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SB 470: Amends Code of Civil Procedure

By Tyler Atkinson

As of Jan. 1, judges are no longer required to rule on every proper evidentiary objection made in connection with motions for summary judgment and motions for summary adjudication. Following a unanimous vote by the California Legislature, on Aug. 10, 2015, Gov. Jerry Brown signed into law Senate Bill 470. The bill amends Section 437c of the Code of Civil Procedure.

The standard for a motion for summary judgment or adjudication has not changed under SB 470. A moving party still must show that there are no triable issues of material fact and that the party is entitled to judgment or adjudication as a matter of law. To do this, parties will continue to rely on evidence in the form of declarations, discovery and judicially noticed material. The process by which judges rule on evidentiary challenges, however, is streamlined.

A 2014 report of the Judicial Council of California found that motions for summary judgment and adjudication frequently trigger unnecessary objections to evidence. The report cited the California Supreme Court's ruling in *Reid v. Google*, which noted that "it has become common practice for litigants to flood the trial courts with inconsequential written evidentiary objections." "Judges," according to the council, "may spend hours ruling on evidentiary objections for a single summary judgment

motion."

Although the court in *Reid* acknowledged that parties often assert inconsequential objections — in some cases hundreds of them — it did not change the procedures by which judges are to evaluate these objections. Rather, the court in 2010 held that trial courts are "duty bound" to rule on properly presented evidentiary objections. No exceptions, even if the objections are patently inconsequential.

SB 470 lightens the load for judges. In granting or denying a motion for summary judgment or summary adjudication, a court only needs to rule "on those objections to evidence that it deems material to its disposition of the motion." Trial courts are no longer expected to rule on every single objection. Further, objections "that are not ruled on for purposes of the motion [are] preserved for appellate review."

The drafters of SB 470 say the change is "carefully balanced," and will "save judges significant amounts of time," but offset any harm by preserving the rights of the litigants "on appellate review with respect to any properly raised objections that are not expressly ruled upon in the courts."

It is difficult to predict how this rule change will affect motions for summary judgment and motions for summary adjudication. On one hand, parties will likely continue to assert objections vigorously. Motions for summary judgement and ad-



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SB 470 aims to lighten the load for judges.

judication, when granted, are often decisive for a case. No lawyer wants to waive a valid objection to a critical piece of evidence. Unaddressed objections will be preserved for appeal. In this sense, the rule will not diminish the strong incentive for, as the Supreme Court has called it, an "all-out artillery exchange."

On the other hand, the rule modification may reward parties who choose their objections carefully. Tightly focused objections will more likely grab the attention of the court. Capturing the attention of the court — with its resources taxed and now no longer "duty bound" to rule on every objection — could turn an "artillery exchange" into a rout.

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