

BBC - NOT JUST THE HOME OF MONTY PYTHON
(as published by the Orange County Bar Association)

Neither rain, nor wind, nor cold temperatures could keep this intrepid band of judicial officers and lawyers from their appointed rounds at the Capitol Building in Sacramento. Led by Presiding Judge Nancy Wieben Stock and Assistant Presiding Judge Kim Dunning, Orange County's two teams of volunteers, under the banner of the Bench-Bar Coalition (BBC), visited with legislators and staff, in an effort to put a face on issues of concern to the third branch of government. It was indeed a cold and rainy February day outside the State's Capitol Building, but for the BBC volunteer bench officers and lawyers from throughout California participating that day, the chill outside had not permeated the Capitol's historic walls.

Founded in 1993, the BBC was sparked by the vision of the California Association of Local Bars, the State Bar of California and the Judicial Council of California. Intended to foster communication and interaction between bench and bar on issues of mutual interest and concern affecting the judicial branch of government, the BBC has grown into a recognizable and important participant in the legislative process. That cold February day in Sacramento saw 101 BBC members in 18 regional teams bring a message from the judicial branch on issues ranging from new judgeships to access to justice to 40 legislators, and staff in another 26 legislative offices.

The BBC is a volunteer organization, with a statewide constituency, and a membership consisting of bench officers and lawyers dedicated to the common goals of the advancement of the system of justice in the State of California and the preservation of the judicial branch as an equal branch of government. To meet that vision, the BBC is increasing awareness of judicial branch issues, identifying future legislative leadership on judicial branch issues, hosting court visits for legislators and key staff, cultivating relationships with legislative staff, and expanding BBC membership and participation. This is particularly important given the effect of term limits on the ever-changing composition of the Legislature. During its most recent legislative visits, the BBC discussed four primary areas of concern:

New Judgeships/SJO Conversions

Last year, the Legislature authorized the creation of 50 critically needed judgeships to be allocated to courts based on need. This year, an additional 50 new judgeships are being proposed, the funding for which is included in the Governor's FY 2007-2008 proposed budget (which includes funding for facilities associated with the new positions). Also being proposed is authorization to convert certain Asubordinate judicial officer@ (i.e., commissioner) positions to judgeships upon such offices becoming vacant. The reception in Sacramento was generally favorable, with some members inquiring regarding the status of the reporting requirements included in last year's authorization regarding gender, race, and ethnicity of judicial applicants, and others questioning the mechanics of the SJO conversion.

Facilities Transfer and Courthouse Safety

The Trial Court Facilities Act of 2002 provides for the transfer of the 451 courthouses from the counties to the state of California by June 30, 2007. The object in February was to familiarize the legislators with the issue and to encourage the Legislature to assist in facilitating the transfers. On the theory that a picture is worth a thousand words, we came armed with photographs of various court facilities in desperate need - including our very own South County

Trailers - I mean *Courthouse*. Hampered by the number of court facilities that were rated seismic level five or above, the transfer process was slower than anticipated. But the enactment last year of SB 10 (Dunn), smoothed the way considerably. It is projected that 100 courthouses will have transferred by the June 30, 2007, deadline. As of May 2007, more than 60 court facilities had been successfully transferred. Legislation sponsored by the Judicial Council, SB 145 (Corbett), seeks to extend the deadline an additional 18 months.

JRS II Reform

Judges who took the bench prior to 1994 are under a retirement system known as JRS, which provides a moderately acceptable retirement plan. Those judges appointed or elected after November 1994 are subject to the provisions of a different retirement system known as JRS II, or Judges' Retirement System II, which requires 20 years of service and attaining the age of 65 in order to obtain a defined-benefit retirement. The result has been to disincentive public employees, commissioners, and even private attorneys from applying for judgeships (since their existing retirement plans are not portable and they would be required to start over). It also affects the retention of judicial officers who decide the wait for a decent retirement is not worth the sacrifice and who set their sights on the private ADR providers. This is an ongoing issue - likely not solvable immediately - but which is so important to the administration of justice that BBC members took the opportunity to explore with the legislators the impact this is having in their districts.

Expanding Access to Justice

Two issues dominated the discussions with the legislators in February: New funding for improving access to justice; and court interpreters. In his 2007-2008 budget proposal, Governor Schwarzenegger has included \$5 million for a low income representation pilot program - *Acivil Gideon* as some are calling it. For a period of three years, three courts/counties would provide representation to low income litigants involved in civil matters where critical rights are at stake and who have the least ability to obtain representation. Support for the pilot program was stressed in our meetings. Also on the agenda, to keep the matter open for further attempts at legislation, was funding to provide interpreters to non-English speaking participants in civil cases. Last year's legislative effort failed to gain the Governor's approval, but legislation is proceeding through the process again this year.

The other primary outreach effort has been the *Day on the Bench* program, in which legislators are invited to spend a day seeing first hand how the system of justice operates by shadowing a judge through his or her duties at a local county courthouse. It provides legislators a chance to experience the challenges primarily brought about by funding issues, as well as to observe the valuable work of the judiciary. The program is proving quite popular, with more experienced members of the Legislature, particularly the lawyer-members, encouraging the newer and non-lawyer members to take advantage of this opportunity. From the 2006 election through February 2007, 7 members of the Legislature spent a Day on the Bench, with four in the planning process, and 13 new requests following the BBC's February Day in Sacramento. The BBC is working with superior court Presiding Judges to accommodate and to schedule these visits.

The Coalition meets by conference call each quarter, and in person at the Annual State Bar Meeting, during February and May for the Day in Sacramento events and as circumstances dictate. The BBC is supported administratively by the Administrative Office of the Courts (AOC) through its Office of Governmental Affairs, and receives its judicial inspiration from the Judicial Council, chaired by the Chief Justice. The bar input is diverse and passionate - from the State Bar to local, specialty and minority bar leaders, legal services directors and attorneys, and other lawyers with a desire to bring about an effective and accessible system of justice throughout the State. The BBC is coordinated through the efforts of Dia S. Poole, a Senior Governmental Affairs Analyst with the AOC, and the executive leadership of two co-chairs and a newly created executive committee consisting of senior management and staff of the AOC, judicial officers, and State and local bar leaders.

Very little of what the BBC has been able to accomplish would be possible without the support and encouragement of Chief Justice George, and the assistance of the AOC. The Chief – as he is often referred to – has earned a reputation for his tireless efforts on behalf of the judicial branch, and the improvement of the delivery of legal services and the operation of the justice system in California. His efforts are no less in connection with the BBC. The day before our February meeting with legislators, the Chief delivered his State of the Judiciary Address to a joint session of the Senate and the Assembly. The BBC was in attendance and had the opportunity following the address to meet informally with many members at a reception in the Capitol Rotunda. With his speech, Chief Justice George paved the way for our formal meetings at the Capitol the next day, having addressed and previewed the very issues we then discussed with the members and staff.

Just recently, the Chief Justice hosted a luncheon in San Francisco for the BBC Executive Committee, where in an intimate setting, we were able to exchange ideas and make plans for the upcoming year's activities of the BBC. Afforded the honor of sitting next to Chief Justice George at lunch, I had the opportunity, during a brief break, to enjoy an engaging discussion of European travel. And then, there was the matter of chocolate chip cookies involving the Chief and an observation by my co-chair, former State Bar President Tony Capozzi, but discretion bars me from discussing it further.

At this writing, the May Day in Sacramento is a week away, where a smaller, but no less dedicated group of bench officers, lawyers and legal services providers will concentrate our visits to the members of legislative leadership, budget and judiciary committees. The BBC anticipates that its continued outreach to the Legislature, whether through visits to legislative offices, or sharing days on the bench, will strengthen the relationship between and among the three equal branches of government, and will promote and secure an accessible and efficient system of justice in California.

Joel S. Miliband, of the Irvine-based complex business litigation and corporate insolvency firm of Rus, Miliband & Smith, A Professional Corporation, is co-chair of the Bench Bar Coalition, and is a former Vice President of the State Bar of California and a past President of the Orange County Bar Association.