

**Written Comments Received for
May 17, 2012, Judicial Council Meeting**

Name and Title	Affiliation	Topic	Date of Receipt	Page Nos.
1. Mr. Michael A. Tozzi, Court Executive Officer	Superior Court of California, County of Stanislaus	Court reserves and fund balances	5/16/12	2-3
2. Mr. Lloyd W. Pellman, attorney at law	Nossaman LLP	Judicial branch budget	5/16/12	4-7
3. Ms. Elizabeth Woods	Vallejo	Judicial branch budget cuts	5/16/12	8-9
4. Mr. David Farrar, attorney at law	Los Angeles	Item G, Next Steps for the Judicial Council	5/16/12	10-11



SUPERIOR COURT OF CALIFORNIA COUNTY OF STANISLAUS

Michael A. Tozzi
*Executive Officer
Jury Commissioner*

Rebecca J. Fleming
Asst. Executive Officer

800 - 11th Street
Modesto, California 95354
Telephone (209) 530-3111
Fax (209) 576-6350
www.stanct.org

May 16, 2012

STATEMENT OF MICHAEL A. TOZZI ON BEHALF OF THE SUPERIOR COURT OF STANISLAUS COUNTY TO CHIEF JUSTICE CANTIL-SAKAUYE AND MEMBERS OF THE JUDICIAL COUNCIL:

Good morning Chief Justice Cantil-Sakauye and Members of the Judicial Council. My name is Mike Tozzi. I am the Executive Officer for the Superior Court of Stanislaus County. With me today is our Presiding Judge Ricardo Cordova and Assistant Executive Officer Rebecca Fleming.

I have been with the Judicial Branch since 1974. I was hired by Dr. Ralph Kleps right out of Dorothy Nelson's Judicial Administration program at USC. I strongly believe in the separation of powers, and the inherent power of the courts to conduct and control their business. My comments today regarding court reserves or fund balances assume no legislative intervention in the disposition of court reserves.

The Superior Court of Stanislaus was one of the original 17 courts designated as "historically underfunded." The original Resource Allocation Study ("RAS") was beneficial to our court for a time. Even with RAS, we have always been lean in allocating court resources. For example, we have four judicial secretaries, and three research attorneys, pooled for 24 judicial positions. The RAS, with some modifications, could very well be part of the solution for the trial courts in this difficult time.

In FY 2010-2011, our court heard a warning from AOC staff made at a Northern Regional meeting that budget offsets from the AOC would dry up by FY 2012-2013. Following that meeting, we made a paradigm shift in our approach to the budget, going from a "let's survive year to year" mentality to a "we'd better plan now for later" mentality. Thus, we began planning several years ago for the budget crisis that is now upon us.

We took the following steps. We (1) consolidated functions, (2) increased our employee vacancy rate, (3) reduced vendor contracts, (4) re-engineered processes, (5) reduced public access hours, including phone access, (6) automated more clerical processes, (7) implemented a Volunteer Retirement Incentive Program, (8) implemented an enhanced collections program, (9) reduced expenditures, including but not limited to, reduced employee benefits, (10) negotiated no COLA's since 2008, (11) closed branch court operations in Turlock and Ceres, and (12) gave layoff notices to 12 valuable employees, effective in March 2012.

All of that and more allowed us to build a reserve, or a fund balance, which we had plan to use to meet the known and on-going budget reductions scheduled for FY 2012-2013.

In July 2012, our fund balance or budget reserve will be depleted by 50%. The depletion will be the result of using the above-mentioned fund balance to meet the known budget reductions, in our case approximately \$3.5 million. The remaining 50% is a designated reserve to meet contractual and/or statutory obligations. We also have the emergency reserve fund which will be used if the budget trigger is pulled.

We believe that our planning, and our current reserves, would allow us to meet the proposed budget reductions without significant further reductions to our operations, our employees, or the services we provide our public. However, if our fund balance and our emergency reserves are swept, then all of our good planning and our proper administrative work will be for naught. What is worse is that all we have left to cut is people. It tears us up emotionally to consider the horrendous and devastating impact that further staff reductions would have on employees' lives, and on the level of services we provide to the public on a daily basis.

If the Legislature allows this constitutional body to determine how the budget reductions will be implemented, please consider the efforts we made as a court to manage our resources properly. To that end, our suggestion is to utilize the AOC reserves to assist all of the trial courts to meet the newly announced \$300 million budget reduction scheduled for FY 2012-2013, and, to allow those courts with fund balances to utilize them in order to meet the on-going budget reductions also scheduled for FY 2012-2013. Please don't penalize the courts that managed and planned for FY 2012-2013.

Thank you.

Attention: Nancy Carlisle

This is to transmit my attached letter addressing the Judicial Council Budget and a proposal for temporary partial relief.

I would appreciate your proving copies to all the members of the Judicial Council for their consideration.

Thank you in advance for your assistance in this matter.

Bill

Lloyd W. Pellman

Attorney at Law

NOSSAMAN LLP

777 South Figueroa Street, 34th Floor

Los Angeles, CA 90017

lpellman@nossaman.com

T 213.612.7800 F 213.612.7801

D 213.612.7802 M 213.435.9839

Please note our new address.



PLEASE NOTE: The information in this e-mail message is confidential. It may also be attorney-client privileged and/or protected from disclosure as attorney work product. If you have received this e-mail message in error or are not the intended recipient, you may not use, copy, nor disclose to anyone this message or any information contained in it. Please notify the sender by reply e-mail and delete the message. Thank you.



ATTORNEYS AT LAW

777 S. Figueroa Street
34th Floor
Los Angeles, CA 90017
T 213.612.7800
F 213.612.7801

Lloyd W. Pellman
D 213.612.7802
lpellman@nossaman.com

Refer To File #: 111111-2222

May 16, 2012

Honorable Tani G. Cantil-Sakauye
Chief Justice
California Supreme Court
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

ATTENTION: Nancy Carlisle

Re: Judicial Branch Budget

Dear Honorable Chief Justice and Honorable Members of the Judicial Council:

As the former Los Angeles County Counsel (1998-2004) and still a practicing attorney, I maintain contacts with the County Counsels throughout the State as well as various judges and bar groups. Collectively, I see a continuing and growing concern regarding the ability of the court system in general and the trial courts in particular to provide access to justice throughout our State.

If the current trend continues, this State is headed for a two tier system of justice. Only those whose attorneys can afford to underwrite the costs of court reporters and increased filing fees or who can afford to pay such expenses themselves will be able to proceed with litigation with a record for appeal. I don't want to see that happen in my personal or professional lifetime.

I believe that current statutes provide at least a partial solution on at least a temporary basis if you, the Judicial Council, are willing to exercise your discretion in a manner that will implement it.

I urge you to consider taking such action as may be necessary to implement Government Code section 77205 to allocate to the trial court which collects currently uncollected debt owed to the courts the full statutorily permitted 40% of the fund in excess of the maintenance of effort allocation.

I urge you to establish a pilot project to forego for a period of time (such as five years) the redistribution of the funds to other trial courts or for retention in the Trial Court Improvement Fund. In the last annual report on uncollected debt owed to the various Superior Courts, the sum exceeds \$7.5 billion and has continued to grow every year since the annual reports were first required by statute. The report can be found at this link:

<http://www.courts.ca.gov/documents/Collections-Report-to-Legislature-FY2010-2011.pdf>

I am working with another attorney, David Farrar, in his quest to turn around this annually escalating unpaid debt. Unfortunately, I have a conflict in my schedule which prevents me from attending your meeting, but I have asked Mr. Farrar to provide copies of this letter for your consideration.

I have found that there is generally a fairly low level of interest in utilizing enhanced means to pursue these debts despite the availability of resources which are available on strictly a contingent basis. The apparent reason for this widely encountered view is that the funds are being allocated to the Trial Court Improvement Fund, thereby not providing a return to the local court in recognition of its efforts. It appears that this may be addressed by the Judicial Council exercising its discretion in directing the funds to the local trial court

Accordingly, I urge you to take such steps as necessary to commit to permit the courts of each County to receive the allocation as currently permitted by statute.

Very truly yours,



Lloyd W. Pellman
of Nossaman LLP

LWP/

77205. (a) Notwithstanding any other provision of law, in any year in which a county collects fee, fine, and forfeiture revenue for deposit into the county general fund pursuant to Sections 1463.001 and 1464 of the Penal Code, Sections 42007, 42007.1, and 42008 of the Vehicle Code, and Sections 27361 and 76000 of, and subdivision (f) of Section 29550 of, the Government Code that would have been deposited into the General Fund pursuant to these sections as they read on December 31, 1997, and pursuant to Section 1463.07 of the Penal Code, and that exceeds the amount specified in paragraph (2) of subdivision (b) of Section 77201 for the 1997-98 fiscal year, and paragraph (2) of subdivision (b) of Section 77201.1 for the 1998-99 fiscal year, and thereafter, the excess amount shall be divided between the county or city and county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess deposited into the county general fund. The Judicial Council shall allocate 80 percent of the amount deposited in the Trial Court Improvement Fund pursuant to this subdivision each fiscal year that exceeds the amount deposited in the 2002-03 fiscal year among:

(1) The trial court in the county from which the revenue was deposited.

(2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.

(3) For retention in the Trial Court Improvement Fund.

For the purpose of this subdivision, fee, fine, and forfeiture revenue shall only include revenue that would otherwise have been deposited in the General Fund prior to January 1, 1998.

(b) Any amounts required to be distributed to the state pursuant to subdivision (a) shall be remitted to the Controller no later than 45 days after the end of the fiscal year in which those fees, fines, and forfeitures were collected. This remittance shall be accompanied by a remittance advice identifying the quarter of collection and stating that the amount should be deposited in the Trial Court Improvement Fund.

(c) Notwithstanding subdivision (a), the following counties whose base-year remittance requirement was reduced pursuant to subdivision (c) of Section 77201.1 shall not be required to split their annual fee, fine, and forfeiture revenues as provided in this section until such revenues exceed the following amounts:

County	Amount
Placer	\$ 1,554,677
Riverside	11,028,078
San Joaquin	3,694,810
San Mateo	5,304,995
Ventura	4,637,294

Re Agenda Items B-G

Greetings,

Respectfully, I would like to see the Judicial Council bring to the attention of the public the following (the “last three budgets,” as used here, indicate 2010-2011, 2011-2012, and the proposed 2012-2013 budgets):

- 1) The Judicial branch of government has suffered budget cuts in the last three budgets;
- 2) The Legislative branch of government has suffered NO budget cuts in the last three budgets; in fact, the salaries and per diem of the legislators has *increased*;
- 3) The Executive branch of government not only has suffered NO budget cuts in the last three budgets, but has seen an increase in funding;
<http://www.ebudget.ca.gov/pdf/GovernorsBudget/0010.pdf>
- 4) At least 14 Superior Courts have instituted furloughs as a result of the last two budget cuts;
- 5) Further funding reductions will result in shorter public court hours, more difficulty contacting court employees, longer lines for filings, and slower progress of cases;
- 6) The litigation of some types of cases may have to be suspended altogether;
- 7) The Governor’s proposed budget continues to fund programs that are NOT constitutionally required, while cutting funding to an “equal” branch of government.

I know you are aware of the following, but the *public* needs to be aware that the Judicial branch is the part of government that they are mostly likely to encounter in their daily lives, yet it is the only branch of government having its budget cut. The ability of the courts to serve the public has already been diminished by the last two budget cuts and we are looking at further impediments to service with the proposed 2012-2013 budget.

The U.S. and California Constitutions require that the criminal divisions of the courts accomplish “speedy trials,” otherwise the public will see suspects released without trial due to the inability of the courts to timely try the matters. In 2005 Riverside County, one of the most heavily populated counties in the state, suspended most of its civil cases due to a backlog in criminal cases. While that backlog was due primarily to a shortage of judicial officers, the result of further budget cuts could be the same in some counties. As staff dwindles and court hours are cut, the backlogs will grow bigger. The first priority will have to be the criminal matters, leaving civil litigants without access to justice.

The Governor’s proposed budget continues to fund programs that are NOT constitutionally required, while cutting funding to an “equal” branch of government. (The Governor’s focus on schools and safety as the target of budget cuts also can and should be replaced by reduction, merging or elimination of non-constitutional agencies, but I won’t discuss that here). Examples (in order of their appearance in the proposed budget and state of their funding):

- CA Technology Agency (increase in each of last three budgets)
- Governor's Office of Business and Economic Development (newly created agency)
- Secretary for State and Consumer Services (reduction in each of last three budgets)
- Secretary for Business, Transportation and Housing (dramatic reduction in each of last three budgets)
- Secretary for CA Health and Human Services Agency (increase in each of last three budgets. As an aside, although many consider HHS services to be imperative, they are not *constitutional* requirements.)
- Secretary of the Natural Resources Agency (overall increase but with dramatic fluctuation)
- Office of the Inspector General (reduction in each of last three budgets)
- Secretary for Environmental Protection (reduction in each of last three budgets)
- Secretary for Labor and Workforce Development Agency (reduction in each of last three budgets)
- Office of Planning and Research (dramatic reduction in each of last three budgets)
- CA Emergency Management Agency (reduction in each of last three budgets)
- Department of Insurance (increase in each of last three budgets)
- CA Gambling Control Commission (fluctuations in the last three budgets)
- Scholarship Investment Board (fluctuations in the last three budgets)
- CA Debt and Investment Advisory Commission (increase in each of last three budgets)
- CA Debt Limit Allocation Committee (increase in each of last three budgets)
- CA Industrial Development Financing Advisory Commission (dramatic overall increase in the last three budgets)
- CA Alternative Energy and Advanced Transportation Financing Authority (dramatic increase in each of last three budgets)
- CA Pollution Control Financing Authority (fluctuations in the last three budgets)
- CA Health Facilities Financing Authority (dramatic fluctuations in the last three budgets with overall increase)
- CA School Finance Authority (increase in each of last three budgets)
- CA Educational Facilities Authority (fluctuations in the last three budgets)

Other Constitutionally required agencies:

- Office of the Lieutenant Governor (increase in each of last three budgets)
- Department of Justice (increase in each of last three budgets)
- State Controller (increase in each of last three budgets)
- State Board of Equalization (increase in each of last three budgets)
- Secretary of State (fluctuations in the last three budgets)
- State Treasurer (increase in each of last three budgets)

Elizabeth Woods, Vallejo

ATTENTION: Ms Nancy Carlisle
Please distribute the following to Judicial Council members at or before the meeting.
Thank you. David Farrar

Written Comments relating to:
Item G: Next Steps for the Judicial Council
THURSDAY, MAY 17, 2012

***A Modest Proposal for Immediate Action by the
Judicial Council to Help with Local Trial Court Funding.***

My name is David Farrar. I am an attorney from Los Angeles and I have been a member of the California State Bar since 1973. Thank you for allowing me to share recommendations about action the Judicial Council could take immediately which might help with local trial court funding.

The Govenors' budget proposes cutting several million dollars from the Courts and the legislature will have to decide whether to accept or reject the Governor's proposal. Arguing against the legislature giving more money to the Courts is the fact, as reported in the Judicial Council's December 2011 report to the legislature that court-ordered debt which remains uncollected by local trial courts currently exceeds \$ 7.7 Billion. Allow me to repeat that:
Uncollected court-ordered debt currently exceeds \$ 7.7 Billion.

One of my clients is in the business of collecting receivables exclusively for governmental entities. The client provides this service on strictly a contingency basis, providing all necessary personnel, equipment and software so there is no additional cost to the governmental agency. That client currently collects court-ordered debt on behalf of local trial courts throughout the United States. Government clients in California currently include the County of Los Angeles, and the City and County of San Francisco.

However, my client does not currently collect court ordered debt for any local trail courts in California because, whenever they try to market their services to local trail courts, they always encounter the same response:

"Why should we care? Whatever additional revenue we collect just goes to the Judicial Council's Trial Court Improvement Fund."

The local trial courts are correct. Government Code Section 77205.(a) provides:

"Notwithstanding any other provision of law, in any year in which a county collects fee, fine, and forfeiture revenue that exceeds the [the statutory maintenance of efforts requirements]... the excess amount shall be divided between the ... county and the state, with 50 percent of the excess transferred to the state for deposit in the Trial Court Improvement Fund and 50 percent of the excess deposited into the county general fund."

However, the same section goes on to provide:

"The Judicial Council shall allocate 80 percent of the amount deposited in the Trial Court Improvement Fund pursuant to this subdivision each fiscal year that exceeds the amount deposited in the 2002-03 fiscal year among:

(1) The trial court in the county from which the revenue was deposited.

(2) Other trial courts, as provided in paragraph (1) of subdivision (a) of Section 68085.

(3) For retention in the Trial Court Improvement Fund.

What this means is that the Judicial Council could issue a simple directive to the AOC and the local trial courts, which would result in 40% of additional revenue collected by the local trial courts (80% of 50%) being retained by the local trial courts which make extra efforts to collect this additional revenue.

Accordingly, my recommendation is that the Judicial Council immediately take whatever action is necessary to mandate this change.