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From: Richard D. Ackerman, Esq./Laura J. Wilson, paralegal

Date: April 18, 2007

Subject: Judicial Crisis in Riverside Superior Court

Pages: 5 (Including Cover)

Urgent Reply ASAP Please Comment For Your Records

Comments: Letter dated April 18, 2007.

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April 19, 2007

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RE : Judicial Crisis in Riverside Superior Court

Dear Senator Hollingsworth:

This letter serves as a follow up to my conversation with Tom Rogers earlier today, wherein we discussed in detail the various issues that are facing our local judicial system. As I indicated on the phone, the issues that we face are as follows:

- ◆ Our judges are carrying case loads that are as much as two or three times what would be expected of judges in similar counties with similar populations and growth rates. While one might say that this is simply a byproduct of Riverside County's previous growth, the reality is that other courts are not suffering in equal proportion under any reasonable analysis.
- ◆ The excessive caseloads are resulting in delayed justice in the civil arena. In some instances, a trial date will not be set for as much as 18 months, or more, after the initial trial setting date (normally following referral to arbitration or at a case management conference). In fact, our office has a probate case before the Indio Court that has been languishing in the court for nearly 7 years even after multiple requests to get the matter resolved within a year or so. The irony in much of this is that the case

management conference and immediate trial-setting procedures that are supposed to be in place were the direct and intended result of the State of California's imposition of the "Civil Fast Track" rules which fundamentally made things more efficient and place pressure on attorneys to resolve cases sooner (by being threatened with an imminent trial date). With no impending trial date, there is no incentive to truly work on resolving cases. There is also a tendency to bring more law and motion in the hope of resolving cases without the constitutional benefit of a civil jury. However, the net effect of this is that judges' workloads are made heavier, litigants face an increased risk of losing the right to a civil jury trial, and a misleading perception is created which suggests that judges simply want to clear their dockets even at the expense of justice.

- ◆ The excessive case loads are resulting in the potential for fatal constitutional defects in the handling of dangerous felony cases. I am aware of one situation where both the People's rights and the defendant's rights were equally jeopardized by confusion created with overloaded courtrooms in the Southwest Court. I will be discussing this confidentially with Judge Fields in a manner consistent with my ethical duties as a temporary judicial officer.
- ◆ Commissioner Bishop and other judges on the arraignment and misdemeanor calendars are literally being swamped with hundreds of cases a week. There is no conceivable way that any human could handle the workload being dropped on these judicial officers and staff members without inadvertently jeopardizing rights or quality of service to the public. The fallout from such problems affects all litigants' perception of the courts, the judge's ability to provide individualized justice for litigants, and, more importantly, the promise of constitutionally directed proceedings for all. On an even more human level, judicial clerks are not able to take regular lunch breaks and are always in "catch up" mode.
- ◆ Another well respected judge in downtown has been forced to display statistics on an overhead screen so that attorneys and litigants can understand why justice is being delayed. However, knowledge of the problem is hardly a solution to the problem we face and this judge is left in the awkward position of not being supported in his admirable efforts to

educate the public in a meaningful way.

In short, there is a serious constitutional crisis in our local judicial system. As I indicated on the phone to Tom, it seems to me that there needs to be funding for additional commissioners, referees, or some type of legislation that might recognize a more effective alternative dispute resolution mechanism that provides for constitutional guarantees without jeopardizing the need for finality in decision making. While the nonjudicial arbitration option has resulted in some final awards, without a request for trial de novo, one is still left with a serious backlog on our cases.¹

I also raised the possibility of doing emergency funding legislation on this issue. As indicated in the conversation, I honestly believe that both the criminal defense and prosecution bars would come on board (although for different reasons), and that civil attorneys (particularly the trial lawyers' bar) would be of the inclination to support such legislation. We have offered to craft the legislation and sponsor a bill, but we would need significant input from the bench and local bar associations.

More alarming is the fact that our local legislators are not in regular contact with the Court's judges such that an orchestrated effort can be made to resolve this crisis. While a letter apparently went out the "Legislative Big 5" (Perata-D, Ackerman-R, Nunez-D, and Plescia-D) in or about August of 2006, at the request of Judge Waters, our local legislators are not fully cognizant of the problem, the relevant details, and the impact that it truly has on constituents. One can only hope that a better bridge for communication can be established between local legislators and the bench immediately.

There is an abject lack of attention and funding coming from the Legislature and the Judicial Council can only do what it is empowered to do (i.e., make requests for legislation such as Senate Bill 56 in 2004 - Dunn). The bottom line is that a

¹ While one might be inclined to say that there ought to be more emphasis on educating the public about ADR, the reality is that several ADR providers have recently made significant increases in the costs for "case management fees" and other associated costs. The result of which is that many consumers find themselves bound to ADR agreements that they can never afford to avail themselves of. The American Arbitration Association, for example, is charging thousands in fees simply to get started with an adjudication on relatively small claims or where declaratory relief may be a viable solution alone and does not require significant costs to be incurred.

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bill can be created, such as prior SB 56. However, there needs to be optimal teamwork between the judicial and legislative branches at a local level. Local legislators such as Kevin Jeffries, Todd Spitzer, John Benoit, and Dennis Hollingsworth have proven records of accessibility, a willingness to listen, and dedication to improving the judicial system.

For example, my previous office assisted Senator Hollingsworth in amending the Evidence Code and the Public Records Act to account for changes in technology and the definition of "documents" and "writings." Aside from a few basic questions from the Los Angeles District Attorneys' office, which were handled through my office at the time, the legislation went through with no significant problems.

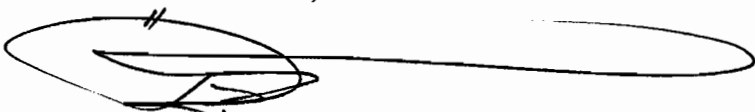
In conclusion, I am imploring you all to consider creating a 'taskforce' of sorts to deal with this unprecedented crisis in our local judicial system. If our office can be of any assistance in this process, we stand ready and willing to do so.

As indicated above, my office is going to begin the process of drafting a proposed bill that we would be willing to sponsor and will submit through Senator Hollingsworth's and Assemblyman Jeffries' respective offices in the next month or so. While we cannot control whether someone is willing to actually carry a bill, something needs to be done no matter what.

Please feel free to contact my office to speak about these issues in further detail. I will forward drafts of any proposed bill within the coming weeks.

Most respectfully,

ACKERMAN, COWLES & LINDSLEY

A handwritten signature in black ink, appearing to read "Richard D. Ackerman", is written over a horizontal line. The signature is enclosed within a large, hand-drawn oval.

RICHARD D. ACKERMAN

CC: RCBA President