

S230899

IN THE
SUPREME COURT
OF THE STATE OF CALIFORNIA

BARRY S. JAMESON,
Plaintiff and Appellant

vs.

TADDESE DESTA, M.D.,
Defendant and Respondent

SUPREME COURT
FILED

MAY 12 2016

Frank A. Wallace, Clerk

Copy

California Court of Appeal, Fourth Appellate Dist., Div. One, Case No. D066793
San Diego County Superior Court Case No. GIS 9465
Hon. Joel M. Pressman, Judge

**MOTION REQUESTING JUDICIAL NOTICE;
MEMORANDUM OF POINTS AND AUTHORITIES;
DECLARATION OF COUNSEL**

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Attorneys for Defendant and Respondent
TADDESE DESTA, M.D.

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Attorneys for Defendant and Respondent
TADDESE DESTA, M.D.

Pursuant to Evidence Code sections 452 and 459, and California Rules of Court, Rule 8.252(a), Respondent Taddese Desta, M.D., hereby requests that this Court take judicial notice the following documents:

- Ex. A Letter dated July 2, 2012 re: Notification Pursuant to Government Code Section 68106 and accompanying San Diego Superior Court Public Notices. This document can be found on the website of the California Courts at www.courts.ca.gov/12973.htm.
- Ex. B Letter dated September 20, 2012 re: Notification Pursuant to Government Code Section 68106 and accompanying San Diego Superior Court Public Notice. This document can be found on the website of the California Courts at www.courts.ca.gov/12973.htm.
- Ex. C Letter dated October 21, 2014 re: Notification of Intent of Closure of Business Offices/Transfer of Operations and San Diego Superior Court Public Notice. This document can be found on the website of the California Courts at www.courts.ca.gov/12973.htm.
- Ex. D Statement by Chief Justice Tani G. Cantil-Sakauye issued in response to the Governor's proposed 2016-2017 budget. This document can be found on the website of the California Courts at <http://www.courts.ca.gov/34062.htm>.
- Ex. E Governor's Budget Summary, 2016-2017, pages 115-119, "Judicial

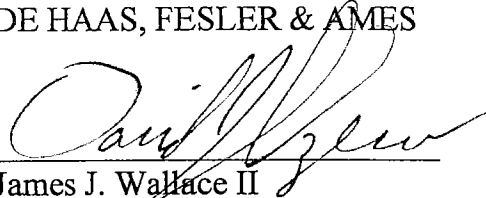
Branch.” This document can be found as a link in the Statement by Chief Justice Tani G. Cantil-Sakauye issued in response to the Governor’s proposed 2016-2017 budget, on the website of the California Courts at <http://www.courts.ca.gov/34062.htm>.

This motion is based on the attached memorandum of points and authorities, declaration of David J. Ozeran, the defendant’s Answer Brief on the Merit, and the documents filed herewith.

DATED: May 10, 2016

LA FOLLETTE, JOHNSON,
DE HAAS, FESLER & AMES

By



James J. Wallace II
David J. Ozeran
Attorneys for Respondent
TADDESE DESTA, M.D.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

THE RESPONDENT REQUESTS THAT THE COURT TAKE

JUDICIAL NOTICE OF THE ATTACHED DOCUMENTS

The policy of the San Diego Superior Court at the time this matter went to trial in April 2014 was that it did not provide court reporters in civil proceedings. If litigants wanted a court reporter at a hearing or at trial in a civil matter, they had to retain a certified shorthand reporter to serve as an official pro tempore reporter, pursuant to Government Code section 68086(d) and California Rules of Court, Rule 2.956. The plaintiff contends that as an indigent litigant, the trial court abused its discretion in not providing him with an official court reporter.

The documents which the defendant requests that this Court take judicial notice of can all be found on and were obtained from the website of the California Courts, and support the defendant's arguments set forth in the Answer Brief on the Merits that the trial court acted within its discretion in regard to its policy of not providing court reporters in civil proceedings and that the issue regarding the provision of court reporters should be left to the Legislature and the individual County court systems. These documents pertain to the funding crisis faced by the courts, and are referenced in the Answer Brief on the Merits at pages 36-37 and 46-47.

This Court has discretion to take judicial notice of these documents pursuant to Evidence Code section 459, which authorizes the reviewing court to “take judicial notice of any matter specified in Section 452.” The documents which the defendant requests that this Court take judicial notice of were not presented to the trial court. They may be judicially noticed pursuant to section 452, subdivisions (c) (“[o]fficial acts of the legislative, executive, and judicial departments of ... any state of the United States”) and (d) (“[r]ecords of (1) any court of this state”). The documents can also be judicially noticed under section 452, subdivision (h): “Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.” They are readily available on the website of the California courts and are presumably accurate.

Exhibits A, B and C are notifications made by the San Diego Superior Court pursuant to Government Code section 68106 giving notice of reduced court services. The California Courts’ website page for “Reduced Court Services” (www.courts.ca.gov/12973.htm) contains all the written notices submitted by courts regarding proposed plans to reduce costs.¹ Three such notices were submitted by the San Diego County Superior Court, on July 2, 2012, September

¹The California Courts’ website erroneously identifies the pertinent statute as Government Code section “6816” rather than “68106”.

20, 2012, and October 22, 2014. These documents are relevant to showing the budgetary problems faced by the San Diego Superior Court and the nature of the actions taken by the San Diego Superior Court to address those budgetary problems.

Exhibit D is a statement by Chief Justice Tani G. Cantil-Sakauye issued in response to the Governor's proposed 2016-2017 budget, which can be found on the website of the California Courts at <http://www.courts.ca.gov/34062.htm>.

Exhibit E is the Governor's Budget Summary, 2016-2017, pages 115-119, "Judicial Branch," which summarizes the proposed funding for the Judicial Branch in the proposed 2016-2017 budget, and can be found as a link in the statement by Chief Justice Tani G. Cantil-Sakauye issued in response to the Governor's proposed 2016-2017 budget, which can be found on the website of the California Courts at <http://www.courts.ca.gov/34062.htm>. Exhibits D and E are relevant to demonstrating that the funding issues can be and are being addressed through legislative action in funding the courts.

II.

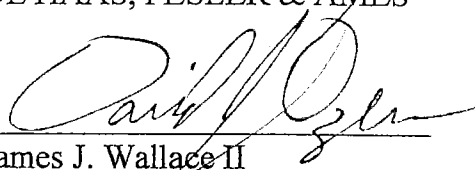
CONCLUSION

Based on the foregoing, the defendant respectfully requests that the Court take judicial notice of the documents submitted herewith as exhibits A to E.

DATED: May 10, 2016

LA FOLLETTE, JOHNSON,
DE HAAS, FESLER & AMES

By


James J. Wallace II

David J. Ozefan

Attorneys for Respondent

TADDESE DESTA, M.D.

DECLARATION OF DAVID J. OZERAN

I, David J. Ozeran, declare:

1. I am an attorney duly licensed to practice before all the courts of the State of California, and am with the firm of La Follette, Johnson, De Haas, Fesler & Ames, a professional corporation, attorneys of record for defendant/respondent Taddese Desta, M.D.

2. The following facts are within my personal knowledge, and if called as a witness, I could and would competently testify thereto.

3. Submitted herewith as exhibit A is a true and correct copy of a letter dated July 2, 2012 re: Notification Pursuant to Government Code Section 68106 and accompanying San Diego Superior Court Public Notices, which I obtained from the website of the California Courts at www.courts.ca.gov/12973.htm.

4. Submitted herewith as exhibit B is a true and correct copy of a letter dated September 20, 2012 re: Notification Pursuant to Government Code Section 68106 and accompanying San Diego Superior Court Public Notice, which I obtained from the website of the California Courts at www.courts.ca.gov/12973.htm.

5. Submitted herewith as exhibit C is a true and correct copy of a letter dated October 21, 2014 re: Notification of Intent of Closure of Business Offices/Transfer of Operations and San Diego Superior Court Public Notice,

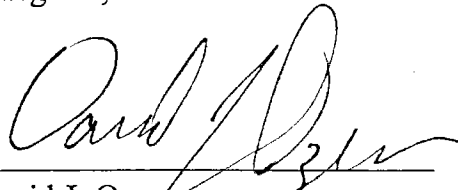
which I obtained from the website of the California Courts at www.courts.ca.gov/12973.htm.

6. Submitted herewith as exhibit D is a true and correct copy of the Statement by Chief Justice Tani G. Cantil-Sakauye issued in response to the Governor's proposed 2016-2017 budget, which I obtained from the website of the California Courts at <http://www.courts.ca.gov/34062.htm>.

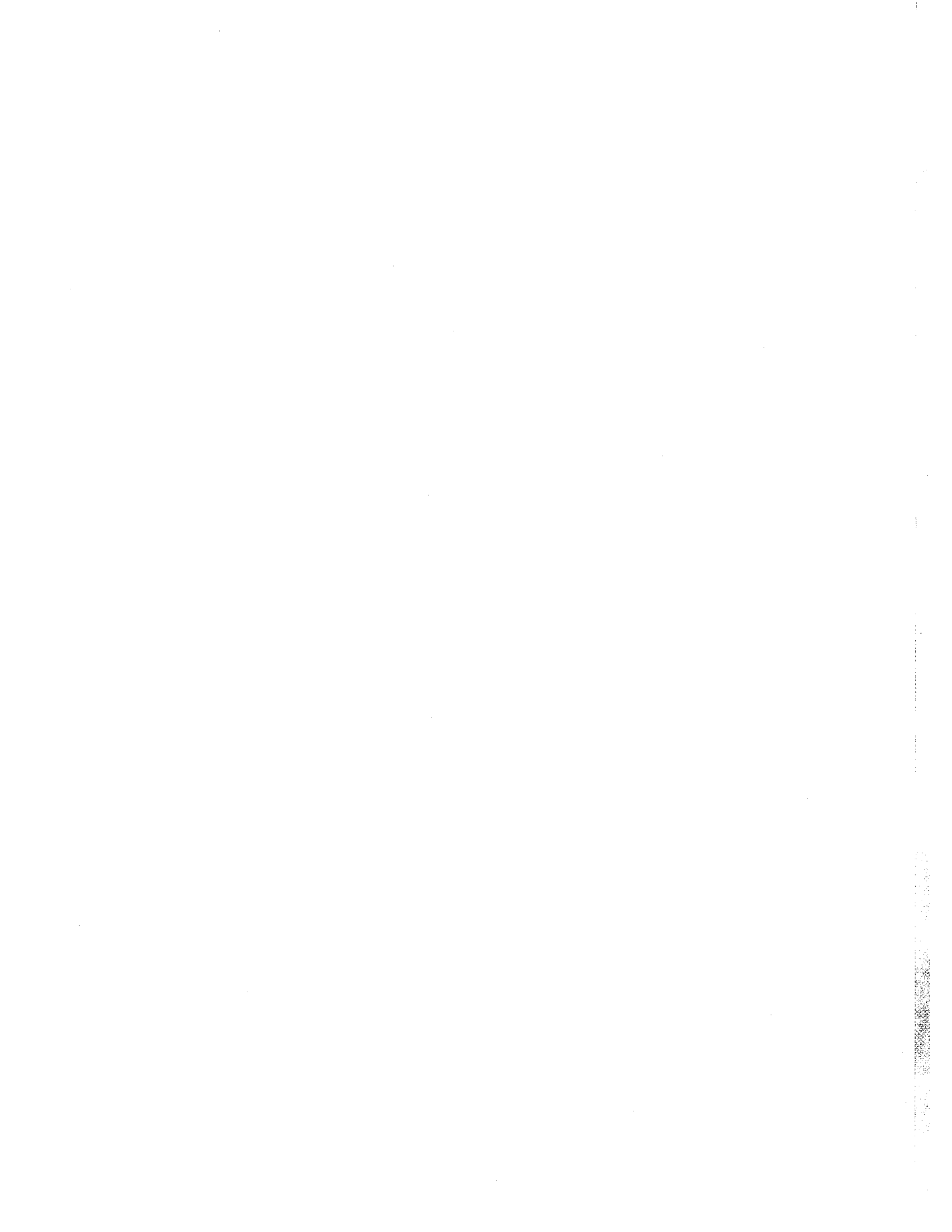
7. Submitted herewith as exhibit E is a true and correct copy of the Governor's Budget Summary, 2016-2017, pages 115-119, "Judicial Branch," which is found as a link in the Statement by Chief Justice Tani G. Cantil-Sakauye issued in response to the Governor's proposed 2016-2017 budget, on the website of the California Courts at <http://www.courts.ca.gov/34062.htm>.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 10th day of May 2016 at Los Angeles, California.



David J. Ozeran



The Superior Court of California

COUNTY OF SAN DIEGO

EXECUTIVE OFFICE OF THE COURT

MICHAEL M. RODDY
Executive Officer and Clerk
Jury Commissioner

Post Office Box 122724
San Diego, California 92112-2724
(619) 450-5478

July 2, 2012

Ms. Debora Morrison
Senior Attorney, Office of the General Counsel
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Notification Pursuant to Government Code Section 68106

Dear Ms. Morrison:

Effective Monday, September 3, 2012, due to the severe and ongoing reductions imposed on the California judicial branch, the Superior Court of California, County of San Diego will implement the following reductions in hours of clerks' offices and closure of courtrooms and court services:

- All clerks' business offices of the San Diego Superior Court will be closed to the public each Friday at 12:00 noon. Our clerk's business offices currently close at 3:30 p.m. Monday through Friday. Business hours will be unaffected Monday through Thursday.
- Probate Court operations located at 325 S. Melrose Drive, Vista, will be consolidated and relocated to the Central Division Probate Court located at 1409 Fourth Avenue, San Diego. Probate filings will no longer be accepted at the Vista Branch. All existing Probate cases will be transferred to the downtown Probate Court as of September 3, 2012.
- The Ramona court facility located at 1428 Montecito Road, Ramona, including its courtroom and clerk's office will close effective September 3, 2012. The Ramona Branch will no longer hold court or receive filings from the public at this location.
- One juvenile dependency courtroom located at 325 S. Melrose Drive, Vista will be closed and the judge assigned to this calendar will be reassigned within the North County Branch Court to another assignment, effective September 3, 2012.
- One civil and six criminal courtrooms in the downtown Central Division will be closed effective September 3, 2012. The judges assigned to these courtrooms will be reassigned to other duties within the Superior Court.

EX. A
1

Debora Morrison
Notification Pursuant to Government Code Section 68106
July 2, 2012
Page 2 of 2

As you are well aware, since 2007-08, the funding for the California judicial branch has been reduced by \$653 million. In addition, the 2012-13 state budget contains additional branch reductions of \$544 million. The cumulative effect in San Diego since 2007-08 will be a reduction in our operating revenue of approximately 25%.

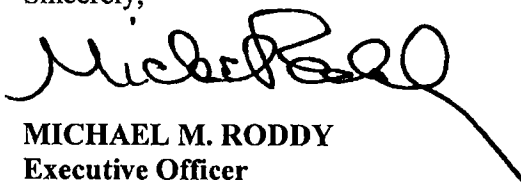
To address the cuts over the past four fiscal years, our court has implemented a number of reductions. We have previously reduced business operating hours in 2009, reduced staff through attrition and a voluntary separation program, reduced our operating expenses and technology expenses and implemented other wage and benefit reductions to limit the impact of our budget cuts on public access to our courts. However, with the latest round of cuts in the 2012-13 budget, we can no longer continue to operate without additional significant and permanent changes in our operations.

In addition to the reduced public hours in our clerks' business offices and courtroom closures, our budget reduction plans include layoffs and furloughs of court staff, further cuts in operating and technology expenses, and the closure of additional courtrooms by the beginning of FY 2013-14 when we expect further reductions in our local court budget. We estimate that by the beginning of FY 2013-14 we will need to reduce our current operating budget by \$40 million. These very difficult decisions being enacted by the court will enable us to meet this target.

Pursuant to Government Code section 68106, the public may submit comments regarding these changes. We have attached the public notices that will be posted throughout our facilities and posted to our court website (www.sdcourt.ca.gov) to notify the public and court users of these proposed changes and the name and address where their comments can be directed.

We are available to answer any questions or concerns that you may have regarding these most unfortunate, but necessary actions that will erode the public's access to our San Diego court system.

Sincerely,



MICHAEL M. RODDY
Executive Officer

Attachments

c: Hon. Robert J. Trentacosta, Presiding Judge
Hon. David J. Daniels, Assistant Presiding Judge

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

PUBLIC NOTICE

(Pursuant to Government Code section 68106 & California Rule of Court 10.620)

PROBATE COURT CONSOLIDATION

Pursuant to Government Code §68106 and California Rules of Court, rule 10.620, the Superior Court of California, County of San Diego, is providing 60 days' notice of the decision to close the North County Probate Courtroom and consolidate Probate Services in its North County Division with its Central Division Services.

Effective September 3, 2012, all Probate Court operations located at 325 Melrose Avenue, Vista, CA 92081 will be consolidated with and relocated to the Central Division Probate Court located at 1409 Fourth Avenue, San Diego CA 92101. This action is being taken due to unprecedented and ongoing state budget cuts enacted in Fiscal Years 2012/13 and 2013/14. These cuts are in addition to reductions incurred during the preceding four fiscal years. As a result, the Court is facing the most significant reduction of services in its history.

Pursuant to Government Code section §68511.7, the Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "*Invitation to Comment*").

For those without easy internet access, comments may be mailed to:

Superior Court of California, County of San Diego
Attn: Michael Roddy, Court Executive Officer
220 West Broadway, Executive Office
San Diego, CA 92101

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

PUBLIC NOTICE

(Pursuant to Government Code section 68106 & California Rule of Court 10.620)

**CLOSURE OF NORTH COUNTY JUVENILE
DEPENDENCY COURTROOM**

Pursuant to Government Code §68106 and California Rules of Court, rule 10.620, the Superior Court of California, County of San Diego, is providing 60 days' notice of the decision to close one of its North County Juvenile Dependency courtrooms.

Effective September 3, 2012, one of the Juvenile Dependency courtrooms located at 325 South Melrose Drive, Vista, CA 92081 will be closed. This action is being taken due to unprecedented and ongoing state budget cuts enacted in Fiscal Years 2012/13 and 2013/14. These cuts are in addition to reductions incurred during the preceding four fiscal years. As a result, the Court is facing the most significant reduction of services in its history.

Pursuant to Government Code section §68511.7, the Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "*Invitation to Comment*").

For those without easy internet access, comments may be mailed to:

Superior Court of California, County of San Diego
Attn: Michael Roddy, Court Executive Officer
220 West Broadway, Executive Office
San Diego, CA 92101

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

PUBLIC NOTICE

(Pursuant to Government Code section 68106 & California Rule of Court 10.620)

BUSINESS OFFICE CLOSURES

Pursuant to Government Code §68106 and California Rules of Court, rule 10.620, the Superior Court of California, County of San Diego, is providing 60 days' notice of the decision to close all of its business offices at noon every Friday.

Effective September 3, 2012, all clerks' business offices located at all San Diego Superior Court facilities will be closed to the public on Fridays starting at 12:00 noon. These partial closure days are not court holidays, so statutory deadlines will not be extended. However, drop boxes are currently provided outside clerical offices for filing papers or submitting payments, pursuant to California Rules of Court, rule 2.210. This action is being taken due to unprecedented and ongoing state budget cuts. The San Diego Court has estimated that it faces as much as a \$14 million cut in funding for FY 2012-2013, and predicts the total cuts for fiscal year 2013-2014 could rise to \$40 million or more. These cuts are in addition to reductions incurred during the preceding four fiscal years. As a result, the Court is facing the most significant reduction of services in its history.

Pursuant to Government Code section §68511.7, the Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "*Invitation to Comment*").

For those without easy internet access, comments may be mailed to:

Superior Court of California, County of San Diego
Attn: Michael Roddy, Court Executive Officer
220 West Broadway, Executive Office
San Diego, CA 92101

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

PUBLIC NOTICE

(Pursuant to Government Code section 68106 & California Rule of Court 10.620)

CLOSURE OF CENTRAL COURTROOMS

Pursuant to Government Code §68106 and California Rules of Court, rule 10.620, the Superior Court of California, County of San Diego, is providing 60 days' notice of the decision to close six criminal courtrooms and one civil courtroom in its Central Division.

Effective September 3, 2012, six criminal courtrooms located at 220 W. Broadway, San Diego, CA 92101 and one civil courtroom located at 330 W. Broadway, San Diego, CA 92101, will be closed. This action is being taken due to unprecedented and ongoing state budget cuts enacted in Fiscal Years 2012/13 and 2013/14. These cuts are in addition to reductions incurred during the preceding four fiscal years. As a result, the Court is facing the most significant reduction of services in its history.

Pursuant to Government Code section §68511.7, the Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "*Invitation to Comment*").

For those without easy internet access, comments may be mailed to:

Superior Court of California, County of San Diego
Attn: Michael Roddy, Court Executive Officer
220 West Broadway, Executive Office
San Diego, CA 92101

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

PUBLIC NOTICE

(Pursuant to Government Code section 68106 & California Rule of Court 10.620)

RAMONA COURT CLOSURE

Pursuant to Government Code §68106 and California Rules of Court, rule 10.620, the Superior Court of California, County of San Diego, is providing 60 days' notice of the decision to close the Ramona Courthouse.

Effective September 3, 2012, the Ramona court facility located at 1428 Montecito Road, Ramona CA, 92065 (including its courtroom and clerk's office) will close, and all case matters will be relocated to the East County Division Courthouse located at 250 East Main Street, El Cajon CA 92020. This action is being taken due to unprecedented and ongoing state budget cuts enacted in Fiscal Years 2012/13 and 2013/14. These cuts are in addition to reductions incurred during the preceding four fiscal years. As a result, the Court is facing the most significant reduction of services in its history.

Pursuant to Government Code section §68511.7, the Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "*Invitation to Comment*").

For those without easy internet access, comments may be mailed to:

Superior Court of California, County of San Diego
Attn: Michael Roddy, Court Executive Officer
220 West Broadway, Executive Office
San Diego, CA 92101

The Superior Court of California

COUNTY OF SAN DIEGO

EXECUTIVE OFFICE OF THE COURT

MICHAEL M. RODDY
Executive Officer and Clerk
Jury Commissioner

Post Office Box 122724
San Diego, California 92112-2724
(619) 450-5478

September 20, 2012

VIA E-MAIL AND MAIL

Ms. Debora Morrison
Senior Attorney, Office of the General Counsel
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Notification Pursuant to Government Code Section 68106

Dear Ms. Morrison:

Effective on the dates set out below, due to the severe and ongoing reductions imposed on the California judicial branch, the Superior Court of California, County of San Diego will implement the following changes and closure of courtrooms and court services:

- The one independent calendar civil courtroom in the South County Division, at 500 3d Avenue, Chula Vista, will be closed effective November 19, 2012. The judge assigned to this courtroom will be reassigned to other duties within the Superior Court. Civil Harassment/Elder Abuse matters will be the only civil matters heard in the South County Division. All existing South County cases other than Civil Harassment/Elder Abuse will be transferred to the Central Division.
- One of two independent calendar civil courtrooms in the East County Division will be closed effective November 19, 2012. The judge assigned to this courtroom will be reassigned to other duties within the Superior Court. Civil cases other than small claims will continue to be heard in the remaining independent calendar civil courtroom. Civil Harassment/Elder Abuse cases will also continue to be heard in the East County Division.
- The civil business office operations located at the East County Division and at the South County Division will be closed to the public effective at the end of business on December 28, 2012. To effectuate these changes, the following interim steps will be taken: Beginning November 5, 2012, the East County and South County Division business offices will no longer accept filings in *new* civil cases and petitions (including small claims), with the exception of Civil Harassment/Elder Abuse cases. Beginning on November 19, 2012, the East and South County business offices will no longer accept *any* civil filings, except those in Civil Harassment/Elder Abuse cases.

EX. B
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Debora Morrison
Notification Pursuant to Government Code Section 68106
September 20, 2012
Page 2 of 2

- Beginning December 14, 2012, small claims actions will no longer be heard at the East and South County Divisions; those actions will be heard at the Central Division Kearny Mesa branch, located at 8950 Clairemont Message Blvd., San Diego.

As you are well aware, since 2007-08, the funding for the California judicial branch has been reduced by \$653 million. In addition, the 2012-13 state budget contains additional branch reductions of \$544 million. The cumulative effect in San Diego since 2007-08 will be a reduction in our operating revenue of approximately 25%.

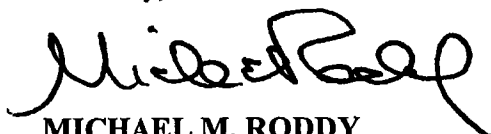
To address the cuts over the past four fiscal years, our court has implemented a number of reductions. We have previously reduced business operating hours in 2009, reduced staff through attrition and a voluntary separation program, reduced our operating expenses and technology expenses and implemented other wage and benefit reductions to limit the impact of our budget cuts on public access to our courts. However, with the latest round of cuts in the 2012-13 budget, we can no longer continue to operate without additional significant and permanent changes in our operations.

In addition to the changes already made and those referenced in this letter, our budget reduction plans include layoffs and furloughs of court staff, further cuts in operating and technology expenses, and the closure of additional courtrooms by the beginning of FY 2013-14 when we expect further reductions in our local court budget. We estimate that by the beginning of FY 2013-14 we will need to reduce our current operating budget by \$33 million. These very difficult decisions being enacted by the court will enable us to meet this target.

Pursuant to Government Code section 68106, the public may submit comments regarding these changes. We have attached the public notices that will be posted throughout our facilities and posted to our court website (www.sdcourt.ca.gov) to notify the public and court users of these proposed changes and the name and address where their comments can be directed.

We are available to answer any questions or concerns that you may have regarding these most unfortunate, but necessary actions that will erode the public's access to our San Diego court system.

Sincerely,


MICHAEL M. RODDY
Executive Officer

Attachments

c: Hon. Robert J. Trentacosta, Presiding Judge
Hon. David J. Daniels, Assistant Presiding Judge

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

PUBLIC NOTICE

(Pursuant to Government Code section 68106 & California Rule of Court 10.620)

**CLOSURE OF SOUTH AND EAST COURTROOMS
AND CIVIL BUSINESS OFFICES**

Pursuant to Government Code §68106 and California Rules of Court, rule 10.620, the Superior Court of California, County of San Diego, is providing 60 days' notice of the decision to close one independent calendar civil courtroom in its South County Division and one independent civil calendar courtroom in its East County Division, and to consolidate civil business office operations of its South and East County Divisions with those in its Central Division.

Effective November 19, 2012, the one independent calendar civil courtroom located at the South County Division, 500 3rd Avenue, Chula Vista, will be closed, one of the independent calendar civil courtrooms located in the East County Division, 250 East Main Street, El Cajon, will be closed, and the civil business offices in the East and South County Divisions will no longer accept any civil filings (including small claims), except those in Civil Harassment/Elder Abuse cases. To prepare for this, as of November 5, 2012, the East and South County Division civil business offices will not accept filings in *new* civil cases and petitions (including small claims), with the exception of Civil Harassment/Elder Abuse cases. Small claims cases will not be heard in the East and South County Divisions after December 13, 2012. The civil business offices of the East and South County Divisions will close to the public at the end of business on December 28, 2012.

This action is being taken due to unprecedented and ongoing state budget cuts. The San Diego Court has estimated that it faces a \$33 million cut in funding for FY 2012-2013, which will continue into fiscal year 2013-2014. These cuts are in addition to reductions incurred during the preceding four fiscal years. As a result, the Court is facing the most significant reduction of services in its history.

Pursuant to Government Code section §68511.7, the Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "*Invitation to Comment*").

For those without easy internet access, comments may be mailed to:

Superior Court of California, County of San Diego
Attn: Michael Roddy, Court Executive Officer
220 West Broadway, Executive Office
San Diego, CA 92101



Chambers of
DAVID J. DANIELSEN
Presiding Judge

The Superior Court
OF THE
State of California
SAN DIEGO

Mailing Address
Post Office Box 122724
San Diego, California 92112-2724

October 21, 2014

Martin Hoshino
Administrative Director
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Subject: Notice of Intent of Closure of Business Offices / Transfer of Operations

Dear Mr. Hoshino:

Due to the severe and ongoing reductions imposed on the California judicial branch, the Superior Court of California, County of San Diego will be consolidating its appellate operations by closing the appellate desk/operations of its business offices in its North, South and East County Divisions for certain case filings. All Civil appeals, all Family appeals, and all East and South County Division Criminal appeals (excluding North County Criminal Appeals) will be transferred to the Central Division; all filings in these cases will need to be filed at the Central Division. "Criminal" is defined as traffic/infractions, misdemeanors, and felonies. This change is being made effective January 5, 2015.

Further, Small Claims operations at the Central Division Kearny Mesa Courthouse will be transferred to the Civil Business Office in the Hall of Justice. Effective December 22, 2014, the Small Claims business office at the Kearny Mesa Courthouse will be closed and all Small Claims filings, including filings for Small Claims appeals, will need to be filed at the Central Division Civil Business Office in the Hall of Justice. All Small Claims hearings/trials will be transferred to the Central Courthouse beginning January 5, 2015.

The San Diego Superior Court budget has been reduced by \$42 million since 2007-08. We are projecting another \$6 million gap between revenues and expenses

EX. C
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in FY 2014-15 and another \$3 million reduction in FY 2015-16 due to the impact of implementation of the Workload Allocation Funding Model (WAFM) and the failure of the State to fund local retirement and health benefits costs. To address these cuts, we have previously reduced business operating hours, reduced staff through attrition and a voluntary separation program, reduced our operating and technology expenses and implemented other wage and benefit reductions to limit the impact of our budget cuts on public access to our courts. However, with the latest round of cuts in the 2014-15 budget, we can no longer continue to operate without additional significant and permanent changes in our operations.

Pursuant to Government Code § 68106, this Court has solicited public comment in writing regarding this plan via the attached notice. A copy of this notice will be posted throughout our facilities and on our court website (www.sdcourt.ca.gov), at least 60 days prior to the effective date of each change

We are available to answer any questions or concerns you may have regarding these most unfortunate, but necessary actions that will erode the public's access to our San Diego court system.

Sincerely,


DAVID I. DANIELSEN
Presiding Judge


MICHAEL RODDY
Executive Officer



Superior Court of California County of San Diego

CENTRAL COURTHOUSE
220 WEST BROADWAY
PO BOX 122724
SAN DIEGO CA 92112-2724

October 21, 2014

PUBLIC NOTICE CLOSURE OF BUSINESS OFFICES/ TRANSFER OF OPERATIONS

Pursuant to Government Code § 68106 and Rule 10.620 of the California Rules of Court, the Superior Court of California, County of San Diego, is providing 60 days' notice that it will be: (1) consolidating its appellate filings by closing the appellate desk/operations of its business offices in its North, South and East County Divisions for certain case filings and transferring them to the Central Division; and (2) closing its Small Claims business office in the Kearny Mesa Courthouse and transferring all Small Claims operations and hearings/trials from the Kearny Mesa Courthouse to the Hall of Justice and Central Courthouse.

Effective December 22, 2014, the Small Claims business office at the Kearny Mesa Courthouse will be closed and that courthouse will no longer accept any Small Claims filings, including filings for Small Claims appeals; such filings must be made in the Civil Business Office at the Hall of Justice, 330 West Broadway, Room 241, San Diego, CA 92101. Effective January 5, 2015, all Small Claims hearings/trials will be transferred from the Kearny Mesa Courthouse and will take place in Department 22 of the Central Courthouse. No changes are being made to filings and hearings in the North County Division.

Effective January 5, 2015: all Civil appeals, all Family appeals, and all East and South County Division Criminal appeals (excluding North County Criminal appeals) will be transferred to the Central Division, and all filings related to such appeals shall be made in the Central Division, at 220 West Broadway, Room 3005, San Diego, CA 92101. "Criminal" is defined as traffic/infractions, misdemeanors, and felonies. No changes are being made to Juvenile appeals filings.

This Court finds the above actions are necessary due to the severe and ongoing cuts to the state judicial branch budget. Since 2009, state funding for the judicial branch has been significantly reduced, with those reductions impacting the budgets of individual superior courts. The Court estimates that it faces a \$9 million cut in funding for FY 2014-2015 and FY 2015-2016. These



**Superior Court of California
County of San Diego**

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**PUBLIC NOTICE
CLOSURE OF BUSINESS OFFICES/
TRANSFER OF OPERATIONS**

cuts are in addition to some \$42 million in reductions incurred during the preceding five fiscal years. As a result, the Court must further reduce the services it provides to bring expenditures in line with funding.

The Court is inviting public comment on this change prior to implementation. To ensure prompt review and consideration, comments should be submitted electronically through the Court's website at www.sdcourt.ca.gov (click on "Invitation to Comment"). For those without easy internet access, comments may be mailed to: Superior Court of California, County of San Diego, 220 W. Broadway, Executive Office, San Diego, CA 92101, attention Michael Roddy, Court Executive Officer.


MICHAEL M. RODDY
Executive Officer

Distributed for Publication

CALIFORNIA COURTS

THE JUDICIAL BRANCH OF CALIFORNIA

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GOVERNOR'S PROPOSED BUDGET
SUMMARIES:
Judicial Branch
State of California

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Chief Justice Releases Statement on Proposed Budget

FOR RELEASE
Contact: Peter Allen, 415-865-7740
January 7, 2016

Chief Justice Releases Statement on Proposed Budget



Chief Justice Tani G. Cantil-Sakauye and equitable for court users. The Judicial Council looks forward to working with the Administration and Legislature as we seek to address state budget issues affecting access to justice for the people of California."

SAN FRANCISCO—California Chief Justice Tani G. Cantil-Sakauye issued the following statement in response to the Governor's proposed 2016--2017 budget:

"We welcome the Governor's proposed budget for the judicial branch as it would provide \$146.3 million in crucial new funding for our courts. Much of the new funding would be focused on innovations to benefit court users at all levels of our court system. The proposed budget reflects a steady but cautious new investment in the judicial branch since fiscal year 2012-2013. The budget contains proposals to support efforts by the Judicial Council to improve court operations and increase access."

"In addition to supporting local as well as branchwide innovations, the Governor's budget would provide funding for statewide infrastructure needs, language access expansion in civil proceedings, and funding to assist trial courts facing increased workload related to sentencing reforms.

"The Governor's proposed budget would help make courts more accessible, efficient, and equitable for court users. The Judicial Council looks forward to working with the Administration and Legislature as we seek to address state budget issues affecting access to justice for the people of California."

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EX. D
15

JUDICIAL BRANCH

The Judicial Branch consists of the Supreme Court, courts of appeal, trial courts, and the Judicial Council. The trial courts are funded with a combination of funding from the General Fund, county maintenance-of-effort requirements, fines, fees, and other charges. Other levels of the Judicial Branch receive most of their funding from the General Fund. The Budget includes total funding of \$3.8 billion (\$1.8 billion General Fund and \$2 billion other funds) in 2016-17 for the Judicial Branch, of which \$2.8 billion is provided to support trial court operations. The Judicial Council is responsible for managing the resources of the Judicial Branch.

In 1998, California voters passed a constitutional amendment that provided for voluntary unification of the superior and municipal courts in each county into a single, countywide trial court system. By 2001, all 58 counties had voted to unify their municipal and superior court operations. This was the culmination of over a decade of preparation and work to improve court coordination and uniform access to justice. The Trial Court Funding Act of 1997 consolidated the costs of operating California's trial courts at the state level. The Act was based on the premise that state funding of court operations was necessary to provide more uniform standards and procedures, economies of scale, structural efficiency and access for the public. The Act created a state-funded trial court system and capped county contributions, having the state assume responsibility for growth in the costs of court operations. Prior to state funding, many small courts were in financial crisis and needed emergency state funding to keep their doors open.

JUDICIAL BRANCH

The Budget contains the following proposals to support efforts by the Judicial Council to improve court operations and increase access.

IMPROVING CALIFORNIA'S COURT SYSTEM

In planning for future court demands, the Chief Justice has created the Commission on the Future of California's Court System. The Commission expects to release initial recommendations in the summer of 2016 on initiatives to effectively and efficiently enhance access to justice. The Administration is committed to working with the Judiciary on improving access and modernizing court operations through innovative approaches.

To this end, the Administration is proposing to work with the Judicial Council to reallocate up to five vacant superior court judgeships and the staffing and security complements needed to support and implement the proposal. This will shift judgeships where the workload is highest without needing to increase the overall number of judges. The Administration also proposes to reduce the current allowable number of 10 peremptory challenges per side in misdemeanor trials to 6 challenges per side. Six challenges per side is the current average, and additional challenges unnecessarily add delays to proceedings.

The Administration is working collaboratively with the Judicial Council to develop and administer a competitive grant program to encourage courts to develop new ways of doing business. The projects funded by the grants must have measurable results or benefits that have a demonstrated impact on the court and the public it serves. The Budget includes \$30 million General Fund on a one-time basis to fund these grants.

Many courts have demonstrated the capacity to adapt and innovate, resulting in programs and practices that save money and better serve the public. Successful examples of these improvements include: Fresno Superior Court's remote video proceedings for traffic violations, Imperial Superior Court's Binational Justice Project, Contra Costa Superior Court's efforts related to online probable cause determinations, and San Bernardino Superior Court's automated payment processing. Additional innovative programs could include a self-scheduling system for traffic courts, the use of kiosks for traffic court proceedings, and the development of electronic recordings in family courts.

2016-17 BUDGET

During the recession, General Fund support for the Judicial Branch was reduced like every area of state government; however, the state mitigated the impact of the reductions on the Judicial Branch through increased user fees, the redirection of various

special funds, and the expenditure of trial court reserves. During the fiscal crisis, some trial courts were forced to reduce service hours, furlough and lay off employees, and close courtrooms, while other courts were able to fully maintain operations and even provide salary increases. The disparity in how trial courts handled the reductions highlighted the need for a comprehensive evaluation of the state's progress in achieving the goals outlined in the Trial Court Funding Act of 1997. A working group composed of Administration and Judicial Branch appointees made recommendations to better allocate existing resources. The Chief Justice and the Judicial Council, through a modification of the Workload Allocation Funding Model, have taken significant steps to promote equal access to justice by allocating funding more equitably to the trial courts.

As shown in Figure JUD-01, after making various budget adjustments, trial court funding is proposed to be 10.5 percent above 2007-08 in 2016-17.

Figure JUD-01
Judicial Branch Expenditures
(Dollars in Thousands)

Judicial Branch Expenditures by Program	2007-08 Actual	2015-16 Estimated	2016-17 Governor's Budget
Supreme Court	44,397	46,519	46,438
Courts of Appeal	200,706	219,274	224,784
Judicial Council	130,396	134,203	133,173
Habeas Corpus Resource Center	12,553	14,525	15,015
Facility Program	(49,965)	(369,788)	(409,904)
Staff and OE&E ¹	22,634	35,196	42,825
Trial Court Facility Expenses	27,331	334,592	367,079
Trial Courts	3,288,873	2,674,738	2,804,693
Total	\$3,726,890	\$3,459,047	\$3,634,007
Adjustments to Trial Courts	\$3,288,873	\$2,674,738	\$2,804,693
Trial Court Facility Expenses	\$27,331	\$334,592	\$367,079
Sub-total, Trial Courts	\$3,316,204	\$3,009,330	\$3,171,772
Trial Court Security Costs ²	-444,901		
Adjusted Total, Trial Courts	\$2,871,303	\$3,009,330	\$3,171,772

¹ Increase in Facility Program due to new construction and facility management projects.

² For comparison purposes, court security costs for 2007-08 are removed from trial court expenditure totals due to the realignment of court security costs beginning in 2011-12.

JUDICIAL BRANCH

Significant Adjustments:

- Trial Court Employee Costs—The Budget includes \$15.6 million General Fund for trial court employee benefit costs, of which \$7.4 million reflects funding for trial courts that have made progress towards meeting the Public Employees' Pension Reform Act of 2013 standard for employees sharing the cost of pension funding. Recognizing that many of these costs are beyond the control of the trial courts, the Administration will continue to fund future increases related to existing health benefits and retirement costs for trial court employees and retirees.
- Trial Court Trust Fund Revenues—The Budget includes a total of \$75 million General Fund to backfill a continued reduction of fines and penalty revenues expected in 2016-17. This reflects an increase of \$8.8 million compared to the amount needed in 2015-16.
- Proposition 47—Following the passage of Proposition 47 in November 2014, the trial courts have experienced increased workload due to the requirement that courts reclassify and resentence certain drug and property crimes that involve less than \$950 from felonies to misdemeanors. The Budget includes \$21.4 million General Fund to reflect the projected resentencing hearings in 2016-17. By the end of 2016-17, the Administration expects that the courts' workload associated with Proposition 47 will be significantly reduced or eliminated.
- Court Innovations Grant Program—The Budget includes an increase of \$30 million General Fund on a one-time basis for a grant program that promotes improvement, efficiencies, and access to justice in the courts.
- Language Access—Given California's diversity, the court system is faced with significant linguistic challenges. The Judicial Council's current annual budget allocation for interpreter services is \$94.5 million. To improve language access for limited English proficient court users, the Budget includes an additional \$7 million General Fund to provide court interpreter services in civil proceedings.
- Trial Court Funding—An augmentation of \$20 million General Fund for discretionary trial court operations.
- Fund Shift for Financial System—The Budget includes \$8.7 million General Fund to fund the Phoenix Financial System, operated by Judicial Council staff, that provides the state with consistent financial information of trial court expenditures. It was previously funded from the State Trial Court Improvement and Modernization Fund (IMF). The IMF is intended to pay for innovative approaches to technology to support

JUDICIAL BRANCH

the trial courts. This fund shift is part of a multi-pronged approach to help with the solvency of the IMF and preserve critical programs.

- **State-Level Reserve**—Currently, 2 percent of annual trial court allocations are held back until each spring, in case a court needs an emergency allocation. Any unused funds are allocated to all trial courts late in the year. The Budget proposes a new reserve policy for trial courts that avoids late allocations by providing \$10 million General Fund one-time as a reserve in the Trial Court Trust Fund. If any funds from the reserve are used, they would be replenished annually out of base allocations to the trial courts.
- **Deferred Maintenance**—The Budget proposes \$60 million one-time General Fund for deferred maintenance in the courts as prioritized by the Judicial Council. (For more information about deferred maintenance please see the Statewide Issues Chapter.)

PROOF OF SERVICE - 1013a, 2015.5 C.C.P.

STATE OF CALIFORNIA

]

COUNTY OF LOS ANGELES

] ss.

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I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 865 South Figueroa Street, 32nd Floor, Los Angeles, California 90017-5431.

On May 11, 2016, I served the foregoing document described as **MOTION REQUESTING JUDICIAL NOTICE** on the interested parties in *Jameson v. Desta*, California Supreme Court case no. S230899, by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

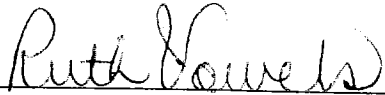
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Department 66
330 West Broadway
San Diego, California 92101

Clerk
California Court of Appeal
Fourth Appellate Dist., Div. One
750 B Street, Suite 300
San Diego, CA 92101

I caused such envelope to be served via **overnight mail**.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 11, 2016, at Los Angeles, California.



Ruth Vowels