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February 5, 2003

WRITER'S EXT.
107

WRITER'S EMAIL
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Assemblyman John Ocegüera
District 16
401 S Carson St.
Carson City, NV 89701

RE: In support of A.B. 40.

Dear Assemblyman Ocegüera:

This letter is to thank you for your efforts in supporting A.B. 40 a savings provision for the statute of limitations.

Perhaps the most frequent occurrence of the problem at which this bill is aimed involves a case, timely filed in federal court, asserting both federal and state causes of action. If the federal causes of action are dismissed for whatever reason (and there could be dozens of reasons which have nothing to do with the merits of the case), then the federal court could dismiss the entire case, including the state causes of action, for lack of jurisdiction. If, in the meantime, the statute of limitations has expired, then, under current law, the case cannot be re-filed in state court. As a result, a meritorious claim, which was timely filed, is never heard on its merits. This result is contrary to the intent and purpose of our judicial system.

In such a case, a prudent attorney would simultaneously file an identical cases in both state and federal court to protect against this very scenario. The result would be a plaintiff being forced to file and a defendant being forced to defend two cases in two different courts over a single issue.



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FEB 10 2003

ASSEMBLY JUDICIARY & EDUCATION
DATE: 2-13-03 ROOM: 3138 EXHIBIT C 1 of 2
SUBMITTED BY: Daniel Ebihara

The intent and effect of this proposed legislation is to promote judicial economy. A person who is attempting to vindicate his or her rights in court may be faced with a number of different venues when filing a claim. With the increasing number of federal laws as well as the complicated rules regarding choice of law, a person may be required to file his or her case in more than one jurisdiction in order to be sure that the action is maintained in the appropriate venue.

As the same case is filed in two or more courts, it is possible that each jurisdiction will require the parties to proceed to trial. There is no requirement that one court must await a decision in another court, if multiple courts have jurisdiction over the same dispute. Consequently, each side of a dispute would be required to spend time and money litigating competing cases on the same issue at the same time. A.B. 40 will prevent court congestion and require parties to focus on the jurisdictional issues quickly so that litigation of the merits of a case can proceed as quickly as possible.

A.B. 40 is not an extension of the statute of limitations, rather it is a provision authorizing the continuation of an action in the appropriate jurisdiction. If a case is dismissed because a court has lost jurisdiction through the course of litigation or the court determines that venue is improper, A.B. 40 would merely permit the party to proceed with his or her case in a more appropriate legal forum.

Finally, this is by no means a new concept to civil practice. Other states, such as Georgia, Kansas, New York, Tennessee, and Virginia, have adopted similar statutes designed to relieve court congestion and protecting a person's ability to preserve and defend their rights in a court of law.

Sincerely,
CLARK COUNTY LEGAL SERVICES
PROGRAM, INC.



DANIEL D. EBIHARA, ESQ.

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