

Not So Strange Bedfellows

Two issues have dominated the attention of Consumer Attorneys of California (“CAOC”) and should be closely followed by every California lawyer who represents ordinary Californians: legislative redistricting and the threat of widespread court closures. And as it turns out, these two issues are intimately linked.

After months of agony, the new California Redistricting Commission approved new maps for California’s congressional, state Senate and Assembly districts. The Redistricting Commission was established by the passage of Proposition 11, a ballot measure created and pushed by large corporate interests and their state Republican Party. With Proposition 11, the power to draw these districts moved from the state Legislature to a citizens’ commission so that politics and, in turn, gerrymandering would be removed from the process.

Meanwhile, California’s hard times have put a stranglehold on all layers of government, including our courts. Recent years have seen state General Fund allotments to the courts slashed by 30%. Despite those Draconian cuts, presiding judges throughout the state have performed with fiscal dexterity and distinction to keep courtrooms open. But the budgetary red ink won’t relent. Throughout the state, the administration of justice is under intense pressure, which will increasingly result in very visible and very negative consequences for our clients.

The budgetary threat to court funding is not new. California’s budget woes are not merely the result of a bad economy, but from structural problems stemming largely from a dysfunctional political situation in the Legislature and the need for a two-thirds super majority in both houses for a revenue increase. For years, California has been enduring its own version of the federal debt limit debacle, fueled by right-wing ideologues more interested in scoring political points than governing.

As a result, for just as many years, CAOC has been forging relationships with the other stakeholders to find solutions to the ever-present court funding crisis. We have used our political insight and clout to ensure that the courts have received as much funding as possible. In previous years, we have helped deliver court budgets that allow our courts to meet the needs of Californians. With the state’s increasingly crushing fiscal problems, recently the courts have lost substantial ground. But we have been working to lessen the financial cuts in ways that both deliver desperately needed funding and still permit ordinary Californians to access the courts. In 2010, CAOC helped develop a slate of fee increases that included a \$40 increase in filing fees and a \$20 court-call surcharge. Though these increases were and are painful, and make it a little more difficult for ordinary Californians to access courts, they were manageable and have kept courthouses open for civil cases. But the crisis is just beginning and will worsen significantly before it improves. We need to find revenue solutions that reach beyond what can be achieved through fee increases.

Which brings us back to the new legislative districts. If the Commission’s work stands, by 2014 Democrats have a fair chance of obtaining the elusive two-thirds majority needed to pass revenue increases in the Senate. The new lines show 24 solid Democrat seats and 14 solid Republican seats. The four

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new swing districts favor Democrats by percentage of voters, but in past elections these areas have not always elected Democrats.

And further uncertainty exists. Proposition 11 was the Republican Party's attempt to obtain outsized power in the Legislature. Now that the new lines are not living up to GOP hopes, the state Republican Party filed a referendum challenging the Redistricting Commission's work for both the state Senate and the congressional districts. With the Republican Party's referendum pending, it is a good bet that the district lines will not be final until well into the fall.

Meanwhile, reaching a super majority in the Assembly will remain more challenging, but quite achievable with hard work. There, 50 seats remain solidly Democrat, 23 solidly Republican and seven seats are in swing districts. Of those swing districts, five have a Democratic reg-

istration advantage. Despite the advantage, it will remain a fight to reach the 54 needed for a two-thirds majority of Democrats.

So what about all of these races that Democrats may win? All will not go smoothly, even in safe Democratic seats. Proposition 11 prohibits the Redistricting Commission from considering incumbency when drawing new districts. Under the current plans, out of 173 legislative and congressional districts, more than 60 incumbents will either be displaced from their current district or will find themselves facing other incumbents, often from the same political party. The 60-member political shuffle is underway and the impact is unknown.

Some of the most notable changes are occurring in the state Senate seats along the coast. San Francisco lost a senate seat, placing political heavyweights Mark Leno and Leland Yee in the same district. But Yee is also running for mayor of San Francisco. If

Yee wins, Assembly Member Fiona Ma could run to fill the remaining two years of Yee's term under the OLD district lines. Oddly, if Yee loses, Leno and Yee will share the seat until Yee is termed out of the old seat.

Republican Senator Sam Blakeslee, who defeated current Secretary of Natural Resources John Laird last year in a tough race for state senate, is now living in a Democratic-leaning district. Incumbent Democrat Assembly member Bill Monning quickly announced his intent to run for the newly created seat.

A bit further south, the Democrats should pick up a seat in Santa Barbara and the list of potential Democratic candidates is growing. These include Former Assembly member Hannah Beth Jackson and Fiona Ma's fiancé, firefighter Jason Hodge, have announced their intent to run for the seat. And many

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Visual Evidence Archive: Demonstratives That Made a Difference

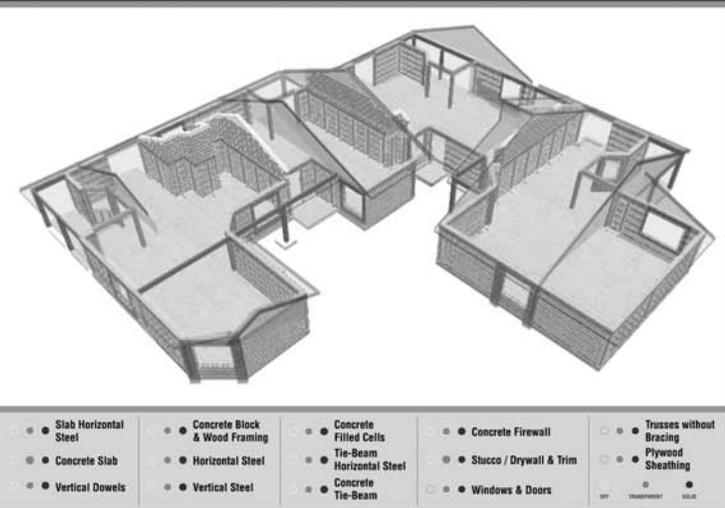
Practice Area: Construction Defect Class Action

Background: During damage inspections following the catastrophic Hurricane Andrew, engineers discovered a number of potentially significant construction defects in several fourplex units that were part of a 368 unit development in Miami. The families living in some of these homes sued the developer for a several widespread defects, the most important being the failure to install 73% of vertical rebar and 98% of horizontal ladder-reinforcement steel in exterior concrete block walls, as required by code. At issue was whether the cost to repair the units was at least 51% of their value, thus requiring the structures to be razed and rebuilt according to current code.

A Demonstrative That Made a Difference: In order to demonstrate the extent of missing reinforcement steel, an interactive 3D-computer architectural model was created. By toggling buttons located onscreen, the presenter could virtually build or deconstruct an exemplar structure by making any of fourteen different building materials appear solid, semi-transparent, or invisible.

Outcome: Plaintiffs settled for a confidential, 8-figure amount.

Typical Lakes of the Meadow Single Story Fourplex – Plan



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are wondering whether former Assembly member Pedro Nava will throw his hat in the ring.

Further down the coast, state Senator Fran Pavley's Senate district underwent enormous changes, removing much of the coastline from Fran's district and pushing the lines northeastward. As a result, Republican state senator Tony Strickland finds himself in Democrat Pavley's seat, but now with the conservative voters of Simi Valley. Voter registration favors the Democrat, but the voting history of the district makes this a challenging race. Strickland has pledged to vote against any revenue increases under any circumstances and therefore poses a threat to the state's justice system and makes the reelection of Fran Pavley a priority.

Finally, Juan Vargas will have to move a few blocks to remain in the 40th state Senate district. Vargas, however, wants to replace Congressman Bob Filner, who is retiring from the House to run for mayor of San Diego. The situation is still fluid because the very popular for-

mer state Senator Denise Ducheny has also announced her intention to run for Filner's congressional seat. Vargas does not have to abandon his Senate seat to run for Congress. If he loses to Ducheny, he will safely remain in the state Senate, assuming he moves into the newly drawn district. If he is elected to Congress, we will have another open state Senate seat in San Diego – and the San Diego races are always wild ones.

Several Assembly members are also looking for new homes. Starting in the state's northernmost district, Democratic Assembly members Wes Chesbro and Mike Allen will find themselves living in the same district. It is tough to see a clear move here. Allen, a lawyer and strong supporter of the civil justice system, could move south to the seat currently held by termed-out Assembly member Jared Huffman, disappointing many Marinites who covet the Assembly seat.

Democrat Allyson Huber, who won a former Republican district in 2008, has a steep hill to climb in her new Republican district. Huber has

signaled that she might jump to Congress and challenge incumbent and arch conservative Dan Lungren. In Sacramento, Democratic Assembly members Roger Dickenson and Richard Pan will either face an expensive race against each other or one may move south to the newly formed Democratic-leaning seat in South Sacramento/Elk Grove.

Further south, Democrat Betsy Butler saw her district carved into three parts. Just north, about 10,000 constituents will be in the Assembly seat held by termed out member Julia Brownley. Butler's home in Marina Del Rey is drawn into the Inglewood seat held by Democrat Steve Bradford. And the southern portion of her district, which includes Torrance and Rancho Palos Verdes is open. Despite a Democratic voter advantage, historically it has a conservative voting record. The most likely move pushes Butler north where she would run in an open seat that includes Santa Monica and West Hollywood. Wherever she lands, Butler will run as the Democrat incumbent under state Democratic

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Party rules as the Party considers a member an incumbent so long as they are running in the same house.

There is still more hope that California's dysfunctional budget system may receive a fix. Under the new open primary system, any of close or Republican-leaning races could result in the election of Republicans who are more fiscally responsible and open to increasing revenue than those currently in the state Legislature. Voters, including many Republicans and declined-to-state voters, overwhelmingly want moderate elected officials intent on finding solutions, and often reject the take-no-prisoners approach of the radical right wing. Under an open primary system, Republican candidates who have the courage to reject a "no tax pledge" have a far better chance of winning than they did in the old, gerrymandered districts. To build a fiscally responsible two-thirds majority in the Assembly, the hoped-for competitive districts could yield new legislators who would support generating revenue for needed public services, including the courts.

Further, because of a large demographic shift in the Latino population, most new seats are in the central valley, stretching from Riverside to Turlock. Heavy Latino populations in those new districts may yield surprising results under the new "Top Two" open primary system.

Preserving California's court system should not be a partisan issue. With redistricting, combined with

California's new open primary system, we stand a better chance than ever to elect public officials intent on preserving and improving one of the best justice systems in the world. While every election has important consequences, the work we do to elect legislators in 2012 will have a far-reaching impact on whether the courthouse doors remain open and for whom. **TBN**

Notice of New, Revised and Repealed Superior Court and Judicial Council Forms

New and Revised Superior Court and Judicial Council forms are available for use now.

All Superior Court forms can be found on the Court's Intranet site at:
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