

# Los Angeles Daily Journal

## State High Court Hears Arguments Over Coastal Agency

Daily Journal Web Exclusive

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Thursday, April 7, 2005

LOS ANGELES-In a high-stakes challenge to the California Coastal Commission, the California Supreme Court struggled during oral arguments Wednesday with the question of whether to draw a line between the legislative and executive branches regarding appointments to boards and commissions.

With no clear consensus emerging, but strong opinions evident all around, the justices argued with each other through their questions to the lawyers. *Marine Forests Society v. Coastal Commission*, S113466

Hardly mentioned, however, was some environmentalists' fears that tens of thousands of decisions the coastal commission made in past years could be thrown out or subject to challenge.

Instead, the justices questions focused on the separation-of-powers issue at the center of the case: Do lawmakers have too much influence on an executive-branch agency that has wielded authority for 30 years over development along the entire California coast?

Chief Justice Ronald M. George, a frequent participant in Wednesday's session in Los Angeles, appeared to be trying to persuade several of the court's more conservative justices to preserve the present structure of the coastal commission and avoid an unnecessary separation-of-powers ruling.

He repeatedly tried to show the weakness of the argument by conservative Sacramento attorney Ronald Zumbrun that lawmakers had illegally intruded into executive branch territory with their influence over the commission.

At one point George told Zumbrun that the plaintiffs attorney lacked any authority in the California constitution to support his case, instead relying on federal law and "an inchoate separation-of-powers argument."

George appeared to have a strong ally in Justice Joyce Kennard and possibly in Justice Carlos Moreno.

Other justices, especially Justice Ming Chin and Justice Janice Rogers Brown, seemed to want craft a decision that would establish ground rules for appointments to boards and commissions.

Chin asked both sides whether the intent of the Legislature was important in setting up the commission.

The commission is composed of 12 members, eight of them appointed by the Legislature. The governor appoints the other four.

Until 2003, the members served at the will of those who appointed them.

But that year, the 3rd District Court of Appeal in Sacramento held that the commission's makeup was illegal.

The Legislature's two-thirds super-majority of appointments, and its ability to remove its appointees at will, gave it too much control over the commission's decisions and violated the separation of-powers doctrine, the court ruled.

To try to cure the problem, lawmakers revised the law to give the commissioners that it appointed fixed four-year terms.

Defending the commission's makeup, Deputy Attorney General Joseph Barbieri argued that the Legislature had unlimited power under the California constitution to fill state boards and commissions with its own appointments.

Both the previous and current versions of the board were constitutional, he argued.

Under no circumstances should the commission's thousands of past decisions be disturbed, he said. Zumbrun, representing an iconoclastic marine scientist and supported by developers, said the commission remains an unconstitutional body, overly influenced by political pressure from the Legislature.