to the
9 date of its May 26, 2016, meeting in Sacramento.

10 *(Commissioner Chau was not present when those decisions were made.)*

11 **Open Government Laws**

12 The Commission considered Memorandum 2016-3, summarizing “open
13 government” laws applicable to the Commission. No Commission action was
14 required or taken.

15 **2016 LEGISLATIVE PROGRAM**

16 The Commission considered Memorandum 2016-4, discussing the status of its
17 2016 Legislative Program. No Commission action was required or taken.

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

19 The Commission considered Memorandum 2016-6 and its First Supplement,
20 discussing the jurisdictional standards applicable to the recognition of foreign
21 and tribal court money judgments.

22 With respect to foreign court judgments, the Commission decided that
23 California’s Uniform Act should be revised to make clear that recognition of a
24 foreign judgment may be opposed for one or both of the following reasons:

- 25 (1) The foreign court lacked personal jurisdiction under its own laws.
26 (2) The foreign court’s exercise of personal jurisdiction was
27 inconsistent with due process rights applicable in a California
28 court.

29 With respect to tribal court judgments, the Commission did not propose any
30 changes to the jurisdictional standards. The Commission indicated its intention
31 to revisit the matter if it receives further input from interested groups.

1 *(Commissioner Chau was not present for those decisions).*

2 STUDY G-301 — GOVERNMENT INTERRUPTION OF COMMUNICATION SERVICES

3 The Commission considered Memorandum 2016-5 and its First and Second
4 Supplements, discussing the interruption of area communications in order to
5 protect public health, safety, and welfare from a dangerous public assembly. The
6 Commission made the following decisions regarding such action:

- 7 • Before approving such action, a magistrate should be required to
8 find that the action would leave open “ample alternative channels
9 for communication.”
- 10 • The staff should prepare language, for Commission review, that
11 would require a state or local agency to attest that it has
12 considered the practical disadvantages of taking such action,
13 before doing so.
- 14 • The staff should prepare draft Comment language, for
15 Commission review, to provide guidance on relevant First
16 Amendment concerns when government takes such action.
- 17 • Any future written analysis of the First Amendment implications
18 of such action will take into account the observations of Professor
19 Ashutosh Bhagwat and Professor Brian Soucek, both of U.C. Davis
20 School of Law, as discussed in the First and Second Supplement.
- 21 • The staff will also research cases that address the constitutionality
22 of gang injunctions that limit public assembly.

23 More broadly, future memoranda in this study will discuss three further
24 communication interruption scenarios: (1) the interruption of communications of
25 persons under government custody or control, (2) the interruption of
26 communications incident to the lawful seizure of communications equipment
27 pursuant to a search warrant, and (3) the interruption of Internet
28 communications to protect against a cyber attack.

29 The staff reiterated its intention to meet with the California Homeland
30 Security Advisor, to discuss the intersection between California statutory law
31 and the federal Emergency Wireless Protocol.

1 STUDY K-402 — RELATIONSHIP BETWEEN MEDIATION CONFIDENTIALITY AND
2 ATTORNEY MALPRACTICE AND OTHER MISCONDUCT

3 The Commission considered Memorandum 2016-8 and Memorandum 2016-9.
4 The Commission also considered the materials attached to the First Supplement
5 to Memorandum 2016-8. No Commission action was required or taken.

6 STUDY R-100 — FISH AND GAME LAW

7 The Commission considered Memorandum 2016-7, presenting a draft of
8 provisions concerning commercial fishing and related activity. The Commission
9 provisionally approved the draft for inclusion in a draft tentative
10 recommendation, with revisions to correct identified typographical errors.

11 In addition, the staff will do all of the following:

- 12 • Contact the Office of Legislative Counsel to discuss the use of the
13 terms “fee” and “tax” in existing Fish and Game Code Section
14 15003.
- 15 • Consider adding language to the Commission’s Comments to
16 proposed Sections 15135 and 15140, discussing the effect of res
17 judicata or collateral estoppel when suspending a license based on
18 a prior criminal conviction.
- 19 • Consider whether to revise existing Fish and Game Code Section
20 7707 to include a cross-reference to other law governing nuisance.

21 The Commission also decided to continue use of the word “fisherman” in the
22 proposed Fish and Wildlife Code, rather than “fisher.” (*Commissioner Kihiczak*
23 *abstained from that decision. Commissioner Chau was not present for any of the*
24 *decisions made in connection with this study.*)