

Help Your Courts Help You

*Supporting the goals of the
Bench-Bar Coalition
is in our best interest*

By Diane M. Wiesmann



Our daily lives as lawyers are busy with the tasks, both large and small, of serving our clients. Occasionally (and sometimes more often than we like), our practices and livelihoods are touched by matters politic.

Luckily, on behalf of civil defense attorneys, California Defense Counsel (CDC) engages the very capable services of an immensely credible and effective lobbyist, Mike Belote, to provide vigilance and counsel on matters of legislative significance that would tend to impact our practices. We are very fortunate for Mike's services. Thank you, Mike.

Sometimes, however, it helps to throw out a line of our own, to let the Legislature know we care not just about our own practices, but about the courts in which we practice. After all, those interests are generally consistent. In other words, help your courts help you.

The Bench-Bar Coalition (BBC) is a coalition of leaders from bench, bar, and legal services organizations from all

over the state, which shares the goal of ensuring that the judicial branch is able to fulfill its critical role as a fair, independent, and accessible forum for the resolution of disputes, and to protect Constitution rights and liberties.

This last March, BBC members from around the State met in Sacramento to discuss the most pressing issues facing the Judicial Branch with selected legislators. At that time, Supreme Court Chief Justice Ronald M. George also gave his "State of the Judiciary 2008" address to the Legislature.

The goals of the BBC in working with the Legislature to improve our court system also benefit all of us as officers of the court and representatives of parties seeking justice, resolution, and closure to disputes. For these reasons, their goals are worthy of your support as attorneys. These are just some of the Judiciary's legislative priorities (listed in no particular order):

New Judgeships

Between 1987 and 2007, California's population grew by over 31 percent while the number of new judgeships grew by about 5 percent.

During the same period, some areas experienced more growth than others: Riverside County's population was up by 95 percent; San Bernardino County experienced a growth of 55 percent. Fresno's growth was up 45 percent and Sacramento experienced a 42 percent growth.

Riverside County has only half the judges it needs. Sacramento and San Bernardino Counties have 60 percent of what they need. Fresno has 64 percent of its needed judiciary.

We have all heard of the consequences of too few judges: criminal cases risk being dismissed for lack of a courtroom; criminal cases that make it to trial take precedence over civil matters and thus displace them. Civil cases don't get heard. Matters don't get resolved. In Riverside County, civil litigants have been "turned away" due to

the shortage of judges to hear matters. Recent efforts at creating courtrooms out of unoccupied schools and judges sitting by assignment have barely eased the backlog. At this writing, the funding for such judges sitting by assignment will run out in June 2008.

In 2005, the Judicial Council committed to seeking 150 new judgeships over three years. **SB 56 (Dunn)** authorized the first 50 judgeships, but only 40 of the 50 judges have been appointed. The funding for the last 10 positions under SB 56 was delayed to July 2008, in light of budget concerns. **AB 159 (Jones, ch. 722)** provided for the next 50 judicial positions to be filled beginning July 2008. However, the Legislature also acted during Special Session this year to delay that funding until June 2009.

SB 1150 is now pending before the Legislature. As currently fashioned, it anticipates one month of funding in 2009-2010, meaning that the first appointments could be anticipated in June 2010.

The net result is that in the present environment, there are not enough judges, and there is not enough money to pay for new judges. But as witnesses to the daily obstacles that the judge-shortages pose to your practices and your clients, your legislator needs to hear from you about the urgency of the need in order to assign it the importance it deserves.

Facilities Transfers

In 2002, the Legislature enacted the Trial Court Facilities Act which established a framework and procedures for transferring responsibility for court facilities from the counties to the state through negotiated transfer agreements. The over-arching goal of such a transfer was to create a single statewide trial court system offering greater accessibility and equity for court users as

well as greater fiscal and administrative accountability for the judicial branch.

However, the actual process of transferring local courthouses to the state proved to be obstacle-ridden and slow, and by the deadline for such transfers on June 30, 2007, only 119 out of 451 courthouses had transferred to the state. Not even 50 percent.

AB 1491 (Jones) extends the deadline for facilities transfers to December 31, 2009. It provides incentives for those transfers occurring before the new deadline. It also includes streamlined procedures to expedite the transfer process. In anticipation of the passage of this bill, many transfer agreements have developed for immediate execution once the statutory re-authorization to renew the process is enacted.

It is anticipated that the bill will pass the Legislature and move to the Governor's office for signature. As urgency legislation, **AB 1491** will be effective upon signing.

Please support the unification of the court system in California by asking your legislator to continue affirming **AB 1491**.

Facilities Bond

Many of California's court buildings are deteriorating from age and neglect; moreover, many courthouses are overwhelmed, unsafe, and ineffective in servicing litigants. Ninety percent of facilities need improvement to meet Californians' basic rights to adequate and safe spaces, to access for the disabled, protection of all parties in cases such as family law disputes; separation of witness, defendants and victims in criminal cases; protection of children in all types of cases; and secure hallways to protect in-custody defendants' right to a fair trial, avoid contamination of jurors, and separate judges and staff.

Some funding has already been approved for trial court capital outlay projects. However, additional funding is critical to complete the necessary construction and renovation. **SB 1407 (Perata)**, a spot bill, seeks authority to issue revenue bonds for the repair and construction of courthouses. The bill will be amended to permit the Judicial Council to issue up to \$5 billion in revenue bonds to support construction and renovation of court facilities.

Please let your legislator know how important quality court facilities are to you as an officer of the court and to your clients as end-users of its resources.

Court Security

It goes without saying that the courts must be a safe place for the parties, witnesses, victims, jurors, attorneys, judges, court personnel, law enforcement and all other court users.

The Judicial Council has adopted funding standards which direct the necessary security funding for the courts. Of the state's 58 trial courts, 48 courts receive less than they should under the funding standards, which results in compromised safety to all who enter the courthouse.

AB 1876 (de Leon) is jointly sponsored by the Judicial Council and the California State Sheriffs' Association. It sets better standards for courthouse security, cost controls and accountability measures to ensure the level, type and costs of court security provided. The funding requested, however, is \$41.3 million for 2008-2009, and \$62.5 million ongoing.

That is a stretch for an already over-burdened budget. Then again, how do you justify not asking at all for a safer place to work?

Please let your legislator know you support uniform and better security in your courthouses.

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If you have ever done *pro bono* work or legal aid assistance, you may have assisted a party in completing forms to file with the court. You may have helped a person fill out an application for a fee waiver based upon the person's inability to pay the filing fee. You may have been frustrated by the court's rejection of the application for one person, when it granted the application of another similarly situated person.

The list of public benefit programs that provide categorical eligibility for a fee waiver does not presently include recipients of Medi-Cal or In Home Supportive Services. These recipients meet certain threshold criteria that would ordinarily qualify them for fee waivers. However, the present list does not include these recipients. In addition, the current Rule of Court

regarding fee waivers is not consistently applied state-wide.

AB 2448 (Feuer) seeks to update the list of eligible public benefit programs to include Medi-Cal and In Home Supportive Services recipients. It also seeks to incorporate the procedural requirements of the current Rules of Court into the statute to ensure consistency in processing fee waiver applications. Finally, it allows the court (in appropriate cases) to add the waived fees to judgments obtained by fee waiver recipients, to place a lien on a fee waiver recipient's settlement proceeds of \$10,000 or more; and to re-examine eligibility at the end of a case so as to recover fees where appropriate.

There is no revenue draw from the budget by the enactment of **AB 2448**. It is a fine-tuning of the present system, with a potential for recovery of fees that aren't ordinarily sought.

Let your legislator know that you support this bill, to encourage a more consistent fee waiver process.

Resources

Links to bills in the current legislative session that potentially impact the judicial branch can be found on the "Court-related Legislation" page of the California Courts Web site. Go to www.courtinfo.ca.gov/courtadmin/. Viewers can then access the bills by category, including legislation sponsored by the Judicial Council.

For more information on BBC, please go to www2.courtinfo.ca.gov/bbc/.

And don't forget to help your court help you. 

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