

From: Judge Lance Ito
To: Invitations
Subject: SEC Report Comment Addenda
Date: Monday, July 16, 2012 4:33:13 PM

To the Chief Justice and member of the Judicial Council:

My personal frustrations with the Judicial Council and the AOC came to a head a few years ago when it was revealed a trailer bill had been submitted that would strip the local courts of their ability to select a presiding judge. Needless to say any suspicion the AOC wanted to control the judiciary of California from San Francisco was clearly and conclusively confirmed. Attempts by many to identify the person or persons who drafted the trailer bill and who authorized its submission have gone unrewarded. When I asked a friend in the AOC to identify the genesis of this bill, she told me it had come from the Governor's Office. I immediately asked, "Why would the Governor care about who selects a local court's presiding judge?" "Beats me," she replied. Turns out it had in fact been submitted by the AOC. At a recent CJA meeting panel discussion Justice Douglas Miller responded while he was aware of the who, what, where and when [as we already know the why] he did not feel it appropriate to reveal the truth. Apparently, as Colonel Nathan R. Jessup once noted, "You can't handle the truth."

Our esteemed former colleague Roger Warren, in his comments on the SEC report, notes the poisonous nature of the current relationship between the trial courts and the AOC:

"Finally, the SEC Report also refers to the tension between the authority of the AOC on the one hand and the autonomy of local courts presided over by judges who are constitutional officers on the other hand. (See, e.g., pp. 4, 34) In my view this issue is very real and lies at the heart of the challenges facing the California judicial branch. Mitigating this tension should be a high priority for the Judicial Council. Because the AOC only exercises authority on behalf of the Judicial Council, however, the legal tension is really between the constitutional authority of the Judicial Council on the one hand and the constitutional authority of trial court judges on the other."

One big step in the right direction will be for the Judicial Council, not the AOC, to reveal the truth about the trailer bill.