

4/26/11

Public Comment Re: "Ratification of Creation of Internal Committee" agenda item, 4/29/11 Judicial Council Meeting

Members of the Judicial Council:

In response to an agenda item added at the last minute, described as "**Ratification of Creation of Judicial Council CCMS Internal Committee**", the following objection and observations are offered:

In December, 2010, the Executive and Planning Committee, acting on behalf of the full council, approved the "CCMS Governance Model", a lengthy document which placed complete oversight of the CCMS project in the hands of several committees chaired by Justice Bruiniers, Judge James Herman, and others. Judge Ira Kaufman also serves on those committees, as does Mike Roddy, I believe. The "CCMS Governance Model" was to exist "for the life of the project". That "governance model" relegated the council to the status of "executive sponsor", and did not define that term. On the date of the December vote by E and P, then Justice Cantil-Sakauye was a member of the E and P committee.

Last week the Judicial Council issued a press release stating that the Chief Justice had just created a new "Internal Committee" of the Judicial Council that would have oversight authority over the oversight committees formed by the Council in December. ("Internal Committees" are those comprised of Council members, and with powers beyond those of an advisory committee.) The new committee members have already been named. These actions are problematic for a number of reasons.

The committee was formed in a process that does not conform to the Rules of Court--those rules only give the Chief Justice the authority to create advisory committees (Rule 10.30(g)). The four "internal committees" of the council--Executive and Planning, Legislation, Policy, and Rules--are created by the **Judicial Council Governance Policies** and the **California Rules of Court** enacted by the Council in 2008 and 2009, respectively. **The Rules of Court codify the principles set forth in the Governance Policies. (See Rules 10.10, 10.30, 10.1(a)(3)(E)).** (Prior to that the last change in the Governance Policy was in 1998). The California Rules of Court, as we all know, have the force of law. (Many council members may not be aware of these policies and rules, since they Governance Policies were passed by email vote, and no public circulation or comment. The Rules written to conform to these policies were passed on the August, 2009 consent agenda, also with no public circulation of the Rules, no public comment, and without even a formal vote of the council. (Items on the consent agenda are passed automatically.)

I have been told that when the legal press inquired about this new "Internal Committee" last week, and questioned the authority of the Chief Justice to unilaterally form it, the AOC spokesman stated that the AOC's Office of General Counsel had informed him that the Chief Justice had the power to create internal committees. After these and other

inquiries were made, the Council Agenda for 4/29 had an item abruptly added by Justice Huffman after the agenda had already been finalized by E and P. Now, this last-minute agenda item will ask the Council on 4/29/11 to "ratify" the earlier action of the Chief Justice creating and staffing this internal committee. This strikes me as a bit like conducting a sentencing hearing, then convening a trial to "ratify" the action. The process cannot be "ratified". It needs to start over and proceed in a transparent manner, after due deliberation and the input of all council members, and the public. A change to the Council Governance Policies is not a trivial matter, and should only take place after a full debate and careful consideration.

(Note: I do not fault Justice Huffman in this matter--his E and P committee was completely bypassed in the purported formation of a fifth "internal committee", though under the existing Rule of Court, his committee is charged with recommending changes to the Judicial Council Governance Policies. It appears he is attempting to clean up a mess not of his committee's making.)

The need for deliberation and study is made manifest in this situation for another reason. The several large CCMS committees formed by the Council in December, and at that time touted as the ultimate authority over CCMS, have many of the **same members** as those on the purported "internal council committee" that will oversee those committees. Should the action stand, Judge Herman, Judge Kaufman, and Mike Roddy will have the duty of overseeing their own actions on the "other" CCMS committees. This is a bit like a court handling appeals from its own rulings. Judge Herman, for example, is the CHAIR of one of the already-existing CCMS Governance committees--the "General Administrative Advisory Committee." It seems that things are quite confused at the AOC and on the Council at the moment.

In addition, the creation of a new "Internal Committee" will require the passage of a Rule of Court setting forth its powers, just as has been the case with all internal committees in the past. Further, the new committee's charge appears inconsistent with the actions of the council in December which gave Justice Bruiniers and others full and sole authority over CCMS, even to the exclusion of the Council. Thus, the CCMS Governance Model adopted in December will also obviously have to be amended to make clear that the new "internal committee", and NOT the committees Chaired by Justice Bruiniers and others, have authority over the project. In order for this to occur, the reference to the Council as being merely a "sponsor" will also have to be removed.

In short, the internal committee has not been created in a lawful fashion. Further, its members should not overlap with members of committees it purports to oversee.

I ask that the matter be removed from the agenda until such time as thoughtful study of the matter can take place, and the Office of General Counsel can explain why it believes that the Chief Justice can unilaterally alter the judicial council governance policies and structure without even consulting the members of the Judicial Council, assuming that this is still their view. "Ratifying" this action will have no legal effect whatsoever. If the governance policies enacted by the Council in 2008 are to be changed, this should only

be considered after a deliberative process, and a vote of the council. This should not be accomplished in a post hoc rush for a face-saving solution for an error itself the result of haste. The council should not go along with this belated request.

If the matter is not removed from the agenda altogether, I ask that some member of the Council exercise the right to request that the matter be placed on the discussion agenda on 4/29. This is the right of any member of the council. To say that "ratification" should occur without any public discussion again points out the very serious and pervasive problems with our current governance structure.

Thank you.

Charles Horan

Judge of the Superior Court

Member, Board of Directors

Alliance of California Judges

Blanchard, Dennis

From: Holton, Lynn
Sent: Thursday, April 28, 2011 8:56 PM
To: Kann, Kenneth; Spero, Nancy
Cc: Cheadle, Roma; Blanchard, Dennis
Subject: PUBLIC COMMENT - Inyo County Courthouse- Agenda Item I
Attachments: COURTHOUSE.doc

Importance: High

From: Mary Anne [marya@qnet.com]
Sent: Thursday, April 28, 2011 8:23 PM
To: Holton, Lynn
Subject: Inyo County Courthouse- Agenda Item I

Dear Ms. Holton:

I just read the agenda of the Judicial Council Meeting scheduled tomorrow, April 29, 2011. I have printed off the corresponding 63 page document for Item I (Court Facilities: Location of New Inyo County Courthouse). There is so much wrong with it, I don't know where to begin.

I was shocked to see that none of the comments that were given in writing and orally at the many town meetings held all over Inyo County last summer were incorporated into the "Comments Summary". Access to Justice? You've got to be kidding. Could the fact that those comments were not included be because they were overwhelmingly in favor of building the new courthouse in Independence? In good faith people were lead to believe that their attendance and comments at those meetings would be heard by the decision makers. Some of those people that came to those meetings don't have access to, or even know how to use a computer and the required "comment format". I am sure that they were convinced that their voices were heard and their comments duly noted, and that those comments would be brought forward to the "decision makers". After all, that is what was promised over and over again in those meetings!

The reference to the property values in the document stating that property in Bishop is less than Independence is laughable. That is a critical point, because some of that \$30 million will have to be spent on acquiring land, and the best use of the public's funds is to acquire less expensive land in the governmental center of Inyo County which is Independence!

My comments were not included in Appendix B, so I am attaching it to this email.

It is no wonder that even some Judges now are dismayed at the Administrative Office of the Courts and Judicial Council. It is time to remember whose court it is: The People's Court.

I also read that the Judicial Council is not subject to the Brown Act:

Requests to speak-general

The Executive and Planning Committee, in its discretion, may allow a member of the public to speak at a business meeting. Unless the Chief Justice waives this requirement, any member of the public who wishes to speak at a business meeting must submit a request of no more than two pages to the chair of the Executive and Planning Committee by delivering it to the Administrative Office of the Courts at least four business days before the meeting.

(1) Contents of the request

The request must include the following:

(A) A description of the agenda item to be addressed;

(B) A specific recitation of the proposed statement with an explanation of its relevance to the agenda item and the reasons it would be of benefit to the council in its deliberations;

- (C)The name, residence, and occupation of the person asking to speak and, if applicable, the name, address, and purpose of the agency or organization that the speaker represents;
- (D)If available, telephone and fax numbers and e-mail address of the person asking to speak and, if applicable and available, the telephone, fax numbers, and e-mail address of the agency or organization that the speaker represents;
- (E)The words "Request to Speak at Judicial Council Meeting" displayed prominently in letters at least one-quarter-inch high on the envelope containing the request; and
- (F)A copy of any written materials the speaker proposes to distribute at the meeting.

What a disappointment this process has been. I concur with those disgruntled Judges that what has been created in the last ten years or so is an out of touch bureaucracy that has little regard for fiscal responsibility and is far removed from the people that it is supposed to serve. The fact that all the comments submitted at the town meetings were omitted from the comments and the fact that we, the people, cannot show up at this Judicial Council Meeting tomorrow to voice our opinion prior to the expenditure of \$30 million dollars of "our money", is just further proof of that fact.

Sincerely,
Mary Roper

I believe that the vehement objections to the proposal to build the new bond-funded court building in Bishop, rather than the county seat of Independence, were a surprise to the proponents of this plan. I am not surprised, and am in full support of building the new court building in Independence, thus continuing with the important tradition of maintaining the historic governmental center in the centrally located town of Independence. Joining with me are many citizens of this county from the northern Inyo County incorporated city of Bishop, to the far southeastern corner of Inyo County and the communities of Tecopa and Shoshone.

Traditions and history are the glue that cements a community. Make no mistake; Inyo County is a “community” of approximately 18,000 citizens. Part of the consideration for expending millions of dollars of taxpayer’s money (and, yes, all of this money belongs to “us”) is that there be consideration for the cultural traditions of a community. Independence is anchored by its historic courthouse. People in the northern community of Bishop did not turn out in droves to support the building of the new court building in Bishop because most of them understand the importance of the “glue” of tradition and history, and the predictability and comfort of knowing that Independence, California is the governmental center of Inyo County.

There is comfort in the fact to those of us who have chosen this isolated county as our home that change is slow to come to Inyo County. That is, I believe, what sets our citizenry apart from other, larger, more metropolitan counties. Change for changes sake is an anathema to many of us. We are

not a county of strip malls and housing developments. The lack of privately-held land is of course central to the “no change” climate. To segue into another point: the land in, and around Bishop, is very much more expensive than the land in Independence. How would it be good stewardship of the public’s money that is going to build this court building to use a large amount of the \$30 million to purchase the land in Bishop when land can be purchased for a fraction of that amount in the county seat of Independence? In fact, I doubt there is a parcel big enough in Bishop for such a building, with the exception of the Cottonwood Plaza property, which will have its own impediments.

The process for changing a county seat is addressed in the Government Code in Sections 23680 to 23690. I realize this is not the same proposal. However, I think the onerous procedure for changing county seats is there for a reason. Moving a county seat is not to be taken lightly ~ and, in fact, in California until eight or ten years ago, county seats and county courthouse was synonymous. I also understand the distinction between county “courthouse” and “court administrative building”, although I think it is semantics, and most of the court operations would be conducted in Bishop if the new court building was built there. Yes, we would have our beautiful, upstairs courtroom for ceremonies and perhaps a modular for the limited court staff that would remain in Independence, but the heart of the court would be beating somewhere else.

Please consider the above comments when making your decision.



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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TANI CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

April 15, 2011

Hon. Mike Feuer, Chair
Assembly Judiciary Committee
State Capitol, Room 2013
Sacramento, California 95814

Subject: Assembly Bill 1208 (Calderon), as introduced - Oppose
Hearing: Assembly Judiciary Committee – May 3, 2011

Dear Assembly Member Feuer:

The Judicial Council opposes AB 1208, the Trial Court Rights Act of 2011. As the Legislature has recognized repeatedly, California's judicial branch is a separate, co-equal, and independent branch of government. The Judicial Council is the policymaking body of the California courts, and under the leadership of the Chief Justice and in accordance with the California Constitution, the council is responsible for improving the quality and advancing the consistent, independent, impartial, and accessible administration of justice.

The Judicial Council is guided in its leadership role by the following principles:

- Meeting the needs of the public is the core function. To that end, the Judicial Council is committed to equal and timely justice and public access to an independent forum for the resolution of disputes.
- Protecting the independence of the branch is crucial in a democracy. Decisions of the Judicial Council are designed to strengthen the branch.
- High quality is an expectation throughout the branch. Judicial Council decisions are guided by the desire to facilitate improvement, effectiveness, and efficiency in the branch to maintain a competent, responsive, and ethical judicial branch.

- Accountability is a duty of public service. The Judicial Council continually monitors the use of public funds and evaluates branch performance to identify needed improvements.

AB 1208 is an unwarranted intrusion into the fundamental governance of the judicial branch. This bill goes well beyond the Legislature exercising its responsibility for funding the judicial branch, and instead dictates how the branch should specifically govern itself. This is not to say that the judicial branch does not need to examine its governance to determine if it operates in the most efficient and effective manner, if it has acted in a manner that is consistent with the needs of superior courts, or if branch resources are allocated in the best manner to carry out the mission of the judiciary and effectively ensure equal access to justice to all Californians. It does. But the constitutional structure of California government and interbranch relations must be respected.

After the implementation of reforms that have significantly increased the scope of the Judicial Council's responsibilities, and those of the staff arm of the council, the Administrative Office of the Courts, it is appropriate to evaluate the manner in which the branch governs itself. This is a responsibility that the newly elected Chief Justice of California has committed herself to carry out. This bill, introduced less than two months after Chief Justice Cantil-Sakauye took office, fails to provide her, and the Judicial Council she chairs, the opportunity to review and determine the branch's own governance structure.

Additionally, enactment of AB 1208 would be a significant retreat from the restructuring of the judicial branch that has occurred in the last fifteen years. The goal of a statewide administration of justice was to bring uniformity in administrative rules and processes, avoid waste, create transparency in financial accountability, establish uniform performance and education and training standards, and ensure equal access to justice for all Californians, while at the same time recognizing the authority and responsibility of superior courts to manage their day-to-day operations and provide for a decentralized system of trial court management. Successive steps included a gradual move to full state trial court funding, unification of the municipal and superior courts into one superior court in each county, establishment of the superior courts as employers of their own staffs, and transfer of responsibility for trial court facilities from the 58 counties to the state. The bill undercuts each of these gains.

The bill significantly shifts the governance of the branch in several ways. By limiting the ability to fund or implement automated technologies, AB 1208 prohibits the branch from taking advantage of efficiencies and cost savings that would result from statewide technology projects such as the statewide automated financial system and Bank Account Consolidation program which facilitate statutorily required judicial branch financial reporting. This could further impair the branch's ability to gather and report consistent data and ensure accountability for the use of public resources. By creating an unclear authority for final approval of design, siting, and construction of court facilities projects, the bill risks increasing the costs of construction, and

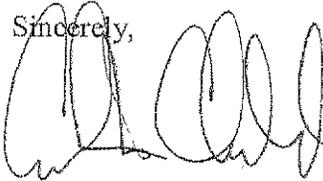
Hon. Mike Feuer
April 15, 2011
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subjecting the state to liability for dangerous facilities when a local court decides to delay or halt construction of a critically needed new courthouse. AB 1208 also could eliminate the authority of the Judicial Council to transfer funding to finance specific trial court projects or assist courts confronting unanticipated budget shortfalls or other urgent fiscal needs. It interferes with the ability of the branch to take advantage of economies of scale and save the state resources while providing a more uniform and equitable court system for all Californians.

The Legislature must give the Chief Justice the opportunity, as the leader of California's judicial branch, to work within the judiciary to determine how it can best govern itself. Judicial branch governance issues must be addressed by the judicial branch.

For these reasons, the Judicial Council opposes AB 1208.

Sincerely,

A handwritten signature in black ink, appearing to read "Curtis L. Child". The signature is stylized with large, overlapping loops.

Curtis L. Child
Director

CLC/DH/yt

cc: Members, Assembly Judiciary Committee

Hon. Charles M. Calderon, Member of the Assembly

Mr. Drew Liebert, Chief Counsel, Assembly Judiciary Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitzke, Deputy Director of Legislation, Governor's Office of Planning and Research

Mr. Mark Redmond, Consultant, Assembly Republican Office of Policy

Superior Court of California
County of Santa Clara

191 North First Street
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(408) 882-2700

Chambers of
HON. BRIAN C. WALSH, Assistant Presiding Judge

April 28, 2011



The Honorable Mike Feuer
California State Assemblymember, District 42
State Capitol Office
P.O. Box 942849
Sacramento, CA 94249-0042

District Office
9200 Sunset Boulevard, Suite 1212
West Hollywood, CA 90069

Re: AB 1208

Dear Assemblymember Feuer:

I write on behalf of the judges of the Superior Court, County of Santa Clara, to oppose Assembly Bill No. 1208.

On March 25, 2011, after full discussion and consideration of AB 1208, our judges passed a resolution, by a vote of 61-7, opposing AB 1208. I have enclosed a copy of that resolution for your consideration.

As you can see from the enclosed, our Court believes that the interrelationship between the Judicial Council and the 58 individual trial courts has already been the subject of legislation (Government Code § 77001, et seq.) and California Rule of Court (CRC 10.601, et seq.). Our judges are confident that, through these laws, both the independence of the judicial branch and the appropriate level of independence of individual courts have been well enunciated and well preserved. AB 1208 seeks to undermine this carefully crafted structure.

We understand that the proponents of AB 1208 have concerns with various governance issues involving the Administrative Office of the Courts. Our Bench believes that such concerns should be dealt with within the Branch and we are aware that our new Chief Justice, Tani Cantil-Sakauye, has committed herself to identifying and correcting any appropriate concerns. She should be allowed that opportunity.

We look forward to attending the hearing of the Assembly Judiciary Committee on May 3, 2011. I would be pleased to answer any questions you have at that time.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Brian C. Walsh".

Brian C. Walsh
Assistant Presiding Judge

Enclosure

A RESOLUTION

BY THE JUDGES OF THE SUPERIOR COURT, COUNTY OF SANTA CLARA

WHEREAS, the Legislature enacted the Lockyer-Isenberg Trial Court Funding Act of 1997 (AB 233) to provide for full state funding of trial courts;

WHEREAS, the Legislature gave the trial courts significant but not unlimited authority for fiscal management at the local level, while recognizing the role and responsibility of the Judicial Council to develop statewide budget procedures and standards to promote uniformity throughout the court system;

WHEREAS, the Legislature has amended statutes and enacted new statutes that have progressively shifted the balance toward heightened statewide uniformity and economies of operation based on its determination that this is necessary to achieve a fair, effective, and efficient court system;

WHEREAS, AB 233 was codified as Government Code § 77001 and provides that “the Judicial Council shall promulgate rules which establish a decentralized system of trial court management” to among other things, “ensure:

- (a) Local authority and responsibility of trial courts to manage day-to-day operations.
- (b) Countywide administration of trial courts.
- (c) The authority and responsibility of trial courts to manage all of the following, consistent with statute, rules of court, and standards of judicial administration:
 - (1) Annual allocation of funding, including the authority to move funding between functions or line items.
 - (2) Local personnel systems, including the promulgation of personnel policies;”

WHEREAS, effective July 1, 1998, with significant input from a broad-based judicial working group, the Judicial Council adopted California Rule of Court 2501 in an effort to implement Government Code § 77001;

WHEREAS, California Rule of Court 2501 (now 10.601 et seq.) covers general principles of trial court management, trial court personnel plans, the role of the Judicial Council and the Administrative Office of the Courts in managing the judicial branch budget, and trial court budget management;

WHEREAS, California Rule of Court 10.601 provides a statewide budgeting framework with appropriate local management that provides a system that broadly oversees the distribution and use of funding which focuses on the basic goal of a uniform system of justice across the state and serves as a vehicle for an accounting of the use of appropriations, and can be responsive to local needs;

WHEREAS, the current statutory framework better preserves the independence of the judicial branch by allowing disputes between local courts, the Administrative Office of the Courts and others to be resolved within the branch rather than through legislative action;

WHEREAS, AB 1208 undermines the existence of the judicial branch in that it restricts the branch's role in significant statewide judicial policies and practices;

WHEREAS, AB 1208 reverses the commitment of equal justice in all California courts envisioned by the 1997 Trial Court Funding Act;

WHEREAS, AB 1208 is an encroachment upon the independence of the judicial branch established by the California Constitution and upon the self-governance already established by the legislature, in that it provides the legislature, rather than the Judicial Council, determines allocations of branch funds among the local courts.

NOW, THEREFORE, BE IT RESOLVED, that we, the judges of the Superior Court, County of Santa Clara hereby declare our opposition to the enactment of proposed Bill AB1208.

Resolved this 25th day of March, 2011.

_____/s/_____

Richard J. Loftus, Jr.
Presiding Judge

Superior Court
State of California

GARY NADLER
PRESIDING JUDGE
(707) 521-6726
FAX (707) 521-6754

COUNTY OF SONOMA
HALL OF JUSTICE
600 ADMINISTRATION DRIVE
SANTA ROSA, CA 95403



April 28, 2011

Honorable Mike Feuer, Chair
Assembly Judiciary Committee
State Capitol, Room 2013
Sacramento, CA 95814

Re: Assembly Bill 1208 (Calderon)- Oppose

Dear Assembly Member Feuer:

I am the Presiding Judge of the Sonoma County Superior Court. Our bench held a special meeting to discuss the above-noted proposed legislation. At the conclusion of this meeting, our bench voted *unanimously* in opposition to AB 1208.

Similar to the remainder of the judiciary, we have had spirited discussion as to the issues facing our branch, and the potential means of addressing these issues. However, all agreed that AB 1208 is not in the best interests of the 58 counties, the third branch of government, and the State of California.

Our bench believes that the proposed legislation would, in practical effect, serve as a barrier to the use of efficiencies and technology. Under the bill, any one county could "opt out" of technological advances which would serve the judiciary well. For counties such as ours, such technology is crucial for us to continue to provide access to our courts. Further, due to our limited size and resources, such technology would not be within our means without relying upon statewide technology endeavors.

In addition to the foregoing, the proposed legislation could potentially lead to an inability to obtain funding assistance due to unanticipated budget shortfalls or other urgent fiscal needs.

The advantages of state-wide economies of scale offer reassurance to those courts, such as ours, that are not large enough to absorb unanticipated financial needs, nor able to undertake the implementation of programs that lead to providing justice to all court users.

Honorable Mike Feuer, Chair
April 28, 2011
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If this legislation is enacted, the probable result would be an inequitable court system, varying on a county to county level.

We urge you to oppose AB 1208.

Thank you for your consideration.

Very truly yours,



Gary Nadler,
Presiding Judge
Sonoma County Superior Court

GN:jlw

Superior Court of California

COUNTY OF CONTRA COSTA
725 COURT STREET
P.O. BOX 911
MARTINEZ, CA 94553-0091



April 27, 2011

Hon. Mike Feuer, Chair
Assembly Judiciary Committee
State Capitol – Room 2013
Sacramento, CA 95814

Dear Assembly Member Feuer:

I regret to inform you that I am in opposition to AB 1208 (Calderon) because it would diminish the cohesive structure of the judicial branch in California and thereby reduce its effectiveness and accountability to the people of this state. It is not appropriate, in our system of co-equal branches of government for the legislative branch to significantly re-structure governance within the judicial branch. Our new Chief Justice has been in office for fewer than four months, but in that time she has already announced a series of initiatives to re-examine and evaluate existing governance structures within the branch under the leadership of the Judicial Council. I firmly believe that this approach is the appropriate means to conduct this review and generate any needed reforms.

I would also note that I am joined in this view by many of my colleagues. I have attached for your consideration a letter signed by 191 judges and justices urging our fellow judicial officers to voice their opposition to AB 1208. We all share the view that AB 1208 would be harmful to our branch because it would undermine the significant progress we have made since the passage of the Trial Court Funding Act. Moreover, we have confidence that our Chief Justice's new initiatives will lead to vigorous discussion of the issues covered in AB 1208 within the branch and generate a consensus direction on improving and reforming existing governance structures.

For these reasons I urge you to defer to the judicial branch of these issues that are vital to our independence and integrity, and to vote no on AB 1208.

A handwritten signature in cursive script that reads "Mary Ann O'Malley".

MARY ANN O'MALLEY
Superior Court Judge
Contra Costa County

Dear Colleagues:

Assembly Bill 1208, the "Trial Court Bill of Rights" is a bill that should be of great concern to every judicial officer in the State of California. This proposed legislation would transform the judiciary from a cohesive and co-equal branch of government into 58 fragments. This diminution of judicial unity and power will be accomplished not through the acquiescence or consent of the judicial branch, but through legislation.

If you believe, as we do, that the collective voices of the judiciary should determine the future of the judicial branch, we urge you to type this link in to your browser and read the bill:

http://www.leginfo.ca.gov/pub/11-12/bill/asm/ab_1201-1250/ab_1208_bill_20110218_introduced.pdf

We are also concerned about the fundamental fairness of the timing of this legislation. Our new chief was sworn into office on January 3, 2011. AB 1208 was introduced in the Legislature on February 20th. In our view, legislative reorganization of judicial branch governance without meaningful judicial input is wrong. Our new Chief should be afforded a fair opportunity to address the important issues of branch governance and build a consensus among judges after the issues have been fully and candidly discussed.

Decisions about judicial branch governance should be made by judges, after discussions within the branch. If you want the third branch of government to remain strong and independent, we urge you to voice your opposition to AB 1208.

Kevin Enright, Presiding Judge San Diego County
Mary Ann O'Malley, Past Chair of the Trial Court Presiding Judges Advisory Committee
Robin Appel, Presiding Judge San Joaquin County
David Warner, Assistant Presiding Judge San Joaquin County
Brian Hill, Presiding Judge Santa Barbara County
Art Garcia, Assistant Presiding Judge Santa Barbara County
Steve Crandall, Presiding Judge San Luis Obispo County
Barry La Barbera, Assistant Presiding Judge San Luis Obispo County
Richard Loftus, Presiding Judge Santa Clara County
Brian Walsh, Assistant Presiding Judge Santa Clara County
Gary Nadler, Presiding Judge Sonoma County
Rene Chouteau, Assistant Presiding Judge Sonoma County
Vince O'Neill, Presiding Judge Ventura County
Brian Back, Assistant Presiding Judge Ventura County
Don Byrd, Presiding Judge Glenn County
Peter Twede, Assistant Presiding Judge Glenn County
Cindee Mayfield, Presiding Judge Mendocino County
Clay Brennan, Assistant Presiding Judge Mendocino County

David DeVore, Presiding Judge Alpine County
Thomas Kolpacoff, Assistant Presiding Judge Alpine County
Chris Yeager, Presiding Judge Imperial County
William Lehman, Assistant Presiding Judge Imperial County
Diana Becton, Presiding Judge Contra Costa County
Barry Goode, Assistant Presiding Judge Contra Costa County
Jeff Almquist, Presiding Judge Santa Cruz County
John Salazar, Assistant Presiding Judge Santa Cruz County
Stephen T. Kroyer, Presiding Judge Napa County
Diane Price, Assistant Presiding Judge Napa County
Douglas Elwell, Presiding Judge San Bernardino County
Terry Boren, Presiding Judge Marin County
Tim Roberts, Presiding Judge Monterey County
Chris Chandler, Presiding Judge Sutter County
Donald Sokol, Presiding Judge Lassen County
John Kennelly, Presiding Judge Sierra County
Steven J. Howell, Presiding Judge Butte County
Janet Hilde, Presiding Judge Plumas County
Laura Masunaga, Presiding Judge Siskiyou County
Molly Bigelow, Presiding Judge Shasta County
Tom Anderson, Presiding Judge Nevada County
D. Scott Daniels, Presiding Judge Solano County
Richard Scheuler, Presiding Judge Tehema County
Francis Barclay, Presiding Judge Modoc County
Jim Wagoner, Assistant Presiding Judge El Dorado County
Kathleen O'Leary, Justice 4th District Court of Appeal
Douglas P. Miller, Justice 4th District Court of Appeal, former Presiding Judge Riverside
Jeffrey King, Justice 4th District Court of Appeal
Ron Robie, Justice 3rd District Court of Appeal
Elena Duarte, Justice 3rd District Court of Appeal
William J. Murray Jr., Justice 3rd District Court of Appeal
Laurie Zelon, Justice 2nd District Court of Appeal
James Lambden, Justice 1st District Court of Appeal
Maria Rivera, Justice 1st District Court of Appeal
Mark Simons, Justice 1st District Court of Appeal
Terry Bruiniers, Justice 1st District Court of Appeal
Tom Maddock, former Presiding Judge Contra Costa County
Sharon Waters, former Presiding Judge Riverside County
Raymond A. Guadagni, former Presiding Judge Napa County
Ronald Taylor, retired former Presiding Judge Riverside County
Ira Kaufman, former Presiding Judge of Plumas County
Adrienne Grover, former Presiding Judge Monterey County
Steve Baker, former Presiding Judge Shasta County
Scott Kays, former Presiding Judge Solano County
Mike Welch, former Presiding Judge San Bernardino County
Verna Adams, former Presiding Judge Marin County

Lynn Duryee, former Presiding Judge Marin County
Heather Morse, former Presiding Judge Santa Cruz County
Mike Garcia, retired former Presiding Judge Sacramento County
Jim Mize, recent former Presiding Judge Sacramento County
George Abdallah, former Presiding Judge San Joaquin County
Kevin McGee, former Presiding Judge Ventura County
Ken So, former Presiding Judge San Diego County
Paul Haakenson, Judge Marin County
Roy Chernus, Judge Marin County
Francisca Tisher, Judge Napa County
Rodney G. Stone, Judge Napa County
Winifred Smith, Judge Alameda County
Steve Brick, Judge Alameda County
Manuel Covarrubias, Judge Ventura County
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April 26, 2011

TO: Members, Assembly Judiciary Committee

FROM: Mira Guertin, Policy Advocate

**SUBJECT: AB 1208 (CALDERON) TRIAL COURTS: ADMINISTRATION
SET FOR HEARING – MAY 3, 2011
OPPOSE**

The California Chamber of Commerce must respectfully **OPPOSE AB 1208 (Calderon)**, which would decentralize the state court system, creating inefficiencies and undermining predictability for Californians who depend on them.

AB 1208 would take the state courts out from under the management of the Judicial Council, and allow them to individually manage their own fiscal and administrative affairs, enter into their own agreements for court security, and opt out of case management sharing strategies, among other changes. While this decentralization of control and responsibility might help certain courts to function with limited state funding in the short term, it will ultimately undermine the reliability of the state court system as a whole, to the detriment of all parties.

The Judicial Council was established in 1926 by constitutional amendment specifically to guarantee the reliable administration of justice by the largest court system in the nation. This unification has helped eliminate disparities among the courts and provide certainty for parties who now benefit from improved public service, increased access to the courts, and a higher, and more consistent quality of justice, regardless of which jurisdiction they find themselves in.

While there may be areas of government that can be handled more effectively at the local level during times of economic difficulty, the justice system is not one of them. On the contrary, decentralization of our state courts will undermine confidence in our justice system and create inefficiencies when matters inevitably involve multiple jurisdictions that are no longer required to cooperate.

For these reasons and more, we must respectfully **OPPOSE AB 1208 (Calderon)**.

Cc: The Honorable Charles Calderon
Office of the Governor
Drew Liebert, Assembly Judiciary Committee
Daniel Balloon, Assembly Republican Caucus

MG:dt



CIVIL JUSTICE ASSOCIATION
OF
CALIFORNIA

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April 25, 2011

TO: The Honorable Mike Feuer, Chair,
Assembly Judiciary Committee
The Honorable Don Wagner, Vice Chair,
Assembly Judiciary Committee
Assembly Judiciary Committee

FROM: Katherine Pettibone, Legislative Director
Kim Stone, President

RE: AB 1208 (Calderon) As Introduced

CJAC POSITION: OPPOSE

The Civil Justice Association of California must respectfully oppose Assembly Bill 1208 (Calderon), which would fundamentally alter the structure of court operations across the state.

This bill would be a step backward in efficiencies and predictability. The current system of unified trial courts provides our members with an important degree of uniformity and predictability, one that this bill would undermine. Assembly Bill 1208 would legislatively provide that "Judicial Council does not govern trial courts" (p.3, line 32), allow courts to independently manage the fiscal and administrative affairs of the court, including such things as court closures (p.3 lines 39-42, p.4, line 1 and lines 28-32), allow courts to enter into their own agreements for court security (p.4, lines 18-20), shift approval of construction projects back to the individual courts (p.5, lines 21-33), and allow a court to opt out of case management sharing systems (p.5, lines 12-20).

California has the largest state court system in the nation. The Judicial Council was formed in 1926 as a policy-making body to bring coherence to court operations and improve quality of justice across the state. Since that time, the Council has overseen the unification of hundreds of municipal courts, justice courts and superior courts into the existing 58 superior courts. Additionally, the funding of trial courts was shifted to the state. Trial courts—unlike the appellate courts, which were historically were state funded—had depended largely on county revenues. This dependency had caused widespread uncertainties and disparities among the courts and made long-range planning impossible.

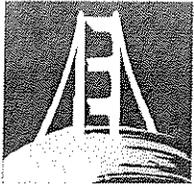
These momentous improvements have been accompanied by the development and provision of, among other things, uniform judicial qualifications, court security, filing fees, salaries, and court construction.

The Judicial Council continues to adopt uniform rules of court, preempting local rules, in more areas of practice. In so doing, it has improved public service, access, and quality of justice. Practitioners who traverse county lines on behalf of clients can be assured that the practices followed in each county will be the same and that the court doors will be open when they arrive.

Over the years, CJAC has been a partner and a proponent for measures that make court procedures more efficient so that the administration of justice in civil litigation is not dependent on the county where one happened to be sued. While the economy and budget cuts have severely impacted all levels of government, dramatically changing the structure of court operations as a response is not the answer. This bill would be a step backward and would undo a uniform civil system at a cost to all parties.

For these reasons, we urge your "No" vote on AB 1208.

cc: The Honorable Charles Calderon
Drew Liebert, Consultant, Assembly Judiciary
Mark Redmond, Consultant, Assembly Republican Caucus



THE BAR ASSOCIATION OF
SAN FRANCISCO

April 21, 2011

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BY FACSIMILE AND MAIL

The Honorable Roger Dickinson
Member of the Assembly
Chair
Committee on Accountability and Administrative Review
P.O. Box 942849
Sacramento, CA 94249-0009

RE: The Trial Court Rights Act of 2011 (AB 1208)

Dear Assemblymember Dickinson:

We are writing on behalf of the Bar Association of San Francisco (BASF) in opposition to The Trial Court Rights Act of 2011 (AB 1208). BASF is a legal professional membership organization comprised of more than 7,000 members. It champions equal access to justice and works to elevate the standards of integrity, honor, and respect in the practice of law.

AB 1208 poses a real threat to the statewide administration of justice in California. It would reintroduce divergent standards across our 58 counties, creating inconsistencies in guidelines governing hearings, fees, filing standards, and forms -- to name but a few areas. The largely consistent standards that now exist throughout our state have been in place for well more than a decade, and their undoing would be enormously harmful to the efficient and effective representation of clients in our courts.

In addition, we are concerned that passage of AB 1208 could result in the disparate allocation of judicial resources across our state, harming the ability to represent clients effectively and potentially impacting access to justice in geographical areas with fewer financial resources. Since the enactment of a modern statewide court funding mechanism, distribution of such resources, while not perfect, has markedly leveled the field across our many counties.

Finally, we are concerned about AB 1208's impact on coordinated court technology across California. While we recognize that there is great controversy surrounding the proposed California Case Management System, some such system is critical to the effective practice of law in our state. To the extent that AB 1208 would allow counties to opt out of a coordinated approach, that would be a terrible step back for the modern practice of law in California.



THE BAR ASSOCIATION OF
SAN FRANCISCO

For all these reasons, we respectfully ask that you oppose passage of AB 1208.

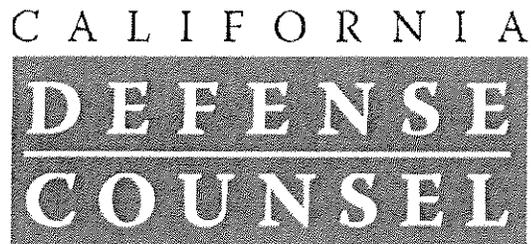
Sincerely,

Priya S. Sanger
President

Daniel Burkhardt
Executive Director and General Counsel

cc (by facsimile):

- The Honorable Martin Garrick
- The Honorable Marty Block
- The Honorable Joan Buchanan
- The Honorable Paul Cook
- The Honorable Nathan Fletcher
- The Honorable Shannon L. Grove
- The Honorable Curt Hagman
- The Honorable Alyson Huber
- The Honorable Bonnie Lowenthal
- The Honorable Holly J. Mitchell
- The Honorable Richard Pan
- The Honorable Anthony J. Portantino



April 19, 2011

The Honorable Charles Calderon
Member of the Assembly
State Capitol, Room 319
Sacramento, CA 95814

RE: Assembly Bill 1208: Oppose

Dear Assembly Member Calderon:

On behalf of the combined memberships of the Consumer Attorneys of California and the California Defense Counsel, regretfully we are writing to express our **opposition** to your AB 1208, the Trial Court Rights Act of 2011. Our organizations, representing practitioners on both sides of the civil bar, have carefully considered the issues raised by the bill and participated in a discussion with a representative of the sponsor. Respectfully, our conclusion is that AB 1208 could undermine our statewide system of justice in California.

We are aware that AB 1208 raises substantial questions of governance of the judicial branch, on which judges, justices, court administrators and court employees have fundamental disagreements. Our concern, however, is with our ability to responsibly and efficiently represent plaintiffs and defendants in civil actions. On this point, we believe that AB 1208 threatens to return California to an earlier time when civil litigants were subjected to wildly inconsistent standards in our 58 counties, and even within counties.

Over approximately the past fifteen years, California litigants and lawyers have benefitted greatly from the development of a true statewide system of justice. Prior to the creation of the modern system, lawyers faced inconsistent local rules relating to such diverse but critical matters as hearings, personal appearances, fees, rulings, filing standards, forms and more. Under the auspices of the Judicial Council, these local rules and standards

Assembly Member Charles Calderon

AB 1208 – Oppose

April 19, 2011

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have gradually been harmonized through statewide Rules of Court, so that today lawyers have the ability to count on reasonably consistent and predictable procedures.

Before the consolidation of our municipal and superior courts, and the enactment of our modern system of statewide trial court funding, the allocation of resources within our 58 counties also was wildly inconsistent. Judgeships were authorized without careful consideration of caseloads and trial court financial support varied greatly from county to county. The result was a disparate system of have and have-not courts, which greatly affected our ability to represent clients. Although differences still exist, our current statewide system functions to reasonably allocate judicial resources based upon need, demonstrated through uniform accounting and reporting systems.

The Judicial Council has successfully partnered with our respective organizations on many projects which have markedly increased our ability to represent clients. Examples include modifying and clarifying rules relating to delay reduction, creating uniform standards for telephonic appearances, implementing an innovative program for expedited jury trials, modernizing statutes and rules concerning e-discovery, and many more. We are greatly concerned that the ability of the system to design and implement improvements such as these will be undermined by AB 1208.

Next, we are concerned that AB 1208 could interfere with critical programs relating to court technology. With dozens of computer platforms operating throughout our courts, and archaic systems in constant danger of crashing, our court technology infrastructure is shockingly behind that of other states and the federal system. Critically, existing local systems lack the functionality provided by more modern systems. Obviously there is great controversy about the development and implementation of the California Case Management System (CCMS), but plaintiff and defense lawyers agree that a uniform case management system, to which all counties subscribe, is critical to the modern practice of law. Most of our members practice in multiple counties, and the ability to track cases around the state, file electronically, and access documents online is fast becoming a practice necessity, not a luxury. AB 1208 would appear to allow counties to opt out of the statewide system once developed, which represents poor public policy.

Vague language in AB 1208 could be interpreted in many ways, threatening the statewide system which has benefited our members and clients. Language proposed in Section

Assembly Member Charles Calderon

AB 1208 – Oppose

April 19, 2011

Page 3

77001.1(c), for example, confers broad power over “administrative and financial affairs”, subject only to a standard of “reasonable compliance” with standards established by law. Proposed subdivision (d)(6) confers very broad authority to open or close courts, and subdivision (e) prohibits courts from “coordinating” with others without the consent of trial court management. And proposed subdivision (h) gives every court full “operational control” of all case, file, and calendar information, without any obligation to participate in statewide systems.

On behalf of the Consumer Attorneys of California and the California Defense Counsel, we would like to thank you for the leadership. Unfortunately, however, we believe that AB 1208 is misguided and could harm our statewide system of justice. The better approach at this time would be to provide new Chief Justice Tani Cantil-Sakauye a reasonable period of time to assess the status of the judicial branch, the Judicial Council, and the Administrative Office of the Courts, and implement changes as appropriate.

Sincerely,


John Montevideo, President
Consumer Attorneys of California


Peter Glaessner, President
California Defense Counsel

CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California - 180 Howard Street - San Francisco, CA 94105 - (415) 538-2251 - (415) 538-2524/fax

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San Francisco*

April 18, 2011

The Honorable Charles M. Calderon
Assembly Majority Leader
State Capitol, Room 319
Sacramento, CA 95814

RE: AB 1208 - The Trial Courts Rights Act of 2011: Oppose

Dear Majority Leader Calderon:

On behalf of the California Commission on Access to Justice, we are writing to express our support for a strong, coordinated statewide judicial system. In California, we have made many advances in the past 15 years improving access to our judicial system for some of California's most vulnerable residents – advances that would not have been possible without the visionary leadership of the Judicial Council, supported by the Administrative Office of the Courts. Because we are concerned that the decentralized system envisioned in AB 1208 will jeopardize many of those gains in the ability of low-income, vulnerable Californians to access the courts, we are unanimously opposed to the bill.

Through the leadership of the state's judicial branch, key partners such as the Legislature, the State Bar, local bar associations, local courts and local legal aid programs have come together to improve the administration of justice. Our achievements have been watched across the country, and millions of low-income, vulnerable Californians have benefitted from this improved system. AB1208 will have the unintended effect of reducing access to the courts for the most vulnerable populations in the state that has been shaped in recent years by the Judicial Council.

The Access Commission is concerned about returning to the times when a lack of access to the courts was common, as was true before trial court unification and state trial court funding were established. Individual courts often had restrictions that made it incredibly difficult for low-income Californians to get help with a domestic violence problem, obtain a divorce or a guardianship, or protect against an unlawful eviction – particularly if those individuals were non English-speaking. Clerks' offices had signs warning that they could not give out legal information, and now they have signs pointing to the self-help center. Hearings were routinely delayed for lack of interpreters, whereas interpreters are much more available now. Courts rejected handwritten forms, yet provided no access to typewriters or computers. Rules now require acceptance of handwritten forms. Courts also rejected fee waiver petitions without cause or required needless additional documentation, even from litigants who were receiving public assistance which proved that they were eligible.

While there were clearly a number of trial courts that worked hard to provide access for low-income and vulnerable Californians, advocates for the poor too often found themselves spending as much time trying to get their clients into court as they did actually representing them in the necessary hearings. While some may label the period before trial court unification and state trial court funding as the "good old days" there was little good about them from the perspective of most low-income, vulnerable Californians seeking access to justice.

Since 1997, the California Commission on Access to Justice has been working to find long-term solutions to those barriers, and to address the chronic lack of representation for poor and moderate-income Californians. The Commission includes appointees from the Governor, the Attorney General, the President Pro Tem of the Senate, the Speaker of the Assembly, the California Judicial Council, California Judges Association, the State Bar of California, Consumer Attorneys of California, California Chamber of Commerce, California Labor Federation, League of Women Voters, the California Council of Churches, the Council of California County Law Librarians, and the Legal Aid Association of California – all committed to improving access to our judicial system.

In pursuing long-term solutions, the Access to Justice Commission has been extremely gratified that so many creative mechanisms have been instituted in our statewide judicial system that improved access for low-income Californians. While some of these developments initially were a result of local court initiatives, their adoption statewide was only possible because of the strong, centralized judicial system that has evolved over the past 15 years, enabling people in every county in the state to benefit from economies of scale, the sharing of resources, and the leadership provided by the Judicial Council.

Examples of the statewide improvements recognized across the country include:

- **Self-Help Centers and Family Law Facilitators.** There are now self-help centers and family law facilitators in every court in the state, serving nearly a million litigants every year who would otherwise have to face judicial proceedings without any legal help at all. These self-help centers have been particularly beneficial in the area of family law, which is an ongoing challenge for the entire branch. These centers have not only helped ensure that countless individuals have fair access to our judicial system, but judges have benefited from more educated litigants, and delays have been reduced because self-represented litigants are more prepared for their hearings. See Judicial Council Report to the Legislature on California Courts Self-Help Centers in 2007: <http://www.courts.ca.gov/xbcr/SID-BCA37700-40A7DE77/cc/LegRpt2007Self-Help.pdf>
- **Self-Help Website.** The AOC's self-help website is recognized nationally for the wealth of information available online that helps make unrepresented litigants much more able to handle their own cases, using fewer court resources than they otherwise would; and litigants who do online research or receive help in a self-help center are much more capable of representing themselves and likely to complete their cases in a timely manner. www.courts.ca.gov/selfhelp.htm
- **Language Access.** Access has improved for litigants with limited English proficiency because there are more services available, including at the Self-Help Centers in every county and on the AOC website, much of which is available in Spanish and other key languages spoken by a high percentage of Californians. In addition, dedicated statewide funds provide important branch wide resources to increase access for limited English proficient Californians, particularly in the area of domestic violence.

- **Expanding Legal Help in Rural Areas.** For years, the Access Commission has worked closely with the Judicial Council and the AOC to increase access for those in rural areas, where there is a great need for legal assistance and where access barriers are overwhelming. The role of the court self-help centers is particularly critical in rural areas because there are very few lawyers and legal aid programs or other resources for unrepresented parties. The Access Commission has been working with local courts, self-help centers, libraries, legal aid programs and bar associations to expand and coordinate assistance in rural areas. For example, there are now expanded efforts to connect urban pro bono lawyers with rural clients, and law students travel to rural areas on a "Justice Bus" to help at rural clinics. Private attorneys have been generous with their time and are an indispensable component of the legal aid delivery system, but they need the intermediary of a legal aid or pro bono program to connect them with clients in need. The rural report of the Access Commission is available at: <http://www.calbar.ca.gov/rural>
- **Statewide Rules and Procedures.** Legal aid attorneys practice law in many counties; some programs serve as many as 23 counties, and others provide representation in every county in the state. The proliferation of local rules and procedures makes it extremely difficult for all attorneys to be aware of the requirements and avoid unwitting mistakes, but this is especially true for legal aid lawyers because of their high case loads and limited resources. Strong statewide leadership also has eliminated the adoption of local rules and practices which limit access to justice, such as those relating to fee waivers and handwritten court documents.
- **Support for and Coordination of Access "Best Practices" throughout the State.** The Judicial Council and the Administrative Office of the Courts have become important clearinghouses for "best practices" information that has allowed local courts to more efficiently and effectively adopt policies and procedures which improve the ability of low-income, vulnerable Californians to access the courts. This "best practices" exchange has helped strengthen the continuum of service that is available across the state. The self-help centers in the courts work closely with the local legal aid programs that provide legal assistance to those who cannot get justice if they represent themselves. This strong, coordinated network provides an important safety net for low-income, vulnerable Californians as they confront life impacting legal concerns.
- **Collaborative Courts.** Great progress has also been made establishing collaborative courts such as Homeless Courts, Domestic Violence Courts, Mental Health courts, and Veterans Courts. These courts are in a great position to address the needs of specific vulnerable populations in a fair and efficient manner, while at the same time decreasing repeat offenses, and saving the state millions of dollars each year.

All of these important gains in the ability of low-income, vulnerable Californians to access the courts would be jeopardized by AB 1208. Despite the best of intentions, local courts might be forced to decide how much access they can afford at the local level, while also dealing with many other legitimate demands on scarce resources. Each court would autonomously face difficult fiscal, programmatic and administrative decisions. Programs assisting the poor and unrepresented are easy targets in such an environment, especially in the smaller and rural counties where the need for such services is often the greatest. Without the economies of scale and the sharing of resources possible through statewide coordination, many of the advances we have made might be reversed. It is not difficult to envision a scenario under AB 1208 where a local court decides to close its self help centers, close its collaborative courts, provide fewer services for limited English proficient court users and adopt local rules which make access more difficult.

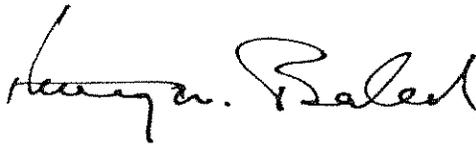
Our state should justifiably be proud of the achievements made by our strong, centralized judicial system – achievements that are the envy of other states because our system is so much more accessible for all Californians, not just those who can afford legal representation. Because AB 1208 would have the unintended consequence of jeopardizing those achievements, we respectfully are opposed to the bill.

Please contact us if you have any questions or need any further information.

Sincerely,



Hon. Ronald B. Robie
Chair
California Commission on Access to Justice



Kenneth W. Babcock
Vice-Chair
California Commission on Access to Justice

April 1, 2011

The Honorable Charles Calderon
Assembly Majority Leader
State Capitol, Room 319
Sacramento, California 95814

Re: AB 1208

Dear Member Calderon,

We write in regard to the letter dated March 22, 2011 from our Presiding Judge regarding AB 1208. The letter references support of AB 1208 by the Sacramento Superior Court. Please be aware that the judges of this court did not have an opportunity to openly discuss AB 1208 as a group, or to vote formally for or against the bill. Our Presiding Judge's letter to you was without notice to the court and was not shared with the entire bench until late Friday afternoon on March 25th, several days after it was sent to you. Many judges on our bench were very distressed to learn that the letter had been sent to you.

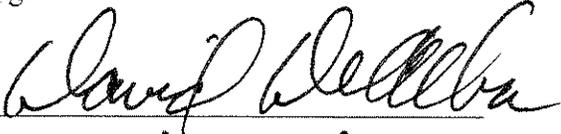
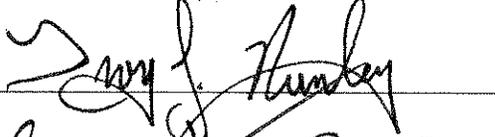
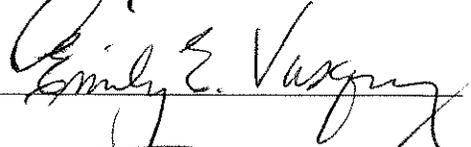
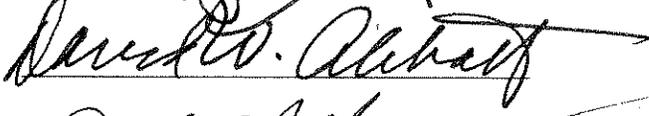
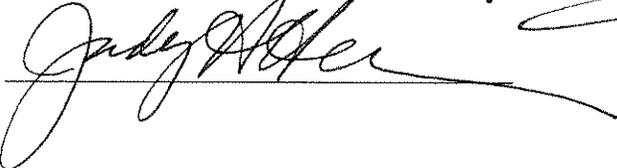
While many judges on our court are interested in learning about the intent, impact and consequences of AB 1208 on California's judiciary, no legislative analysis has ever been provided to us, no thoughtful discussion as a whole has occurred amongst those of us who are potentially impacted. We respectfully request that you disregard the letter of March 22nd.

We look forward to learning more about AB 1208 and discussing its impact with you and our colleagues in the judiciary. We, the undersigned, are all judges of the Sacramento Superior Court. Thank you for your courtesy.

The Honorable David W. Abbott
The Honorable Tami R. Bogert
The Honorable Jerilyn L. Borack
The Honorable Ben Davidian
The Honorable David De Alba
The Honorable Curtis M. Fiorini
The Honorable Helena R. Gweon
The Honorable Judy Holzer Hersher
The Honorable Russell L. Hom

The Honorable Sharon A. Lueras
The Honorable James M. Mize
The Honorable Troy L. Nunley
The Honorable Jaime R. Roman
The Honorable Richard K. Sueyoshi
The Honorable Emily E. Vasquez
The Honorable John P. Winn
The Honorable Gerrit Wood

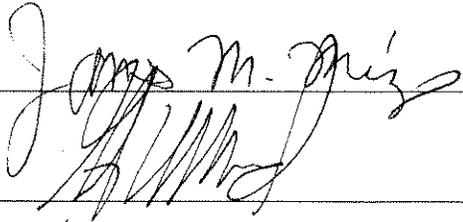
Letter to the Honorable Charles Calderon
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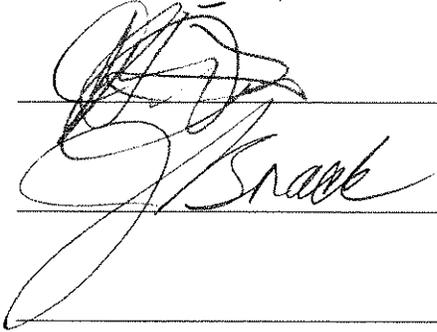
CC: The Honorable Chief Justice Tani Cantil-Sakayue
The Honorable Mike Feuer, Assembly Judiciary Committee

Enclosures

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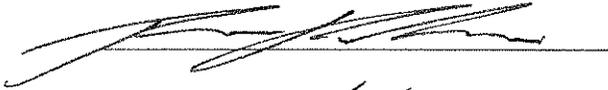
Sharon Lueras
PER 3/29/11 EMAIL

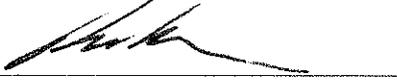


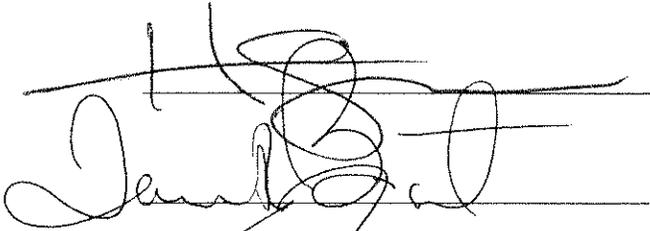
CC: The Honorable Chief Justice Tani Cantil-Sakayue
The Honorable Mike Feuer, Assembly Judiciary Committee

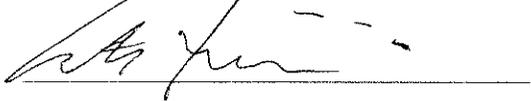
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CC: The Honorable Chief Justice Tani Cantil-Sakayue
The Honorable Mike Feuer, Assembly Judiciary Committee

Enclosures

Who am I?

- **Michael Timpanaro-Perrotta**
 - Currently residing in Cupertino, CA
- A father of two children (ages 17 and 19)
- Divorced since 1998
- Have 'de-facto' 50% joint custody
- **Bachelors degree in Mathematics from SJSU in 1985**
- **Aware of a math error in formula since 1997**
- Feel it's my civic duty to share this error with you

What is the error?

- The California Child Support formula calculates intermediate results to determine the child support payment. Specifically, it determines the percentage of income to allocate to the children.
- **In some cases more than 100% of income is allocated to the children.**
 - This should be mathematically impossible.

California Child Support Formula

$$CS(1) = K(HN - (H\%)(TN))$$

1. Inputs are:
- HN, LN = Parental Net income (Note TN = HN+LN)
 - H% = Percentage of time by high earner
2. $K = K^1 * (1 + H\%)$ if H% ≤ 50%, or
 $K = K^1 * (2 - H\%)$ if H% is > 50%

TN (monthly)	K ¹	Range
\$0 to \$800	$0.2 + TN/16,000$	0.2 to 0.25
\$801 to \$6,666	0.25	0.25
\$6,667 to \$10,000	$0.1 + 1000/TN$	0.24999 to 0.2
Above \$10,000	$0.12 + 800/TN$	0.2 to 0.12

$$CS(C\#) = CS(1) * CN(C\#)$$

1. CS(1) is additionally factored for number of children (C#)

C (# Children)	1	2	3	4	5	6	7	8	9	10
CN Multiplier	1	1.6	2.0	2.3	2.5	2.625	2.75	2.813	2.844	2.86

Income Allocation to Children

$$CS = \underbrace{CN(C\#) * K^1(TN) * K^2(H\%)}_{\text{Percent of TN allocated to children}} * (HN - (H\%)) * (TN))$$

Percent of TN allocated to children

TN (monthly)	K ¹
\$0 to \$800	0.2 + TN/16,000
\$801 to \$6,666	0.25
\$6,667 to \$10,000	0.1 + 1000/TN
Above \$10,000	0.12 + 800/TN

$$K^1(TN) =$$

$$K^2(H\%) =$$

If H% ≤ 50% then K ² (H%) = 1 + H%
If H% > 50% then K ² (H%) = 2 - H%

$$C\% = CN(C\#) * K^1(TN) * K^2(H\%)$$

C#	1	2	3	4	5	6	7	8	9	10
CN(C#)	1	1.6	2.0	2.3	2.5	2.625	2.75	2.813	2.844	2.86

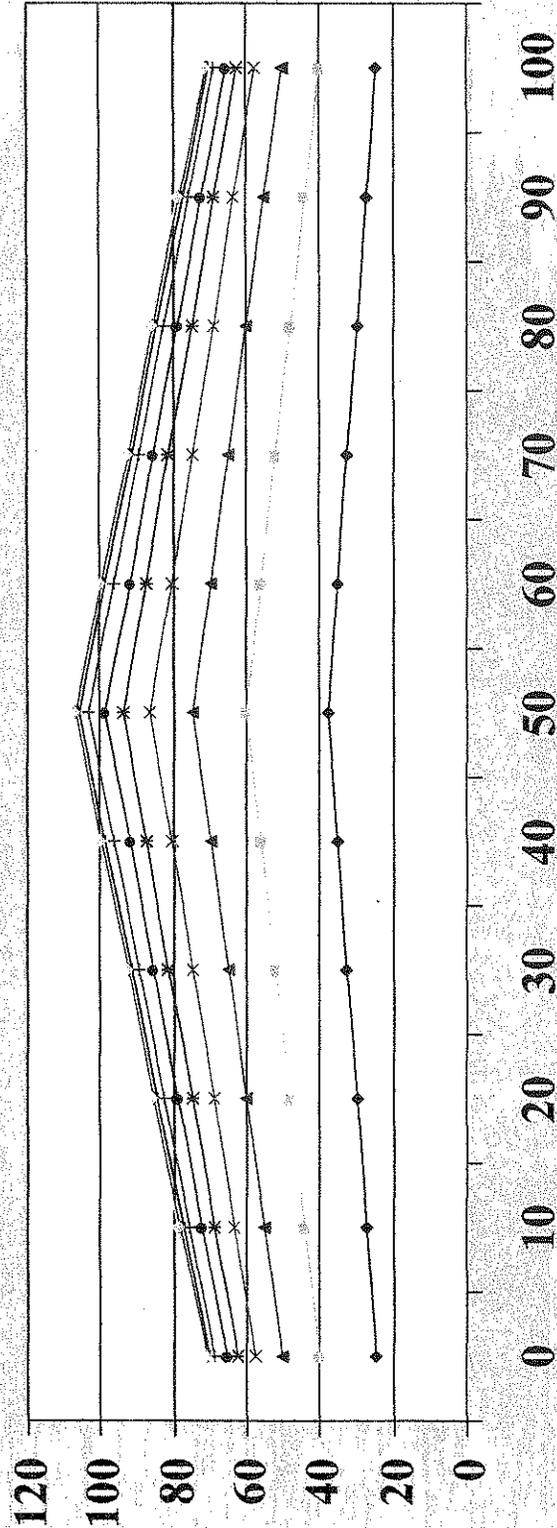
Percent of net income (TN) allocated to children is

$$(1 \leq CN \leq 2.86) * (0.12 \leq K^1 \leq 0.25) * (1 \leq K^2 \leq 1.5)$$

This ranges between 12% and 107.25%

% Income allocated to children

Allocation for \$800 <= TN <= \$6,666



Legend: 1 (diamond), 2 (triangle), 3 (x), 4 (*), 5 (circle), 6 (+), 7 (-), 8 (square), 9 (circle), 10 (diamond)

A few questions

- A mathematical issue: Can more than 100% of income ever be allocated to the children?
- A moral issue: Is it ever morally correct to allocate 99% of income to the children? 98? 97? ...
 - If not, then what should the upper limit be?
 - Should a parent ever have a \$0 income allocation?
 - Should a parent ever have a lower allocation than a child?