
COMMON INTEREST DEVELOPMENT UPDATE

2011 Case Law and Legislation

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CASE LAW

Astralis Condominium Association v. Secretary, U.S. Dept. of Housing 620 F.3d 62 (2010)

Facts: Homeowners suffered from physical disabilities. The association had handicapped parking spaces, but the spaces were time-limited – *i.e.*, parking was only permitted for a certain number of hours before the vehicle had to be moved. Homeowners requested that they be granted the exclusive, non-time-limited use of the two handicapped parking spaces most proximate to their unit. The parties struggled to reach an agreement, and ultimately the U.S. Department of Housing and Urban Development filed a charge of discrimination against the association.

Applicable Law: To establish a prima facie case of failure to accommodate under the Fair Housing Amendments Act (FHAA), a claimant must show that: 1) he is handicapped; 2) the party charged knew or should have known of the handicap; 3) he requested a reasonable and necessary accommodation; and 4) the party charged refused to make the requested accommodation.

Result: The association engaged in unlawful discrimination against disabled homeowners, in violation of the FHAA.

Rule: Associations that do not provide reasonable accommodations to disabled homeowners are in violation of the FHAA.

Barry v. OC Residential Properties, LLC 194 Cal.App.4th 861(2011)

Facts: Plaintiff, a homeowner invoking his right to redemption, challenged the redemption price because it included over \$17,900 in expenses that the Defendant purchaser paid for maintenance and repair work on the unit after the foreclosure sale, an electric bill, and interest on the foreclosure sale price.

Applicable Law: Purchasers of properties foreclosed on by associations take the property subject to a ninety (90) day statutory “right of redemption”. A foreclosed owner can “redeem” (retake ownership of) the property by paying the redemption price within ninety (90) days following the foreclosure sale. Any such redemption price can include costs and expenses paid by the purchaser after the foreclosure sale which were “reasonably necessary for the preservation of the property”.

Result: In ultimately affirming the validity of the redemption price, the court relied on a declaration given by one of Defendant's project managers that concluded that the unit was "in need of repair and rehabilitation" and that the "repairs made were necessary to prevent further damage to the property."

Rule: Foreclosure “redemption price” can include any repair costs paid by the purchaser that were “reasonably necessary for the preservation of the property”.

Cabrera v. Mohammed Alam
197 Cal.App.4th 1077 (2011)

Facts: Defendant Alam was running for reelection to the Board of Directors. Plaintiff Cabrera served as a previous president of the association and was actively campaigning against Alam in favor of Alam’s competitors. During the association's annual meeting and election, Alam accused Cabrera of defrauding and stealing money from the association. Cabrera brought a defamation action against Alam based on these accusations.

Applicable Law: While HOAs are typically recognized as private, self-regulating entities, there are certain scenarios where California Law recognizes the parallel between private associations and governmental bodies that serve public functions. The question addressed in this case is whether such statements and allegations can give rise to a claim of defamation, or whether the statements are "privileged" communications and therefore a complete defense to a claim of defamation. In this case, an association meeting was recognized as a "public forum" and statements at the meeting regarding the qualifications of a member to serve on the association’s Board constituted an issue of "public interest".

Result: The Court of Appeals held that Alam's statements were protected activity "because they were made in a public forum at a homeowners association's annual meeting and concerned an issue of public interest, namely, the qualifications of a candidate for office in the association.

Rule: Making accusations against former Board members during an association’s annual meeting is protected speech under the California Constitution.

Country Side Villa Homeowners Association v. Susan Ivie
193 Cal.App.4th 1110 (2011)

Facts: In this case, a homeowner ("Ms. Ivie") was upset at the association's newly elected Board and newly hired attorney for their new interpretation of a maintenance provision in the CC&Rs concerning balconies. Ms. Ivie was concerned about the lack of funding for the new maintenance obligation and also that the decision was being made by the Board for self-serving reasons. The case ultimately went to trial where the association sought a judicial determination as to the interpretation of the CC&Rs and also sought damages in the form of attorneys' fees from Ms. Ivie.

Applicable Law: "SLAPPs" ("Strategic Lawsuits against Public Participation") are civil complaints or counterclaims in which the alleged injury was the result of petitioning or free speech activities protected by the First Amendment of the US Constitution. California has an anti-SLAPP statute (Civil Procedure

Section 425.16) that provides for a special motion to strike a complaint where the complaint arises from conduct that falls within the rights of petition and free speech that are protected by the U.S. and California Constitutions. Public comments concerning the competence of an association manager are recognized under California case law as speech connected with an issue of public interest within the meaning of Section 425.16. *Damon v. Ocean Journalism Club*, (2000) 85 Cal.App.4th 468, 479-480.

Result: The appellate court affirmed the trial court's granting of Ms. Ivie's anti-SLAPP motion. The decision to grant Ms. Ivie's anti-SLAPP motion was based on the rationale that Ms. Ivie's action—the petitioning of the association's Board and the requests to inspect the association's financial documents—arose from constitutionally protected activity. Protected activity under Section 425.16 includes instances where the action arises out of "any other conduct in furtherance of the exercise of the constitutional right of petition or the constitutional right of free speech in connection with a public issue or an issue of public interest." §425.16(e)(4). In ruling that Ms. Ivie's conduct in criticizing the association's actions was similarly a matter of public interest within the meaning of Section 425.16, the court used the rationale from *Damon* that Section 425.16 "has been broadly construed to include not only governmental matters, but also private conduct that impacts a broad segment of society and/or that affects a community in a manner similar to that of a governmental entity."

Rule: Criticizing the conduct of an association, in addition to petitioning the association and making requests to inspect association records, is protected activity under the California Constitution. As such, any cause of action arising from the exercise of such activity is subject to a special motion to strike under California's anti-SLAPP statute: Civil Procedure Section 425.16.

Cross v. Cooper
197 Cal.App.4th 357(2011)

Facts: Dispute between landlord Cross and tenant Cooper regarding the sale of the unit and tenant's disclosure to potential buyers of a nearby registered sex offender. The sale falls through, and landlord sues tenant. Tenant files anti-SLAPP motion.

Applicable Law: The anti-SLAPP statute allows a defendant to gain early dismissal of causes of action that are designed primarily to chill the exercise of First Amendment rights of free speech.

Results: The tenant's disclosure constituted protected speech in connection with an issue of public interest.

Rule: In this case, disclosure to potential buyers of a nearby registered sex offender was taken in connection with an issue of public interest, and was thus a constitutionally protected activity.

Diamond Heights Village Association, Inc. v. Financial Freedom Senior Funding Corp.
196 Cal.App.4th 290 (2011)

Facts: Homeowners living at Diamond Heights Village Association, Inc. ("Association") failed to pay assessments. As a result, the Association recorded assessment liens as security for the debt. The Association eventually judicially foreclosed on unit, obtained default judgment against the homeowners, but failed to record an abstract of judgment. The court issued a writ of execution for the sale of the unit to satisfy the judgment. In an effort to avoid the sale, the homeowner filed bankruptcy on numerous occasions, and eventually transferred one-half interest in the unit to his mother, who obtained a reverse mortgage. The preliminary title report obtained by the lender did not list the Association's recorded assessment liens nor the unrecorded judgment in favor of the Association. Eventually, the Association filed another lawsuit alleging numerous causes of action, including foreclosure of a lien, and request for

the court to set aside the transfer between the homeowner and his mother. The Association included the lender as a defendant in the cause of action seeking to foreclose on its lien. Please note, that because the Association failed to record an abstract of judgment, the Association did not have a judgment lien. Instead, the Association was requesting foreclosure of liens.

Applicable Law: It is generally understood that a lien is not a debt but acts as security for payment of a debt or other obligation. When an assessment lien is enforced through judicial action, the debt secured by the lien is merged into the judgment. Once a judgment is obtained, the judgment creditor (in this case the Association), may create a judgment lien by recording an abstract of judgment or may levy, thereby creating an execution lien. However, an execution lien does not arise when a writ of execution is issued by the court, but rather when the levying officer levies the property (constructively seizes) by recording a copy of the writ of execution and notice of levy. Additionally, a lien dates from the time it is recorded. California follows the “first in time, first in right” system of lien priorities. It is also worth noting, an assessment lien is prior to all other liens subsequent to the notice of assessment, except that the CC&Rs may provide for the subordination thereof to any other liens and encumbrances (subordination to first deeds of trust are very common).

Result: The Association relied exclusively on its assessment liens for priority in its second lawsuit against the homeowner and lender, despite having previously obtained a judgment for foreclosure of said liens. As a result said liens and the debts they secured merged with the judgment. The Association does not have a lien on the property because the assessment liens and underlying debt merged into the judgment. The Association did not have a lien on the property because the assessment liens and underlying debt merged into judgment. The Association’s remedy was to record the judgment, in which case the judgment lien would have given the Association priority over the lender.

Rule: Assessment liens and the underlying debts they secure will be merged into any judgment obtained relating to the same. This enforceable judgment will not be secured by a lien, absent recordation of an abstract of judgment, creation of execution lien by levy, or by way of some other affirmative action taken to secure it.

Dover Village Association v. Jennison
191 Cal.App.4th 123 (2010)

Facts: Mr. Jennison had a leaky sewer pipe two feet beneath the concrete slab underlying his Newport Beach condominium. The association repaired the 50 feet of sewer line that connected his condominium to the main sewer. The association billed Jennison repair costs of \$15,000 because the sewer pipe exclusively serviced his unit.

Applicable Law: As provided for in Civil Code 1364(a), owners are responsible for exclusive use common areas "unless otherwise provided in the declaration."

Results: Because the statute defers to an association's CC&Rs, the court turned to the association’s governing documents. It found that the CC&Rs were silent as to maintenance duties involving exclusive use sewer lines. The CC&Rs did, however, specifically designate patios and garages as exclusive use common areas to be maintained by owners. By expressly assigning maintenance duties for these exclusive use areas, the court concluded that all other exclusive use areas were the responsibility of the Association.

Rule: Owners are responsible for exclusive use common areas unless otherwise provided in the declaration. Interconnected sewer pipes are not “exclusive use common area” fixtures for purposes of Civil Code Section 1351(i).

Robert Ferwerda v. David Bordon and James Ware et al.
193 Cal.App.4th 1178 (2011)

Facts: Plaintiff Robert Ferwerda (“Ferwerda”) owns a lot in the Alpine Meadows Estates Subdivision Unit No. 4 (“Subdivision No. 4”). Since 2001, Ferwerda has been trying to obtain approval to build a house on his lot. This case surrounds the events related to securing that approval, interpretations of the CC&Rs and related restrictions in Subdivision No. 4. The CC&Rs that govern Subdivision No. 4 establish a general plan for the improvement and development of the property, and contain several restrictions. Additionally, owner plans and specifications must be submitted for committee approval prior to construction on lots. The plans and committee approval must conform to the Bear Creek Planning Committee Restrictions (“BCPCR”) incorporated in the CC&Rs as Exhibit A. The committee was established and adoption of the CC&Rs, for, among other things, enforcing the provisions of the CC&Rs. Section 6 of the CC&Rs states, “the committee may act on applications all in accordance with the procedures and standards set forth in the BCPCR...in the event of a conflict between the standards required by said Committee and those contained therein, the standards of said Committee shall govern.” The Committee adopted design standards relating to improvement and development. Said standards contained attorney’s fees provisions absent in the CC&Rs. The court interrupted Section 6 of the CC&Rs as allowing the Committee to adopt standards beyond those contained in Exhibit A as it existed when the CC&Rs were adopted.

Applicable Law: Interpretation of CC&Rs is governed by the law of contract interpretation. The whole of a contract is to be taken together, so as to give effect to every part, if reasonably practical, each clause helping to interpret the other.

Result: Here, the court held that the language of Section 6 of the CC&Rs gave the Committee power to adopt standards beyond those set forth in Exhibit A as it existed when the CC&Rs were adopted. On the other hand, the CC&Rs did not grant the Committee the right to adopt attorney’s fees provisions.

Rule: A committee can adopt new standards to the extent such action is permissible in the CC&R’s.

Schuman v. Ignatin
191 Cal.App.4th 255 (2011)

Facts: Homeowner Ignatin wanted to build a house that would violate the CC&Rs. Neighbors filed a lawsuit to block his proposed construction. Ignatin challenged the validity of a CC&R amendment that extended the expiration date set forth in the original CC&Rs. He asked the court to find that the CC&Rs expired on January 1, 1999 (the original expiration date) and thus his construction would not violate the CC&Rs.

Applicable Law: Challenges to the validity of CC&R amendments are subject to a statute of limitations.

Result: The Court of Appeals held that Ignatin’s challenge to the validity of the CC&R amendment was barred by the applicable statute of limitations.

Rule: The statute of limitations bars any challenge to the validity of an amendment made more than four years after the amendment was recorded.

Yan Sui v. Stephen D. Price et al.
196 Cal.App.4th 933 (2011)

Facts: Homeowner brought suit against the Association and its president, alleging numerous causes of action arising from the adoption and enforcement of new parking rules. Specifically, the Association adopted new rules permitting homeowners to park in front of a garage, and prohibiting disabled and inoperative vehicles.

Applicable Law: A true operating rule of an association must be tethered to reasonableness, just like the CC&Rs. California Vehicle Code Section 22658(a) permits an association of a common interest development to remove a vehicle parked on the property under a wide variety of circumstances, including giving notice of the parking violation, and the lapse of 96 hours after such notice. There is no requirement that operating rules of an association be recorded.

Result: Homeowner’s lawsuit was dismissed.

Rules: 1) A rule that prohibits the open, long-term parking of disabled vehicles is reasonable, and may be enforced in the manner authorized by law. 2) Failure to record association rules with the county does not render them void.

Villa Vicenza v. Nobel Court Development, LLC
(2011) 191 Cal.App.4th 963

Facts: Association brought claims against developer relating to defective construction and insufficient reserve funds for repairs. The CC&Rs, recorded by the developer before the association came into existence, required that the association arbitrate any construction defect claim the association might have against the developer.

Applicable Law: Although both federal and state law favor the enforcement of arbitration *agreements*, neither federal nor state law allow imposition of arbitration where no *agreement* to waive judicial remedies exists.

Result: The arbitration provision contained in the CC&Rs did not represent a binding agreement on the part of the association. Thus, the association was not compelled to arbitrate construction defect claims against the developer.

Rule: A CC&R provision requiring an association’s construction defect claim to be arbitrated is unenforceable, as it does not constitute an “agreement” to waive judicial remedies. *Please note that the California Supreme Court has granted review of this matter.

LEGISLATION

SB 337 Tenancy: Political Signs.
Civil Code §1940.04

A landlord cannot prohibit a tenant from displaying political signs relating to: 1) an election or legislative vote; 2) the initiative, referendum, or recall process; or 3) issues that are before a public commission, public board, or elected local body for a vote.

However, political signs may be prohibited by the landlord if: 1) the sign is more than six square feet in size; 2) the sign violates a local ordinance, state, or federal law; or 3) the sign violates a lawful provision in a common interest development that satisfies the criteria of Civil Code Section 1353.6.

Reasonable times for posting and removing political signs shall be established by the landlord if not established in a local ordinance, which shall be at least 90 days prior to the election or vote to which the sign relates and ending at least 15 days following the date of election or vote.

AB 818 Solid Waste: Multifamily Dwellings (Renter's Right to Recycle Act).
Public Resources Code, Section 42913

Owners of multifamily dwellings, consisting of five or more living units, shall arrange for recycling services that are appropriate and available for said dwellings, consistent with state and local law, applicable to the collection, handling, or recycling of solid waste. Exceptions to this requirement are as follows: 1) inadequate space for recycling containers, as certified by a solid waste enterprise; 2) a solid waste enterprise does not serve the property; or 3) the cost of recycling service creates a financial hardship for the multifamily dwelling owner, pursuant to certain requirements.

AB 138: CPA Peer Review

The bill was signed into law in 2009 but took effect July 1, 2011. California CPAs are now subject to mandatory review of their auditing and accounting practices. It affects HOAs because CIDs with a gross income over \$75,000 are required to annually prepare a financial statement on an accrual basis and distribute it to the membership. That statement must be independently reviewed by a California licensed certified public accountant (unless the governing documents call for an audit instead of a review). The peer review allows boards to better evaluate any CPAs hired by the board to prepare the association's annual statement. It is analogous to a restaurant getting a letter grade (A, B, C . . .) posted in their window for their food preparation practices. The peer review report is then available to clients who request it.

AB 771: Escrow Documents

Existing law requires associations to provide specified documents upon request by escrow officers when a unit is sold. AB 771 bill amends Civil Code Section 1368 to require sellers to provide Twelve months of minutes if so requested. The bill also creates a new Section 1368.2, which provides a form associations must fill out when records are requested under Section 1368. It allows associations to collect a reasonable fee based on their actual costs but prohibits charging additional fees for electronic delivery of documents. Delivery of the documents may not be withheld for any reason nor subject to any condition except the payment of the fee.

SB 150: Rent Restrictions

SB 150 exempts members from rental prohibitions adopted after January 1, 2012 unless (i) they expressly agree to be bound by the prohibitions or (ii) the prohibition was in effect prior to the date the owner bought into the development. In addition, the bill requires owners to provide buyers with a statement describing any provision in the governing documents that prohibits the rental or leasing of units in the development.

SB 563 (Committee on Transportation and Housing) - Common Interest Developments: Open Meetings.
Civil Code §1363, amended

Except for emergency meetings, members shall be given notice of the time and place for executive sessions at least two days prior to the meeting. With limited exceptions, items to be discussed or considered must be placed on the agenda that was included in the meeting notice. Boards shall not conduct meetings via e-mail communication, with the exception of emergency meetings. In the case of emergency meetings via e-mail, all board members must consent in writing to the action, and such consents must be filed with the meeting minutes. Except for executive sessions, notice of a teleconference meeting shall identify at least one physical location so that members may attend, and at least one board member must be present at the physical location.

SB 563 – What It Means For Your Association

Senate Bill 563, which will amend Civil Code Sections 1363, 1363.05, and 1365.2, will force Boards to conduct business with greater transparency. While good in theory, these amendments will somewhat hinder a Board's ability to conduct business and make decisions in an efficient manner. In any event, as of January 1, 2012, your Association's Board will have to abide by the following new rules for conducting meetings:

1. With limited exceptions, all items to be discussed or considered at a non-emergency meeting must be placed on the agenda that was included in the meeting notice. Limited exceptions include: 1) a determination at the meeting that an emergency exists; and 2) membership approval to take action on an item not on the agenda. Bottom line: all known issues to be addressed and considered at the meeting need to be placed on the agenda.
2. Except for emergency meetings, members shall be given notice of the time and place for executive sessions at least two days prior to the meeting, and the notice shall contain the agenda for the meeting. Emergency meetings may be called by the Board President or any other two Board members, if there are circumstances that could not have been reasonably foreseen which require immediate attention and possible action by the Board. Bottom line: members must be given notice of, and the agenda for, all Board meetings, except meetings held under emergent circumstances.
3. Except for emergency meetings, Boards shall not conduct meetings via e-mail communication. Furthermore, if an emergency meeting is conducted via e-mail, all board members must consent to the action in writing, and such consents must be filed with the meeting minutes. Bottom line: the only time a Board may conduct a meeting via e-mail communication is for an emergency. The days of making Board decisions via e-mail will be gone as of January 1, 2012.
4. Except for executive sessions (which cannot be attended by members), notice of a teleconference board meeting shall identify at least one physical location so that members may attend, and at least one board member must be present at the physical location.

In light of the new provisions, Boards need to change how they conduct business and make decisions. First, Boards must be diligent about holding regular meetings and ensuring that any and all business to be discussed gets placed on the agenda. Second, Boards should simply refrain from discussing any matters via e-mail correspondence, unless the matter is a bona fide emergency. Finally, in order to preserve confidentiality, privacy, and attorney-client privilege, executive session agendas should include only the minimum amount of information necessary.

SB 183: Residential Building Safety: Carbon Monoxide Detectors

Background: This bill enacts the Carbon Monoxide Poisoning prevention act of 2010, adding Sections 17926, 17926.1 and 17926.2 to the Health & Safety Code. It mandates changes to the California Transfer Disclosure Statement (TDS), which is required in almost all residential real estate transactions, but more importantly it requires the presence of carbon monoxide (“CO”) detectors in all “single family dwelling units intended for human habitation” and “...having a fossil fuel burning heater or appliance, fireplace, or an attached garage” beginning July 1, 2011 and for all other dwelling units by January 1, 2013.

Major Components:

1. Mandates the installation of CO detectors in **every dwelling unit** having a **fossil fuel burning heater or appliance, fireplace or an attached garage**.
 - a. Single Family dwellings: by July 1, 2011
 - b. For all other dwelling units: by January 1, 2013
2. Owner or owner’s agent who **rents** a dwelling unit is **required to maintain the CO detectors**.
 - a. CO detector must be operable at the time the tenant takes possess

Potential Questions & Issues:

1. **What about number and placement of CO detectors?**

An owner “shall install the devices in a manner consistent with the building standards applicable to new construction for the relevant type of occupancy or with the manufacturer’s instructions.”

- a. This likely means that the number of detectors would have to equal that of the smoke detectors.

2. **What about combined devices (smoke detector and CO detector)?**

They are permissible provided that they meet certain requirements, including that the “combined device emits an alarm or voice warning in a manner that clearly differentiates between a [CO] alarm and a smoke detector warning.”

Potential landlord liability: As a result of the economic downturn, associations which have foreclosed on delinquent assessment liens have been unable to sell the properties to third parties. Some associations are opting to take title to the properties and rent them out in order to supplement the associations operating expenses. Under such circumstances, the association could be liable for failing to comply with the requirements contained in this legislation.

SB 209: Common Interest Developments: Electric Vehicle Charging Stations

Background: It is the policy of the State of California to promote, encourage, and remove obstacles to the use of electric vehicle (“EV”) charging stations. In furtherance of this policy, SB 209 adds Section

1353.9 to the Civil Code that prevents an association from prohibiting or unreasonably restricting the installation of EV charging stations.

As opposed to a wall outlet or a large extension cord, an EV charging station can be accessible to multiple electric vehicle (EV) owners and has additional current or connection sensing mechanisms to disconnect the power when the EV is not actually charging. This is to prevent a potentially dangerous situation should an EV be accidentally driven away before being unplugged.

Major Components

1. Renders void and unenforceable any provision that **effectively prohibits or restricts** the installation or use of an EV charging station.
2. Authorizes associations to impose **“reasonable restrictions”** on EV charging stations.
3. Imposes requirements with respect to an association’s **approval process** for EV charging station.
4. Mandates owners of the EV charging stations that will be installed on association **common area or exclusive use common area** to maintain an **umbrella liability coverage policy** of \$1,000,000 that names the association as an additional insured.
5. Owners of EV are required to **disclose** their responsibilities for the EV to prospective buyers.

Potential Questions & Issues

1. What constitutes a “reasonable restriction”?

Restrictions that “do not significantly increase the cost of the station or significantly decrease its efficiency or specified performance”.

2. What type of approval process is required?

Must be processed and approved by the association in the same manner as an application for the installation of improvements or modifications to the property.

- a. Applications not denied within sixty (60) days of receipt are deemed approved, “unless that delay is a result of a reasonable request for information.” Boards will have to be vigilant in monitoring these applications.

3. If EV charging station is to be placed in “Common Area” or “Exclusive Use Common Area”

Homeowner must first obtain approval from the association; however, association must approve the installation if the homeowner agrees in writing to all of the following:

- a. Comply with the association’s architectural standards for the installation of the EV charging station.
- b. Engage a licensed contractor to install the station.
- c. Within 14 days of approval, provide a certificate of the required insurance.
- d. Pay for the electricity associated with the station.

4. **Who pays the costs associated with the EV Charging station?**
 - a. Homeowner (and successive homeowners) pays electricity costs, as well as all costs involved in maintaining, repairing, replacing the EV charging station.
 - b. Homeowner (and successive homeowners) pays any costs for damage to the station common areas, exclusive use common areas or adjacent units resulting from the installation, maintenance, repair or removal of the station.
5. **Must an association permit the installation of EV charging station on common area or exclusive use common area?**
 - a. CAI-CLAC is concerned that this problem remains unresolved, as the legislation essentially condones an unconstitutional governmental “taking” of property that is commonly owned by all the members for the benefit of one.
 - b. Governor Brown issued a signing message which acknowledges this defect and directs the author to fix its deficiencies immediately...
6. **What liability could an association incur in wrongfully denying EV charging stations?**
 - a. Liable to the homeowner for actual damages and also civil liability up to \$1,000 for willfully violating the new legislation.

SB 221: Small Claims Court: Jurisdiction

Background: Existing law specifies that the jurisdiction of the small claims court includes various actions in which the demand does not exceed \$7,500, with specified exceptions. This legislation expands the jurisdiction of the small claims court by increasing that amount to \$10,000, except as specified.

Major Components

1. Expands jurisdiction of small claims court to actions not exceeding \$10,000.

Potential Questions & Issues:

1. **Potential effect on insurance defense**

Because attorneys, including insurance defense counsel, are not allowed to appear in small claims court, this legislation may deprive people of the ability to be represented by insurance defense counsel in certain situations. According to the Association of California Insurance Companies, the majority of insurance claims fall below \$10,000. Even in small claims matters, however, insurance defense counsel may be able to assist the association in preparing its defense and the association will likely still be indemnified by the insurance company in the event a judgment is awarded against the association in the small claims matter.