

PRESIDENT'S COLUMN

Our New Court System

by Wayne Alan Hughes

Wayne Alan Hughes is CASD's President for 2009. He practiced criminal and domestic law before joining with his "significant other," Tracee Lorens, to practice in various areas of complex civil litigation. Their first trial, as co-counsel, served as a chapter in Judge Ehrenfreud's book, You Be the Jury. Currently he practices in the areas of mass torts and class actions for which he received two Outstanding Trial Lawyer Awards. He is blessed with three children: Alexander Zaharopoulos Hughes, MBA Oxford, Vice President at Wells Fargo; Cassandra Zaharopoulos Hughes, completing Vet. school; and Alexandra Rose Lorens, first year college student and dynamic carbon copy of Tracee. You can reach Wayne at: waynecloud@aol.com.

At a recent meeting of attorneys from around the state, a major topic of discussion was the budget dispute in Sacramento and its probable impact on the civil justice system and our courts. Remember that criminal justice is harder to cut than civil courts. Constitutional constraints demand a certain performance level in the criminal courts. The impact of the budgetary problems on our court system is not a pretty picture.

No one can predict how the dispute will be resolved or exactly how the ugly reality of the state budget will remodel if not dismantle our civil justice system. We can reasonably predict that the future is going to require that we all make some very unpleasant choices. Professional fees and filing fees will increase while income for courts and attorneys will decrease. Here are some of the realities which will affect our future court system and profession:

- * At the time of writing this article, the Governor and democrats agree that taxes and fees must be raised. The disagreement is which, how much and what expenses should be cut. Meanwhile, most republicans are refusing to agree to any increase in taxes. The Governor's proposal cuts the judicial budget from \$3.9 billion to \$3.4 billion for trial court operations. In addition, the Governor's budget destabilizes funding for court operations by proposing suspension of the annual State Appropriation Limit adjustment for court operations. In reality the Governor's budget will create significant operational shortfalls for funding court employees and interpreters. These comments are not meant to simply single out the Governor nor either political party. In reality, no one has a solution or even a sensible plan.
- * There does seem to be agreement that we face a \$42 billion deficit in California. In a state of 38 million as of 2008, \$42 billion divided by 38 million is \$1,106 dollars per person or \$4,421 for a family of four. Another way to look at \$42 billion is to consider that if paid in one hundred dollar bills, it would take 420,000,000 Ben Franklins which would stretch, if laid end to end, over 3,977 miles! California's shortfall is larger than the yearly budget of any state except New York.
- * One solution would be to lay off state employees. However, according to one source, even if this were possible, firing every civil servant in California would not balance the budget. It

should be noted that the governor has already ordered that, starting in February, most state offices should be closed two Fridays a month. Our local courts in November 2008 already have reduced most business offices hours by one hour per day which applies to a couple dozen different offices in our local state courts.

- * In February, California will start deferring payments and start handing out of I.O.U.s. According to the *Christian Science Monitor* on 1/20/09, “We’re at the edge of a cliff.” We face shortened school years, as well as paying obligations with promises rather than money. If shorter school years are coming, shortened justice is likely to follow.
- * Courts around the state are losing the use of temporary judges due to a 30% cut in funds for such judges. In Orville, one temporary judge who had held that status for 13 consecutive years had to be let go. Fewer judges, less access, more delays. We may need to rethink the five year rule because, as an entire state, we face many of the well publicized problems which visit Riverside’s civil justice system.
- * According to the State Bar, legal jobs throughout California are in decline. November 2008 registered 17,200 fewer legal jobs for the month. It was the sixth month of decline.

At this point the reader might easily ask, “What is the purpose of this pessimistic column?” When I left the meeting, I started thinking about whether there is a logical solution out there and I don’t see one. I can understand the point of view of our Governor, both political parties, judges, defense attorneys and certainly my much loved plaintiffs’ bar. What I cannot understand is why, as a community, we are not having a dialogue about what each of us must be prepared to give up or contribute to a solution. Why aren’t we having more of a conversation? We . . . and I certainly am part of the problem . . . we need to wake up and face these problems. Why aren’t we talking more as a community of judges, court administrators, attorneys and others? Part of the problem is perhaps that we don’t have a good forum for such a town hall meeting. Another part of finding a solution is that we all need to figure out what we can give up or contribute to a resolution.

It is not the intent of this column to suggest what others should do, but to seek a process.

Perhaps, first, we need to look at what each of us can contribute to a more efficient system. Can qualified attorneys step up and fill in for decreased court personnel? Do we need to reconsider old positions and be willing to make concessions? How do we, as a community, serve the public with less, even as the need for our services increases?

Second, is there a place where we can have our literal or figurative town hall meeting? Where and how can we come together more effectively? As a community of lawyers and judges, we have crossed many lines to raise almost a million dollars for the homeless through the Red Boudreau dinners. We should be willing to cross those same lines to preserve justice for our community. As a community we need to build our new court system together.

Please feel free to send suggestions to waynecloud@aol.com and we will try to share those ideas in the near future. **Thank You!**

This organization thrives on the work of volunteers. It cannot survive without the thousands of hours of donated services from our board and members. I'd like to take some time to thank this month two of those individuals. Gradually I hope to thank everyone.

For twenty years, Kerry Hoxie has quietly edited our monthly magazine, *Trial Bar News*, which is one source of communication between diverse members of the legal community. She is an amazing resource. Every month she has to remind over a dozen of her column editors and writers to stop the procrastination, write their articles and get them in. These people are busy and all of us should appreciate what it takes to motivate such a group. Kerry then patiently edits and maybe even does a little rewrite here and there. She then works putting our ideas into the mock up, getting additional information and photos, and then deals with the printer and checks placement of notices and ads. I don't know everything she does but I know it is more than I could accomplish. Oh yes, she is also a member of the board of directors of CASD and co-chair of the Communications committee which manages our web site, brief bank and list serve.

The second person I wish to thank is also a woman. Frankly, a majority of the work of this organization is woman powered. Karin Wick is chair of the Events committee, a member of the Awards committee and a member of the board of directors. She is also a mother of two, wife of an exceptional man and runs her own practice. The Installation Dinner, Golf Tournament and Trial Stars' Dinner don't happen without her work. An event like the Installation Dinner takes well over a hundred hours of her time. She finishes work on one event and immediately is off working on the next event. Locations are selected and checked out, publicity is created, tickets sold and sponsors located. Without sponsors these events would not be possible. She does it all and still maintains a sense of charm and even comes across as cheerful.

Take the time to go up to volunteers like these two women and say "Thank You" over and over.