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*Attorneys for Respondent Chiquita Canyon, LLC*

**BEFORE THE HEARING BOARD OF THE  
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

**In The Matter Of**

**SOUTH COAST AIR QUALITY  
MANAGEMENT DISTRICT,**

Petitioner,

vs.

**CHIQUITA CANYON, LLC, a Delaware  
Corporation,  
[Facility ID No. 119219]**

**Respondent.**

**Case No. 6177-4**

**APPENDIX TO CHIQUITA'S REPLY IN  
SUPPORT OF MOTION FOR  
HEARING BOARD SITE VISIT**

Health and Safety Code § 41700, and District  
Rules 402, 431.1, 3002, 203, 1150

Hearing Date: January 29, 2026  
Time: 9:30 am  
Place: Hearing Board  
South Coast Air Quality  
Management District  
21865 Copley Drive  
Diamond Bar, CA 91765

APPENDIX

No.	Authority
1	Gov. Code, § 54952.2, subd. (b)(1)
2	Gov. Code, § 54953, subd. (a)
3	Health & Saf. Code, § 40822
4	Gov. Code, § 54954.2, subd. (a)(1)
5	Code Civ. Proc., § 651, subd. (a)

# Appendix 1

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 5. Local Agencies (Refs & Annos)  
Division 2. Cities, Counties, and Other Agencies (Refs & Annos)  
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)  
Chapter 9. Meetings (Refs & Annos)

West's Ann.Cal.Gov.Code § 54952.2

§ 54952.2. "Meeting" defined; prohibited communications; social media; exclusions from chapter

Effective: January 1, 2026

Currentness

(a) As used in this chapter, "meeting" means any congregation of a majority of the members of a legislative body at the same time and location, including teleconference location as permitted by Section 54953, to hear, discuss, deliberate, or take action on any item that is within the subject matter jurisdiction of the legislative body.

(b)(1) A majority of the members of a legislative body shall not, outside a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter jurisdiction of the legislative body.

(2) Paragraph (1) shall not be construed as preventing an employee or official of a local agency, from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the local agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(3)(A) Paragraph (1) shall not be construed as preventing a member of the legislative body from engaging in separate conversations or communications on an internet-based social media platform to answer questions, provide information to the public, or to solicit information from the public regarding a matter that is within the subject matter jurisdiction of the legislative body provided that a majority of the members of the legislative body do not use the internet-based social media platform to discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body. A member of the legislative body shall not respond directly to any communication on an internet-based social media platform regarding a matter that is within the subject matter jurisdiction of the legislative body that is made, posted, or shared by any other member of the legislative body.

(B) For purposes of this paragraph, all of the following definitions shall apply:

(i) "Discuss among themselves" means communications made, posted, or shared on an internet-based social media platform between members of a legislative body, including comments or use of digital icons that express reactions to communications made by other members of the legislative body.

(ii) "Internet-based social media platform" means an online service that is open and accessible to the public.

(iii) "Open and accessible to the public" means that members of the general public have the ability to access and participate, free of charge, in the social media platform without the approval by the social media platform or a person or entity other than the social media platform, including any forum and chatroom, and cannot be blocked from doing so, except when the internet-based social media platform determines that an individual violated its protocols or rules.

(c) Nothing in this section shall impose the requirements of this chapter upon any of the following:

(1) Individual contacts or conversations between a member of a legislative body and any other person that do not violate subdivision (b).

(2) The attendance of a majority of the members of a legislative body at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the legislative body, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specified nature that is within the subject matter jurisdiction of the local agency. Nothing in this paragraph is intended to allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a legislative body at an open and publicized meeting organized to address a topic of local community concern by a person or organization other than the local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(4) The attendance of a majority of the members of a legislative body at an open and noticed meeting of another body of the local agency, or at an open and noticed meeting of a legislative body of another local agency, provided that a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(5) The attendance of a majority of the members of a legislative body at a purely social or ceremonial occasion, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency.

(6) The attendance of a majority of the members of a legislative body at an open and noticed meeting of a standing committee of that body, provided that the members of the legislative body who are not members of the standing committee attend only as observers.

#### **Credits**

(Added by Stats.1993, c. 1137 (S.B.36), § 2, operative April 1, 1994. Amended by Stats.1994, c. 32 (S.B.752), § 3, eff. March 30, 1994, operative April 1, 1994; Stats.1997, c. 253 (S.B.138), § 1; Stats.2008, c. 63 (S.B.1732), § 3; Stats.2020, c. 89 (A.B.992), § 1, eff. Jan. 1, 2021; Stats.2025, c. 327 (S.B.707), § 1, eff. Jan. 1, 2026.)

Notes of Decisions (39)

West's Ann. Cal. Gov. Code § 54952.2, CA GOVT § 54952.2


Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

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# **Appendix 2**

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Proposed Legislation

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 5. Local Agencies (Refs & Annos)  
Division 2. Cities, Counties, and Other Agencies (Refs & Annos)  
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)  
Chapter 9. Meetings (Refs & Annos)

West's Ann.Cal.Gov.Code § 54953

§ 54953. Meetings to be open and public; attendance;  
teleconferencing; remote participation as a reasonable accommodation

Effective: January 1, 2026  
Currentness

<Section operative Jan. 1, 2026. See, also, § 54953 operative until Jan. 1, 2026 and repealed on that date.>

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b)(1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. If the legislative body of a local agency elects to use teleconferencing, the legislative body of a local agency shall comply with all of the following:

(A) All votes taken during a teleconferenced meeting shall be by rollcall.

(B) The teleconferenced meetings shall be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency.

(C) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(D) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.



(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as expressly provided in this chapter.

(4) The teleconferencing requirements of this subdivision shall not apply to remote participation described in subdivision (c).

(c)(1) Nothing in this chapter shall be construed to prohibit a member of a legislative body with a disability from participating in any meeting of the legislative body by remote participation as a reasonable accommodation pursuant to any applicable law.

(2) A member of a legislative body participating in a meeting by remote participation pursuant to this subdivision shall do both of the following:

(A) The member shall participate through both audio and visual technology, except that any member with a disability, as defined in Section 12102 of Title 42 of the United States Code, may participate only through audio technology if a physical condition related to their disability results in a need to participate off camera.

(B) The member shall disclose at the meeting before any action is taken, whether any other individuals 18 years of age or older are present in the room at the remote location with the member, and the general nature of the member's relationship with any of those individuals.

(3) Remote participation under this subdivision shall be treated as in-person attendance at the physical meeting location for all purposes, including any requirement that a quorum of the legislative body participate from any particular location. The provisions of subdivision (b) and Sections 54953.8 to 54953.8.7, inclusive, shall not apply to remote participation under this subdivision.

(d)(1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3)(A) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of either of the following during the open meeting in which the final action is to be taken:

(i) A local agency executive, as defined in subdivision (d) of Section 3511.1.

(ii) A department head or other similar administrative officer of the local agency.

(B) This paragraph shall not affect the public's right under the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(e) For purposes of this section, both of the following definitions apply:

(1) "Disability" means a physical disability or a mental disability as those terms are defined in Section 12926 and used in Section 12926.1, or a disability as defined in Section 12102 of Title 42 of the United States Code.

(2)(A) "Teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both.

(B) Notwithstanding subparagraph (A), "teleconference" does not include one or more members watching or listening to a meeting via webcasting or any other similar electronic medium that does not permit members to interactively speak, discuss, or deliberate on matters.

(3) "Remote participation" means participation in a meeting by teleconference at a location other than any physical meeting location designated in the notice of the meeting.

#### Credits

(Added by Stats.2021. c. 165 (A.B.361), § 4, eff. Sept. 16, 2021, operative Jan. 1, 2024. Amended by Stats.2022. c. 28 (S.B.1380), § 74, eff. Jan. 1, 2023, operative Jan. 1, 2024; Stats.2022. c. 285 (A.B.2449), § 2, eff. Jan. 1, 2023, operative Jan. 1, 2024; Stats.2023. c. 131 (A.B.1754), § 89, eff. Jan. 1, 2024; Stats.2023, c. 534 (A.B.557), § 2, eff. Jan. 1, 2024, operative Jan. 1, 2026; Stats.2025, c. 327 (S.B.707), § 4, eff. Jan. 1, 2026.)

#### Editors' Notes

### LAW REVISION COMMISSION COMMENTS

#### 2023 Amendment

Section 54953 is amended to reflect nonsubstantive recodification of the California Public Records Act. See California Public Records Act Clean-Up, 46 Cal. L. Revision Comm'n Reports 207 (2019). [46 Cal.L.Rev.Comm. Reports 563 (2019)].

#### Notes of Decisions (70)

West's Ann. Cal. Gov. Code § 54953, CA GOVT § 54953

Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

# **Appendix 3**

West's Annotated California Codes  
Health and Safety Code (Refs & Annos)  
Division 26. Air Resources (Refs & Annos)  
Part 3. Air Pollution Control Districts (Refs & Annos)  
Chapter 8. Hearing Boards (Refs & Annos)  
Article 2. Procedure (Refs & Annos)

West's Ann.Cal.Health & Safety Code § 40822

§ 40822. Location of hearing

Currentness

Any hearing conducted by a hearing board shall be held in a location readily accessible to the public.

**Credits**

(Added by Stats.1975, c. 957, p. 2169, § 12.)

West's Ann. Cal. Health & Safety Code § 40822, CA HLTH & S § 40822


Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

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# **Appendix 4**

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Proposed Legislation

West's Annotated California Codes  
Government Code (Refs & Annos)  
Title 5. Local Agencies (Refs & Annos)  
Division 2. Cities, Counties, and Other Agencies (Refs & Annos)  
Part 1. Powers and Duties Common to Cities, Counties, and Other Agencies (Refs & Annos)  
Chapter 9. Meetings (Refs & Annos)

West's Ann.Cal.Gov.Code § 54954.2

## § 54954.2. Agenda; posting; action on other matters; posting on internet website

Effective: January 1, 2026  
Currentness

<Section operative Jan. 1, 2026. See, also, § 54954.2 operative until Jan. 1, 2026 and repealed on that date.>

(a)(1) At least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, shall post an agenda that meets all of the following requirements:

(A) The agenda shall contain a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words.

(B) The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's internet website, if the local agency has one.

(C)(i) If requested, the agenda shall be made available in appropriate alternative formats to persons with a disability, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(ii) The agenda shall include information regarding how, to whom, and when a request for disability-related modification or accommodation, including auxiliary aids or services, may be made by a person with a disability who requires a modification or accommodation in order to participate in the public meeting.

(2) For a meeting occurring on and after January 1, 2019, of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an internet website, the following provisions shall apply:

(A) An online posting of an agenda shall be posted on the primary internet website home page of a city, county, city and county, special district, school district, or political subdivision established by the state that is accessible through a prominent, direct link

to the current agenda. The direct link to the agenda shall not be in a contextual menu; however, a link in addition to the direct link to the agenda may be accessible through a contextual menu.

(B) An online posting of an agenda, including, but not limited to, an agenda posted in an integrated agenda management platform, shall be posted in an open format that meets all of the following requirements:

(i) Retrievable, downloadable, indexable, and electronically searchable by commonly used internet search applications.

(ii) Platform independent and machine readable.

(iii) Available to the public free of charge and without any restriction that would impede the reuse or redistribution of the agenda.

(C) A legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state that has an internet website and an integrated agenda management platform shall not be required to comply with subparagraph (A) if all of the following are met:

(i) A direct link to the integrated agenda management platform shall be posted on the primary internet website home page of a city, county, city and county, special district, school district, or political subdivision established by the state. The direct link to the integrated agenda management platform shall not be in a contextual menu. When a person clicks on the direct link to the integrated agenda management platform, the direct link shall take the person directly to an internet website with the agendas of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state.

(ii) The integrated agenda management platform may contain the prior agendas of a legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state for all meetings occurring on or after January 1, 2019.

(iii) The current agenda of the legislative body of a city, county, city and county, special district, school district, or political subdivision established by the state shall be the first agenda available at the top of the integrated agenda management platform.

(iv) All agendas posted in the integrated agenda management platform shall comply with the requirements in clauses (i), (ii), and (iii) of subparagraph (B).

(D) The provisions of this paragraph shall not apply to a political subdivision of a local agency that was established by the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state.

(E) For purposes of this paragraph, both of the following definitions apply:

(1) "Integrated agenda management platform" means an internet website of a city, county, city and county, special district, school district, or political subdivision established by the state dedicated to providing the entirety of the agenda information

for the legislative body of the city, county, city and county, special district, school district, or political subdivision established by the state to the public.

(2) "Legislative body" means a legislative body that meets the definition of subdivision (a) of Section 54952.

(3) No action or discussion shall be undertaken on any item not appearing on the posted agenda, except that members of a legislative body or its staff may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Section 54954.3. In addition, on their own initiative or in response to questions posed by the public, a member of a legislative body or its staff may ask a question for clarification, make a brief announcement, or make a brief report on their own activities. Furthermore, a member of a legislative body, or the body itself, subject to rules or procedures of the legislative body, may provide a reference to staff or other resources for factual information, request staff to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff to place a matter of business on a future agenda.

(b) Notwithstanding subdivision (a), the legislative body may take action on items of business not appearing on the posted agenda under any of the conditions stated below. Prior to discussing any item pursuant to this subdivision, the legislative body shall publicly identify the item.

(1) Upon a determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.

(2) Upon a determination by a two-thirds vote of the members of the legislative body present at the meeting, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the local agency subsequent to the agenda being posted as specified in subdivision (a).

(3) The item was posted pursuant to subdivision (a) for a prior meeting of the legislative body occurring not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

(c) This section is necessary to implement and reasonably within the scope of paragraph (1) of subdivision (b) of Section 3 of Article I of the California Constitution.

(d) For purposes of subdivision (a), the requirement that the agenda be posted on the local agency's internet website, if the local agency has one, shall only apply to a legislative body that meets either of the following standards:

(1) A legislative body as that term is defined by subdivision (a) of Section 54952.

(2) A legislative body as that term is defined by subdivision (b) of Section 54952, if the members of the legislative body are compensated for their appearance, and if one or more of the members of the legislative body are also members of a legislative body as that term is defined by subdivision (a) of Section 54952.



**Credits**

(Added by Stats.2022, c. 285 (A.B.2449), § 5, eff. Jan. 1, 2023, operative Jan. 1, 2026. Amended by Stats.2023, c. 131 (A.B.1754), § 92, eff. Jan. 1, 2024, operative Jan. 1, 2026; Stats.2025, c. 327 (S.B.707), § 16, eff. Jan. 1, 2026.)

Notes of Decisions (38)

West's Ann. Cal. Gov. Code § 54954.2, CA GOVT § 54954.2

Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.

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# **Appendix 5**

West's Annotated California Codes

Code of Civil Procedure (Refs & Annos)

Part 2. Of Civil Actions (Refs & Annos)

Title 8. Of the Trial and Judgment in Civil Actions (Refs & Annos)

Chapter 7. Provisions Relating to Trials in General (Refs & Annos)

Article 1.5. View by Trier of Fact (Refs & Annos)

West's Ann.Cal.C.C.P. § 651

## § 651. View; subject matter; personnel; procedure

Currentness

(a) On its own motion or on the motion of a party, where the court finds that such a view would be proper and would aid the trier of fact in its determination of the case, the court may order a view of any of the following:

(1) The property which is the subject of litigation.

(2) The place where any relevant event occurred.

(3) Any object, demonstration, or experiment, a view of which is relevant and admissible in evidence in the case and which cannot with reasonable convenience be viewed in the courtroom.

(b) On such occasion, the entire court, including the judge, jury, if any, court reporter, if any, and any necessary officers, shall proceed to the place, property, object, demonstration, or experiment to be viewed. The court shall be in session throughout the view. At the view, the court may permit testimony of witnesses. The proceedings at the view shall be recorded to the same extent as the proceedings in the courtroom.

### Credits

(Added by Stats.1975, c. 301, § 3.)

### Editors' Notes

#### COMMENT--SENATE COMMITTEE ON JUDICIARY

#### 1975 Addition

Section 651 provides a procedure whereby the trier of fact--whether judge or jury--may leave the courtroom to receive evidence. Former Section 610 provided only for a view by a jury. Views by a judge were governed by case law. See, *e.g.*, *Gates v. McKinnon*, 18 Cal.2d 179, 114 P.2d 576 (1941); *Noble v. Kertz & Sons Feed & Fuel Co.*, 72 Cal.App.2d 153, 164 P.2d 257 (1945). Where a view is ordered, or is conducted, in violation of this section, the view is not independent evidence sufficient to support a finding.

Subdivision (a) provides the standard for determining whether the trier of fact should view evidence outside the courtroom. The court has discretion whether to order a view. In making the determination, the court should weigh the need for the view against such considerations as whether the view would necessitate undue consumption of time or create a danger of misleading the trier of fact because of changed conditions. The nature of evidence which may be viewed outside the courtroom has been expanded to include objects, demonstrations, and experiments. Former Section 610 provided only for a "view of the property which is the subject of litigation, or of the place in which any material fact occurred." The courts have held, however, that they have inherent authority to order a view of other forms of evidence. See, e.g., *Newman v. Los Angeles Transit Lines*, 120 Cal.App.2d 685, 262 P.2d 95 (1953) (operation of streetcar door).

Under former law, in a court-tried case, all the parties had to consent to a view by the judge in order for the information there obtained to be considered independent evidence. See *Noble v. Kertz & Sons Feed & Fuel Co.*, *supra*. The requirement of consent by all the parties has not been continued. It should be noted, further, that the court is not required to follow the procedure of Section 651 where it is proper to take judicial notice of facts obtainable at a view. See Evid.Code §§ 450 to 460 (procedure where judicial notice is to be taken).

Subdivision (b) makes clear that the view by the trier of fact is a session of court, essentially the same as a session inside the courtroom. Hence, subdivision (b) requires the presence of the judge, jury (if any), and any necessary court officials, including the court reporter (if proceedings inside the courtroom are being recorded). It is anticipated that ordinarily the jury will go to and return from the view in a body under the charge of an officer. However, this is a matter left to the court's discretion, and the court may direct that the jury be permitted to assemble at the view and leave separately. The third sentence of subdivision (b) makes clear that the judge has discretion to permit the testimony of witnesses and examination of witnesses by counsel while the court is in session outside the courtroom. See also Evid.Code § 765 (court control over interrogation). Thus, where appropriate, the court should provide the parties with the opportunity to examine witnesses (direct and cross-examination) at the view and to note crucial aspects of the view for the record. Yet there may be occasions where it will be inconvenient or unnecessary to permit testimony outside the courtroom. Former Section 610 allowed only the person appointed by the court to speak to the jurors and made no provision for the presence of witnesses or counsel for the parties. The decisions concerning a view by the judge admonish, however, that counsel for the parties should be present. See *Noble v. Kertz & Sons Feed & Fuel Co.*, *supra*. The power of the judge to control the proceedings remains intact while the court is in session outside the courtroom. See Code Civ.Proc. § 128 (general authority of court to control proceedings). Hence, for example, the court may appoint a person to show the premises to the trier of fact and may allow or refuse to allow the jurors to question witnesses at the view (see Evid.Code § 765). As to when in a court-tried case the observation of the judge at the view must be made a part of the record, see Section 632 of the Code of Civil Procedure.

#### Notes of Decisions (77)

West's Ann. Cal. C.C.P. § 651, CA CIV PRO § 651

Current with all laws through Ch. 790 of 2025 Reg.Sess., and Governor's Reorganization Plan No. 1 of 2025.