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**MEMO**

March 20, 2014

TO: MARK STAENBERG, President, Beverly Hills Bar Association

FROM: KENNETH PETRULIS

RE: BBC DAY IN SACRAMENTO; STATE OF JUDICIARY ADDRESS

As part of my ongoing involvement with the Bench Bar Coalition, I am currently a member of the executive committee. I attended the Coalition's day in Sacramento Event for the purpose of lobbying various legislative members with respect to court funding. We later attended Chief Justice Tani Cantil-Sakauye's address to the State Legislature on the State of the Judiciary.

To summarize our message to the legislature, beginning in 2006-2007, the judicial branch's share of the overall budget general fund was reduced by over \$1.2 B. Where it had been approximately 2% of the State's general fund, after the cuts, funding was less than 1%, at one point only 0.79% of the general fund. To put this in perspective, the average state in our country spends 2% of its general funds on the funding of its court system.

Since 2006 a portion of these cuts has been ameliorated by increased user fees, decreased services, the closing of courthouses and other "efficiencies". The court system that is left provides much more restricted access to the court system than was formerly the case. More money is now needed to get into the court system. Once into the court system, delays add to the cost of litigation in money and time, both of which can impair or eliminate any prospect of a positive outcome, i.e., when access is restricted, costs go up and justice is delayed, and the courts no longer are an effective tool for enforcement of the law.

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When meeting with legislators, they were generally sympathetic and supportive of the information we provided. \$266,000,000 in additional funding was needed just to tread water and not lose additional and further services and access. The current suggested partial restoration of \$105,000,000 funds would cause further court closings and other restrictions in access to justice.

The Chief Justice has laid out a specific line by line 3 year plan, Access 3D, to return our justice system to its functionality. It requests \$612M the first year and a total of \$1,200,000,000 in restorations over the next three years. It lays out plans for efficiencies and for taking advantage of construction bond funds which have already been approved by the public. These would allow an additional \$50M of funding for court construction to be leveraged 10 to 1 with bond funding resulting in \$500M of funds for construction and repair of courthouses.

Despite this general consensus, there is also a consensus that the Governor's office is the primary impediment to any suggested number. None of the legislative members with whom we met were able to precisely define what issues were holding back the governor's approval. There was some suggestion that unions, including the court reporters union, wished to require certain line items such as the funding of court reporters as a condition of approving the funding. Other possibilities were that the Governor required more transparency, although it was unclear what was meant by this since the Chief Justice had provided her comprehensive outline of Access 3D with specific spending line items. It was suggested that anyone who had access or insight with the governor be recruited to join in the efforts to support court funding.

Most of the legislators appreciated the access to justice issues that were involved. They have heard from their constituents about the difficulties in traveling two to three hours and great distances to central courthouses because smaller conveniently located courthouses have been closed. They appreciate the time delays and reduction in personnel likewise brought home to them by unions and constituents.

We also emphasized that the loss of access results in the courts failing to be an effective tool for enforcing the law. For those who can afford it, the first step is to seek alternative relief such as through arbitration or mediation by those who can afford to pay for it. For those who cannot afford mediation or arbitration, they either lose their rights or turn to self help. Typical cases involve not only individuals but also small businessmen such as landlords who can no longer have the access needed to unlawful detainer courts,

contractors who are stalled by the need to meet environmental requirements can no longer find an efficient means of test the legality of those requirements in a court of law. Children and spouses who are abused can find it much more difficult to obtain timely relief, and others when faced with the loss of their rights may turn to influence or bribes. Those with the resources to do so may simply chose to violate a contract or someone else's personal rights, either knowing their will be no justice, or justice will be so delayed so as not to provide a remedy.

The losses to our courts are so severe that even now these corruptions have gained footholds. We as attorneys know that we have to tell many clients that they can no longer afford justice or the delays of justice and that they are better off absorbing their losses and moving on. These blows to the justice system produce internal injuries that, while they may not be as obvious initially, eventually with time and accumulation lead to the loss of the fight for justice.

The conclusion of our day in Sacramento was the State of the Judiciary address from the Chief Justice. She spoke on the need for the executive branch and legislative branch of government to collaborate with the judiciary as a third and equal branch of government. She reminded us of the necessary functions the judicial branch to support the government to support our economy, to rule on the interpretation and legality of the laws that were passed by the legislature and implemented by the executive branch.

In her subtle way, the Chief Justice reminded the legislature that too often the third branch of government is not understood or even recognized as separate branch of government. By describing the judicial branch a collaborator with the legislative and executive branches, the judiciary's separate and distinct existence was brought to life.

The message of the need for court funding had by now been delivered so emphatically and so often that the Chief Justice joked that careful listeners might have noticed that she had not mentioned any request for court funding in her speech. She then reminded the legislators gathered before her (query as to why the governor did not also attend the state of judiciary speech?) that the funding of the courts was a necessary element of the legislatures collaboration with the courts.

The day in Sacramento was also a chance to reinforce old friendships and establish new friendships. Pat Kelley, immediate past president of the State Bar and a recent traveler on the Beverly Hills Bar's trip to Viet Nam was part of the Los Angeles delegation, as were Patricia Daehnke and Margaret Stevens, current President and first Vice President of the Los Angeles County Bar Association, County Bar Association, and other judges and bar leaders from around the state.