JUDICIAL COUNCIL MEETING
Minutes of the January 21, 2010, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 11:10 a.m. on Thursday, January 21, 2010, at the Administrative Office of the Courts (AOC) in San Francisco.

Judicial Council members present: Chief Justice Ronald M. George; Justices Marvin R. Baxter, Tani Cantil-Sakauye, Brad R. Hill, and Richard D. Huffman; Judges George J. Abdallah, Jr., Lee Smalley Edmon, Terry B. Friedman, Dennis E. Murray, Winifred Younge Smith, Kenneth K. So, Sharon J. Waters (attended remotely via telephone), James Michael Welch, David S. Wesley, and Erica R. Yew; Ms. Miriam Aroni Krinsky, Mr. James N. Penrod, and Mr. William C. Vickrey; advisory members: Judges Mary Ann O'Malley and Michael P. Vicencia; Commissioner Lon F. Hurwitz; Mr. Frederick K. Ohlrich, Mr. Michael D. Planet, Mr. Michael M. Roddy, and Ms. Kim Turner.

Absent: Senator Ellen M. Corbett; Assembly Member Mike Feuer; and Mr. Anthony P. Capozzi and Mr. Joel S. Miliband.

Others present included: Judges Donald Cole Byrd, Charles E. Horan, and David R. Lampe; Ms. Tanya Akel, Mr. M. L. Araugwen, Ms. Mona Babin, Ms. Janice Berat, Mr. Mark Bonino, Ms. Norma K. Bragg, Mr. Timothy Brandon, Ms. Michelle Castro, Ms. Carolyn Dasher, Mr. Christopher B. Dolan, Ms. Nancy Drabble, Ms. Elizabeth Howard Espinosa, Ms. Mary Eviton, Ms. Mary Flynn, Ms. Rachelle Hill, Ms. Linda Kralnik, Ms. Carolyn Lopez, Mr. Carlos Martinez, Mr. Howard Miller, Mr. Tom Pringle, Ms. Liberty Reiter Sanchez, Ms. Delia Serrano, Ms. Arnella Sims, Mr. Steve Soeth, Mr. Steve Stallone, Ms. Lacy Topolewski, Ms. Becky VanBibbe, and Ms. Maggie Wang; **staff:** Mr. Peter Allen, Ms. Dianne Barry, Mr. Christopher Belloli, Ms. Dianne M. Bolotte, Ms. Deborah Brown, Ms. Sheila Calabro, Ms. Nancy Carlisle, Mr. James Carroll, Ms. Roma Cheadle, Mr. Curtis L. Child, Mr. Kenneth Couch, Ms. Diane E. Cowdrey, Ms. Chris Cunningham, Mr. Patrick Danna, Ms. Charlene Depner, Ms. Rachel Dragolovich, Ms. Lura Dymond, Mr. Robert Emerson, Mr. Ekuike Falorca, Mr. Robert Fleshman, Mr. Ernesto V. Fuentes, Mr. Clifford Ham, Ms. Fran Haselsteiner, Ms. Donna S. Hershkowitz, Ms. Lynn Holton, Mr. Kenneth L. Kann, Ms. Maria Kwan, Mr. Ken Levy, Mr. Robert Lowney, Mr. Charles Martel, Ms. Susan McMullan, Ms. Georgianne Messina, Ms. Christine Miklas, Mr. Stephen Nash, Ms. Diane Nunn, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Mary M. Roberts, Ms. Teresa Ruano, Ms. Jeannine Seher, Ms. Sonia Sierra Wolf, Mr. Curt Soderlund, Ms. Nancy E. Spero, Ms. Jill Whelchel, Mr. Lee Willoughby, and Ms. Jeannette Wong; and **media representatives:** Mr. Ari Burack, *Bay City News,* and Ms. Amy Yarbrough, *San Francisco Daily Journal.*

Public Comment Related to Trial Court Budget Issues
Written statements and letters submitted to the Judicial Council for the meeting are attached (attachment A). Ten members of the public asked to speak on trial court closures and related budget matters. The speakers, listed in order of appearance, were:

1. Ms. Liberty Reiter Sanchez, representative of the California Public Defenders Association, and the Laborers' International Union of North America (LIUNA) Local 777 representing Riverside and Los Angeles County court employees and the San Diego County Court Employees Association
2. Mr. Tom Pringle, Court Reporter, Superior Court of Shasta County and representative of the California Court Reporters Association and the Executive Board of the United Employees of California
3. Ms. Arnella Sims, Court Reporter, Superior Court of Los Angeles County and representative of the Service Employees International Union (SEIU) Local 721
4. Ms. Carolyn Dasher, Court Reporter and representative of the California State Council of the SEIU
5. Ms. Rachelle Hill, Judicial Court Assistant, Superior Court of Kern County, and representative of the SEIU Local 521
6. Mr. Timothy Brandon, Court Interpreter, Superior Court of Kern County, and representative of the SEIU Local 521
7. Judge David R. Lampe, Superior Court of Kern County, and representative of the Alliance of California Judges
8. Mr. Christopher B. Dolan, President, Consumer Attorneys of California
9. Mr. Mark Bonino, Past-president, California Association of Defense Counsel
10. Mr. Howard Miller, President, State Bar of California

Written statements (copies of which are attached to these minutes, see attachment A) were also received from the following:

Presiding Judge David Rosenberg, Superior Court of Yolo County
Presiding Judge Stephen M. Hall, Superior Court of San Mateo County
Presiding Judge Laura J. Masunaga, Superior Court of Siskiyou County
Presiding Judge Charles W. McCoy, Jr., Superior Court of Los Angeles County
Judge David R. Lampe, Alliance of California Judges
Ms. Sharis R. Peters, President of the American Federation of State, County, and Municipal Employees Local 276
Ms. Liberty Reiter Sanchez, Legislative Advocate, LIUNA, Local 777
Presiding Judge Steve White, Superior Court of Sacramento County

Chief Justice's Opening Remarks
Chief Justice Ronald M. George reviewed the meeting's purpose as a special session of the council devoted principally to the issue of court closures. He referred back to the

council's unanimous vote in July 2009 favoring a uniform one-day-per-month court closure plan as authorized by legislation and signed by the Governor, a course of action the council chose only after exploring alternatives, because of the economic crisis and the unprecedented reductions in the branch budget. The council had assessed that a uniform day each month for court closures would have the least adverse impact on the delivery of justice to the public. He further recounted that this decision had been based on input solicited from courts, community justice partners, court users, and other interested parties. With that decision, the council directed the Administrative Office of the Courts to assess and return to the council in January 2010 with information about the resulting monetary savings and the extent of the disruption caused by this uniform one-day-per-month court closure. The question before the council for this session is whether, with this new information, to amend the action the council took in July or to continue with it for the remainder of this fiscal year. He emphasized that the council's commitment to keep the courts open and fully operating was not at issue, as evidenced by the council's unanimous vote at the December 2009 business meeting to seek sufficient funding from the Legislature to avoid court closures next fiscal year as a top priority. He also stated that one of the significant benefits of state funding has been the stability provided to the courts—statewide funding has increased trial court budgets nearly 50 percent during the past decade.

Chief Justice George commented on the one other discussion item in the agenda, the transfer of 532 court facilities to state responsibility. The completion of these transfers has been characterized as one of the largest real estate transactions in California history and a remarkable achievement.

Welcome Extended to Presenting Visitors

Chief Justice George welcomed Presiding Judge Donald Cole Byrd of the Superior Court of Glenn County; Mr. Steve Soeth, Chair of the Glenn County Board of Supervisors; and Ms. Elizabeth Howard Espinosa, Legislative Representative of the California State Association of Counties, attending as part of the presentation of the court facilities transfer resolution.

Chief Justice George expressed sadness over the recent passing of several judicial colleagues and remembered each for their valued contributions to the administration of justice in California: Judge Edward P. Moffat II who served on the Superior Court of Madera County; Judge William McLafferty, who served on the Superior Court of Santa Barbara County; Judge Florence-Marie Cooper of the U.S. District Court of the Central District of California, formerly of the Superior Court of Los Angeles County; and Justice Robert L. Martin, Associate Justice of the Court of Appeals, Fifth Appellate District, and formerly of the Superior Court of Fresno County.

With the conclusion of his opening remarks, the Chief Justice turned to the meeting agenda.

Approval of Minutes

The minutes of the December 15, 2009, business meeting were approved.

CONSENT AGENDA (Items 1–2)

Item 1 Report to the Legislature: Statewide Collection of Court-Ordered Debt (Pen. Code, § 1463.010)

The Administrative Office of the Courts, Enhanced Collections Unit, recommended that the Judicial Council approve the report to the Legislature regarding the collection of delinquent court-ordered debt, agree with its recommendations, and direct staff to develop procedures and legislation proposals based on these recommendations. The report includes information on the following: (1) the extent to which each court or county is following best practices for its collection program, (2) the performance of each collection program, and (3) any changes necessary to improve the performance of collection programs statewide.

Council action

The Judicial Council voted to:

1. Approve the *Court and County Collection Programs, Fiscal Year 2008–2009: Report to the Legislature as Required by Penal Code Section 1463.010* and authorize the Administrative Director of the Courts to submit the report on behalf of the Judicial Council;
2. Agree with the recommendations to improve collections statewide; and
3. Direct AOC staff to develop procedures and legislation based on the recommendations provided in the report to the Legislature.

Item 2 Judicial Council–sponsored Legislation: New Long Beach Courthouse: Possessory Property Tax Exemption (amend Gov. Code, § 70391.5)

The Policy Coordination and Liaison Committee recommended amending Government Code section 70391.5 to provide that any possessory interest that may arise from a lease or other agreement with a nongovernmental entity for delivery of the new Long Beach

Courthouse be deemed public property and exempt from tax that would attach if it were deemed a private entity having a possessory interest in public property.

Council action
The Judicial Council voted to:
Sponsor legislation in 2010 to amend Government Code section 70391.5 to provide that any possessory interest that may arise from a lease or other agreement with a nongovernmental entity for delivery of the new Long Beach Courthouse be deemed public property and exempt from tax that would attach if it were deemed a private entity having a possessory interest in public property. (The recommended amendment of Government Code section 70391.5 is provided in attachment B with these minutes.)

DISCUSSION AGENDA (Items 3–4)

Item 3 Court Closures: Evaluation of the Impacts of the One-Day-Per-Month Judicial Branch Closures

Mr. William C. Vickrey, Administrative Director of the Courts; Mr. Ronald G. Overholt, Chief Deputy Director; Mr. Stephen Nash, Finance Division; and Ms. Donna S. Hershkowitz, Office of Governmental Affairs, presented this item.

Based on survey responses from the Supreme Court, Courts of Appeal, 54 superior courts, and 275 justice system partners, the Administrative Office of the Courts (AOC) recommended continuing the one-day-per-month judicial branch closures through June 2010, as directed at the July 29, 2009, Judicial Council meeting. The closures provide a viable method in the short term to absorb the significant budget reductions imposed on the branch, although they are far from a perfect tool and have unquestionably affected court operations and the smooth and effective delivery of justice. The AOC further recommended that the council reaffirm its commitment to keep courts open and accessible to the public and to advocate for sufficient resources to avoid the need for court closures in fiscal year 2010–2011 and direct the Administrative Director of the Courts, in consultation with branch leaders, to develop recommendations and guidelines for limited closures for 2010–2011 should sufficient resources not be provided.

Council action
The Judicial Council, with two abstaining votes, voted to:

1. Continue the one-day-per-month court closures as directed in July 2009 on the third Wednesday of the month through the end of June 2010.
2. Reaffirm that keeping courts open and accessible to the public remains a top priority of the council and reaffirm the council's commitment to advocate for

sufficient resources in fiscal year 2010–2011 to avoid the need for future court closures.

3. Direct the Administrative Director of the Courts, in consultation with the Trial Court Presiding Judges Advisory Committee, the Court Executives Advisory Committee, the Administrative Presiding Justices Advisory Committee, and appellate clerk/administrators, to develop recommendations and guidelines if it becomes necessary to implement limited closures—on a court-by-court basis—should the Legislature and Governor not provide sufficient resources for the judicial branch in fiscal year 2010–2011. The recommendations and guidelines, to be presented to the council at its April 2010 meeting, must provide each court the option to close on a limited basis, if necessary, with uniform limited closure days for courts needing that option. The recommendations and guidelines must take into consideration: (1) the significant concern expressed by courts over the selection of Wednesday as the court closure day in fiscal year 2009–2010; (2) notwithstanding limited closures, how the judicial branch will provide uniformity in hours of court operation and consistency in justice available statewide; and (3) all of the principles in the Principles for Development of a Limited Court Closure Plan (See attachment C.).

Item 4 Completion of Court Facility Transfers: Adoption of a Resolution

Presiding Judge Donald Cole Byrd, Superior Court of Glenn County; Mr. Steve Soeth, Chair of the Glenn County Board of Supervisors; Ms. Elizabeth Howard Espinosa, Legislative Representative of the California State Association of Counties; Mr. Ronald G. Overholt, Chief Deputy Director; and Mr. Lee Willoughby, Office of Court Construction and Management, presented this item.

Chief Deputy Director Overholt recommended that the Judicial Council adopt a resolution recognizing the AOC's Office of Court Construction and Management and Office of the General Counsel for their leading role in the completion of the trial court facility transfers mandated by Senate Bill 1732. (See attachment D.)

Council action

The Judicial Council voted to:

1. Adopt a resolution recognizing the Administrative Office of the Courts for its role in the completion of the trial court facility transfers mandated by SB 1732; and
2. Request that Chief Justice Ronald M. George, as Chair of the Judicial Council, present the resolution to Mr. Lee Willoughby, Director, AOC Office of Court Construction and Management.

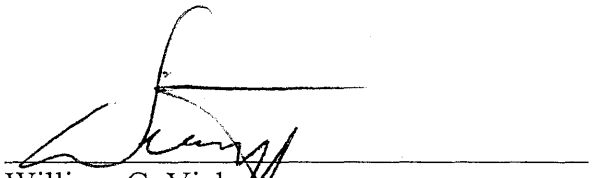
Information-only Item

- **Fiscal Year 2008–2009 Expenditures for the Supreme Court, the Courts of Appeal, the Judicial Council/Administrative Office of the Courts, the Judicial Branch Facility Program, and the Habeas Corpus Resource Center.**

There had been no Circulating Orders or Appointment Orders since the last business meeting.

There being no further public business, the meeting was adjourned at 2:50 p.m.

Respectfully submitted,



William C. Vickrey
Administrative Director of the Courts and
Secretary of the Judicial Council

Attachments

Attachment A: Written Statements and Letters Submitted
Attachment B: Recommended Amendment of Government Code Section 70391.5
Attachment C: Principles for Development of a Limited Court Closure Plan
Attachment D: Signed Resolution Recognizing the AOC's Office of Court Construction and Management and Office of the General Counsel

Spero, Nancy

From: Rosenberg, David
Sent: Friday, January 15, 2010 9:09 AM
To: Spero, Nancy
Subject: Public Comment to the January 21, 2010, Judicial Council Meeting

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Spero;

Please see the e-mail public comment below. I submit this and ask that it distributed to the members of the Judicial Council under Rule 10.6(d)for the Judicial Council meeting of 1-21-10. The comment relates to agenda item re: mandatory closures. I cannot personally be at the meeting, and request that you consider this as my request to address the Council. Please be so kind as to acknowledge your receipt of this e-mail

Thank you Ms. Spero.

Best,

Dave Rosenberg

Presiding Judge

Yolo Superior Court

* * * * * * * * * * * * *

Chief Justice and Members of the Judicial Council:

As one Presiding Judge in a mid-size Court, please accept this input on the item regarding mandatory court closures.

I strongly urge the Judicial Council to immediately cease the mandatory statewide court closures. In the alternative, I urge a halt to these mandatory closures at the end of the 2009-10 fiscal year.

When these mandatory closures were under consideration last year, I (and other PJ's) at regional meetings spoke out forcefully against the plan. Instead, we recommended that closures, if any, be left to the discretion of individual PJ's. In my Court, for example, I would not have imposed closures. Instead, I could have achieved equivalent savings by scheduling minimal days on Fridays (e.g. closing some departments and reducing some staff, but keeping some departments open for the conduct of necessary business). Other PJ's may have employed other methods to achieve savings.

In light of the fact that we have 58 Superior Courts with varying budgets, staffing, and Judges, such an approach was simply logical and would have been much less disruptive.

Closing courtrooms and courthouses should have been an absolute last resort. It didn't happen in the Great Depression. It shouldn't have happened now.

In the Yolo Superior Court, we have found that the mandatory closures are very disruptive. Particularly hard hit is our juvenile court. We find during closure weeks that the Tuesday and Thursday calendars are horrific. The work doesn't go away - it just gets deferred and piled on existing calendars. Further, the mandatory closures have been very disruptive of trials. Many felony trials are five day trials and during closure weeks, those trials cannot be completed, and have to spill over, affecting jurors, witnesses, litigants, and of course Court calendars. Additionally, other calendars during closure weeks tend to be out-of-whack, accommodating for the Wednesday closures.

Please feel free to pass my thoughts along to your committee and the Judicial Council.

Thank you.

Cordially,

Dave Rosenberg
Presiding Judge
Yolo Superior Court

Spero, Nancy

From: Hall, Stephen M.
Sent: Friday, January 15, 2010 10:22 AM
To: Spero, Nancy
Cc: Boesch, David; Freeman, Beth
Subject: Court Closures

Follow Up Flag: Follow up
Flag Status: Flagged

To: Honorable Richard D. Huffman

From: Stephen M. Hall, Presiding Judge of San Mateo County Superior Court

Subj: Mandated Court Closures

As the Presiding Judge of San Mateo County, I strongly urge the Judicial Council to reverse their decision to close the Superior Courts the third Wednesday of each month. This closure has caused calendaring nightmares and reduced the public's access to justice. Coupled with the regularly scheduled judicial holidays, these additional closure days are backing up all of our calendars. I am being forced to continue both civil and criminal trials on the basis of no courts being available. Trials which normally could be concluded within a week are now spilling over into the following week, which in turn creates a cascading effect. We have reallocated judicial and staff resources and creatively reconstructed calendars and assignments to provide for pretrial conferences and superior court reviews in an effort to reduce jail overcrowding caused by these mandated closure dates. It is unclear how sustainable these efforts will be. Members of the public are being delayed in their efforts to access the courts and attain justice and are angry when they arrive at court, having taken a day off from work, only to find our doors closed. Jurors are not happy about having to have their service spill over into the following week due to these Wednesday closures.

The San Mateo County Superior Court has always prided itself on its innovativeness and ability to adapt to the changing needs of our electorate. We have been on the cutting edge in the development of innovative methods of dealing with our community issues. We have long ago established: Drug Court, Domestic Violence Court, Bridges (intensive drug/alcohol day treatment), Pathways (mental health court) and other collaborative programs. These beneficial programs are strained due to these closures and our mandates to provide basic services to the public.

Thank you for your time and willingness to listen to our position. We understand and appreciate the difficult challenges faced by the Council. We also believe that those of us here, on the local level, who actually provide services to the public can develop creative ways to deal with our budgetary challenges that do not include closing our doors to the public the third Wednesday of each month.

Save Paper. Think Before You Print.

Spero, Nancy

From: Masunaga, Laura
Sent: Friday, January 15, 2010 2:16 PM
To: Spero, Nancy
Subject: Comment court closure

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Spero,

It is my understanding I could submit comments to you, as I will not be able to attend the Judicial Council meeting on January 21, 2010. Kindly consider this comment submitted pursuant to Rule 10.6(d), as it related to the agenda item regarding mandatory court closure.

Our local court does not favor continuing court closures. Most courts had already started to address the difficult process of reducing budgets prior to CC legislation, including rolling furloughs, voluntary furloughs, freezing positions, etc.

There were viable options that were in the works to keep the courts open. Furthermore, our local court does not see the benefit of having all courts close on the same day even if mandatory court closure is/was necessary. There was no demonstrable benefit to the public to any large degree from same day closure.

The most significant issue is whether the ability of the trial courts to manage their calendars should be restored. Mandatory court closures removed this heretofore trial court prerogative, and many courts paid a high price in terms of public access, public relations, staff stress, and the ability to manage calendars locally.

It is unfortunate that this issue has become such a lightning rod. There has been a significant erosion in the goodwill and collaboration that followed the consolidation and unification of the county courts into a statewide system. The Judicial Council made a decision under unprecedented financial pressure from some of the large courts in a tough political situation with few good options. There were legitimate concerns and desire to reduce budgets quickly while strengthening the courts bargaining hand in letting the public and legislature know there are limits to how much reduction the courts can sustain without impacting services. However, local trial courts obligations and right to manage their calendars has to be acknowledged and respected.

The right/duty of trial courts to manage their calendars should receive serious discussion by the Judicial Council, and that right should be fully restored. Siskiyou County Superior Court supports ending mandatory court closure.

Sincerely

Presiding Judge Laura Masunaga

The Superior Court
LOS ANGELES, CALIFORNIA 90012
CHAMBERS OF
CHARLES W. McCOY, JR.
PRESIDING JUDGE

January 14, 2010

TELEPHONE
(213) 974-5600

Judicial Council of California
455 Golden Gate Avenue
San Francisco, California 94102

Re: Court Closures and Budget Priorities

Dear Council Members:

On July 29, 2009, the Judicial Council closed the courts statewide to achieve needed cost-savings and, importantly, to assure the days courts are open and closed remain uniform statewide. Previously, some courts, including Los Angeles, had elected to furlough employees to operate within reduced budget allocations established by the Council, but furloughs were not universal across the Branch.

All agree justice is best served by keeping California's courts uniformly open in every county every working day. On the other hand, the circumstances requiring furloughs in Los Angeles and elsewhere have not improved. Indeed, the situation is deteriorating. Budget realities and proposals now emerging in Sacramento have: (1) added further risks and uncertainties; and (2) substantially increased the likelihood that new reductions, larger than those required of the Branch in the past, will be imposed in the current and future fiscal years.

California's Legislative Analyst wisely observed in his most recent *Fiscal Outlook*, that government must now "make hard decisions on priorities." That is what the Judicial Council must now do. There is "no way" hard decisions concerning priorities can any longer be avoided, as the Legislative Analyst emphasized.

The Judicial Council is now reconsidering whether to continue or reduce the number of monthly court closures for the remainder of this fiscal year. The matter is no simple "open or shut" question. Given current budget realities, the Judicial Council must fundamentally decide whether it will arrange the order of its *budget priorities* so that, first and foremost, the goal is to enable all courts throughout the state to remain uniformly open.

The Judicial Council must decide this order of budget priorities *before* it considers the question of court closures. Courts have many needs, from day-to-day court staffing and operations to new courthouses and new technologies. These worthy needs cannot all share equal priority. If court staffing and operations are not given first priority, then in Los Angeles and elsewhere, substantial layoffs, courtroom closures and courthouse closures will inevitably occur. Unfortunately, we have arrived at the point where proceeding full tilt on new courthouses and new technology can permanently damage court staffing and operations. That reality was correctly recognized in the current fiscal year when $25 million of SB 1407 funds and $100 million of planned CCMS funding was redirected to protect court operations.

With or without a statewide court closure, the spiral of degraded court operations has begun, and will accelerate ever more rapidly downward in the coming months as a result of reductions the Council has already allocated to court operations. Existing allocation reductions have put the Los Angeles Superior Court on a path leading inexorably to a 34% workforce reduction over about two and one-half years. That workforce loss translates into more than 180 courtrooms closed and the effective closure of about 9 courthouses. More than half the civil courtrooms, and nearly one-third of the family and childrens' courtrooms will be closed. Traffic operations may be cut by half, or more, and collections will suffer.

The Council fully understands the human toll associated with courtroom closures. The maxim "justice delayed is justice denied" has real meaning for those charged with preserving access to justice for all. And there is a vital economic component that must be taken into account as well.

Closing courtrooms and courts – delaying justice – damages California's economy. The enclosed economics study by Micronomics, Inc., concludes that budget allocation reductions already imposed on the Los Angeles Superior Court will, in the current and future years: (1) cumulatively damage the state and local economies by nearly $30 billion; (2) lead to more than 155,000 lost jobs; and (3) reduce state and local tax revenues by about $1.6 billion.

The consequences of not placing court operations at the top of all priorities are immediate and grave. Pursuing other priorities such as new courthouse construction may stimulate 105,000 jobs directly and indirectly, but at a cost of more than 155,000 jobs lost just from forced closures in the Los Angeles Superior Court system. And, once the damage is done to court operations, the court system cannot recover rapidly because years are required to build up the skilled staff needed to operate complicated, highly regulated court systems.

If the Council now decides to give court operations, including keeping courts uniformly open, the top priority, then it follows the Council must immediately commit to fully fund court operations by all available means. Given the budget realities obviously at hand, that commitment will require temporarily redirecting funds the Council might otherwise prefer to spend on worthy projects such as new courthouse construction and CCMS.

Redirecting SB 1407 funds requires legislation and will require substantial time and effort to achieve. Strong interests external to the Branch may oppose it, notwithstanding the damages that will befall court operations. Delay here risks catastrophe for court operations. Worse yet, once the SB 1407 bonds are sold, there will be no going back. The $280 million income stream now collected annually statewide to support sale of the bonds will be forfeited forever as a potential life preserver for court operations.

The Judicial Council's prime role is to establish policy and decide priorities for the Branch. This is a moment when that function must be carried out without delay. The essential question now before the Council is more fundamental than just whether to continue or reduce the number of monthly closures for the remainder of this fiscal year. That question turns on a higher-order, first priority determination.

In light of the state's current fiscal emergency, we urge the Council now expressly to decide: (1) that preserving ongoing court operations - to keep courts uniformly open and fully functional statewide - is the top priority; and, to that end, (2) that the Branch will take immediate steps to assure that resources, including SB 1407 and CCMS funds, are accessible as a temporary means to protect court operations from further decay.

Respectfully submitted,

Charles W. McCoy, Jr.
Presiding Judge

CWM:gp

Enclosure

Economic Impact on the County of Los Angeles and the State of California of Funding Cutbacks Affecting the Los Angeles Superior Court

By Roy Weinstein and Stevan Porter
Micronomics, Inc.
777 S. Figueroa Street, Suite 4600
Los Angeles, CA 90017

December 2009

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Executive Summary

Micronomics, Inc. has been asked to ascertain the economic impact on the County of Los Angeles and the State of California of funding cutbacks affecting the Los Angeles Superior Court. On the basis of our analysis, we have concluded that reductions in funds previously made available to the Los Angeles Superior Court will result in lost court days, courtroom closures, and reductions in operating capacity in the Los Angeles Superior Court system. These reductions, in turn, will result in the following:

- Declines of $13 billion in business activity resulting from decreased utilization of legal services.
- Additional uncertainty among litigants resulting in approximately $15 billion in economic losses.
- Damage to the Los Angeles and California economies, including close to $30 billion in lost output and more than 150,000 lost jobs.
- Lost local and state tax revenue of $1.6 billion.

Figure 1: Summary of Quantified Economic Losses

	Economic Output Losses ($ Millions)	Employment Losses (Jobs)	State and Local Tax Losses ($ Millions)
Immediate Losses	$1,086.6	5,103	$44.3
Legal Services Losses	12,978.1	69,052	696.7
Litigation Duration Impact	14,922.6	81,268	872.6
TOTAL	**$28,987.3**	**155,423**	**$1,613.6**

Background

The Los Angeles Superior Court ("LASC") faces funding cutbacks that will result in annual budget deficits between $79 million and $140 million through 2012-2013. These cutbacks will force LASC to reduce operations. Initial funding cuts have caused the entire LASC to close the third Wednesday of every month. Future cutbacks will result in courtroom closures, staff layoffs, and significant reductions in LASC operating capacity. The economic impact of these reductions, which will be felt throughout the County of Los Angeles and State of California, is the subject of this analysis.

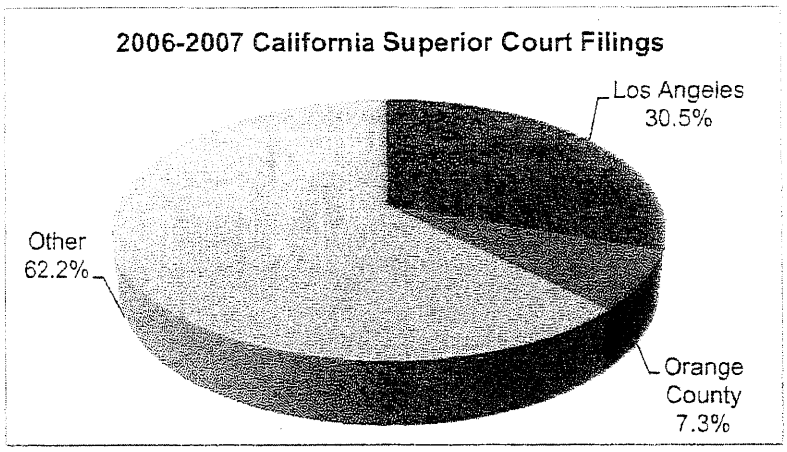
The Los Angeles Superior Court

LASC is the nation's largest trial court system. It operates 605 courtrooms and employs approximately 5,400 people in 12 districts and 50 locations in Los Angeles County.[1] LASC is responsible for handling some of the most complex civil cases in the country, including matters ranging from small claims to disputes involving significantly more than $25,000 in damages; LASC also handles family law cases, criminal cases, juvenile, probate and mental health cases, and traffic violations.[2]

During the 2006-2007 fiscal year, more than 2.8 million cases were filed with LASC; nearly 2.7 million dispositions were reached.[3] Total LASC filings in 2006-2007 accounted for approximately 30 percent of filings statewide; the next-largest superior court system in California, Superior Court of California – County of Orange, received less than one-fourth as many filings (see Figure 2).[4]

[1] "Responding to Fiscal Emergency, Los Angeles Superior Court to Close One Day Per Month," LASC Press Release, May 19, 2009. LASC website (www.lasuperiorcourt.org).
[2] LASC website (www.lasuperiorcourt.org).
[3] Judicial Council of California, Office of Court Research, Judicial Branch Statistical Information System.
[4] *Ibid.*

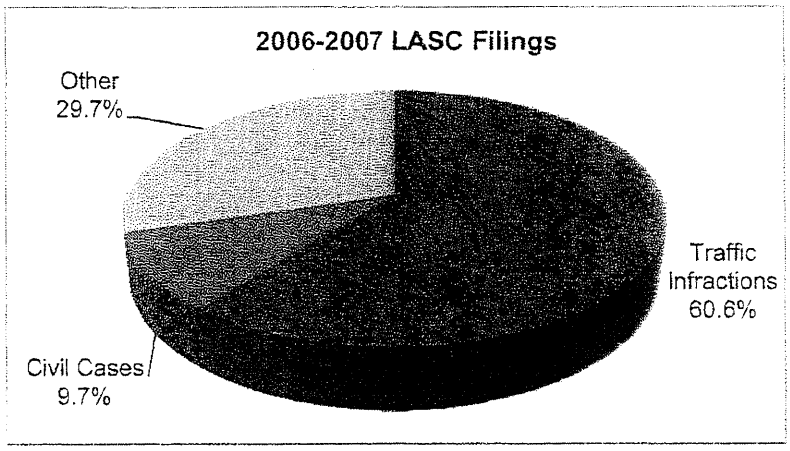
Figure 2: Case Filings in California Superior Court Systems



Over the past decade, total LASC filings have grown at an annualized rate of approximately one percent. Similar growth rates have been experienced across all categories, so the composition of LASC filings has remained approximately constant since 1997-1998. The largest categories of cases have involved traffic and civil.

Of the 2.8 million LASC case filings in 2006-2007, approximately 280,000 were civil cases.[5] Figure 3 illustrates the breakdown of LASC filings.

Figure 3: 2006-2007 Case Filing Types in LASC



Cases are disposed of ("case dispositions") either through adjudication or settlement. Since 1997-1998, LASC annual dispositions have declined by approximately 2.5 percent.[6] The number of total

[5] *Ibid.* Civil cases defined to include: Civil Limited; Auto Tort Unlimited; Other PI/PD/WD Civil Unlimited; Other Civil Complaints; Civil Appeals; Small Claims; and Small Claims Appeals.
[6] *Ibid.*

dispositions in 2006-2007 was less than 2.7 million, of which approximately 275,000 were civil cases.[7]

The relationship between case filings and case dispositions is reflected in the "caseload clearance rate," which measures the ratio of dispositions to filings.[8] A clearance rate of 1.0 indicates that the volume of case dispositions equals case filings during a given time period. A rate greater than one indicates more cases are disposed of than filed; a rate lower than one indicates more filings than dispositions. Caseload clearance rates reflect courts' ability to handle demand. In recent history, civil litigation caseload clearance rates have been approximately 1.0, though, as discussed in later sections of this report, that figure will decline with funding cutbacks.

LASC Funding and Operating Capacity

LASC depends on funds provided by the State of California. The difference between LASC funding and operating costs is represented by LASC budget surpluses (when funding exceeds costs) and budget deficits (when costs exceed funding). Though LASC can retain surpluses from one year to apply to future years' costs, LASC cannot continually operate with budget deficits.[9] Hence, funding shortfalls relative to anticipated operating costs in future years necessitate reductions in LASC operations. When LASC operations are reduced, LASC loses capacity to bring about timely case dispositions.

The relationship between funding cutbacks and LASC operating capacity, however, is not linear. Relatively small cutbacks significantly affect operations, and every additional dollar of cutback experienced by LASC will impact operations more severely than the prior dollar's loss. This is due to the operational complexity of LASC. The complexity stems from, among other things, LASC's size, the breadth of its responsibilities, statutory requirements to which it is bound, various labor union agreements with its employees, and its hybrid centralized/decentralized functional organization structure.[10]

Since approximately half of LASC funding is earmarked for specific statutory uses, LASC is limited in its ability to pare costs. Even modest funding cutbacks can have significant effects since LASC cannot cut costs evenly across its operations.

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[7] *Ibid.*

[8] LASC caseload clearance rate in 2006-2007 was 0.92. With respect to civil litigation, LASC caseload clearance rate in 2006-2007 was 0.99 (Judicial Council of California, Office of Court Research, Judicial Branch Statistical Information System).

[9] LASC has retained budget surpluses in prior years. Its current reserve is approximately $109 million. All anticipated consequences of funding cutbacks reflect use of this reserve to minimize operational losses.

[10] Some functional tasks like records management are generally centralized and occur in a single location; other functional tasks like case processing must be handled at the various courthouses. Moreover, not all courthouses hear all types of cases. For instance, "dependency" cases are all heard at only a single courthouse.

LASC's union agreements also bear on the impact of funding cutbacks because initial layoffs must involve the most junior employees. These employees tend to be concentrated in traffic-related services, meaning that any layoffs would come perhaps exclusively from operations relating to traffic. Since this loss could not be absorbed, it would be necessary to reallocate staff from other operating segments to mitigate the effect. Senior employees with specialized knowledge and experience would be moved to areas such as traffic. This reallocation would tend to limit the value of their specialized knowledge and cause their overall contributions to operating capacity to be reduced.

Services relating to traffic infractions are responsible for generating substantial revenue for the state in the form of fees and fines. Among other things, this revenue allows the State of California to maintain its credit rating, which affects its ability to obtain credit and the interest rates it pays.

A further complication rests in the centralized/decentralized organizational structure of LASC. The reallocation of employees often requires transfer from one geographic location to another. Each such transfer produces further disruption, meaning that the impact on operating capacity is greater than suggested by layoff figures alone.[11]

Similarly, operating capacity losses do not scale proportionately with courtroom closures. When a courtroom closes, employees must be reallocated. Senior employees working in the closed courtroom would be reassigned, while junior employees working elsewhere would be laid off. The effects of closure ripple throughout the LASC system and thus cause greater disruption than that suggested solely by the percentage of total courtrooms lost.

Although these complexities can make capacity losses associated with funding cutbacks difficult to estimate in the LASC environment, it is possible to measure these losses in terms of physical court facilities. "Courtroom operating days" is the product of the number courtrooms operated by LASC and the number of days each is operated during a given period. For example, LASC's 605 courtrooms operate 247 days during a typical year, so the courtroom operating days figure is 149,435. Any reductions in either the number of operating days or courtrooms would result in a loss of courtroom operating days and thus LASC operating capacity. This measure provides a conservative but appropriate proxy for LASC operating capacity that can be linked to anticipated budget cutbacks. The measure also can be tested against historical experience at LASC to gauge its relationship with caseload clearance rates.

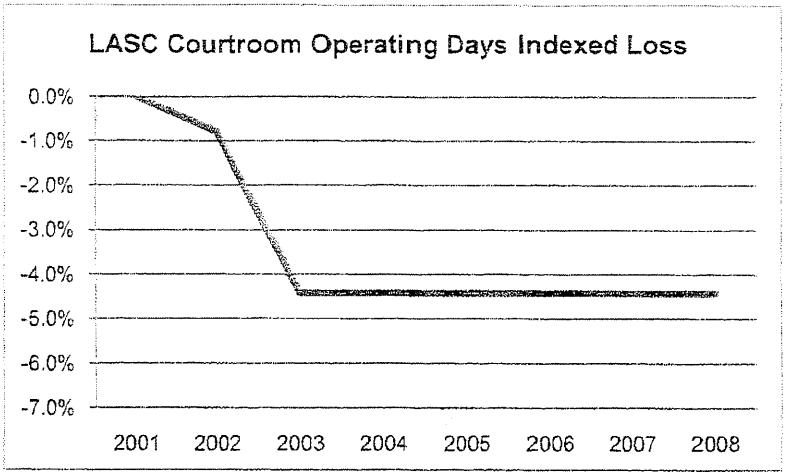
In November 2002, in the face of a budget deficit, LASC was forced to curtail operations. Of 633 courtrooms operated in the LASC system at the time, 29 were closed.[12] The percentage loss was 4.6 percent (see Figure 4). Average caseload clearance rates declined approximately 4.8 percent following the closures. In other words, a loss of one percent in courtroom operating days was associated with a greater loss in caseload clearance rates. For the reasons discussed above, caseload

[11] The vastly disruptive nature of such employee reorganization is well documented. See, for example: Bowman, Edward H. and Harbir Singh. "Corporate Restructuring: Reconfiguring the Firm," *Strategic Management Journal*, Vol. 14, 5-14 (1993).

[12] At present, 605 courtrooms are operated by LASC.

clearance rates would decline at an even greater pace with larger percentage losses of courtroom operating days.

Figure 4: Indexed Loss of LASC Courtroom Operating Days, 2001-2008



Anticipated Funding Cutbacks and LASC Capacity Losses

Funding cutbacks affecting LASC during fiscal years 2009-2010 through 2012-2013 are anticipated to result in annual LASC budget deficits of no less than $79 million, graduating up to approximately $140 million (see Figure 5). Cumulative workforce loss projections indicate layoffs of nearly 500 individuals in 2009-2010 and approximately 1,800 by 2012-2013. Further, 43 criminal courtrooms and 139 civil courtrooms will close by 2012-2013 (see Figure 6).

Figure 5: Anticipated Annual LASC Budget Deficits

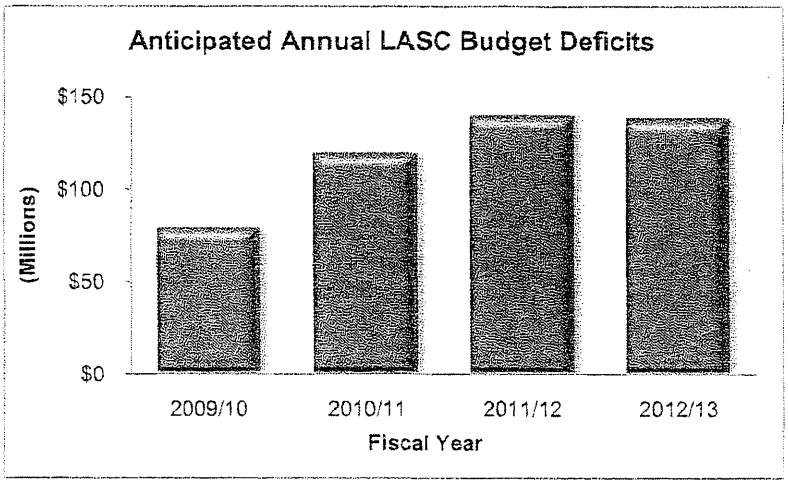
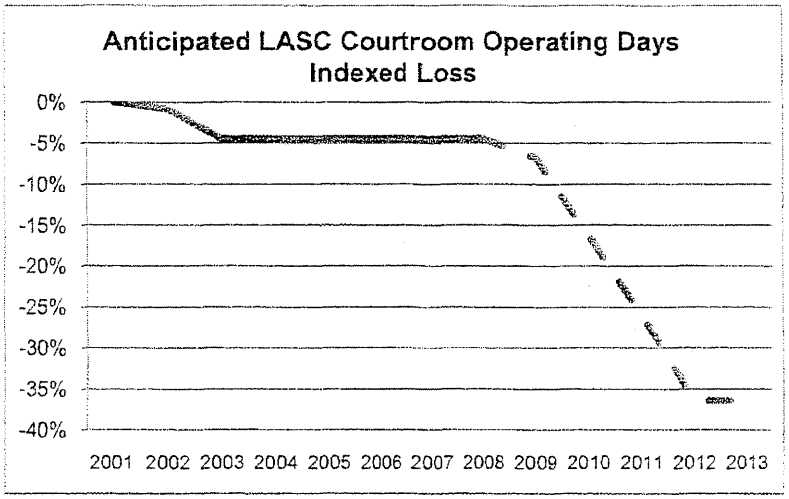


Figure 6: Impact of Funding Cutbacks on LASC Employment and Courtroom Operations

Impact of Funding Cutbacks on LASC				
Fiscal Year	**2009/10**	**2010/11**	**2011/12**	**2012/13**
Budget Deficit ($ Millions)	$79.3	$120.0	$140.4	$138.9
Cumulative Layoffs	485	1,141	1,827	1,827
Cumulative Courtroom Closures	48	113	182	182

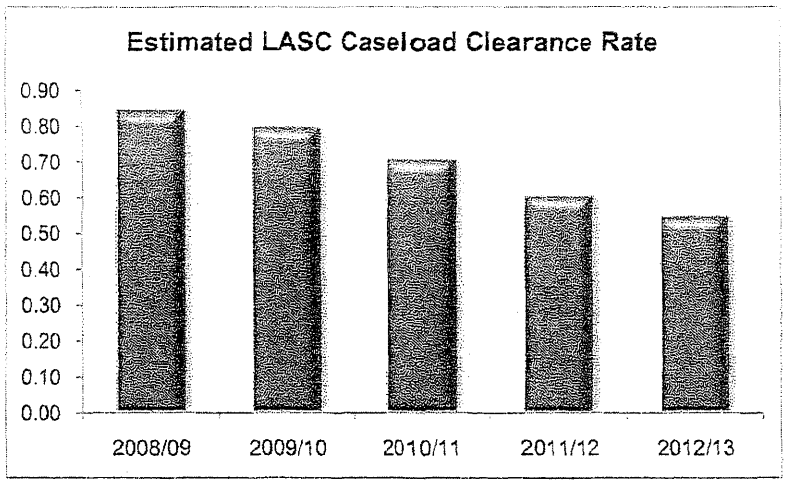
Anticipated layoffs represent roughly one-third of LASC personnel, and the closure of courtrooms would reduce LASC operated courtrooms by approximately 19 percent by 2011 and 30 percent by 2012 (see Figure 7).

Figure 7: Indexed Loss of LASC Courtroom Operating Days, 2001-2013



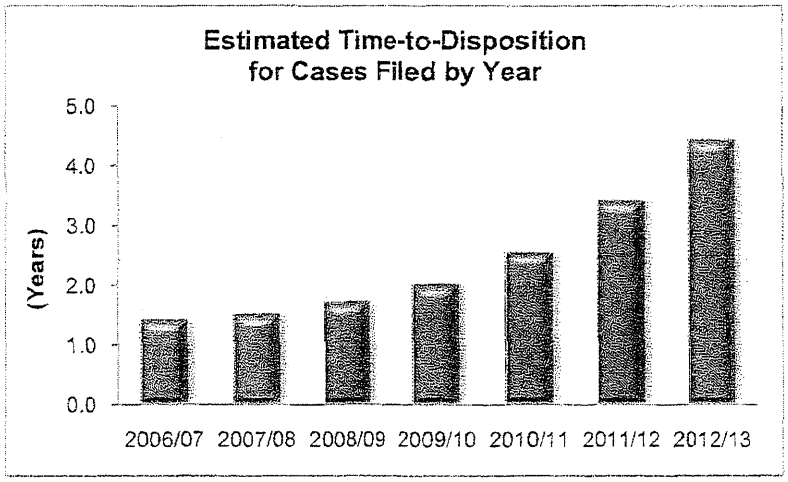
These reductions will significantly impact LASC's ability to dispose of cases in a timely manner. Based upon the observed relationship between lost LASC courtroom operating days and average caseload clearance rates, clearance rates are expected to fall by no less than 19 percent by 2011 and by no less than 30 percent by 2012 (see Figure 8). The impact will be disproportionately large with respect to civil cases given that 139 of the total 182 courtrooms to be closed are civil courtrooms. Civil caseload clearance capacity is expected to fall by no less than 35 percent by 2013. Despite the relatively large impact to civil operations, our analysis of economic losses due to funding cutbacks relies on percentage courtroom day losses across all operations. Hence, we are conservative in estimating economic harm since civil operating cuts will be disproportionately large and much of the economic losses derive from reductions in civil operations.

Figure 8: LASC Caseload Clearance Rates, 2009-2013



Caseload clearance rate losses can be used to estimate increases in the number of pending cases and thus increases in the duration of time between case filing and disposition. As caseload clearance rates decline, there are fewer case dispositions relative to filings during a given period, so more cases remain pending. As the number of pending cases increases, the backlog of cases to be disposed of grows, causing the average amount of time between filing and disposition to increase. Given the anticipated losses, the average time between filing and disposition will increase by more than 150 percent (see Figure 9). For cases filed in 2012-2013, the average time-to-disposition will be nearly four-and-a-half years. Significantly, due to the disproportionate impact of LASC capacity losses on civil litigation, civil case time-to-disposition is expected to increase even more.

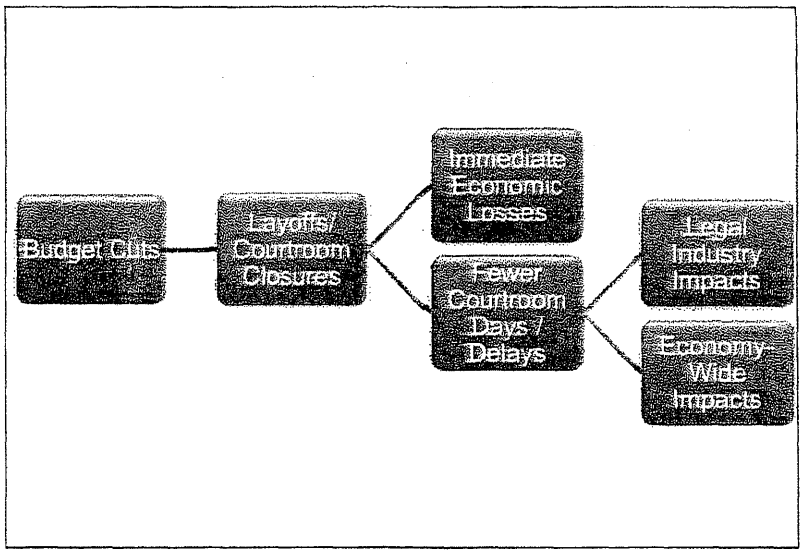
Figure 9: LASC Time-to-Disposition, 2007-2013



Economic Impacts of Funding Cutbacks

The economic impacts of funding cutbacks affecting LASC include damages stemming directly from the cuts (e.g. employment losses at LASC) as well as derived damages flowing from losses in LASC operating capacity (see Figure 10). Areas of economic harm include employment, wages, economic output, and tax revenues in both Los Angeles and California. Losses will persist at least until funding and operating capacity are restored. In addition, there may be long-term structural consequences for the Los Angeles and California economies that are unlikely to be remedied immediately upon restoration of LASC funding and capacity.

Figure 10: Graphical Summary of Economic Impacts of Funding Cutbacks



Immediate Damage from Funding Cutbacks

We have used economic multiplier models to estimate output reductions directly associated with LASC funding reductions and layoffs (separate from losses associated with lost LASC capacity). These models reflect the relationship between inputs and resulting economic outputs. Models using economic multipliers recognize the impact an increase or decrease in economic activity in one sector of the economy can have on economic activity in other sectors.

The Minnesota IMPLAN Group, Inc. compiles data that provide the framework for an economic multiplier model used to measure output losses, employment losses, and tax revenue losses directly from funding cutbacks and reduction in LASC employment. Based on funding cutbacks noted above, over the period 2010 through 2013, initial economic output losses will reach $1.1 billion and will result in lost state and local tax revenue of more than $44 million.

Damage from Lost LASC Capacity

Not included in these losses are two forms of economic harm resulting from reduced LASC operating capacity. First, there is a direct link between LASC operating capacity and the market for Los Angeles area legal services. As operating capacity declines, utilization of local legal services will be reduced.

Second, delayed disposition of cases creates uncertainty among affected businesses. The presence of such uncertainty makes businesses less prone to invest and expand operations.[13] The connection between efficient operation of the judiciary and economic well-being of the community is widely recognized:

- "The importance of legal institutions and governance for economic growth is now relatively well-accepted in the economics profession. The association has been well-demonstrated, both theoretically and empirically."[14]

- "The role of the judiciary is to set up a framework in which the bargaining for property rights follows predetermined rules...and provides a clear and quick decision in cases of doubt.... [T]he anticipated future enforcement of rights is extremely important for current decisions, contracts, and future activities of all participants."[15]

- "Judicial slowness may reduce incentives to start businesses by deteriorating the security of property rights. It may also limit possibilities of obtaining loans. Finding ways to speed up judiciaries is thus fundamental to economic growth."[16]

- "The insecurity created by a weak judiciary changes economic behavior in two ways. First, the overall cost structure of the economy increases.... Increased collateral to make up for the risk associated with the poor enforcement of property rights increases the consumer price.... Second, not all risk can be covered by higher premiums. If the risk is considered too high, certain transactions simply do not take place."[17]

Losses Due to Reduced Business Activity in the Legal Services Industry

Since legal work often is clustered around settlement or adjudication of pending cases, as case processing and disposition are delayed, less legal work results.[18] Further, entities engaged in litigation, with funds, attention and other resources tied up in the process, are more constrained in

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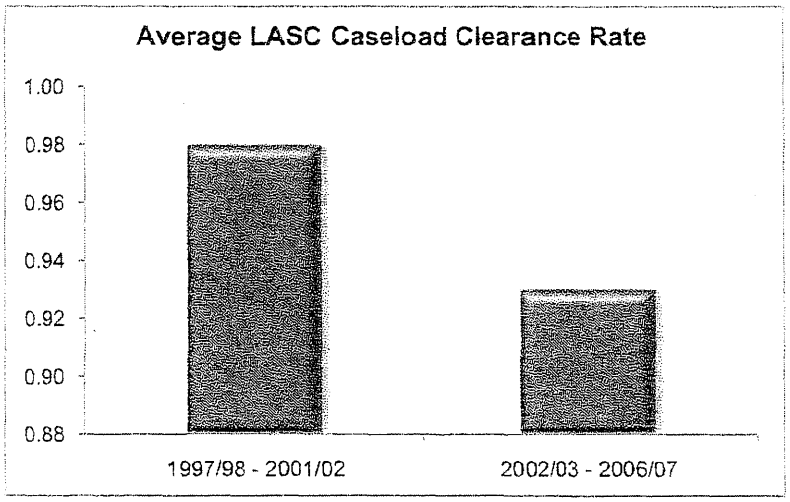
[13] Bloom, Nicholas. "The Impact of Uncertainty Shocks," *Econometrica*, Vol. 77, No. 3 (May 2009), pp. 623-685.
[14] Cross, F.B. "Law and Economic Growth," *Texas Law Review*, 80 (2002), pp. 1737-1775.
[15] Kohling, W.K.C. "The Economic Consequences of a Weak Judiciary," Center for Development Research, University of Bonn (2002).
[16] Chemin, Matthieu. "The Impact of the Judiciary on Entrepreneurship: Evaluation of Pakistan's 'Access to Justice Programme'," *Journal of Public Economics*, 93 (2009), pp. 114-125.
[17] Kohling, W.K.C. "The Economic Consequences of a Weak Judiciary," Center for Development Research, University of Bonn (2002).
[18] Spier, Kathryn. "The Dynamics of Pretrial Negotiation," *The Review of Economic Studies*, Vol. 59, No. 1 (Jan. 1992), pp. 93-108.

their ability to invest and expand or bring on additional litigation than similarly situated parties that are not so engaged. Delays lengthen the duration of litigation and thus reduce the number of "free" parties able to dedicate resources to new matters.

The impact of LASC operating capacity losses on caseload clearance rates was observed following courtroom closures in November 2002. During fiscal years ended 1998 through 2002 (i.e. immediately prior to the closures), the annual LASC caseload clearance rate averaged 0.98. For fiscal years following the closures through 2007, the caseload clearance rate fell to 0.93, equaling a loss of approximately 4.8 percent (see Figure 11).

Figure 11: LASC Average Caseload Clearance Rates, 1998-2002 and 2003-2007

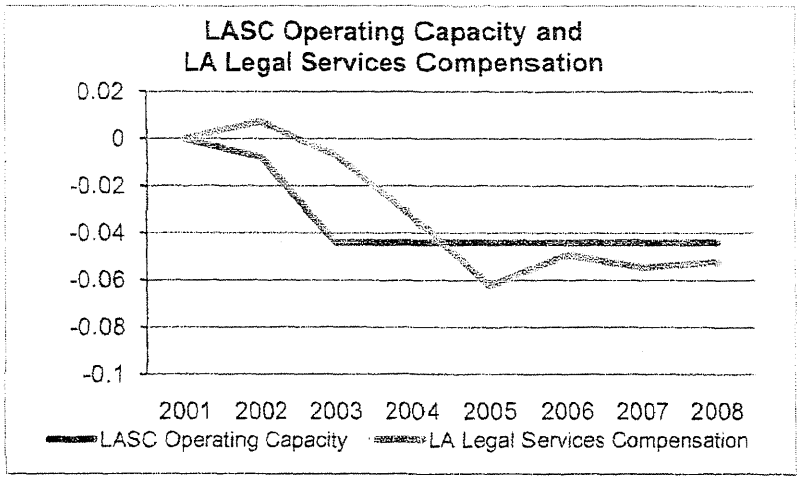


Losses in caseload clearance rates reflect a reduction in the ability of LASC to service demand. This reduction affects legal services.

Figure 12 illustrates the relationship between changes in LASC operating capacity and Los Angeles legal services compensation. Lacking direct measures of law firm revenue at the county level, compensation is used as a proxy for revenue since the two track one another closely in legal services.[19]

[19] In a professional services industry like legal services, compensation is an appropriate proxy for revenue generation. Legal services firms have relatively little capital expense, and revenue is tied directly to labor utilization since attorneys typically bill for their services by the hour.

Figure 12: LASC Operating Capacity and Los Angeles Legal Services Compensation



In order to measure the impact of the budget cuts in 2002, including closing 29 courtrooms, law firm compensation in Los Angeles County was indexed to 2001 and compared with indexed compensation for legal services both nationally (see Figure 13) and in New York County, Cook County (Chicago), Harris County (Houston), and Philadelphia County (see Figure 14). Relative to both benchmarks, compensation for Los Angeles legal services exhibited significant shortfalls by 2004; the shortfalls continued through 2008, the last period for which data are available.

Figure 13: Los Angeles and U.S. Legal Services Compensation

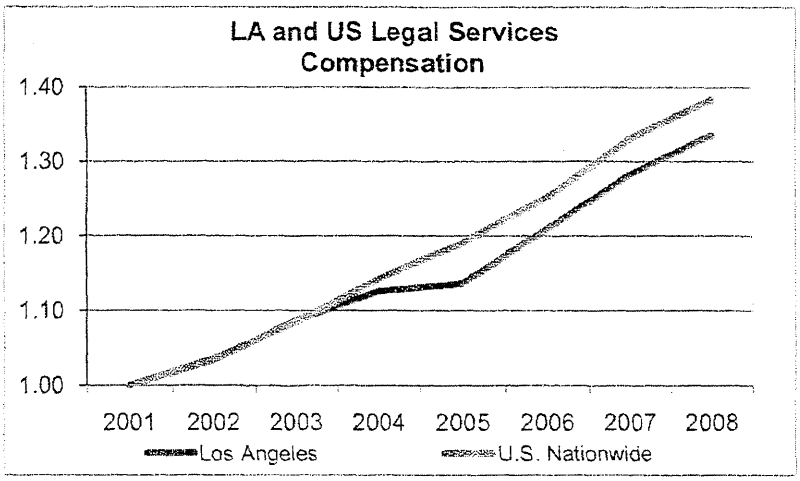
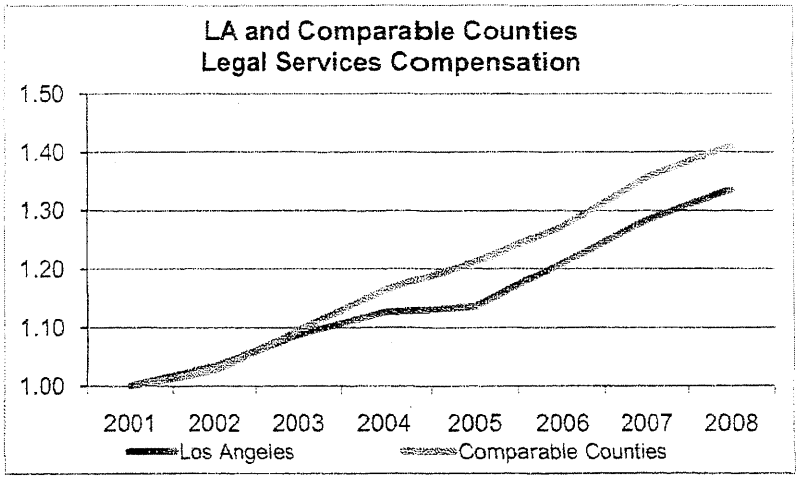
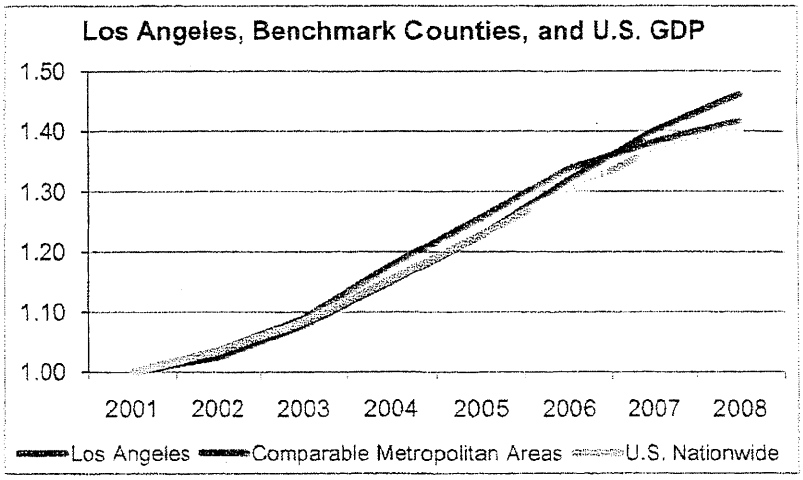


Figure 14: Los Angeles and Comparable Counties Legal Services Compensation



To test whether the shortfalls in Los Angeles legal services compensation could be accounted for by generalized slowdowns in the Los Angeles economy relative to the benchmarks, Los Angeles indexed GDP was compared with indexed U.S. and comparable metro area GDPs (see Figure 15). Los Angeles GDP outperformed U.S. GDP growth over the period and was consistent with comparable metro area performance. Hence, the shortfall in Los Angeles was not associated with a generalized economic slowdown in Los Angeles relative to the benchmark areas. The analysis instead suggests the cause was "economically proximate" to legal services. This is consistent with what would be expected if LASC capacity losses were the cause of lost legal services compensation. Indeed, we have examined other markets and found similar relationships between disruptions in court operations and legal services compensation.

Figure 15: Los Angeles, Benchmark Counties, and U.S. GDP



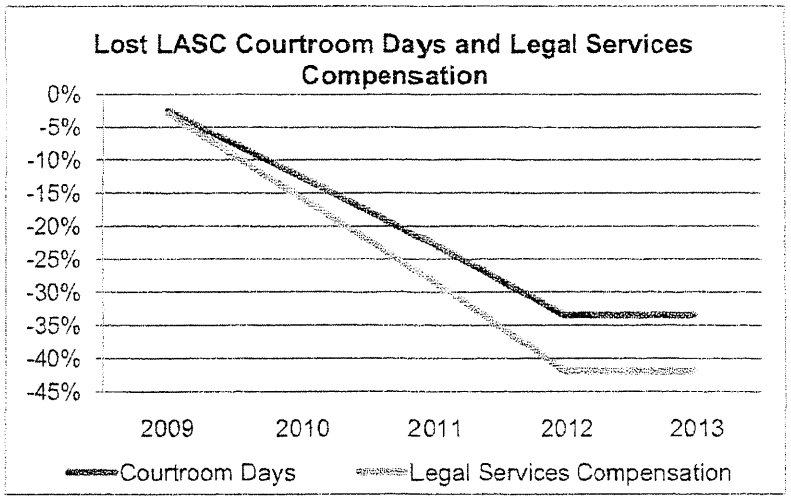
The lag between LASC capacity losses and legal services compensation makes intuitive sense. A reduction in court capacity would not be expected to immediately reduce the utilization of legal

services, but would take some time to work through the system. At first, attorneys and litigants would not alter their behavior since the impact of courtroom closures on overall LASC operating capacity and the length of time to dispose of cases would not be immediately apparent. Only after the capacity and delay effects had been observed would attorneys and litigants begin to adjust their behavior.

A second element explaining the delay between LASC operating capacity losses and observed losses in legal services compensation is embedded in the relationship between legal services revenue and compensation. Absent a clear expectation of revenue declines, law firms would not immediately freeze wages, forestall hiring, or reduce payroll. Those effects would not begin until revenue losses from a prior period had been realized. This adds to the lag between capacity losses and law firm compensation changes.[20]

The next step in the analysis involved using the experience of the 2002 LASC capacity losses to estimate the impact currently anticipated LASC losses will have on Los Angeles law firm compensation. On average, a one percent decline in LASC operating capacity has been associated with approximately a 1.25 percent decline in law firm compensation. Figure 16 summarizes the relationship through 2013.

Figure 16: Lost LASC Courtroom Days and Legal Services Compensation, 2009-2013



Translated into dollars, Los Angeles legal services compensation losses equal approximately $6.3 billion. Los Angeles legal services revenue would be expected to decline by at least this amount through 2013. Using a similar economic multiplier model, the economic output losses, employment losses, and tax revenue losses deriving directly from lost legal services demand were estimated. Over the period 2010 through 2013, these losses will equal nearly $13.0 billion in lost economic output, more than 69,000 eliminated jobs, and forgone tax revenue of $697 million.

[20] Any implementation lag at the LASC level also would contribute to delays between LASC operating reductions and impacts in legal services.

Costs of Economic Activity Forgone Due to Civil Delays

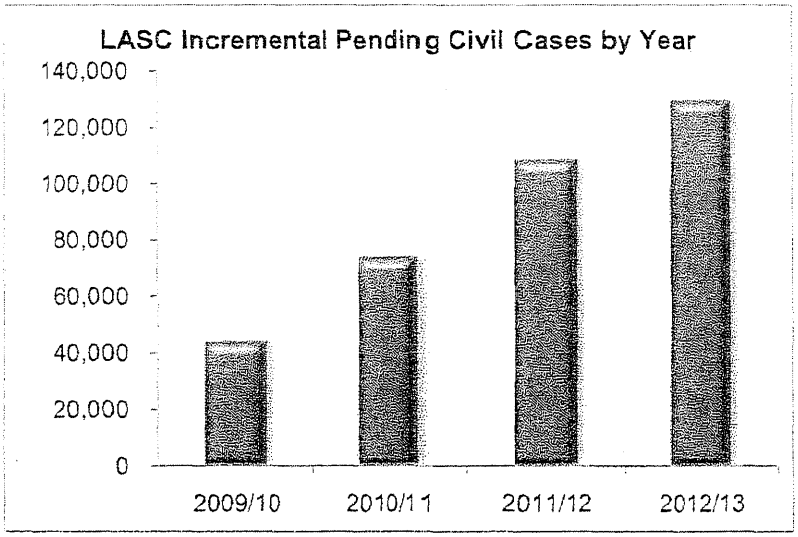
A separate category of loss stems from the increased duration of litigation resulting from lost LASC operating capacity. Litigants do not know the outcome of their dispute until it is resolved. Until then, they operate in the presence of uncertainty, the effect of which is commensurate with the amount at issue. For example, a dispute between a supplier and purchaser in which the supplier believes the purchaser owes $100,000 leaves both supplier and purchaser uncertain as to which party will retain the $100,000 after disposition. The purchaser cannot invest the $100,000 in new equipment since it may have to pay the supplier upon settlement or adjudication. Likewise, the supplier cannot hire new employees with the $100,000 because it does not have the money in hand and because it may never receive the money. Both parties are thus constrained.

More generally, resources at issue between litigants are removed from circulation until disputes are resolved. When the duration of litigation is increased, the total amount at issue at a given point in time is increased and is not fully available to any of the litigants.

The average sum in dispute in civil cases was estimated at $245,000, which reflects median jury trial awards in LASC civil cases in 2005.[21] If LASC civil case clearance is reduced following budget cutbacks, the number of civil cases pending at any one time will increase significantly. As caseload clearance rates decline, fewer dispositions relative to filings occur in a given period. This causes the number of pending cases in subsequent periods to rise. For example, if the caseload clearance rate declines from 0.9 to 0.8 per 100 filings, the number of cases still pending at the end of the period (and then carrying over to the next period) increases from 10 to 20. Figure 17 summarizes civil cases pending by year through 2013.

[21] Bureau of Justice Statistics, Civil Justice Survey of State Courts, Median Final Damage Awards for Plaintiff Winners in Jury and Bench Trials, by Sampled Counties, 2005. Use of the median is conservative since studies indicate that average awards have exceeded median awards at LASC (See: Crockett, Robert D. and Jonathan M. Jenkins, "Taking It to the Bank," *Los Angeles Lawyer*, September 2001, pp. 47-52. "Civil Justice Survey of State Courts, 1992, Civil Jury Cases and Verdicts in Large Counties," Bureau of Justice Statistics Special Report. "Civil Justice Survey of State Courts, 1996, Civil Trial Cases and Verdicts in Large Counties, 1996," Bureau of Justice Statistics.).

Figure 17: LASC Incremental Pending Civil Cases by Year, 2010-2013



Assuming that the average amount disputed in each case remains constant, total dollars at issue at any point in time will increase dramatically relative to 2006-2007. The incremental amounts in dispute will generate significant economic losses. Specifically, because the funds at issue cannot be invested in their highest and best use, a loss results that can be estimated as the difference between the likely return associated with optimal investments and the return from risk-free investments (when disputed resources are unavailable for optimal use).

We have measured damages associated with delays in dispute resolution as the difference between a normal return on these assets (i.e. which allows for risk and illiquidity) and a relatively low risk-free return. This reduction in return exceeds $7.1 billion through 2013. Using an economic multiplier model, associated economic output losses amount to approximately $15.0 billion, with more than 81,000 jobs eliminated and $873 million in lost tax revenue.

Summary of Quantified Elements of Damage

Total economic losses stemming from LASC funding cutbacks include close to $30 billion in economic output, more than 150,000 jobs, and $1.6 billion in state and local tax revenue. Losses are summarized in Figure 18.

Figure 18: Summary of Quantified Economic Losses

	Economic Output Losses ($ Millions)	Employment Losses (Jobs)	State and Local Tax Losses ($ Millions)
Immediate Losses	$1,086.6	5,103	$44.3
Legal Services Losses	12,978.1	69,052	696.7
Litigation Duration Impact	14,922.6	81,268	872.6
TOTAL	**$28,987.3**	**155,423**	**$1,613.6**

These figures do not fully account for structural changes in the Los Angeles economy brought about by LASC funding cutbacks. As confidence in LASC for dispute resolution erodes, the choice will be to continue to operate in Los Angeles, a region of relatively high uncertainty, or to move to locations where greater certainty exists. Even a small flight of economic entities from the LASC jurisdiction would have significant consequences for the Los Angeles economy. For example, if only five percent of local economic activity were removed from Los Angeles and went out of state, annual California output losses would exceed $104.1 billion, and job losses would reach beyond 560,000. Associated annual local and state tax revenue losses would exceed $6.0 billion. Restoring LASC funding and operating capacity following several periods of shortfalls would not immediately remedy these economic consequences.

The foregoing analysis considers only LASC. Impacts in other jurisdictions will increase overall economic harm throughout the state.

Conclusion

Significant economic harm to Los Angeles and the State of California will result from funding cutbacks affecting LASC. These effects will persist at least until funding and operations are restored. At a minimum, funding cutbacks will cause immediate output and employment losses associated with the funding cutbacks themselves and ancillary output and employment losses deriving from reductions in LASC operations.

Total economic impacts through 2013 associated with funding cutbacks affecting LASC are estimated to be:

- Close to $30 billion in lost economic output, including losses of $13 billion resulting from decreased legal services and $15 billion associated with additional uncertainty on the part of litigants.
- Approximately 150,000 lost jobs.
- $1.6 billion in forgone state and local tax revenue.

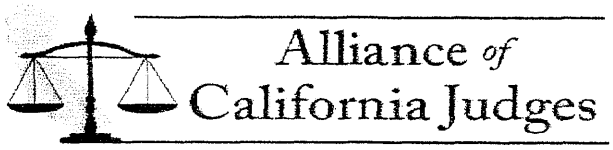
About Micronomics

Micronomics is an economic research and consulting firm engaged in the application of price theory, analysis of issues relating to resource allocation, and assessment of real-world problems requiring practical and sound solutions. Micronomics focuses on industrial organization, antitrust, intellectual property, the calculation of economic damages, employment issues, and the collection, tabulation and analysis of economic, financial and statistical data. Clients include law firms, publicly and privately held businesses, and government agencies.

About the Authors

Roy Weinstein is an economist and President of Micronomics. Mr. Weinstein has been engaged in economic research and consulting since 1969. Areas of expertise include industrial organization, antitrust economics, the valuation of intellectual property, wage and hour litigation, statistics, econometrics, and the calculation of economic damages. He has testified as an economic expert in numerous jurisdictions and has spoken before the American Bar Association, the National Association of Attorneys General, the National Association of Business Economists, and the Los Angeles County Bar Association. Mr. Weinstein's articles have been published in the *Journal of the Patent and Trademark Office Society*, *The Journal of Law and Technology*, and the *Antitrust Bulletin*. Mr. Weinstein received his Bachelor of Business Administration degree *cum laude* with honors in Economics from City College New York and his Master of Arts degree in Economics from the University of Chicago. He is a recent recipient of the Career Achievement Award from the Business and Economics Alumni Society of the Baruch School at City College.

Stevan Porter is a Senior Consultant at Micronomics. Mr. Porter has experience assessing the economics of claims made in connection with commercial litigation and has been engaged in matters involving intellectual property, antitrust, and breach of contract. He also has performed valuations of intangible assets and privately-held businesses. His articles pertaining to patent infringement, statistics, IP litigation strategy, and copyright infringement have appeared in the *Journal of Legal Economics* and the *Los Angeles Daily Journal*. Additionally, he has given Continuing Legal Education seminars on topics including econometrics, statistics, and finance. Mr. Porter holds Bachelor of Science in Business degrees, *summa cum laude*, in Economics and Marketing from Miami University in Oxford, Ohio. He also received from Miami University the William J. McKinstry Award in economics, the Wall Street Journal Award, and University Honors.



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LISA SCHALL

P.O. BOX 2513
BAKERSFIELD, CALIFORNIA 93303

January 14, 2010

Executive and Planning Committee
Judicial Council of California
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-4272

Re: **REQUEST TO SPEAK AT JANUARY 21, 2010 JUDICIAL COUNCIL MEETING**

To whom it may concern:

The Alliance of California Judges requests five minutes to speak at the January 21, 2010 Judicial Council Meeting.

The statement will address the agenda item regarding court closures.

The specific statement to be made is attached. We believe that it will be beneficial to the Council to be aware of the views of an organization representing a substantial number of judges of the state.

The speaker will be David R. Lampe, Judge of the Kern County Superior Court, 1415 Truxtun Avenue, Bakersfield, California 93301, (661) 868-4907, Fax No. (661) 868-4841.

Very truly yours,

David R. Lampe

Mr. Chief Justice and Members of the Council:

Thank you for the opportunity to speak to you today. My name is Judge David Lampe from Kern County. I am a founding director of the Alliance of California Judges. The Alliance was formed on September 11, 2009, in response to the unprecedented financial crisis now facing our judicial branch. The Alliance now has nearly 200 member judges from 30 counties.

Your meeting today will revisit the issue of court closures. In this atmosphere, continued closures while funds are taken away from operations will generate great criticism. This is apparent from the outcry which has ensued upon disclosure of raises given to highly paid AOC staff. It was apparent when five days before a legislative hearing on accountability in October 2009, this Council diverted $68.0 million from the Trial Court Trust Fund earmarked for trial court operations in favor of the expensive and questioned CCMS computer system.

We have this atmosphere of protest because there is a problem with governance. This Council does not govern the trial courts– a fact appropriately acknowledged by the Administrative Director in his testimony in October before that legislative committee. The trial courts are by law decentralized and are appropriately managed by the trial judges who are responsible to the people of their counties who have elected them. Yet there is presently no effective structure to ensure that the trial courts are being fully heard on the budget questions that so vitally affect the public.

Ultimately, the Alliance of California Judges stands for accountability. We urge this Council to work with the Alliance of California Judges to reduce the decibel level of criticism. We urge you not to fight ghosts of old battles of unification and state funding which are now history. We urge the following:

We ask that this Council, with the guidance of the Legislature, reaffirm the rights of the local trial courts by a Trial Court Bill of Rights that the Legislature asked for in 1997, and which has never been acted upon by the Judicial Council.

We also ask that this Council, with direction from the Legislature, establish a separate Trial Court Advisory Group, consisting of trial judges elected by judges from the 58 county trial courts, with provisions to balance the interests of smaller and larger courts, which could advise the Council, provide oversight as to the AOC, and report upon the judicial budget and judicial affairs.

Finally, the Alliance believes that the Judicial Council should encourage the Legislature to place the employees of the AOC under the existing protections of the whistle blower statutes.

As to the issue of the day, we urge you to rescind court closures. At the same time, we ask that you reconsider the TCTF allocation you made in October 2009 and distribute all reasonably prudent, available, and lawful funds to the trial courts. We know that some of our counties may be able to open, and some, like Kern and Los Angeles, will likely have to continue with some form of closure or furlough. Although it may be confusing, having some courts open will at least allow many constituents throughout the state to receive services, and it will give the local courts who have to close or furlough, the opportunity to choose methods that allow them the most flexibility.

Finally, we know the value of speaking with one voice. To speak with one voice, that voice must first be found. Work with us to give the people a voice through democratic participation by trial judges the people have elected. In this way, in the future, we can speak together, achieve consensus, and continue to work together to make the California judicial system the best it can be. Let the people have a voice.

Thank you.

Spero, Nancy

From: sharis Peters [sharisrae@yahoo.com]
Sent: Thursday, January 21, 2010 10:15 AM
To: Spero, Nancy
Subject: Public Comment related to Trial Court Budget Issues
Attachments: aoc jan 2010.doc

Hello again Ms. Spero,

Thank you so much for your assitance this morning. Unfortunately, due to the storm I was unable to make it in person for today's meeting. Please distribute this to the Council Members at your earliest convenience. I really appreciate your help.

Sharis R. Peters
President, ASFCME Local 276
Family Law Professionals
Los Angeles Superior Court
(310) 704-1606

January 21, 2010

Good Morning Chief Justice George and Members of the Judicial Council. My name is Sharis Peters and I am a member of AFSCME Local 276 in the Los Angeles Superior Court. I am also representing our brothers and sisters in AFSCME today.

I wanted to take a minute or two on Agenda Item 3: Court Closures and the recommendation to extend the one day per month closures through June 2010. I agree with the agenda summary that this action has helped to "absorb" a small part of the "significant budget reductions imposed on the branch". I also agree the closures have "unquestionably affected court operations and the smooth and effective delivery of justice". However, in times of extreme financial crisis we all understand that tough choices must be made.

In the next few months there are plans to lay off court employees and further limit the public's access to justice. I ask that the Council act to avoid these layoffs which will result in the closure of 180 courtrooms in Los Angeles County. Nearly half of the court's civil, family and juvenile courtrooms will be shut down permanently. Of course criminal courts would be negatively affected as well.

Senate Bill 1407, a stream of new fees and fines to support courthouse construction and renovation, is a viable source that already exists within the Judicial Branch. Last year a small portion was used to absorb necessary budget cuts. The Governor and Legislature have the power to redirect more in the coming years.

Los Angeles County Presiding Judge Charles McCoy Jr. said it best when he asked "Will we go down the path of rushing to build new courthouses at the cost of massive, permanent courtroom and courthouse closures; layoffs of THOUSANDS of skilled court employees: substantial delays in the timely processing of cases; growing denial of access to justice for those most in need: and significant damage to California's already hurting economy? Or will we take the path where resources now available to the Judicial Branch are devoted FIRST to preserving trial court operations so that when new courthouses are eventually built we will have healthy trial courts to occupy them?" Please act swiftly to redirect SB1407 to alleviate permanent courtroom and courthouse closures. The time is now.

Thank you for your time and attention to this matter.

Sanchez Advocacy

January 20, 2010

RECEIVED
JAN 21 2010
MARY M. ROBERTS

Ronald M. George, Chief Justice
California Supreme Court
455 Golden Gate Avenue
San Francisco, CA 94102
Via Facsimile: (415) 865-7664

Re: Request to Discontinue Once Per Month Court Closure Days

Dear Chief Justice George:

On behalf of San Diego County Court Employees Association I am writing to bring several issues to your attention which have arisen as a result of the closure of California Superior Courts one day per month in accordance with the authorization granted by the Legislature under AB X4 13, and to urge the Judicial Council to discontinue the practice of these once a month court closure dates for the remainder of the fiscal year.

I would like to start by saying that SDCCEA, representing court employees in San Diego County, recognizes the untenable financial strain the judiciary currently faces. That being said, we do not believe that the courts should be closed one day a month to assist in the alleviation of this strain. There has been no truer example of justice delayed being justice denied than the experiment of once a month court closure dates in California. We contend that the court closure dates have in fact resulted in enormous backlog which slows down the ability of the court to properly function on the days which the courts are open. Backlog problems are further exacerbated by other cost saving measures such as failure to hire sufficient work force, and denial of overtime hours. The civil judgment backlog has gone from four months to an unacceptable six months and will continue to grow as long as the courts remained closed one day per month. In addition, the traffic facility has distributed out over 1500 traffic citations to the central division for staff to update; resulting in staff having less time to perform the processes of criminal work, which is a direct impact from the court closure days.

Additionally, lack of coordination with other county agencies regarding their own furlough or court closure dates have resulted in failure to meet statutory timelines for court functions.

Most importantly, from a fiscal perspective, one of the most important functions of the courts is to collect fines and fees, a function which goes unperformed on court closure days, and a function which grinds to a snails pace on the days immediately following court closure days. There are boxes of checks that have not been processed and are over six months old, now requiring staff to return them causing an additional, time consuming step, in the collection process. This lack of timely processing has a serious impact on receiving the fines and fees that are so desperately needed.

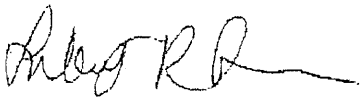
800 46th Street • Sacramento, California 95819
(916) 213-1440 • Fax (916) 452-1139 • sanchezadvocacy@gmail.com

The public, many of whom are unaware of the court closure dates until they have taken time off from work, hired a baby sitter, figured out transportation or undertaken any of the myriad steps necessary in order to show up at court, become frustrated at the closures, and the prospect of the long lines in the days following. It is safe to assume that many of these individuals choose simply not to return—resulting in the court losing out on whatever fines and fees might have been collected from those individuals. These are the practical realities of an idea which may have seemed to pencil out on paper, but which has failed abysmally in practice.

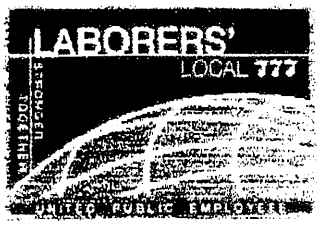
The amount of money which the Judicial Council estimates is saved based on continuing the once a month court closure days is substantially outweighed by the true costs to the system borne by these court closure days. For the above reasons, we strongly urge you to discontinue this practice for the remainder of the fiscal year.

Please do not hesitate to contact me at (916) 213-1440 or at sanchezadvocacy@gmail.com with any questions or concerns.

Sincerely,



Liberty Reiter Sanchez
Legislative Advocate



MAX WARREN CENTER LOS ANGELES OFFICE PALM DESERT OFFICE

RECEIVED
JAN 21 2010
MARY M. ROBERTS

January 20, 2010

Ronald M. George, Chief Justice
California Supreme Court
455 Golden Gate Avenue
San Francisco, CA 94102
Via Facsimile: (415) 865-7664

Re: Request to Discontinue Once Per Month Court Closure Days

Dear Chief Justice George:

On behalf of Laborers' International Union of North America Local 777 I am writing to bring several issues to your attention which have arisen as a result of the closure of California Superior Courts one day per month in accordance with the authorization granted by the Legislature under AB X4 13, and to urge the Judicial Council to discontinue the practice of these once a month court closure dates for the remainder of the fiscal year.

I would like to start by saying that LIUNA Local 777, representing court employees in Riverside County, recognizes the untenable financial strain the judiciary currently faces. That being said, we do not believe that the once a month court closure dates should be used as a tool to ameliorate this unfortunate fiscal situation. There has been no truer example of justice delayed being justice denied than the experiment of once a month court closure dates in California. We contend that the court closure dates have in fact resulted in enormous backlog which slows down the ability of the court to properly function on the days which the courts are open. Backlog problems are further exacerbated by other cost saving measures such as failure to hire sufficient work force, and denial of overtime hours. Additionally, lack of coordination with other county agencies regarding their own furlough or court closure dates have resulted in failure to meet statutory timelines for court functions.

Most importantly, from a fiscal perspective, one of the most important functions of the courts is to collect fines and fees, a function which goes unperformed on court closure days, and a function which grinds practically to a halt on the days immediately following court closure days. The public, many of whom are unaware of the court closure dates until they have taken time off from work, hired a baby sitter, figured out transportation or undertaken any of the myriad steps necessary to show up at court, become frustrated at the closures, and the prospect of the long lines in the days following. It is safe to assume that many of these

individuals choose simply not to return—resulting in the court losing out on whatever fines and fees might have been collected from those individuals. These are the practical realities of an idea which may have seemed to pencil out on paper, but which has failed abysmally in practice.

The amount of money which the Judicial Council estimates is saved based on continuing the once a month court closure days is substantially outweighed by the true costs to the system borne by these court closure days. For the above reasons, we strongly urge you to discontinue this practice for the remainder of the fiscal year.

Please do not hesitate to contact me at (916) 213-1440 or at sanchezadvocacy@gmail.com with any questions or concerns.

Sincerely,

Liberty Reiter Sanchez
Legislative Advocate

Cantil, Tani

From: White, Steve
Sent: Wednesday, January 20, 2010 6:54 PM
To: Cantil, Tani
Subject: Judicial Council Meeting of January 21 -- Court Closures

Hon. Tani Cantil Sakauye
Court of Appeal, Third District
Member of the Judicial Council

DearTani,

I ask respectfully that at tomorrow's Judicial Council meeting you convey the position of the **Sacramento Superior Court** that court closures end now, or, at minimum, be the decision of the 58 trial courts, respectively.

The Sacramento Superior Court is committed to open courts. We feel strongly that closure of the courts is inimical to the administration of civil and criminal justice -- and the judicial branch has done itself harm by choosing to close the courts. These closures are self-inflicted wounds causing yet more injury with every passing month. We urge their end. Thank you.

Kindest regards,

Steve

Steve White
Presiding Judge

Section 70391.5 of the Government Code would be amended to read:

70391.5

(a) The Judicial Council shall develop performance expectations for court facility proposals, including benchmark criteria for total project life-cycle costs, project cost comparisons to traditional delivery and financing options, project risk assessments and allocations, utility and energy conservation requirements that meet or exceed state standards, and court security operations cost controls and reduction goals. The performance expectations and benchmark criteria shall be consistent with Chapter 1016 of the Statutes of 2002, Chapter 488 of the Statutes of 2006, and consistent with all current state building practices.

(b) In reviewing any court facility proposal that includes a public-private partnership component, the Director of Finance shall take into consideration any terms in the proposal that could create long-term funding commitments and how those terms may be structured to minimize risk to the state's credit ratings. Following the approval of any court facility proposal of the Director of Finance, the Judicial Council shall notify the Joint Legislative Budget Committee of the performance expectations and benchmark criteria for the proposal at least 30 days prior to the release of initial solicitation documents for a court facility project. If the Joint Legislative Budget Committee does not express any opposition or concerns, the Judicial Council may proceed with the solicitation 30 days after giving that notice.

<u>(c) Any possessory interest resulting from a lease or other agreement with a nongovernmental entity entered into pursuant to this section for the delivery of the new Los Angeles County–Long Beach Courthouse is deemed to be public property for a public purpose and exempt from leasehold, real property, and ad valorem taxation, except for the use, if any, of that property for ancillary commercial purpose.</u>

Principles for Development of a Limited Court Closure Plan

1. Each court shall be responsible for determining whether local circumstances require the court to close.
2. All courts electing to implement limited closures must do so on the same day statewide to provide for uniformity and consistency for justice system partners and court users.
3. Courts must remain open to conduct arraignments of in-custody defendants.
4. Courts must remain open to issue domestic violence, juvenile, elder abuse, civil harassment or workplace violence restraining or protective orders involving stalking, violence, or threats of violence.
5. Courts must be open for the conduct of business set forth in subdivision (a) of section 134 of the Code of Civil Procedure.
6. Courts must have judicial officers available for the signing of any necessary documents on an emergency basis to the same extent that the court has judicial officers available on Saturdays, Sundays, judicial holidays, and any other time the court is closed.
7. Consideration shall be given to what other critical matters courts must uniformly be open to address during a limited closure day.
8. With the goal of minimizing the impact on court users and courts operations, consideration should be given to whether *dates* on which court calendars are typically lighter (e.g., Christmas Eve, the Friday before Labor Day) should be selected for the statewide limited closure days in lieu of standardized calendar *days* (e.g., the third Wednesday of the month).
9. Courts shall be responsible for complying with all time deadlines required by law, whether for computation of time for filing, conduct of hearings, or otherwise. Consideration shall be given concerning whether legislation can and should be sought to provide that limited closures on the selected day shall be treated as a holiday for purposes of performing any act requiring the transaction of judicial business as provided for statewide closures under Government Code section 68106(b)(1).

Attachment D

JUDICIAL COUNCIL OF CALIFORNIA

Resolution

—HONORING—

ADMINISTRATIVE OFFICE OF THE COURTS

Whereas equal access to justice is a paramount goal of the Judicial Council;

Whereas the Trial Court Facilities Act of 2002 recognized that ensuring uniformity of access to all court facilities in California required that responsibility for their funding and operation shift from the counties to the state;

Whereas creating a single, comprehensive infrastructure program for courthouses statewide directly fulfills key strategic goals of the judicial branch, including access, fairness, and diversity; independence and accountability; modernization; and branchwide infrastructure for service excellence;

Whereas the Trial Court Facilities Act of 2002 initiated the transfer of ownership of and responsibility for all 532 of California's court facilities from the 58 counties to the state, totaling approximately 19 million square feet;

Whereas the transfer effort required a complex seven-year process involving one of the largest real estate transactions in California history;

Whereas developing, negotiating, and completing each transfer agreement demanded significant resources, dedication, and collaboration from all counties, the courts, and the Administrative Office of the Courts;

Whereas overcoming the unprecedented challenges created by this transfer process required creativity, innovation, leadership, and strong and much-valued partnerships with the California State Association of Counties, the Legislature, the executive branch, and court leaders;

Whereas, on behalf of the Judicial Council, the Administrative Office of the Courts signed the last of the courthouse transfer agreements on December 29, 2009;

Whereas the completion of transfers enables the judicial branch to undertake an unprecedented program of needed repairs and renovations in many state courthouses as well as ongoing facilities management of all courthouses to ensure that these buildings are safe, secure, and accessible for millions of Californians; and

Whereas the completion of transfers represents a key milestone in trial court unification, a goal the Judicial Council has been working toward for more than a decade to establish the judicial branch as an independent and co-equal branch of state government;

Now, therefore, be it resolved that the Judicial Council of California recognizes and commends the Administrative Office of the Courts, particularly the Office of Court Construction and Management and the Office of the General Counsel, and expresses its immeasurable gratitude to all partners in achievement of this significant milestone for the state of California.

In witness whereof,
I have hereunto set my hand this 21st day of January, 2010.

Attest:

RONALD M. GEORGE
Chief Justice of California and
Chair of the Judicial Council of California

WILLIAM C. VICKREY
Administrative Director of the Courts