

CONTRA COSTA LAWYER

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2011 Year in Review **Presiding Judge Becton**

Year in Review - Division Perspectives **Judges Craddick, Kennedy, Cram, Haight,
Davis, Canepa and Kolin**

Community Outreach Efforts **Judge Goode**

High Tech Solutions **Lucy Fogarty**

Strategies to Combat the Budget Crisis **Kiri Torre**

Children's Waiting Room **Mindy Morgado**

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Perry Novak, a graduate of UC Berkeley and the USF School of Law, has provided financial advice and investment management to Bay Area families and companies for almost 30 years. He has served on a panel advising the Joint Economic Committee of the U.S. House of Representatives, and has worked with financial and retirement planning programs sponsored by the California Medical Association and the California Society of CPAs.

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KIRI TORRE
Court Executive Officer

This Bench-Bar edition contains reflections on 2011 from our Judicial Leadership – Presiding Judge Diana Becton and Supervising Judges Judy Craddick – Civil, John Kennedy – Criminal, Joyce Cram – Family, Lois Haight – Juvenile, Lewis Davis – Pittsburg, Theresa Canepa – Richmond, and William Kolin – Walnut Creek-Concord.

Assistant Presiding Judge Barry Goode will also describe the various community outreach programs the Court has supported over the years. Unfortunately, the budget crisis and resulting permanent cuts to funding may jeopardize these programs at some point in the future.

This edition also highlights our new Children’s Waiting Room for court litigants, which will open shortly at the new Arnason Justice Center in Pittsburg. The Court is very proud to offer this critical service for litigants, especially during a time of economic crisis. This program is funded solely with dedicated civil filing fees.

The Court’s top-level Information Technology Director retired and a new recruitment is underway to fill this key position which will enable the Court to

implement technology projects that will enhance operational efficiency and will help to mitigate the significant loss of staff positions we have experienced. This edition includes an article that will recap recently implemented technology projects and preview new technology initiatives to follow.

2011 was the third full year of significant economic challenges facing the California Judicial Branch and our court in particular. These challenges have left our Court with a 30% loss of staff since fiscal year 2008-09. In this issue, we describe how the Court’s strategic budget approach has positioned the Court to more effectively weather these mandated budget reductions. This approach has allowed the Court to remain financially solvent while managing these deep ongoing cuts. Fortunately, the adopted state budget did not include mandated Court Closure days, as was the case in 2010.

The Court truly appreciates its strong partnership with the Contra Costa County Bar Association and the local bar and is very pleased to share information of interest to the magazine’s readers. ♦

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HON. DIANA BECTON
Presiding Judge

BUCKLE UP

Buckle up - it is going to be a bumpy ride. With the California State Judiciary staring into the abyss of a \$350 million dollar budget deficit, one might expect the report of the Presiding Judge to be all doom and gloom. After all, the \$350 million dollar deficit facing the California Judiciary marks the 3rd year of devastating economic challenges for the California Judicial branch.

One year ago, writing in these pages, Presiding Judge Mary Ann O'Malley called it *déjà vu*, as she wrote about statewide trial court budget reductions, court closures, shortened clerk office hours, and vacancies on our bench. Well, the overall theme remains the same.

As for the 2011 - 2012 fiscal year, we know that in Contra Costa County our base budget has been cut by approximately 25% over the past three (3) years, and we have lost 30% of our staff. Through the careful and strategic planning of our court leaders, the Contra Costa

Superior Court has already permanently reduced its operating budget by \$7.56 million to address the previous budget cuts.

As we consider the critical decisions and reductions that are necessary to meet the new budget mandates, we are exploring varied ideas and options that will allow the court to make an organized and disciplined transition as we move forward into an uncertain future.

On a bright note, we welcomed the newest member of our bench, Hon. Christopher Bowen, who is currently doing an outstanding job at the George D. Carroll Courthouse in Richmond.

In November 2010, we opened the doors of the Arnason Justice Center. This new facility located in Pittsburg is described as high-tech and spacious, with easy and accessible parking. We provide an array of services at this courthouse, but I want to specifically mention

that we have added two new departments to serve the residents of East County. We now have a Family Law Department, with Commissioner Jeff Huffaker presiding, and a Juvenile Department, with Commissioner Steve Houghton presiding. With the addition of these two departments, the court has made justice more accessible to this growing part of our community. We are cautiously optimistic but uncertain that these services will continue in light of the current budget crisis.

In July 2011, our own Elder Court, where Hon. Joyce Cram sits, was the proud recipient of the Ralph N. Kleps Award for improvement in the administration of the courts. This prestigious award places an emphasis on access, fairness, diversity, quality of justice and service to the public. We know that the population over age 65 continues to grow in Contra Costa County and throughout the state. According to the Census Bu-

reau, seniors comprise over 11% of our state's 36 million residents. The fastest growing segment of our county's population is seniors over the age of 85 and this group is predicted to increase by 55% over the next ten years.

The Elder Court of Contra Costa Superior Court was created because our court saw that elder abuse victims often face a unique set of challenges. They often present with physical limitations such as impaired hearing, impaired mobility or vision. They may have mental impairments such as dementia, psychological issues and dependence on caregivers who are sometimes accused of abusing them. These combined factors make it difficult for a traditional courtroom to effectively handle elder abuse cases. In our Elder Court, one judge hears all of the cases. The courtroom is equipped with assistant listening devices, a wheelchair and document magnifiers. In addition, the Elder Court Program includes outreach to the community and assistance from eleven different agencies in the community who work closely with the court to provide services

that provides life skills and work-related training to adults with developmental disabilities. The individuals who work for our court provide mailroom and supply distribution services. We are pleased to be a part of this program that supports individuals in reaching their optimum level of individual potential.

Kudos to our Virtual Self-Help Law Center, located at www.cc-courtelp.org. This website provides technology to help self-represented litigants through written expert legal information, photographs of key concepts, audio visual instructions and educational videos about the court system. There are more than 2,500 pages of expert written and video content in both English and Spanish. This virtual resource increases access to justice, improving the quality of justice and service to the public. The best news is that this service is provided at no cost to the public.

This month, we
look forward

“It is not all doom and gloom, but there are difficult days ahead.
Buckle up - it is going to be a bumpy ride.”

and support to the elders.

In spite of the difficult times ahead, we expect this program will endure because we have consolidated resources into one courtroom and most importantly, we have forged partnerships with community agencies so that elders can have the access to justice that they deserve.

Our court is a proud supporter of *Futures Explored, Inc.*, a program

to opening a Children's Waiting Room at the Arnason Justice Center in Pittsburg. The court is excited about this new service and the benefits it will provide to the residents of East County who have court business at the Arnason Justice Center.

Also, in December 2011, the Appellate Division of the Contra Costa Superior Court, will, for the first time ever, convene a session at Deer Valley High School. This session will allow students an opportunity to observe the proceedings and to get a first-hand look at an appellate division in action.

I am pleased that our court has rolled up its sleeves and worked hard towards the administration of justice in spite of the budget crisis that we continue to face. It is often said that anyone can steer the ship when the sea is calm. I am truly grateful for the dedicated bench officers of Contra Costa County and for our ever hard-working managers and staff who have helped keep a steady hand on the ship as we find our way through these rough waters.

Finally, I am appreciative of our partnership with the Contra Costa County Bar Association and the local bar.

So - it is not all doom and gloom, but there are difficult days ahead. Buckle up - it is going to be a bumpy ride. ♦

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HON. JUDY CRADDICK
Supervising Judge

CIVIL LAW

This may be old news to you, but to introduce you to the Civil Division, I, Judy Craddick, Dept. 9, am the Supervising Judge. The former supervising Judge of the Civil Division, the Hon. Barry Goode, Dept. 17, handles Complex Litigation and is the Court's Assistant Presiding Judge. Judge Goode asked me to mention that he has posted "A Handy Guide to Department 17" on the Complex Litigation section of the Court's website.

The rest of us who are not so "high-tech" have trial rules which we hand out at the Issue Conference.

The Hon. Laurel Brady, Dept. 31, is new to Civil this year, and is a very experienced and respected criminal trial judge extraordinaire, who tried capital murder and other horrific crimes for many years. She is also a past Presiding Judge of the Contra Costa Courts. Steven Austin, Dept. 33, returned to Civil this year after varied and sundry assignments, most recently Supervising Judge of the Pittsburg Court. Cheryl Mills, Dept. 19, remained in Civil from last year. Since we have not received our assignments for 2012, we are uncertain who the Civil judges will be

next year. One certain bet, however, is that our stalwart and much-appreciated Discovery Commissioner, Judith Sanders, will remain in Civil. She deserves a huge medal and much gratitude for her many years of service to the Civil Division.

“ We are extremely fortunate to have members of our Bar who volunteer many hours of their time to serve on our ADR mediation, arbitration, neutral case evaluation and 'day of trial' settlement mentor panels. Without you, we would be up to our proverbial 'necks' in alligators.”

All five of the Civil departments continue to manage all limited jurisdiction cases, which have been divided among us. Most of us put those cases at the end of our Case Management Calendars. The defendant in many of those cases is self-represented, which adds to the consumption of time.

It is not possible to avoid singing Verse 2 to the Budget Crisis refrain because it affects the entire community - from attorneys and litigants to the workings of the Court. Our staff has been decreased significantly. Among other things, this has resulted in a reduction in the number of hours that the Clerk's Office is open to serve the community, delays in getting judgments

and documents processed and the fact that documents are not always in the file at the time of Case Management Conferences, Law & Motion and trials. Our courtroom clerks and those in the Clerk's office, Room 103, work diligently to process all filings, and we appreci-

ate the tremendous effort that all staff has made to avoid becoming totally overwhelmed by the workload. We also are grateful and appreciate the understanding of the attorneys and litigants to whom we strive to give the best service possible under the circumstances.

As Civil trial judges, one of our foremost goals is to get cases to trial when they are set. Most of us have reasonable success in this endeavor, primarily due to the number of cases which settle. We are extremely fortunate to have members of our Bar who volunteer many hours of their time to serve on our ADR mediation, arbitration, neutral case evaluation and "day of trial" settlement

mentor panels. Without you, we would be up to our proverbial "necks" in alligators.

To get your case to trial very quickly, if any of you wishes to try your case under the new "Expedited Jury Trials Act," we would be pleased to accommodate you. This new process might be a great opportunity for newer attorneys desiring to gain trial experience and it is ideal for smaller or less complex matters.

Kudos and thanks also to the CCCBA and those attorneys who give generously of their time putting together and implementing educational and other programs which tremendously benefit the entire community, Bar and the Court. An important program recently instituted consists of the free monthly Legal Workshops, listed on the CCCBA website.

Despite the funding cuts we are suffering, with your help, patience and understanding, and the strong guidance of our extremely hard-working Presiding Judge, Diana Becton, we will get through this and hopefully come out better and stronger. As Friedrich Nietzsche is reputed to have said: "That which doesn't kill us makes us stronger." ♦

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Until there's a cure, people with the disease will need caregiving and legal advice. According to the Alzheimer's Association, approximately one in ten families has a relative with this disease. Of the four million people living in the U.S. with Alzheimer's disease, the majority live at home — often receiving care from family members.

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HON. JOHN KENNEDY
Supervising Judge

CRIMINAL LAW

As you know, the Court, the District Attorney, and the Public Defender are suffering from massive budget cuts. To give you an idea of how bad it has gotten, we hear rumors that the District Attorney is collaborating with the Public Defender to outsource telephone wiretaps (also known as "phone hacking") to Rupert Murdoch's News Corp.

Our Criminal Trial Departments are required to try or otherwise dispose of criminal cases within the time constraints of the Speedy Trial Act, so we have had to find ways to handle the caseload with reduced resources. We have been able to do so with the combined efforts of experienced trial judges, extraordinary support staff, and the cooperation of our Criminal Justice partners. Our felony trial departments in Martinez include Judges Barbara Zúñiga, David Flinn, Mary Ann O'Malley, Thomas Maddock, Leslie Landau, Susanne Fenstermacher and John Laettner. With the extensive experience and considerable expertise each of these Judges brings to the criminal trial assignment, we have

been able to keep on top of the trial load despite the reductions in staff and programs.

During 2010, the District Attorney filed 4,050 felony cases and 9,500 misdemeanors. We tried 117 jury trials, including 17 homicides and 21 sexual assault cases.

We have initiated a number of measures to improve our efficiency without detracting from our goal of serving justice. We formed a Criminal Courts Liaison Group, consisting of Presiding Judge Diana Becton, District Attorney Mark Peterson, Public Defender Robin Lipetzky, ADO Supervising Attorney David Headley, Criminal Conflict Program Director David Briggs, Contra Costa County Bar Association

of the Criminal Court staff, and yours truly. The primary purpose of the Liaison Group is to raise and address issues of mutual concern in the Criminal Courts in an effort to improve services to all participants. One of our first projects was to begin an Early Disposition Calendar designed to identify and resolve routine cases as early as possible in the criminal justice system, rather than spending countless hours and resources processing the cases that ultimately resolve shortly before trial. We began a pilot program in Richmond July 1 and the results thus far are promising.

The Liaison Group is also discussing the Governor's impending Public Safety Realignment

“ In these times of severe austerity, our Criminal Courts have found ways to streamline the process without sacrificing justice, due largely to the hard work and cooperation of our Judges, Commissioners, staff, and Criminal Justice partners. **”**

Criminal Law Section President Peter Johnson, Bar Association Board Member Amanda Bevins, Chief Probation Officer Philip Kader, Commander Joseph Caruso from the Sheriff's Department, CEO Kiri Torre, the Supervisors

plan (AB 109). As presently enacted, the bill would shift from State Prison to local custody all those sentenced on non-violent, non-serious, and non-sexual felony offenses (subject to certain exclusions), place responsibility for post-release community supervi-

sion with our Probation Office, and require the Courts to conduct supervision (i.e. parole) revocation proceedings. These proposed changes, subject to allocation of additional funding, would add very substantially to the workload of our Probation Office, the Court and all of our Criminal Justice partners.

Our Criminal Calendar Departments continue to shoulder the bulk of the massive pretrial work once the cases are charged by information or indictment. Judge Brian Haynes deftly handles a dizzying array of pretrial and post-trial motions too numerous to list. He applies his many years of experience with the criminal justice system to complete these calendars with tremendous efficiency, and continues to resolve a substantial portion of the felonies with mutually satisfactory dispositions.

Judge Clare Maier presides over an equally diverse, and particularly eclectic, set of calendars, including the Prop 36, FADS (Felony Alternative Drug Sentencing), and misdemeanor domestic violence calendars, plus many more. In her spare time, Judge Maier also teaches yoga, plants flower beds and bakes up a storm – and that’s just for her Court family. Judge Maier juggles all of these disciplines with her trademark enthusiasm, hard work and compassion.

Unfortunately, our Proposition 36 Drug Court lost all of its funding as of June 30, 2011, and we no longer have funding for representatives from our County Alcohol and Other Drug Services (“AODS”) team members. Thus, when drug offenders are referred for treatment, they are likely to encounter long waiting lists for both residential and out-patient

treatment facilities. Judge Maier, however, worked with treatment providers and representatives of AODS to maintain treatment services, including drug testing – a critical component to ensure compliance – and is working on a plan to arrange transportation from detention facilities to residential treatment programs. Additionally, one of our County programs will be creating a “retention group” for defendants on waiting lists for residential treatment programs. We also have funding for an intensive (out-patient) program for women with children, an invaluable program as the waiting list for women’s treatment beds is particularly long. So, despite the lack of funding, our Court is able to continue to offer treatment for addiction, largely because of the tremendous efforts of Judge Maier and all of the participating agencies.

Judge Nancy Davis Stark has been taking on an ever-increasing caseload in the Mount Diablo calendar. She now handles the daily in-custody criminal calendar for cases from the Walnut Creek and Pittsburg Branch Courts, as well as the daily Mount Diablo calendar, felony readiness calendar, probation revocation evidentiary hearings, Penal Code Section 1538.5 motions, and peti-

tions for writs of habeas corpus, among many others. Judge Stark applies her wealth of experience to cut through these high-volume calendars expeditiously.

Judge Hiramoto continues to manage our Behavioral Health Court (“BHC”) in addition to presiding over juvenile cases in Richmond. In the Peter L. Spinetta Family Law Center, Judge Joyce Cram presides over our dedicated and award-winning Elder Court, including criminal cases alleging crimes against elder victims.

We continue to be blessed with the wisdom and experience of the Dean of our bench, Judge Richard E. Arnason, who handles a felony probation calendar. Appointed in 1963, Judge Arnason brings over 45 years of history and perspective to our Court. He is still the first to arrive to work each day and happy to share stories from his long and distinguished career on the bench.

In these times of severe austerity, our Criminal Courts have found ways to streamline the process without sacrificing justice, due largely to the hard work and cooperation of our Judges, Commissioners, staff, and Criminal Justice partners. ♦

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HON. JOYCE CRAM
Supervising Judge

FAMILY LAW & PROBATE

FAMILY LAW

The Family Law Division, like all other divisions, has continued to suffer from the serious budget shortfall. Staffing is at an all-time low, while filings remain essentially unchanged. However, as in the past, our dedicated staff

“We have instituted a pilot program, Parenting Plan Workshops, for parents who are willing to work together to formulate a parenting plan, but who find they need some help. These have shown an 80% success rate.”

continues to provide outstanding service. In response to feedback, the filing window hours were extended from a 2:00 p.m. closing to 3:00 p.m. to assist litigants. The Self Help Desk still maintains its 2:00 p.m. closing so the staff can help with the backlog.

A typical month has our facilitators helping over 3,000 people, many in crisis. Our “Child Custody Recommending Counselors” (previously known as Mediators) see over 130 families every month, with well over two-thirds resulting in total or partial agree-

ment. Our mediators are now letting the judges know if there is a no-show so that parties in court that day can get cases mediated immediately instead of waiting up to three months. We have also instituted a pilot program, Parenting Plan Workshops, for parents who are willing to work

together to formulate a parenting plan, but who find they need some help. These have shown an 80% success rate and we hope to expand the program.

Our dedicated long cause trial department, with Judge Ben Burch presiding, has tried over 60 very long cause family law matters and over 100 domestic violence restraining order hearings, shortening time to trial in the other departments. He has also presided over a dozen other trials including probate, conservatorship and mental health (LPS)

trials. This, along with Retired Commissioner Jim Libbey covering for our judges during vacations, our time-to-hearing has been reduced in all departments. Commissioner Libbey’s wealth of knowledge in Family Law has been a boon to the division.

A Family Law department in the Richard E. Arnason Justice Center is now a reality, headed by Commissioner Jeffrey Huffaker. Families who live in East County no longer have to commute to Martinez for family law matters. This department is bustling with activity (over 30% of family law filings are from East County). We began accepting filings in Pittsburg mid-year, and parties can get mediations, self-help assistance, workshops and hearings all done locally.

Each of our bench officers - Judges Scanlon, Treat, Fannin, and Burch and Commissioners Berkow and Huffaker - have shown incredible dedication and commitment to the job of helping families in difficult situations.

PROBATE

Our Probate Division has been thriving under the hand of Judge John Sugiyama. New to the assignment in April, he immediately immersed himself in the details and nuances of Probate. Based on need, the calendars have been rearranged, so we now hold Guardianship and Conservatorship hearings three days per week. Also, tentative rulings are now posted two weeks in advance, giving litigants additional time to cure deficiencies and reducing the need for court appearances.

Workshops and clinics are increasing in number. Guardianship workshops are held on Thursdays; the *Lawyer in the Library* program is on the second Tuesday; the Bar Association provides guardianship assistance the first Wednesday of the month; conservatorship classes are taught monthly by professional fiduciaries; and there are monthly conservatorship clinics.

These workshops and clinics, products of collaboration between the court and various justice partners such as the Contra Costa County Bar Association, the Contra Costa County Public Law Library, Senior Legal Services, and volunteer professional fiduciaries, help self-represented litigants navigate the complicated world of guardianships and conservatorships as they step in to help the most vulnerable of our population.

Finally, Judge Sugiyama hopes to add a long cause calendar to his already-busy calendar. With his enthusiasm for the assignment, along with the hard work of the court staff, Probate will continue to be a thriving, vital part of our court. ♦

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HON. LOIS HAIGHT
Supervising Judge

JUVENILE

I can't believe another year has passed and it is time to write a new report about Juvenile Court.

However, amidst all the budget bad news, we do have some good news. We have five Juvenile Court Judges. We lost one judge in reorganization but the good news is the ones we gained have hit the ground running and really enjoy the assignment. I believe they have caught the fever of the rewards of working to help change or redirect lives for children and families

Judge Barry Baskin joined the Juvenile Court in Martinez and Judge Joni T. Hiramoto is in charge of the West County Juvenile Court. Judge Barbara Hinton (who spent many years in Juvenile court as a practicing attorney) is heading up our court in Juvenile Hall. Commissioner Houghton has moved out to East County Juvenile Court and I have remained in Martinez Juvenile Court.

Our new court in Pittsburg East County is really something to behold. It is high-tech, beautiful, spacious, with great access, ample parking and rooms that may be used for victim-witnesses, as well as attorney-client interview rooms. The Pittsburg staff headed

by the irrepressible, outstanding Cyndi Mlack is fabulous. We feel very fortunate to have this new venue for our East County youth and their families.

It is so difficult for many in East County to get to Martinez with the dearth of public transportation and this new court has enabled much greater access for the growing population in East County.

During these difficult budget times, thankfully we have been able to keep our outstanding boys ranch, Orin Allen Youth Rehabilitation Center in Brentwood. It remains at capacity at all times. In addition, there are increased opportunities for therapy for the boys and they also benefit from the expansion and use of the excellent library facilities and new vocational programs. With the Orin Allen Youth Rehabilitation Center, we have a resource for rehabilitation for which we are very grateful.

Further, our Youthful Offender Treatment Program for boys (YOTP) and our Girls In Motion Program for girls (GIM) in separate units in Juvenile Hall have garnered a lot of attention statewide and other counties have come to view them in order to replicate them in their jurisdictions.

The focus on cognitive behavior and other tools have given many youngsters a new start in life.

We have a new Chief Probation Officer, Phil Kader who is absolutely terrific! Chief Kader inspires trust and confidence in all he meets. The morale in probation, I would say, is at an all-time high and that is even in the face of these very difficult economic times when we have to do so much more with so much less. Probation deserves our unending thanks - what would we do without them?

The Chief Deputy for Juvenile County Counsel, Valerie Ranch, retired after a very successful career and is being replaced by attorney Steve Rettig who has been a respected practicing attorney in juvenile court for many years.

Sadly, one of the longest serving and most beloved attorneys in juvenile county counsel, Paul Muniz, passed away in July of this year. We will all miss him greatly.

On behalf of our Juvenile Bench, we wish to thank the attorneys who practice in our Courts for their professionalism and their excellence along with their dedication to our youth and their families. ♦

PITTSBURG COURT

THE ARNASON JUSTICE CENTER



HON. LEWIS A. DAVIS
Supervising Judge

From its opening in November 2010 to the present, the Arnason Justice Center (AJC) has been expanding the public's access to court services while maintaining the court's commitment to the delivery of justice and service to the public. Judge Spanos, Judge White and Judge Hardie join Commission-

days and Wednesdays, while longer cause matters are held on Thursdays when possible.

- ♦ **Unlawful Detainer cases** are heard Mondays, Wednesday, and Fridays at 2:30 p.m.
- ♦ **Domestic Violence Restraining Orders** are heard Thursdays at 1:30 p.m.

“The successful expansion of the Arnason Justice Center to include Family Law and Juvenile matters is attributable in part to the excellence and hard work of the Clerk's Office despite an approximate 30% reduction in personnel.

ers Houghton, Huffaker, Richards, and me as we hear all of the East County Felony preliminary hearings (PXs), Misdemeanor Jury Trials, Family law matters, Domestic Violence cases, Small Claims cases and appeals, Traffic cases, Unlawful Detainer matters, and both Juvenile Dependency and Delinquency cases. The successful expansion of the AJC to include Family Law and Juvenile matters is attributable in part to the excellence and hard work of the Clerk's Office despite an approximate 30% reduction in personnel.

- ♦ **Criminal trials** are held on Mondays and Thursdays.
- ♦ **Felony PXs** are heard on Tues-

- ♦ **Criminal Law and Motion** is heard on Mondays at 8:30 a.m. and Thursdays at 1:30 p.m.
- ♦ **Traffic matters** are heard Monday-Friday at 8:30 a.m. except for the second and fourth Mondays of each month when they are heard from 5:30 p.m. - 7:00 p.m.
- ♦ **Small claims cases** are heard Mondays, Tuesdays, Wednesday, and Fridays at 1:15 p.m.
- ♦ **Juvenile Dependency matters** are heard Mondays and Thursdays at 8:30 a.m., and Juvenile Delinquency cases are heard Tuesdays, Wednesdays, and Fridays at 8:30 a.m.

The AJC is exceptionally proud of the following new (or substantially enhanced) programs:

CHILDREN'S WAITING ROOM

The Children's Waiting Room (CWR) is a free service (with a targeted start date of September 6, 2011) for those who have court business (other than jury duty) at the AJC.

Hours of Operation:

Monday through Friday, 8:00 a.m. - 12:15 p.m. and 1:15 p.m. - 4:30 p.m.

Anyone with court business may use the CWR including:

- ♦ Defendants, witnesses, and litigants
- ♦ Anyone (other than jurors) who must appear before a judge
- ♦ Anyone who needs to file papers

FAMILY LAW FACILITATOR WORKSHOPS

The AJCs Family Law Facilitator workshops are held on Thursdays @ 1:00 p.m. in the Law Library. The workshops assist people who do not have attorneys to handle their divorce, child custody and visitation, child and spousal support and paternity cases.

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**PITTSBURG COURT
PERSPECTIVE,**
cont. from page 17

Specifically the FLF can help either party to:

- ♦ Prepare the filings to obtain or modify child and/or spousal support orders;
- ♦ Prepare the filings to obtain or modify child custody and visitation orders;
- ♦ Respond to divorce, custody, support or paternity actions;
- ♦ Run computer-generated child and spousal support calculations;
- ♦ Prepare Orders after Hearings and Wage Assignments;
- ♦ File motions to establish paternity

There are no appointments for these services, but the Facilitator's objective is to meet with everyone as quickly as possible. Persons wishing to use these services are requested to bring all court papers and proof of current income where necessary (e.g. tax returns, W-2s, 1099s, and three recent pay stubs).

BAY AREA LEGAL AID Free Legal Clinics

Legal assistance is available for eviction cases and for domestic violence restraining orders.

The Domestic Violence Restraining Order Clinic provides assistance on Tuesdays, from 9:00 a.m. -1:00 p.m. at the AJC's Self Help Legal Center.

The Housing Law Clinic is designed for low-income persons needing assistance in eviction cases. The clinic operates on Wednesdays, from 9:00 a.m. -1:00 p.m. at the AJC's Self Help Legal Center. ♦

RICHMOND COURT

THE GEORGE CARROLL COURTHOUSE



HON. THERESA CANEPA
Supervising Judge

This year has been very busy at the George Carroll Courthouse in Richmond. Judges Peter Berger, Ed Weil, Joni Hiramoto, and our newest, Christopher Bowen, join Commissioner Broughton and me as we hear all of the West County Felony Preliminary Hearings, Misdemeanor Jury Trials, Small Claims and Appeals, Traffic and Domestic Violence cases, Unlawful Detainers and both Juvenile Dependency and Delinquency cases.

Our newest program, and one which is the pilot program for the County, is called the Early Disposition Program which is coordinated by the Public Defender and District Attorneys Offices. Cases which are considered "lower level," such as theft offenses, drug possession offenses, and certain property crimes are pre-selected by the district attorney for an early disposition, i.e. pre-preliminary hearing. The public defender then, in the seven days

before counsel and plea, meets with the prospective client to see if the case can be resolved before preliminary hearing dates and time waivers are set. If so, then the case is specially set on Judge

“ Our newest program, and one which is the pilot program for the County, is called the Early Disposition Program which is coordinated by the Public Defender and District Attorneys Offices [...] Early results have proven effective in removing such cases from the court docket and we hope to continue this success.

Berger's calendar and pleas are taken. If not, then the case is set on the preliminary hearing track. Early results have proven effective in removing such cases from the court docket and we hope to continue this success.

In traffic, this Court will also be commencing a pilot program whereby each agency will be designated a particular day of the week for traffic trials. The planning for that program began in March, but will actually begin in January 2012 and is expected by all agencies as well as the clerk's office to reduce overtime, streamline the court procedures and facilitate access to the courts by

both the agencies and the parties involved in traffic trials.

Criminal trials continue to be heard on Mondays and Wednesdays, while felony matters are

heard every day of the week, both morning and afternoon. Unlawful detainer cases and domestic violence restraining orders are heard on Monday mornings.

We have added Tuesday afternoons to our criminal Law and Motion calendar, so that these motions are now heard both Tuesdays and Friday afternoons in an effort to eliminate the backlog. Civil motions are heard on Monday mornings. Traffic and small claims are heard Monday through Friday, with extended hours to 8:00 p.m. on Wednesdays for "night court." ♦

CHANGING LIVES

ONE SCHOLARSHIP AT A TIME

Court Scholarship Program awards scholarships to five rehabilitated criminal offenders

A promising young college student who didn't want to be a financial burden on his parents and was seduced by an offer to buy counterfeit bills for ten cents on the dollar.

A young woman who self-medicated and became an addict because she was unaware and uninformed about her mental disability.

A teenage mother who became homeless and started selling drugs to support herself and her four-month-old son.

What do they have in common? They all share the opportunity of a second chance and the desire to apply their experiences and educational trajectories towards helping others, especially youth struggling with the same challenges

they faced. Each one of them is also part of the 2011 group of Court Scholarship recipients.

The Contra Costa County Court Scholarship program was established in the early 1990's by the local Bench and Bar. The purpose of the program is to provide much-needed financial assistance to people who have previously come before the criminal justice system and have set new goals to stay out of the system in the future. Individual scholarships are granted to pay for tuition, books, childcare and other expenses related to continuing education.

Scholarship Awards are generously provided by the Gagen, McCoy, McMahon, Koss, Markowitz & Raines law firm, which has participated as an annual awards sponsor for over a decade, the Tom Oehrlein Award in memory of a former public defender, Sheriff's Charities Inc., and by individual contributions and proceeds from fundraising events.

Read more about this year's Scholarship recipients on page 32.



Bill Gagen, Mike Markowitz, and Amanda Bevins of the Danville law firm Gagen, McCoy, McMahon, Koss, Markowitz & Raines with Court Scholarship award recipient Keneithia Resino (center). Half of Keneithia's scholarship is provided by the law firm.

THE VERDICT IS IN: LEGAL FOOD DRIVE COMPETITION RAISES MORE THAN \$56K FOR THE FOOD BANK

Winning Law Firms include Archer Norris; Morgan Miller Blair; Bramson, Plutzik, Mahler & Birkhaeuser; and the Law Offices of Suzanne Boucher

For two weeks in May, the Contra Costa County Bar Association and 39 law firms participated in a competitive food and fund drive to benefit the Food Bank of Contra Costa and Solano. 2011 marked the 20th year for the *Food from the Bar* drive. Since its inception, the drive has collected more than \$890,000 and 54 tons of food for hungry Contra Costa County residents.

Each year, the drive starts with a Comedy Night kickoff event, *Res Ipsa Jokuitor* (the joke speaks for itself). The 2011 Comedy Night, featuring Rocky LaPorte and Andrew Norelli, was a smashing success. The event drew a crowd of more than 130 guests, many of them carrying cans of beef stew as they walked in the door. The canned goods were exchanged for raffle tickets and the chance to win great door prizes. Almost 180 pounds of beef stew were collected that night – a great start to the 2011 food drive!

Over the following two weeks, law firms collected food and funds, competing for the highest per capita contribution in their respective categories. The drive culminated in a grand finale of fun activities organized by the Walnut Creek law firm Archer Norris, including a walk-a-thon, a casual-dress fundraiser, a wine auction, and a potluck lunch.

Now, the verdict is in: The food bins have been picked up, donations tallied, and per-capita contributions determined. This year, the legal community raised over \$56,000 and more than 2,500 pounds of food for the Food Bank of Contra Costa and Solano. Four winners in categories based on the size of the law firms have emerged.

For more photos and sponsor listings of the 2011 *Food From the Bar* drive, please turn to page 33.

The winners of the 2011 Food from the Bar Competition are:

1 – 10 EMPLOYEES

Law Offices of Suzanne Boucher

11 – 20 EMPLOYEES

Bramson, Plutzik, Mahler & Birkhaeuser

21 – 50 EMPLOYEES

Morgan Miller Blair

51 AND OVER EMPLOYEES

Archer Norris



2011 Food from the Bar winners at the award luncheon on August 3, 2011 at the Food Bank of Contra Costa and Solano warehouse.



HON. WILLIAM KOLIN
Supervising Judge

WALNUT CREEK COURT

The Walnut Creek branch of the Contra Costa Superior Court (formerly the Walnut Creek-Danville Municipal Court before consolidation of Municipal and Superior Courts in 1997), consists of three Judges: Supervising Judge William Kolin, Judge Bruce Mills and Judge Harlan Grossman, and one Commissioner, Joel Golub. The Walnut Creek branch handles all civil, criminal, traffic, and small claims matters originating in Walnut Creek, Danville, Alamo, Diablo, Lafayette, Orinda, Moraga and San Ramon.

In 2005, the then Presiding

Judge of the Superior Court tasked the Walnut Creek branch to also handle all criminal and civil cases originating in the Mt. Diablo court district. That district includes Concord, Pleasant Hill, Martinez,

in-custody preliminary hearings, and in-custody pre-trials in criminal cases arising from Walnut Creek and Mt. Diablo matters. All jury trials, including in-custody defendants, are heard in the Wal-

“ In 2010, there were 5,909 criminal filings in our court. There were 74 jury trials and 55,834 traffic filings.”

Pacheco and Clyde. Traffic and Small Claims matters for the Mt. Diablo district cases are heard by the Commissioner situated in Concord. One Judge in Martinez handles in-custody arraignments,

nut Creek branch. In 2010, there were 5,909 criminal filings in our court. There were 74 jury trials and 55,834 traffic filings. ♦

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WILL OUTREACH BE OUT OF REACH?



HON. BARRY GOODE
Assistant Presiding Judge

Buried in the back of your Standard California Codes (the Six-in-Two version) are the "Standards of Judicial Administration." Tucked deep into the Standards is a provision entitled "The role of the judiciary in the community." It tells us that "community outreach [i]s an official judicial function."

The Contra Costa Superior Court has been proud of its work in the community. But the most recent budget cuts imperil that work. We often do not appreciate something until it is gone. So while we still can, take a moment to consider some of the many community programs the court supports.

SCHOOL TOURS. For fifth and eighth graders we have (almost) always had our school tours.

In 2010, sixty-seven classes visited the court.

In 2011, seventy-eight are scheduled. In addition, we host tours for other community groups such as Girl Scout troops. All this requires the coordinated work of the Contra Costa County Bar Association (thank you) and Court

staff to schedule - and often re-schedule - these visits, make the arrangements with the schools and provide the volunteers to take the classes around.

MOCK TRIALS. For years, both the Court and the bar have played an active role in the annual Mock Trial program in which so many high school students have participated. Judges and lawyers work with the teams, judge rounds of competition and provide feedback to the participants. The students are always impressive and it is a treat to be able to encourage them.

LAW ACADEMIES. Richmond High School was the first in the county to have a true law academy. It offers a special cur-

nole, Kennedy and Richmond all have them. Judges and lawyers have worked with these schools in one way or another to contribute, in some small way, to their success.

DUI TRIALS IN THE SCHOOLS. Judge Austin was responsible for creating a program in which he "tries" a driving under the influence case in a high school, using the students as jurors. It brings the courts to the students in a way that drives home, as it were, an important message.

APPELLATE COURT SESSIONS IN THE SCHOOLS. This year, the Court's appellate division has ar-

“To whatever extent we can continue to maintain these programs, we will. And to the extent we can use volunteers to help us maintain them, we will. But as we make some very difficult decisions in the months ahead, we are deeply concerned about our ability to deliver fully on the principle that ‘community outreach is a judicial function.’

riculum for students who may have an interest in a career in law, court administration or, perhaps, law enforcement. Over the last few years, more high schools have created law academies. Now, Deer Valley, De Anza, Pi-

ranged to convene a session at Deer Valley High School. The students will be given information about the cases on the appellate docket prior to the hearing. The lawyers will argue their cases before the appellate division, at the ►

VOLUNTEERING FOR THE BUSY ATTORNEY

OUTREACH,
cont. from page 23

GOT AN HOUR?

► Speak to a local middle or high school class about the legal profession. Inform Seniors about the importance of Jury Duty and 'When You Become 18', the responsibilities they have once they become adults. Talk about the nature of law and the US Constitution. Discuss the myths and misinformation about the legal system.

GOT A FEW HOURS?

- Be a virtual mentor for a student at the Deer Valley High School Law & Justice Academy.
- Lead or assist at a Free Legal Workshop. Help those who want to help themselves.

GOT A MORNING?

► Become a court tour docent. Take students on a tour of the courthouse, intrigue them with information about the detention facility. Observe a court proceeding in process, then lead them in a scripted mock trial, where they find that justice isn't always so easy to serve!

GOT A FEW HOURS/WEEK FOR A FEW MONTHS?

- Lead a Mock Trial group at Deer Valley High School Law & Justice Academy (Antioch)
- Provide a workplace learning opportunity (after school or during the summer).

For information about these and other volunteer opportunities, please contact Theresa Hurley, Education and Programs Coordinator at (925) 370-2548 or thurley@cccba.org.

school, where the students can observe the proceedings.

LAW SCHOOL MOOT

COURT. The Court also supplies judges to local law schools' moot court programs.

TEACHER TRAINING. The Court has participated in teacher training sessions, especially for those working in law academies. Recently, we hosted a "boot camp" for such in-service training.

HOMELESS COURT. The Court's outreach efforts are not limited to academic settings. Judge Austin has also conducted a "homeless court" in a community center to dispose of infractions that too often keep people from being able to get a driver's license, a place to live or a job. Homeless Court can give someone a fresh start – at least to the extent the Court is able to do so.

CLEAN SLATE. The Court has recently begun a program with the assistance of the District Attorney, the Public Defender and certain other organizations to consider motions to expunge decades-old criminal convictions pursuant to Penal Code Section 1203.4 in appropriate cases.

VETERAN'S STAND

DOWN. In recent years, veterans' and other community organizations have undertaken the creation of a temporary veterans' encampment, where people who served our country, but who may be down on their luck, can come for food, shelter, healthcare, a haircut, counseling and other services.

At the stand-down, our Court has

conducted a form of homeless court - in a large tent, partly open to the air, sitting in folding chairs that dig into the turf. With the assistance of our justice partners and court staff, we are able to dispose of old matters that impede the veteran's ability to get back on his or her feet.

This is only a sampling of the kind of work that the Court does. But each requires staff make the event work. In some cases it is a matter of scheduling large volumes of tours. In other cases, it is an issue of pulling old files, going over them with our justice partners and determining which are appropriate for disposition. In still other cases, it is a matter of generating calendars, arranging temporary courtrooms, having clerical staff in some unusual venue and making a careful record of what has transpired.

Virtually all of this is now imperiled. Other articles in this magazine describe the kinds of cuts we have had to make over the last three years. We have lost about 30% of our staff. We have to make still further reductions to meet our new budget allotment.

To whatever extent we can continue to maintain these programs, we will. And to the extent we can use volunteers to help us maintain them, we will. But as we make some very difficult decisions in the months ahead, we are deeply concerned about our ability to deliver fully on the principle that "community outreach is a judicial function." ♦

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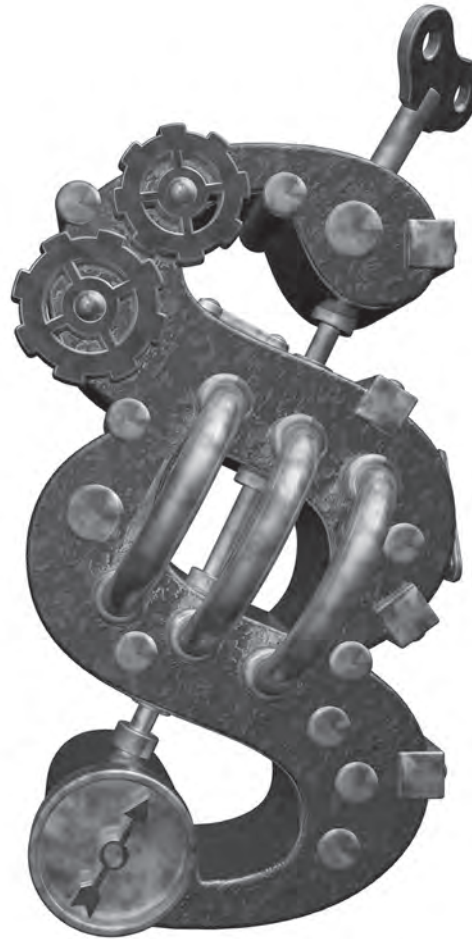
by **LUCY FOGARTY**, Deputy Executive Officer

The Superior Court is continuing to focus on technological solutions to maintain critical services to the public during the ongoing budget crisis. Staffing levels are at a minimum so automation and streamlined processes are essential to being successful in managing day to day operations. The following enhancements already implemented or planned for the upcoming year will help the court make it through these tough times.

JURY WEB ENHANCEMENTS

Beginning July 1, 2011, in addition to being able to postpone their service online, jurors who believe they are not qualified or eligible to serve can use our new online utility to ask to be excused if their request is made at least five business days before their scheduled service date. When a juror submits an online request for an excuse timely, jury staff can review the request, make a decision, and send the appropriate postcard advising the juror of the court's decision more quickly.

These streamlined procedures will save jurors the time of hav-



ing to call the Court or travel to the court. Because this new technology will allow this alternative means of access, effective July 5, 2011, due to staffing shortages, jury staff will only be available to answer telephone calls between 8:00 a.m. and 3:00 p.m. daily, excluding weekends and holidays.

INTERACTIVE VOICE RESPONSE SYSTEM

An interactive voice response system is currently being installed and will provide a menu of choices for court customers to

obtain pre-recorded information regarding the most commonly asked questions 24 hours a day without requiring clerk intervention. The automated menu will include a considerable amount of information for all case types that is currently provided by the clerks over the telephone as well as directions to our courthouses, parking information, and hours of operation for all court locations. In addition, information about the court's website will be provided along with directions to access online resources such as forms, fact sheets, and paying your traffic ticket online.

SMART PEN TECHNOLOGY

Smart Pens will eliminate the need for carbon copy minute orders that are difficult to complete and labor-intensive for the courtroom clerks. The Smart Pen is an ergonomic digital pen that stores the data in the pen itself when the clerk is completing the minute order. The new minute orders are single sheets and easy to complete. When the pen is docked, the data is uploaded electronically into the system allowing for automated distribution of

the minute order. This will be a great tool for our courtroom clerks and will help reduce repetitive strain injuries.

WEBSITE TRANSLATIONS

Together with other courts in the state, our court received approval for Administrative Office of the Courts funded translation of content on both the court's main public website (www.cc-courts.org) and its Virtual Self-Help Law Center website (www.courthelp.org). This funding was set aside a year ago to translate content on court websites.

On the court's public website, the popular Court Tours will be translated into Spanish. These pages include court hours, contact and filing information for each court facility. Fifteen Fact Sheets about the court will also be translated, as well as dozens of informational and instructional sheets that help court users. On the Virtual Self-Help Law Center website, translation will focus on instructions for filling out some of the more common, but difficult Judicial Council forms. ♦

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KIRI TORRE
Court Executive Officer

A STRATEGIC OR TACTICAL BUDGET APPROACH - THAT IS THE QUESTION

As we enter fiscal year 2011-12, the judicial branch finds itself facing its third consecutive year of severe budget reductions. Fortunately for the public we serve, our Court Leadership decided to take a strategic approach to begin addressing its permanent budget reductions in fiscal year 2008-09. I am pleased to report that the Court has already permanently reduced its operating costs by the requisite \$7.56 million in order to address the previous budget cuts that were imposed through fiscal year 2010-11, ending June 30, 2011. To achieve the \$7.56 million budget reduction, the Court:

- ♦ Completely restructured/ downsized its management team;
- ♦ Eliminated positions through attrition;
- ♦ Imposed a hiring freeze to reduce personnel costs;
- ♦ Implemented personnel layoffs at all levels;
- ♦ Eliminated scheduled 3% raise for management and unrepresented employees;
- ♦ Renegotiated health benefits, implementing a cost share agreement for all existing employees;
- ♦ Eliminated retiree health benefits for new hires after January 1, 2011 for all managers, unrepresented employees and employees in the two largest unions;
- ♦ Renegotiated or canceled building leases and consolidated operations into state-owned buildings;

- ♦ Cancelled consultant contracts and developed in-house expertise;
- ♦ Negotiated reductions to the juvenile court appointed counsel contract budget;
- ♦ Implemented an enhanced court-ordered debt collection program;
- ♦ Launched web-based information and services to reduce lines in clerk's offices;
- ♦ Instituted other technology solutions to create more efficient operations;
- ♦ Significantly reduced the number of cell phones and blackberry devices;
- ♦ Renegotiated or cancelled vendor contracts to reduce the cost of services;
- ♦ Eliminated all non-essential office expenses and equipment purchases.

In fiscal year 2008-09, the Court had 440 staff to serve the public. As we begin fiscal year 2011-12 we have 309 staff to serve 46 bench officers adjudicating the same volume of cases filed with the Court.

Since the Court took swift action as soon as the scope of budget issues were known, the Court has been able to accumulate a budget reserve which serves as a temporary safety net as we brace for this year's additional \$6.8 million permanent reduction. The state's Judicial Council, the policy-making body for the Judicial Branch, redirected central state funds on a one-time basis to the supe-

rior courts to help mitigate a portion of these permanent reductions for this fiscal year. This assistance will provide our court with the critical one-time funding to allow for a more orderly transition as we all continue to downsize and make the difficult decisions regarding significant public service reductions or the elimination of services to meet the new budget mandates.

With the cooperation of our employee unions, our court has used a portion of its one-time fund reserves to create a limited number of one-year temporary positions in order to maintain public service levels to the extent possible. After having authorized these temporary positions, the Clerk's Office hours were restored to its previous schedule of 8 a.m. to 3 p.m. (an increase of one hour).

The Court has also authorized targeted staff overtime using fund reserves to address the most critical clerical backlogs that have been forming in the areas of Misdemeanor Criminal, Limited Civil and Family 2336 Judgments. The Court's plan is to continue to address the clerical backlogs through temporary help and overtime to the extent one-time fund reserves allow.

Knowing that our one-time fund reserves are insufficient to sustain current operations indefinitely, the Court must continue to look for ways to reduce service levels in order to meet the new budget reductions by the end of the fiscal year 11/12.

So the good news is that, up to this point, the Court has been able to maintain public service levels in critical areas through prudent management, careful planning and the use of its one-time fund reserves. The challenging news is that additional permanent reductions will need to be made to absorb the new budget reductions both this year and next. As budget reduction proposals are developed, the Court will seek public comment prior to making any final decisions.

The Court is very proud of its dedicated and knowledgeable managers and staff who continue to provide critical support to our bench and the public we serve. Without their strong commitment to public service, the Court would not have been able to sustain its operations during the past three fiscal years. ♦

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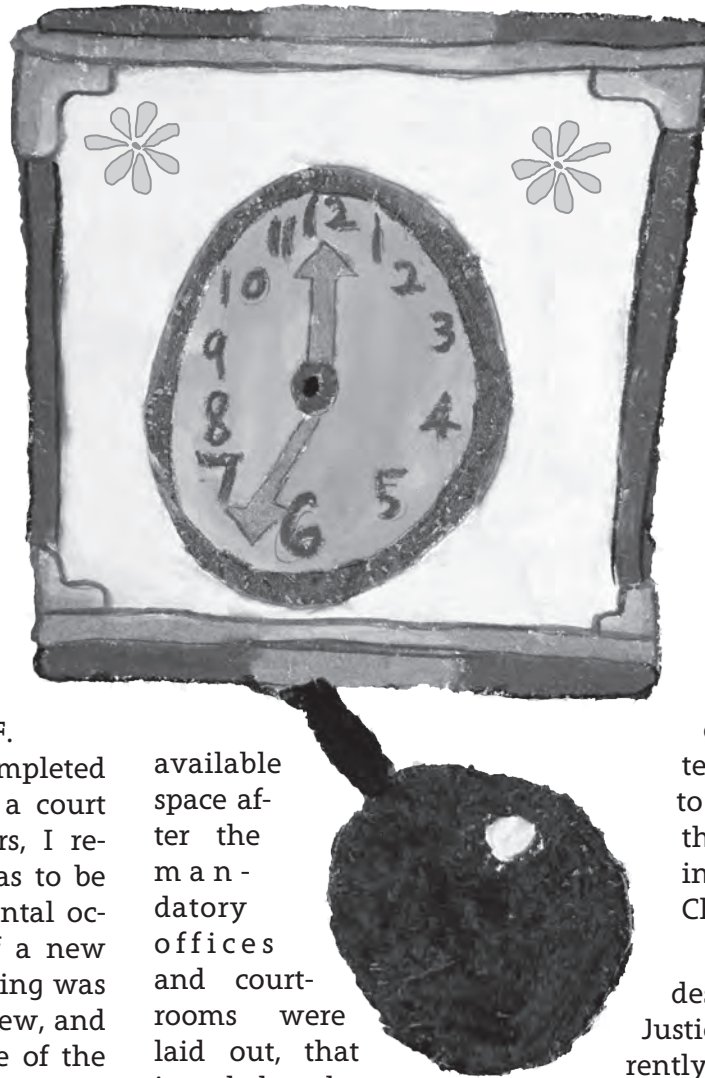
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CHILDREN'S WAITING ROOM

by **MINDY MORGADO**, Deputy Executive Officer



If you've been around Martinez for a while, you may remember the opening of the Peter L. Spinetta Family Law Center in 2001. It was the first new addition to the patchwork of buildings that make up the Superior Court in downtown Martinez since the A.F. Bray Building was completed in 1988. Having been a court employee for 28+ years, I recall how exciting it was to be a part of this monumental occasion, the opening of a new court building! Everything was so modern, fresh and new, and was considered a "state of the art" piece of architecture.

Unfortunately, the Court and County were in the throes of a budget downswing due to the statewide recession in 2001 which caused the Court and County to scale back on the design of the planned "Children's Waiting Room." This room was actually part of the initial design of the Family Law Center, but for the reasons stated above, there were such limitations on

available space after the mandatory offices and courtrooms were laid out, that it ended up being squeezed into the middle of the lobby, under the stairs, shaped like a canoe, with no viable access to data and power. The Court had no additional funding to arrange for outside childcare services, so parents were required to stay with their children, which really defeated the whole purpose of having a place for their children while they conducted their business!

The legislature in its wisdom authorized courts to increase civil filing fees for the support of Children's Waiting rooms in all counties. The use of these funds was, however, limited to staff and general operating costs - not construction. This has meant that Contra Costa, despite all the best of intentions, has not been able to the redesign and rebuild the architectural anomaly in Martinez into a suitable Children's Waiting Room.

The good news is that, by design, the New Arnason Justice Center in Pittsburg, currently houses a viable space for a Children's Waiting Room adjacent to the Self Help Center. It will certainly meet the critical needs of the court customers we serve in and around East County who cannot afford baby sitters and may not have extended family available to watch their child when they must visit the court.

We are very pleased to announce that we will be able to provide professional drop-

in childcare services through *Kidango, Inc.* a licensed non-profit, public benefit corporation that has been in the childcare business for 31 years. *Kidango* currently provides quality childcare on a drop-in basis to families who utilize the Children's Waiting Rooms located in Oakland, Hayward and San Leandro Courthouses.

The highly-qualified *Kidango* caregivers will provide enriching and educational activities that are developmentally and culturally appropriate for the children under their care in a safe and nurturing environment. All *Kidango* childcare staff must pass a comprehensive background record check and screening.

Kidango will provide one full time Lead Caregiver /Master Teacher and one full time Caregiver/Teacher at the Arnason Justice Center. The Center will accept drop-ins, ages 2 through 12, Monday through Friday, excluding Court holidays and weekends. The Children's Waiting Room is open to all persons, other than jurors, who have business at the Arnason Justice Center in Pittsburg.

We are in the final stages of completion and plan to open the Children's Waiting Room this fall. We are excited about the new service and the benefits it will provide to our community. ♦

The Children's Waiting Room at the Arnason Justice Center in Pittsburg is scheduled to open on September 6, 2001.

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CHANGING LIVES

ONE SCHOLARSHIP AT A TIME

Court Scholarship Program awards scholarships to five rehabilitated criminal offenders

COURT SCHOLARSHIP PROGRAM

cont. from page 20

This year's five Contra Costa Court Scholarship recipients are:

KENEITHIA RESINO, who is working towards her degree in Health and Human Services. Keneithia strives to become a social services case manager and, in her own words, 'a powerful tool for social change and betterment in the lives of young girls and women.'

MARKESIA HUEY, who is working towards her certification as an Alcoholism and other Drug Addiction Specialist (CAS). Markeshia is especially interested in multi-cultural studies and the role of culture in recovery. She is also actively involved in outreach, speaking openly about her life as an addict and ex-felon

in panel discussions and media interviews.

DARRELL JOSEPH, who is working towards a degree in graphic arts. Like many scholarship recipients, Darrell attributes much of his success to Kenneth Reynolds, Outreach Coordinator at Contra Costa College, who provides ongoing support and encouragement. Darrell hopes to start his own graphic design company one day.

DAVID MILES, a newly-wed and new father who is working towards a degree in Mass Media Communication. David is also an accomplished poet who has been involved with Youth Speaks and has spoken at various venues, including the Air

Lounge in Oakland. He has also worked as a tutor at West Oakland Middle School and hopes to work as an educator after he completes his degree.

DERRICK JOSEPH, who is earning his certification in auto collision repair at Contra Costa College. The scholarship will help him purchase the supplies and tools necessary for his program. Derrick is also an active volunteer at the Salvation Army in Antioch, where his duties include stocking shelves, delivering meals, and mentoring.

For more information about the Court Scholarship program, please contact Theresa Hurley at thurley@cccba.org or 925-370-2548. ♦

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by Carol M. Langford

Can attorneys take referral fees? Sure, but what do you really need to know? Referral fees are addressed in California Rule of Professional Conduct 2-200. Referral and fee splitting arrangements are permissible under Rule 2-200 as long as there is informed written consent from the client after full disclosure, and no increase in the overall fee to the client. *Chambers v. Kay* 29 Cal. 4th 142 (2002). Compliance with Rule 2-200 is non-delegable and is required even where the referred attorney promises to obtain the informed written consent of the client for the referring attorney. *Margolin v. Shemaria* 85 Cal. App. 4th 891 (2000). Failure to comply with Rule 2-200 will prohibit any referral or fee splitting arrangement. *Compagna v. City of Sanger* 42 Cal. App. 4th 533 (1996) [also holding that a subsequently negotiated referral fee must be disclosed to the client and, if not, the referral fee reverts to the client].

Although the client must consent to fee splitting in writing, the agreement between the two attorneys need not be in writing and/or be signed by both attorneys. *Cohen v. Brown* 173 Cal. App. 4th 302 (2009). The client consent may come at any time before the division is made, including after the services are fully performed. *Id.* However, under proposed rule revisions awaiting California Supreme Court approval,

TAKING THE MYSTERY OUT OF FEE SPLITTING & REFERRAL FEES

a client's written consent must be made at the time the lawyers enter into the agreement or as soon as reasonably practicable after entering into the agreement.

When the requirements of Rule 2-200 are satisfied, agreements between attorneys regarding sharing or splitting fees will be enforced according to their terms even where the referring attorney's compensation is simply a forwarding or referral fee and the referring attorney performs no additional services on the matter.

Fee Splitting Between Co-Counsel

Again, all agreements to split fees are subject to Rule 2-200. However, a non-complying attorney may still recover the reasonable value of the services provided that it is justifiable on some reasonable basis other than by the agreed percentage of the recovery. *Huskinson & Brown v. Wolf* 32 Cal. 4th 113 (2004). In the case where the client has not consented to the fee-splitting agreement in accordance with Rule 2-200, quantum meruit recovery may be had only against co-counsel and not against the client. *Strong v. Beydoun* 166 Cal. App. 4th 1398 (2008). However, where the client has consented to the fee-splitting agreement but the client later fires one of the attorneys, unless that agreement provides otherwise, quantum meruit recovery may be had against the client only. *Olsen v. Harbison* 191 Cal. App. 4th 325 (2010).

Class actions are different; written disclosure of the referral and approval of the agreement must be given by the court. CRC Rule 3.769.

Also Rule 2-200 does not apply to agreements by lawyers leaving or dissolving a partnership.

Potential Liability Issues

Could there be any possible liability for making a bad referral? Well, there may be liability to the client for a "negligent referral," for example a failure to make a referral until after the running of the statute of limitations. *Miller v. Metzinger* 91 Cal. App. 3d 31 (1979). However, under certain circumstances a cause of action for indemnity against malpractice claims may be stated by the non-negligent attorney against the negligent attorney. *Musser v. Provencher* 28 Cal. 4th 274 (2002). But no cause of action lies in favor of the referring attorney against the negligent attorney for loss of the expected share of the fee. *Beck v. Wecht* 28 Cal. 4th 289 (2002).

Conclusion

Even if you have complied with Rule 2-200 and are not negligent with referring your client over to another attorney, you should still be careful in referring a client. If a client has a bad experience with the referral, your judgment could be called into question by that client and he or she may decide to take their business elsewhere. In this economic climate, you need to retain as many clients as possible and have them speak highly of you. Follow Rule 2-200 and enjoy your referral fees! ♦

- Carol M. Langford is a lawyer in Walnut Creek specializing in attorney conduct and State Bar Defense matters. She is also an adjunct professor of professional responsibility at U.C. Berkeley Boalt Hall School of Law.

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Jesse H. Choper

Earl Warren Professor of Public Law
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Luncheon Speaker

The Honorable Tani G. Cantil-Sakauye

Chief Justice of the California Supreme Court

Afternoon Plenary Session Speaker

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by Dana L. Santos



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Having said that, I have just disqualified myself from sitting pro tem.

Peter Bonis

Law Office of Peter H. Bonis



Pro tem judges worked years ago. Anything that reduces the Court's work load and speeds up the administration

of justice would help. What the Court really needs is a pro tem clerk program. Two weeks and expanding to process a piece of paper is a bigger problem. Maybe they should lock the door to the Clerk's Office at 9:00 a.m.

Rodney M. Sweet

Law Office of Rodney M. Sweet



Yes. Fresno County has a substantial program taking advantage of attorneys to serve pro tem.

They have an entire training regimen that volunteers go through and get quite a few volunteers who together provide a significant amount of time to the Court.

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