

PREFACE TO THE FOURTH EDITION

Students often ask about the differences between state and federal practice. They sense that tactical and strategic considerations influence an attorney's decision to choose state or federal court, but they lack relevant materials in their federal casebooks. We believe that too many students graduate from law school with the unwarranted assumption that state civil procedure will operate in lockstep with the federal model they studied in their introductory procedure course. This is an especially precarious assumption now that state civil procedure is tested on the California Bar Examination. A two or three unit advanced course in California Civil Procedure is our prescribed remedy.

We developed this edition of the first casebook on California Civil Procedure with several objectives in mind. We selected and edited judicial opinions consistent with our primary goals—to deepen and clarify student comprehension of civil procedure. We included a number of topics not covered in the traditional first year civil procedure casebook. Some of these concepts are covered in court opinions selected because of their discussion of critical themes and procedures unique to California civil practice. Other opinions were selected because they discuss the California legal perspective on concepts resting on more familiar footing. Students will be steeped in the comparative law tradition of examining different solutions to the same problem. While focusing on state appellate opinions, we have also incorporated key U.S. Supreme Court, Ninth Circuit and California federal district court opinions. These cases reinforce the perspective of a California practitioner choosing knowledgeably between state and federal court.

With the experience gained by teaching from prior editions, we have revised this edition's coverage and organization as needed. Some of the principal cases in the book are new to this edition; we chose them because of significant changes in the law or because they provide better teaching materials. The casebook continues to feature the "Edible Widgets" Hypothetical, which is set forth in Chapter One and then recurs in varied form throughout the text. Notes and Questions following each case continue to focus on facilitating classroom discussion of the readings and highlighting differences between state and federal practice in California. References to relevant cases, scholarly commentary, and other bibliographic resources enable professors and students to engage in further research on topics of interest. We are confident that users will find this revised edition lively and instructive.

In order to confront the adage that a book is obsolete on the day it is published, our California Civil Procedure Course Web Page continues to provide inter-edition updates, other practical Web references, and additional Web-based materials suitable for this course and related practice. Newly

edited substitute cases, which casebook users are authorized to download and reproduce for the classroom, will also be available on our Website at: <<http://www.tjssl.edu/slomansonb/CalCivPro.html>>.

We express thanks to the diligent research assistants who contributed to the evolution of this edition of the casebook: Chris Albut, Shana Dines and Quinn Yang. Their help would not have been possible without the support of the Hastings and Thomas Jefferson law schools.

Finally, we thank the copyright holders for permission to reprint excerpts from the following materials:

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Being mindful of balancing coverage, cost, and length, we have omitted, without so specifying, many case, statutory, and footnote citations. We have updated citations to the California Code of Civil Procedure, California Rules of Court and the Federal Rules of Civil Procedure without the distraction of bracketed inserts. Interested readers may consult the original opinions for these details. Numbered footnotes retain the original numbering. Lettered footnotes are those of the casebook authors.

Nearly all of the statutes and rules cited in the casebook can be found in David I. Levine & Mary Kay Kane, *Civil Procedure in California: State and Federal*. West publishes this paperback of supplemental materials annually. Students who desire additional materials may find it helpful to consult William R. Slomanson, *California Civil Procedure in a Nutshell* (3d ed., Thomson/West, 2008), or David I. Levine & Rochelle J. Shapell, *Quick Review: California Civil Procedure* (2d ed., Thomson/West, 2011).

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