

PRESIDENT'S COLUMN

Law Month – It's All About Justice for ALL

by Kenneth M. Sigelman

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The month of May, aside from bringing San Diego intermittent splashes of glorious warm sunshine and "May Gray," also happens to be Law Month. It's a fitting time to take a closer look at Chief Justice Ronald George's annual State of the Judiciary speech, which was delivered a few days before this column went to press. As a distinguished jurist as well as California's chief judicial officer, Chief Justice George is always worth listening to. However, this year's remarks seem especially relevant to consumer attorneys and the people we represent. With the kind assistance of Kerry Hoxie, our Editor-in-Chief, pertinent excerpts of Chief Justice George's address are set forth below. For the full speech, please go to www.courtinfo.ca.gov/reference/soj032508.htm.

A central theme of Chief Justice George's speech was access to justice. As he explained, "People must have meaningful access to the courts, or the phrase 'justice for all' becomes no more than an empty promise."

While Chief Justice George made this comment primarily in the context of budget shortfalls that have hamstrung courts throughout the state in hearing and resolving all types of legal disputes, our clients have been especially harmed. All of us who handle civil cases in Riverside County have been frustrated by our inability to get any civil cases to trial there until very recently, when Chief Justice George created a special task force of retired judges who were dispatched to bolster the County's judicial staffing, so that some civil trials could actually commence. While the logjam has made it difficult for us as attorneys to process our caseloads in an orderly fashion, the harm to our injured clients has been far more visceral, personal, and scarring. Hopefully, Chief Justice George's comments and hands-on approach signal the beginning of a return to reasonable access to courts statewide for all Californians.

However, "access to the courts" and "justice for all" mean more than simply having the courthouse doors and courtroom doors open. The past 25 or so years have been noteworthy for the steady erosion of consumer and individual rights for Californians. Providing additional judges to grant dubious motions for summary judgment and/or appellate courts to affirm them does nothing to correct the more pernicious problems that much of the jurisprudence of the past two plus decades has wrought. Of course, we should not apportion all of the blame to unfavorable judicial decisions. Unfortunately, legislation and ballot initiatives (MICRA, Prop. 64, Prop. 51, and Prop. 213 to name a few) have also severely limited and/or eliminated the rights of Californians victimized by the wrongdoing of others to obtain justice. As we read, with optimism, Chief Justice George's wise words, we hope, too, that "access to the courts" and "justice for all" will once again mean not only a forum in which to obtain justice, but also a legal framework that will dispense true justice to ordinary people, families, and small businesses, and the rich and powerful alike.

Exerpts from Chief Justice George’s speech:

Access to justice has been a primary goal of the Judicial Council. The Council, which as Chief Justice I chair, is the constitutionally created entity charged with overseeing and setting policy for the statewide administration of justice.

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People must have meaningful access to the courts, or the phrase "justice for all" becomes no more than an empty promise. That requires making necessary tools available, including court information in several languages, user-friendly forms, guidance on how to file and respond to pleadings, and at least limited assistance from legal counsel and interpreters when needed. The judicial branch has expanded its efforts to improve the availability of interpreters without additional funding from the Legislature, and will continue to attempt to augment those services even under the constraints of the present budget situation.

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The courts also have actively participated in improving services to families and children in the foster care system. These children are among the most vulnerable members of our society. Timing here is critical. During the brief period of a child's development and learning, delay in providing services or a proper placement too often amounts to a denial of those vital needs to the developing child.

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Court delays have real, human consequences. In one Riverside criminal case, an individual who had spent five years in jail was found not guilty when his case, which had resulted in a hung jury at an earlier trial, finally was retried. In a civil case in that county, the surviving husband and very young children of a mother who stayed at home to care for the children and who was killed in an automobile accident, ended up in homeless shelters during the years they spent waiting for a trial date to be scheduled. No judge was available to hear their case. Once a trial date was set, the case was settled within two weeks.

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Cases involving young children or the elderly have statutory priority in our court system. Yet such priorities are thwarted by criminal case backlogs. Elderly people have written to the courts after their cases repeatedly have been put over, stating that they fear they will die before their cases are resolved. . . . This circumstance reflects a fundamental tenet of court administration: that the setting of a trial date often is the key to reaching settlement and resolution-and that nothing happens until then. And a case cannot be set for trial without there being a judge available to try the case.

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The failure to provide sufficient resources and personnel for the court system risks depriving California of an effective public civil justice system. The absence of an operational civil justice system will affect every aspect of California life: business and financial institutions, dissolutions of marriage, probate distributions, child custody and support, civil rights, governmental functions – all will have no place to go. The legislation you enact into law may not be subject to judicial enforcement if that occurs. I believe we all agree that a functioning court system is not a luxury – it is an essential component of state government.

California's court system has a nationwide reputation for excellence and innovation in providing service to the public, for the high quality of its bench, and for the creativity and innovation of judges and court administrators and court staff who are dedicated to enhancing the administration of justice. In my view, an impartial judiciary – and its corollary, adherence to the rule of law – are the cornerstones of our democracy. Support for our judicial branch is essential to our democratic form of government in good times and in bad.