

DECEMBER 2013  
SACRAMENTO COUNTY  
BAR ASSOCIATION  
REPORT



# State of the Judiciary in Sacramento County



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# Report on the State of the Judiciary in Sacramento County

## Introduction

California has the largest judicial system in any state, and, likewise, its courts have suffered the deepest financial cuts of any state. Courts, including those in Sacramento and the Sacramento Region – like many other essential government services – largely go unnoticed by most – until they are needed. When a judicial system is properly funded and fully functioning, its varied operations serve a large segment of the public every day with little fanfare.

A properly funded judicial system provides citizens with arguably the most profound opportunity to experience the democratic process, be it as a litigant, a witness, or a juror. Moreover, when judicial services and access to the courts are delayed, curtailed, or altogether eliminated as a result of years of sustained and severe budget cuts, citizens who are in need of vital courts services to resolve significant personal and business disputes are left without recourse.

Society's need for courts is undeniable. Unemployment claims, home foreclosures, landlord-tenant disputes, business disputes, and family law matters, including child custody and guardianship matters, didn't disappear when the economy collapsed. Despite the need, the Great Recession *did* result in significant cuts to court operating budgets. In other words, at the same time that demand for judicial services has become critical in our region, judicial services have been cut, if not eliminated, because of ongoing funding shortfalls. Inadequate court funding undermines our ability to achieve justice in these times of fiscal strain. As courts in the Sacramento region are forced to do more with less, the region's courts may be coming perilously close to violating democracy on a basic level. As stated in a 2009 *New York Times* editorial, "[A]t some point, slashing state court financing jeopardizes something beyond basic fairness, public safety, and even the rule of law. It weakens democracy itself." Since 2009 when this editorial was published, California trial courts have lost nearly three-quarters of a billion dollars in State General Fund support.



***"[A]t some point, slashing state court financing jeopardizes something beyond basic fairness, public safety, and even the rule of law. It weakens democracy itself."***

***New York Times Editorial, November 24, 2009***



***“If we are able to keep our democracy, there must be one commandment: THOU SHALT NOT RATION JUSTICE.”***

**Judge Learned Hand, February 16, 1951**

This is not a new concept. In 1951, Judge Learned Hand espoused the harm to democracy by rationing justice when he said, “If we are able to keep our democracy, there must be one commandment: THOU SHALT NOT RATION JUSTICE.”

While the State Legislature and the Governor debate budgetary issues by focusing on competing needs and demands, the human impacts of an insufficiently funded court system are lost. The Superior Court of California, in the Counties of Sacramento, Placer and San Joaquin have worked diligently to deliver court services despite deep budget cuts. The new reality includes long lines, fewer self-help services, fewer case types served by court reporters, and a significant lack of access to justice. These problems affect all members of our communities - children and adults, families, small businesses and the public at large. The budget cuts impact the availability of family court mediators and probate court investigators; those few that remain are overloaded with the caseloads of their colleagues whose jobs were cut due to funding shortages. Self-represented litigants are easily overwhelmed but may no longer be able to receive information at the court self-help centers or access the courts’ public use computers. The lack of sufficient court funding bleeds into criminal law matters, too, including the reductions in court clerks to purge warrants that are no longer enforceable, and to certify criminal defendant prior packets for the purposes of appropriate sentencing. Businesses suffer when courts are not adequately funded, negatively impacting the economy, such as when a judgment is delayed making it unlikely for the plaintiff to enforce it.

The purpose of this report is to present a snapshot of the present state of the courts in the Sacramento Region by looking at how their operations have been impacted over the last four years, including significant reductions in staff and services resulting from the budget cuts. This report also will examine the practical, human consequences of these cuts as suffered by Sacramento region families, businesses, and residents.

The state’s ongoing failure to provide adequate funding to the courts impairs access to justice. The societal costs of underfunding courts are immeasurable. When businesses cannot timely enforce their rights or prevent rivals from engaging in unfair competition, they cannot increase their revenues, decrease their expenses, or develop and grow to aid in economic recovery. When families cannot promptly resolve custody matters or guardianship issues, those who need protection remain in harm’s way. When courts cannot provide self-represented litigants with the help and guidance they need to understand the paperwork and procedures necessary to obtain relief, people may forgo relief altogether. These impacts potentially pose growing burdens on the criminal justice system, as well, for example when people take matters into their own hands.

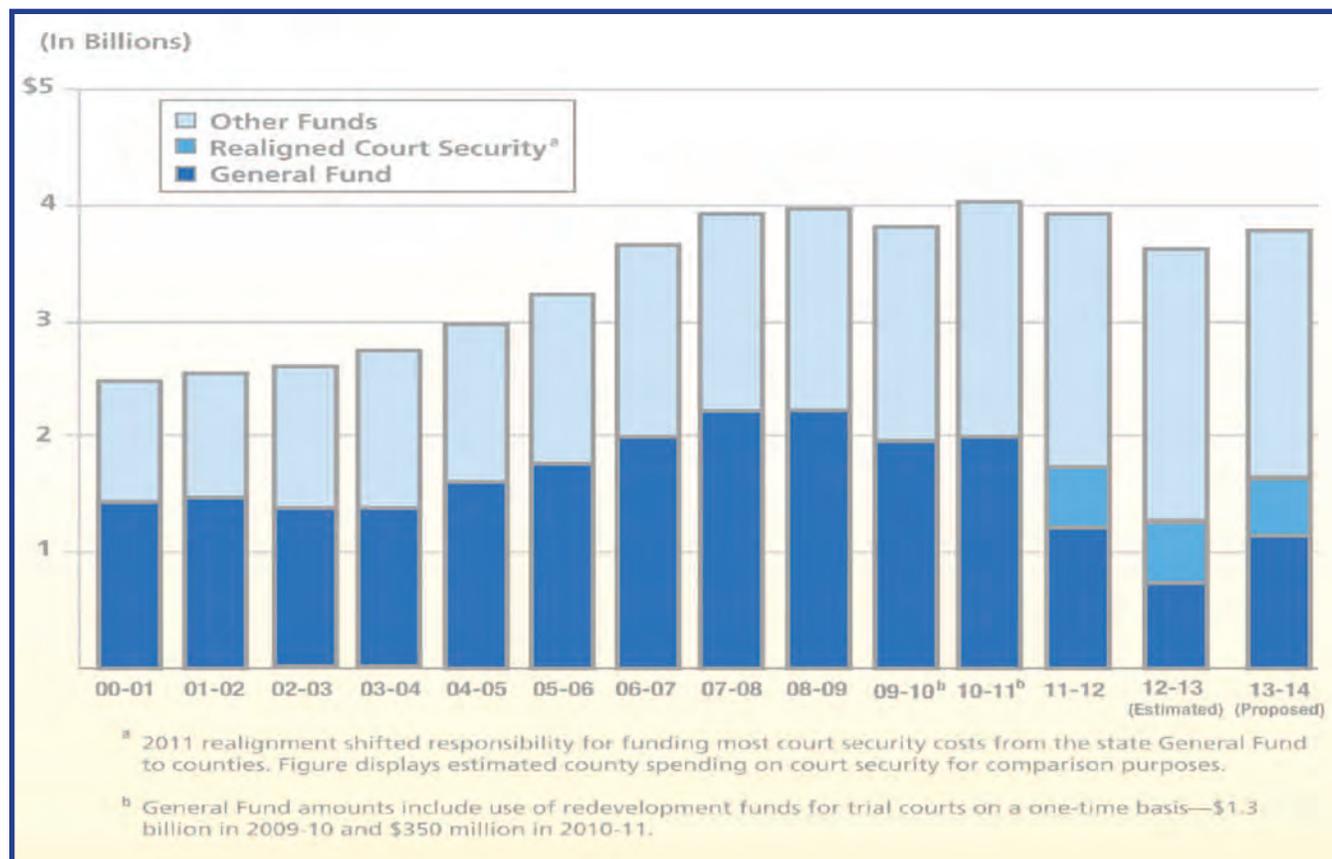
We must use our collective voice as members of the Bar to speak out for a robust reinvestment in the judicial branch of government. As lawyers, we know all too well that the failure to properly fund the courts eliminates various safety nets that protect Sacramento residents in a myriad of ways. We can attest that the ongoing lack of adequate court funding undermines our social order and puts at risk the democracy upon which our nation was founded. 

# Trial Court Funding and Cuts Statewide

## Legislative Analyst’s Office Reports on the General Fund

In January 2013, the Legislative Analyst’s Office reported that the General Fund share of judicial branch funding declined from a high of 56% in FY 2008-09, to just 20% as of last year (FY 2012-13), resulting in the cumulative loss of more than one billion dollars to the judicial branch in just five years. Over this same five-year period, to prevent catastrophic shut downs of courts, user fees and fines were significantly increased, and local court fund balances as well as statewide court infrastructure project funds, including more than \$1 billion in courthouse construction funds, were diverted to court operations.

Local trial courts found themselves starting FY 2013-14 facing structural



deficits and cash flow problems. The problems have manifested in the elimination of court services, reductions in court staff, closures of court rooms and courthouses, and other cost-cutting measures that curtail the public's access to justice.

As a result of the budget cuts, courts are closing courtrooms and entire court houses. The tally on closures as of October 4, 2013, is 52 courthouses and more than 200 courtrooms shuttered throughout California. The public is being further

impacted by limited service hours, longer waits, higher costs, fees and penalties, longer travel distances, and fewer court staff to assist them. Here are some additional considerations that put the judicial branch budget into perspective:

- The judicial branch budget represents only 1 penny out of each General Fund dollar, or 1% of the entire General Fund. A 2013 survey by the National Center for State Courts showed that, of those courts funded by their state general funds, courts generally receive on the order of two percent of the general fund, twice the California level. This works out to be a difference in California of roughly \$1 billion.

- Over the past six years, court advocates supported legislation that increased user fees and fines several times to help offset cuts to court budgets. That well is dry - we cannot ask court users to pay fees and fines that are any higher.

- \$1.7 billion in court construction funds were diverted to court operations (or to the General Fund)

to help cover the losses to court operating budgets. But this "robbing Peter to save Paul" approach has got to stop. Court construction funds are needed to build facilities that meet the needs of the communities where they are located, and which are structurally and seismically safe, have improved security features to protect the public and court personnel from infrequent but potentially dangerous situations, and that can accommodate the case loads and case types that need to be heard in a timely fashion.

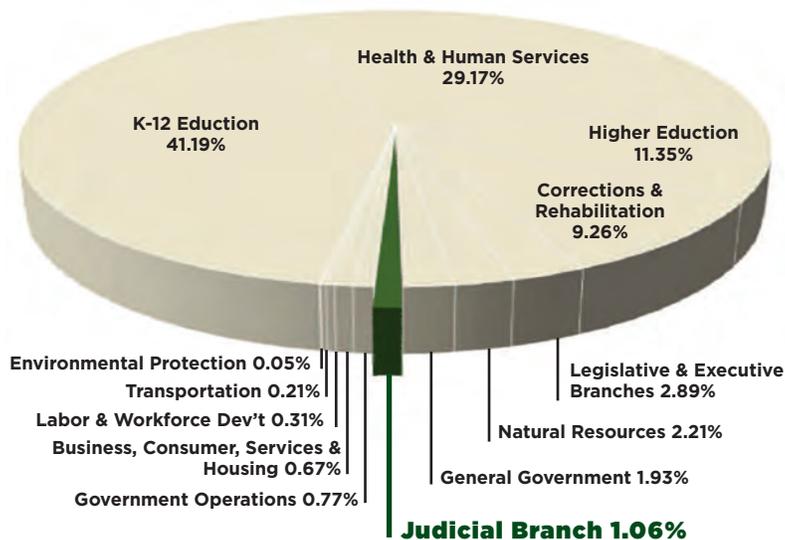
- The trial courts have been forced to "use or lose" their fund balances (think savings accounts) to offset the cuts. In other words, the Governor said that courts must use their savings to cover cuts in their budgets, and, furthermore, they may not accumulate savings in the future. This is a seriously flawed approach to court budget management; savings could help courts cover unforeseen costs and budget crises in the future, provide for long-term planning, and help courts implement innovations that improve services to the public.

- The funding of new judgeships has not kept pace with population growth. This shortage is particularly acute in historically under-resourced courts, but can be felt throughout the 58 counties to varying degrees. Coupled with closed courtrooms and entire courthouses, the public's access to justice is being systematically eroded.

- Despite a recent failure with regards to statewide case management tech-

### The Judicial Branch Budget is 1% of the State Budget

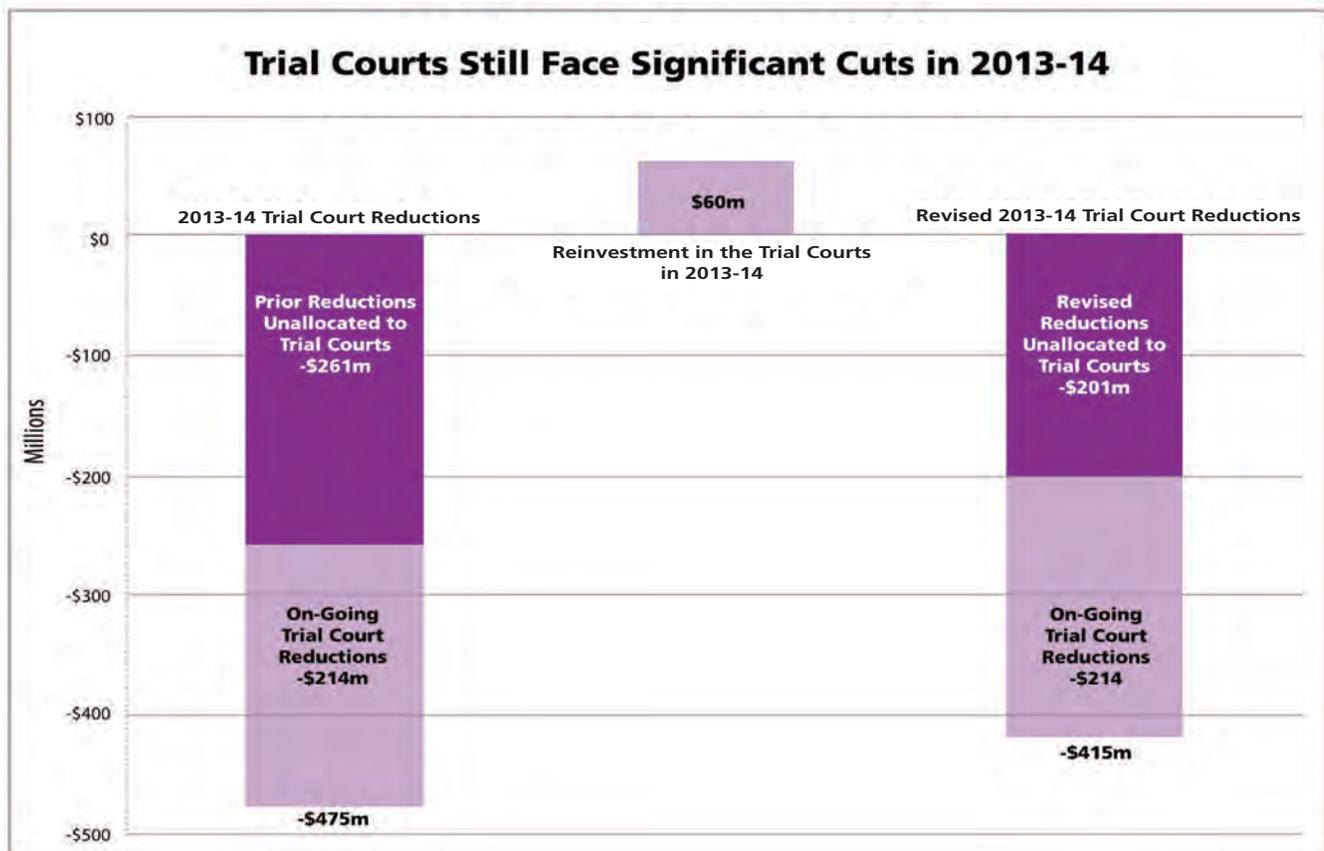
(when comparing General Fund support of the State General Fund Budget)



**Courts throughout California need improved technology to manage the intake and flow of documents, to manage case files, to collect data, and to otherwise manage information**



nology, courts throughout California need improved technology to manage the intake and flow of documents, to manage case files, to collect data, and to otherwise manage information. The Judicial Council is developing a long-term business and strategic plan for information technology in the courts, but stable



funding remains elusive. Yet it will be necessary to appropriately fund technology improvements for the courts before there is a technology gap that becomes cost-prohibitive, and therefore insurmountable.

As highlighted by the Legislative Analyst in this year’s analysis of the budget, the total in on-going reductions that require solutions will increase by more than two hundred million dollars in 2014-15 from the current year. This takes into account the \$63 million reinvestment to the judicial branch in the current year; an important first step that is enabling the courts to address some of the service impacts of the cuts. But that \$63 million - \$60 million of which went to the trial courts - is not enough. Achieving significant restoration of services and access to justice will require the mitigation of the remaining \$415 million in permanent ongoing reductions to local trial courts since 2008-09, and a more comprehensive restoration of funds to the branch for years to come. 

1. The Budget Act of 2013 added \$63 million to the judicial branch, \$60 million of which went to the trial courts. Coupled with some repayments, this year the General Fund accounts for 25% of the judicial branch budget.

# Operational Effects of Court Funding Cuts

## Sacramento County

**V**ery near the center of state power, the Sacramento County Superior Court serves as a model to local trial courts in the rest of the state. Due to the significant efforts of our local court leadership, and despite significant budget cuts, personnel losses, and service reductions, Sacramento County Superior Court has not had to close court facilities or stop hearing any case types. Even so, budget cuts to the trial courts have significantly and negatively impacted access to justice for people in the Sacramento region, most particularly in the family law and civil arenas.

This section describes in detail the “nuts and bolts” effects of the budget cuts, although it is difficult to convey how these reductions in services and corresponding delays in justice impact the public’s access to and perception of our courts to address their needs.

***Stated simply, our court will face further, deeper cuts, which will, in turn, further impact citizens’ access to justice without a significant infusion of funds***

### **Budget Issues in Context**

Since 2008, when General Fund investments in the trial courts began a steady decline, Sacramento has instituted a combination of voluntary separation programs and hiring freezes. These efforts have resulted in the reduction of over 230 positions, representing a 20% decrease in full-time court employees. The majority of these position were court clerks, but every aspect of the court system has been impaired, including financial management, court administration, research attorneys, courtroom and non-courtroom clerks, court reporters, and court attendants.

According to the most recent Judicial Council data, our local trial court needs 94 judicial officers for optimum operation based on current filings. As of December 2012, we have fewer than 73 judicial officers, 22 percent below need. Fewer judges means fewer matters heard and resolved on a daily, weekly, and monthly basis, creating backlogs and delays in access to the court, and increase costs for litigants with each passing day.

The family court system in Sacramento has been particularly impacted. With roughly 75 percent of family law litigants self-represented, dedicated court staff and resources are essential to a functioning family court system. The following have been reduced or eliminated:

**Family Court Mediators:** The number of family court mediators has been reduced from sixteen to fourteen. The significance of their role in the manage-

ment of family law cases cannot be overemphasized. Family court mediators conduct custody mediation and, in the event the parents are unable to reach an agreement, present recommendations for child custody and parenting plans to the family law judge. These recommendations are essential to a judge's ability to make a determination as to custody. With this 12% decrease in family court staffing has come an increased burden on families and the family court.

**Probate Court investigators:** The number of probate court investigators has been reduced from twelve to six, a 50% reduction. Their role is critical. Probate court investigators conduct investigations into the appropriateness of guardianship and conservatorship appointments. These investigations impact the most vulnerable members of our community. The recommendations are essential to a judge's ability to make a determination whether to appoint a guardian or conservator. The decrease in staffing has caused an increase in the investigator workload to the point where Sacramento County has had to supplement investigator staff by contracting out many investigations and bi-annual reviews in order to avoid delays in the resolution of these time sensitive matters.

**Family Law Self-Help Services:** Fifty percent of the staff in the Self-Help Center at the family law courthouse has been cut since 2008. The cuts have resulted in the near elimination of in-person assistance, and a discontinuation of all but two instructional workshops. These workshops are essential to supporting a pro se plaintiff's ability to resolve her or his a case. Before the cuts, there were more than 10 instructional workshops per week.

**Public Use Computers:** The cuts have forced the closure of the court's computer room where litigants could prepare and print legal paperwork, run support calculations, and do legal research.

Though the impacts of staffing reductions are particularly evident in Sacramento's family law system, they have been felt throughout the court. Despite a 20 percent decrease in staffing since fiscal year 2008-09, the number of case filings has remained nearly steady. In FY 2008-09, there were 416,747 case filings, and in FY 2011-12, there were 380,083, a decrease of just eight percent. During this same period, the adjusted annual allocation for Sacramento Superior Court dropped by 23 percent, from \$91 million in FY 2008-09 to \$70 million in FY 2012-13.



## From fiscal year 2008-2009 to now, Sacramento County Superior Court has experienced:

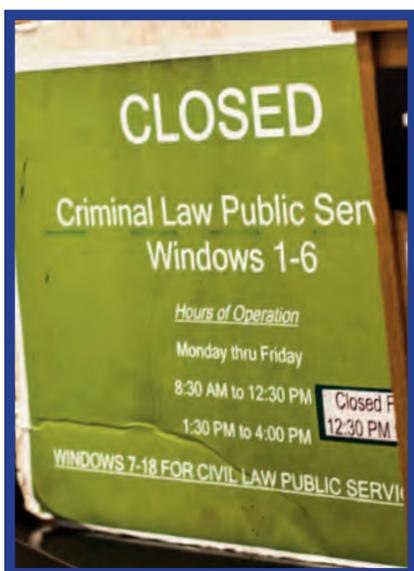
- An 8% reduction in filings
- A 20% reduction in staff
- A 23% reduction in funding

There is an inherent conflict between the significant reductions in staff and funds in the context of much smaller reductions in case filings. Court delays and backlogs are increasing, lines and wait times for all basic court services are longer, there are fewer court clerks available to assist the public, and no end to these burdens in sight. In fact, Sacramento Superior Court anticipates a continued budget

deficit of at least \$9 million in FY 2014-15. The court has faced a budget deficit for several years – a problem previously addressed by dipping into its savings (fund balance) to offset the difference. But now these funds have been depleted, and the court is no longer allowed to maintain these funds. Without a robust reinvestment to trial court allocations, it is likely that our court will be forced to implement further, more significant staffing, service, and case-type reductions starting July 1, 2014, in order to balance its budget.



**25 counter service windows have been closed, and those windows that remain open are open for fewer hours**



### Summary of Impacts on Public Access

The budget cuts have resulted in a significant reduction in court staff. As a direct result, there are delays at every stage of the court’s process, from obtaining a hearing date, to post-disposition. Every aspect of our local court system has seen significant backlogs in case management, including:

**Family Law/Probate:** Litigants may wait up to seven hours just to file documents, and there are significant delays in processing judgments.

**Juvenile Court:** There are significant delays in the redaction of confidential information from court files. Work that would typically take 1-2 weeks for completion now occurs in 4-5 weeks, with a backlog of approximately 100 cases.

**Criminal Law:** There are significant backlogs of purging warrants, obtaining certified copies of prior conviction packets, and calendaring jurisdiction transfers under sentencing realignment.

**Additionally:** 25 counter service windows have been closed, and those windows that remain open are open for fewer hours. If ours was a properly funded court, Sacramento would have 65 fully staffed front counter service windows.

Though Sacramento has not actually closed courtrooms, it is currently using the equivalent of three fewer courtrooms by adding those caseloads to other calendars in other loaded courtrooms. In practical terms, this means that there are fewer opportunities for judges to hear and decide cases. Further, given the \$9 million projected deficit, Sacramento may be forced to close courtrooms and/or eliminate the hearing of certain case types in 2014-2015 if funding is not restored.

### Conclusion

Although all courtrooms are open in Sacramento County, the delays and backlogs of cases are significant; and worse, they are increasing. The court has closed so many filing windows as a result of reduced staffing that civil litigants are required to file their papers by placing them in drop boxes. In the criminal arena, arraignment calendars are over-crowded. Court staff are managing thousands of pieces of paper daily, and aging computer systems are barely sufficient to perform basic case management. These problems undermine the public’s confidence in the courts as a place where citizens’ complaints will be redressed, and erode the court’s role in maintaining a civil society. At the heart of the problems is funding – not how our court spends it, but the basic fact that there isn’t enough. Stated simply, without a significant infusion of funds, our court will face further, deeper cuts, which, will in turn, further impact citizens’ access to justice. ⚖️

# Operational Effects of Court Funding Cuts

## Placer and San Joaquin Counties

Many members of the Sacramento County Bar Association also practice in the neighboring counties of Placer and San Joaquin. Like those experienced by the Sacramento Superior Court, the cuts to these trial courts' budgets have severely affected court operations in those counties, too. To address the funding cuts, local court leaders have made tough choices regarding staff and services, while balancing mandatory and prioritized services in criminal, juvenile dependency, and family law matters. For the most part, those choices have resulted in cuts such as reduced self-help services and the complete cessation of trials for small claims actions for an entire year. It is important to note that the trial court augmentation of an additional \$60 million from the budget this year has been helpful, but it is divided among the 58 courts. The respective shares received by Placer (\$536,650) and San Joaquin (\$1,162,391) can do little to overcome the significant cuts in services, delays in trials, and backlogs of filings, hearings, and paperwork those courts already have sustained, all of which are directly attributable to the fact that the courts are underfunded and understaffed.

The lack of funding for basic court operations has affected the public's access to justice in Placer and San Joaquin Counties, just as it has in counties throughout California. Unless funding is restored to levels that would allow these courts to hire sufficient staff to process pending matters as well as new cases, the public's access to justice will be further compromised, with litigants in the civil justice system particularly affected.

### **SUPERIOR COURT OF CALIFORNIA, PLACER COUNTY**

#### **Placer County Courthouse Consolidations and Closures**

Over the past four years, Placer County Superior Court's budget has been reduced 18 percent, from \$16,531,545 in FY 2008-2009 to \$13,628,260 in FY 2012-2013. To make up for the substantial cuts in its budget, Placer County Superior Court implemented a number of cost-saving measures including closing



**The lack of funding for basic court operations has affected the public's access to justice in Placer and San Joaquin Counties**

courtrooms, laying off staff, and eliminating programs beneficial to the public but which the court could no longer afford.

In July 2009, Placer County Superior Court was forced to close two courtrooms and indefinitely suspend a critical court construction project. In addition to closing courtrooms, the lack of funding forced Placer to reduce services available to the public. First, the court reduced the number of hours the clerk's office was open to the public on Fridays by two, closing at 1:00 p.m. instead of 3:00 p.m. Telephone hours were also reduced on Fridays, from 3:00 p.m. to 1:00 p.m. In addition to reducing hours, the court also implemented limited services days, days on which it only processes emergency matters, and all but one clerk's office are closed. In 2012, Placer County Superior Court imposed limited services days from December 24 through January 1, 2013. Everything else filed during that week had to wait until the first week in January to be processed by the court.

As a result of the budget cuts, the court also has been forced to eliminate critical programs like the Youth Peer Court, Family Law and Domestic Violence programs, and others that support families in highly conflicted child custody cases. Now, self-help, mediation, and Family Law Facilitator services are available to the public only until noon on most days, and telephone access to these support services, which stopped in 2009, has not resumed.



**Placer County Superior Court has reduced non-judicial employees by 45 percent, including 56 staff members who were laid off**

**Staff Layoffs, Reductions, and Furloughs**

Since 2008, Placer County Superior Court has reduced non-judicial employees by 45 percent, including 56 staff members who were laid off. The court has only 14 judges, as opposed to the 23 it needs. This 40 percent shortage of judges combined with the inadequate staffing levels to support important courtroom functions has led to an inadequate number of cases being heard. As a result, there is a backlog in cases, especially civil trials and family law hearings.

The funding cuts have also increased security risks to judicial officers, staff, litigants, and members of the public. Placer County Superior Court now uses roving bailiffs, who move from courtroom to courtroom. As a result of there not being a dedicated bailiff assigned to each courtroom, concerns have arisen that there may not be enough security, and that what security there is may be unfamiliar with a particular courtroom, judge, or staff, and possibly less able or available to accurately and nimbly assess potential security threats.

On the plus side, a paralegal has been hired to help part-time in the self-help centers, and the court has filled a previously vacant courtroom clerk position. Unfortunately, the benefits from these additions may be short-lived; because of the projected 10 percent budget shortfall this year, additional staff reductions are still anticipated. And, although the court has not had to resort to employee furloughs so far this year, furloughs likely will be necessary to address the \$1.5 million budget shortfall next year.

**Operational Backlogs and Delays**

Court closures, staff reductions, and reductions in hours of operation have resulted in the public's decreased access to justice at Placer County Superior Court. By way of example, there has been as much as a three-hour line wait to

file urgent matters like requests for domestic violence restraining orders, child custody modifications, and other family law matters. Telephone requests for traffic ticket information have, at times, required a one-hour wait. These kinds of impacts occur due to reduced staffing, which has occurred because of reduced budgets.

Criminal record searches take up to 30 days for responses. Such a delay can affect employment decisions because an employer or requesting party may not be able to wait 30 days for a response. Furthermore, delays affect whether sanctions are reported timely for criminal defendants who fail to follow court orders. If the court does not have sufficient staff to assess compliance with the programs and conditions imposed as part of a sentence, the inability to assess compliance raises questions about the effectiveness of even imposing programs as part of a sentence in the first instance.

Placer County Superior Court has 40 percent fewer judges than it needs to process the matters currently on file with the court. The cases that have been most affected by this shortage of judicial officers are in the civil and family law arenas. Without enough judges to handle all of the court's casework, families, businesses, and the local economy suffer.

This year's modest funding increase allowed the court to reinstate office hours for the clerk on Fridays, increasing those hours by two, until 3:00 p.m. Placer County Superior Court will also be able to avoid limited service days this year, and the funding has allowed the court to reinstate some self-help services. The Self-Help Center is, for the moment, re-opened and available from 8:00 a.m. to noon daily, and until 3:00 p.m. on Tuesdays. Those gains are likely temporary, however, unless more substantial trial court funding is secured.

Despite its efforts to reduce costs and wisely allocate the court's limited discretionary resources, Placer County Superior Court will still have to reduce expenses significantly - including the likely reduction of additional staff - because of its anticipated \$1.5 million budget shortfall in the coming year. That means the court once again will have to implement cuts to self-help services and clerk's office hours, and impose limited services days, all of which will result in additional processing delays, increased case backlogs, and burdens on the public. Instead of ongoing progress towards eliminating the gridlock in processing cases, the projected shortfall will reverse any progress. Placer, like Sacramento and San Joaquin - and every other court in California - requires a significant restoration of funding to levels that will allow it to rehire and maintain adequate staffing to serve its population of 355,328 citizens.

**SUPERIOR COURT OF CALIFORNIA, SAN JOAQUIN COUNTY**  
**San Joaquin Courthouse Consolidations and Closures**

In just five years, the San Joaquin County Superior Court has lost 14.5 percent of its funding. In 2008, San Joaquin received \$45,350,583 in funding. By last year, the amount of funding decreased to \$38,756,249. To address the reduction in funding, the court implemented a number of cost-saving measures, which included closing courthouses and courtrooms, and reducing staff through layoffs and furloughs.

In 2009, San Joaquin County Superior Court began closing courtrooms to



**Placer County Superior Court has 40 percent fewer judges than it needs to process the matters currently on file with the court**

address budget shortfalls. When closing courtrooms did not stem the hemorrhaging, San Joaquin County Superior Court closed its satellite branches, first in Tracy, and most recently, in March 2013, the Lodi Branch. These closures left just five dedicated civil courtrooms to serve a population of nearly 700,000. These closures have required civil litigants and jurors, who were being served by the Tracy and Lodi branches, to travel up to 45 minutes one way to the main branch in Stockton.



Not surprisingly, with the court closures and the reduced staffing, the lines, and the wait times for services at the Stockton Branch have increased significantly. The average wait time for filing documents for most civil proceedings has increased 500%.

With a growing population, a severely cut budget, and increased delays in processing most types of cases, San Joaquin County Superior Court also is suffering from a significant decrease in hours of operation for the clerk's office, which now closes to the public at 3:00 p.m. The court also lacks the resources to increase the telephone hours for the public.

#### **Staff Layoffs, Reductions, and Furloughs**

The court reduced its staff by 34 percent. Beginning in 2009, San Joaquin County Superior Court implemented 12 furlough days a year for all employees. A year later, the court was still financially imbalanced, and had to cut positions, laying off 42 staff at all levels. The next year, the Court laid off 11 additional staff members along with a commissioner and five court reporters. As of July 1, 2013, the start of the current fiscal year, the court had reduced its staff by 34 percent, largely by eliminating 99 positions.

These reductions have led to current staffing levels that are well below what the court needs to be fully operational. According to a recent review by the Judicial Council, the San Joaquin County Superior Court should employ 427 people. Currently, only 265 positions are filled.

### **From fiscal year 2008-2009 to now, San Joaquin County Superior Court has experienced:**

- **A 34% reduction in staff**
- **A 14.5% reduction in funding**
- **A 500% increase in wait times**

The budget shortfall has also negatively affected the number of judges in San Joaquin County. Currently, there are 29 judges, four commissioners, and three subordinate judicial officer positions at the court. To hear all the matters currently filed at the San Joaquin County Superior Court in a timely manner, however, would require 48 judges, 40 percent more than the court currently has.

In addition to not having an appropriate number of funded judicial positions, the court also lacks the funds to provide court reporters in civil proceedings. In

most civil proceedings, litigants who cannot afford to hire court reporters will not be able to provide an appellate court with a sufficient record of the hearing or trial. The lack of a transcript is such an impairment to an appeal that its absence has a direct correlation to a litigant's decision not to appeal, which could end up resulting in a miscarriage of justice.

**Operational Backlogs and Delays**

The natural consequence of not having sufficient staff to clear backlogs, reduce delays, and keep the trial court operating efficiently is that each new filing adds to the backlog and increases delay. Most notably in San Joaquin County Superior Court is the delay in processing small claims cases. From September 1, 2012, through September 30, 2013, 575 small claims cases were filed with the court *but not scheduled for hearing*. Even though the court recently resumed processing small claims cases, the year-long halt has had consequences impossible to quantify. Court officials opine that between September 1, 2012 and October 1, 2013, many small claim litigants chose not to file their cases because of the complete stop to setting small claims actions for hearing. For those litigants, justice delayed was truly justice denied. It is important to reiterate that in order for the court to begin to reduce and clear the gridlock of unprocessed matters, funding far above the current level is required.

Despite constitutional provisions that prioritize criminal procedures, budget cuts have also impacted those cases. Specifically, the delays and backlogs have affected the court's ability to report criminal dispositions to the Department of Justice, and the traffic court's dispositions to the Department of Motor Vehicles in a timely manner. The delayed reporting of the outcomes in criminal and traffic cases affects members of the public who rely on the accuracy of records held by the Department of Justice and the Department of Motor Vehicles in making a variety of decisions. The department records affect litigants in numerous ways, including but not limited to, accuracy of background checks for employment or credit, and the accuracy of driving record information given to law enforcement, state entities, employers, and insurance companies.

The augmented funding that the court received in this year's budget, in addition to savings from the closures of the Tracy and Lodi courthouses, savings from ongoing reductions in staff (including furloughs), as well as other cost saving measures, have allowed the court to temporarily rehire 17 staff members to help decrease the accumulation of civil, family, criminal, and traffic cases, while also allowing existing staff to dedicate 24,000 additional hours of productivity to clear backlogs and reduce delay times in processing all matters. This will have the most positive impact on the court's ability to process small claims actions. Unfortunately, the 24,000 hours of productivity and 17 additional staff available right now are insufficient to restore services to the level required to process all matters currently on file (not to mention those that will be filed this fiscal year). What's worse, the savings that have allowed these rehires and additional hours are not likely to continue into next year.

Without more robust funding, San Joaquin County Superior Court, like all courts in California, faces an ongoing spiral of backlogs and delays, which will get worse with each year funding remains below that which is necessary to process matters the public needs the court to resolve. 



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# The Real World: Examples of How Court Funding Cuts Impact Litigants in the Sacramento Region

*Litigants in family law cases have experienced some of the most harmful effects of the ongoing cuts to the judicial branch budget*

**B**ecause of the ongoing cuts imposed on the courts, litigants in the Sacramento region continue to experience long waits in line, at clerk windows, for case numbers, for court dates, and, most importantly, for a resolution of their situations. This is true at all phases of the litigation process, from filing documents to final disposition, and in nearly every case type, but most profoundly in civil and family law matters. The severe budget cuts have real world consequences that are revealed daily in the long lines in clerks offices, delayed filings, and abandoned cases. Below are several examples that illustrate the substantial impact budget cuts have on access to justice. Identifying information has been changed to protect the parties' privacy and to avoid the disclosure of attorney-client communication, attorney work product, or other privileged or compromising information on these pending matters.

## Impacts on Families

Litigants in family law cases have experienced some of the most harmful effects of the ongoing cuts to the judicial branch budget. Lengthy delays in processing requests can cause significant problems at home because the circumstances underlying a family law dispute, such as custodial relationships, financial stability, and personal safety, remain in flux until mediation can take place, until the parties properly file their paperwork, and until courts can calendar and hear matters. In some cases, backlogs in processing court files can result in lasting physical or emotional harm to the parties. In other cases, the delays can render requests for orders moot, and in some circumstances lead a party to abandon a matter simply because it would take too long to get an answer from the court.

### EXAMPLE

In one case, the family law court issued an order to change custody from one parent to the other. Writ review was denied. Because the parent who

lost custodial rights knew that a new hearing or an appeal could take up to two years to be decided, and to avoid additional stress to the children during that potential two-year waiting period, the parent decided not to appeal. This was a real sacrifice... a sacrifice of the right to challenge a custody order and actually pursue what may have been in the children's best interest.

Litigants' decisions to appeal trial court decisions have been impacted not just by delays, but by the inability of many trial courts to provide court reporters in civil proceedings. A party without a reporter's transcript will have a harder time convincing the court on appeal of an erroneous decision by the trial court.

**EXAMPLE**

In a guardianship case, the trial court granted a guardianship petition to the grandparents who had been denied guardianship more than once in the previous year. The proceedings were unreported because the mother could not pay for the court reporter's services. Although the mother believed the decision was not based on facts presented at the hearing, the lack of a transcript of the proceedings destroyed her chances to successfully challenge the trial court's granting of the guardianship petition.

In some family court cases, the parties experience long delays simply in filing essential documents, and sometimes are told that documents have failed to become part of the court record before a hearing.

**EXAMPLE**

In one case, the attorney filed a client's Income and Expense Declaration in a timely fashion, and well before the deadline. When the attorney arrived at the hearing, the declaration had not made it into the file. The result was additional delay and expense for the parties in resolving a financial issue.

**EXAMPLE**

In another case, a law firm sent its legal secretary to file a Declaration of Income and Expense for a child support modification proceeding. Because its client lived outside California, it would have been very costly for her to travel to Sacramento for the hearing, so, along with her Declaration, she filed a request to appear by telephone. It took two separate visits over a period of two days plus a wait of more than three and half hours to file the Declaration and the request to appear telephonically. The legal secretary made the deadline, but only barely; long lines and increasingly long wait times worked against her. Had the client's request to appear by telephone not been filed by 5:00 p.m. the second day, she would not have been able to participate in the child support hearing.



**It can take months to be assigned a courtroom for a civil proceeding**

The previous case highlights the intersection between costs and possible life-altering court decisions faced by parties who have to navigate a system filled with delays to file routine documents. The out-of-state parent probably paid her attorney dearly in an effort to save money in attending the hearing in person.

**Impacts on Individuals and Business Litigants**

Outside the family law arena, personal injury litigants also have been affected by budget cuts because of delays and court service reductions. It can take months to be assigned a courtroom for a civil proceeding. The uncertainty caused by the delays coupled with increased financial hardship facing these litigants may force severely injured plaintiffs to accept settlements far below what are adequate to compensate them. Delays are even more profound when the appellate process is taken into consideration.



*The damage caused to litigants who have waited for more than a year to have their cases decided is undeniable*

**EXAMPLE**

In one case, the plaintiff appealed a summary judgment decision. The severely injured plaintiff could not work, required in-home care, and had substantial medical bills. Even though the case had been briefed for more than a year and a half, a date still has not been set for oral argument. This delay has been devastating financially for the plaintiff; this is not what we or the courts believe to be access to justice.

**EXAMPLE**

San Joaquin Superior Court was forced to suspend processing small claims cases for more than a year because it lacked staff to process the cases. The damage caused to litigants who have waited for more than a year to have their cases decided is undeniable. What's worse is that the court suspects that between September 1, 2012 and October 1, 2013, while small claims cases could not be processed because of severe staff reductions resulting from budget cuts, many litigants simply did not file claims because of the uncertainty surrounding when the court would resume processing small claims cases. In other words, it is not that there were fewer people in need of redress during this period. The fact is that people lost confidence in the courts. That litigants forego their need to have the courts resolve matters because the delays are too lengthy indicates that the long-term effects of the budget cuts have shaken the public's faith in our justice system.

**Like individual litigants, business entities are negatively affected by the congestion in courts.**

**EXAMPLE**

A plaintiff company filed a lawsuit against another company seeking \$77,000 in damages. The plaintiff filed its request for default judgment in December 2008. At that time, the company it sued was in existence. It

took almost a year for the court to enter the default judgment against the defendant company. By that time, however, the defendant was out of business, and the plaintiff never collected the money it was owed.

Based on these examples, the unintended but substantial consequence of the severe budget cuts to the courts in the Sacramento region is that justice for many individual litigants already has been denied. Our job, as the region’s attorneys and advocates, must include using our voices, networks and professional experiences to demand increases to the trial courts’ budgets so that court services can be reinstated, court employees rehired, and the public’s confidence in our justice restored. 🗑️





# Observations and Conclusions

The information contained in this report illustrates the cumulative crippling effects of underfunding California's courts. The effects are far-reaching, impacting businesses, families, individuals, children, and the elderly. While there was some additional funding in FY 2013-14, this modest infusion did little to reverse the trends in reduced staff and services. Frankly, court funding in California remains woefully insufficient. The Sacramento County Superior Court, like every court in California, cannot dispense justice fairly and reasonably without a significant investment of additional General Fund dollars. Stated simply, California's courts must be allocated more money if they are to deliver on the founding principle of democracy and access to justice.

The courts in the Sacramento region are supposed to protect our rights to life, liberty and property. Our courts provide the forum for, and the answers to questions pertaining to, intricate family matters, complex business disputes, public safety, and more. Delay of these determinations is, in fact, justice denied. Issues of access to justice are important to Sacramento residents. When the courts are underfunded, access to the courts is hindered and rights related to well being and health, education, employment, housing, and relationships hang in the balance. The judicial system, the third branch of government, is vital to the American way of life and the democratic principles upon which that way of life is founded. The choice should never be how much can we cut from the third branch of government; it should be how much can we restore, and how quickly. As the region's lawyers, we must advocate for increased funding to protect access to justice for everyone who will suffer if our courts are not adequately funded.

The Sacramento County Bar Association's Court Funding Committee was formed to facilitate conversations with the region's elected officials, to bring to light those reductions in court services that have occurred in Sacramento and neighboring counties, and what the true practical effects of reductions have been. The Court Funding Committee's goal is to educate the California Legislature about the critical importance of a fully funded, independent judicial system for our region's citizenry. The Court Funding Committee's mission is to advocate for full funding of the judicial branch. Please join us. 

**The Court Funding Committee's goal is to educate the California Legislature about the critical importance of a fully funded, independent judicial system for our region's citizenry.**



**SCBA Mission:**

***To enhance the system of justice, the lawyers who serve it,  
and the community served by it.***



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