2013
STATE OF THE JUDICIARY
IN SAN DIEGO COUNTY
The Report on the State of the Judiciary in San Diego County is published by the San Diego County Bar Association.

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“If we are to keep our democracy, there must be one commandment: Thou shalt not ration justice.”

(Former United States Supreme Justice Billings Learned Hand)

A. Introduction

The courts in San Diego County – like many other essential government services – largely go unnoticed by most San Diegans, until they need them. Indeed, when a judicial system is properly funded and fully functioning, its varied operations serve a large segment of the public every day with little fanfare. However, when those same critical operations are delayed, curtailed, or altogether eliminated following years of sustained and severe budget cuts, San Diegans in need of vital court services to resolve myriad personal and business disputes are left with no other recourse. Moreover, while the recent Great Recession has only increased the demand for court services – to address rising unemployment, home foreclosures, landlord-tenant, business, and family law disputes which are a natural by-product of such economic strain – those same difficult economic conditions have paradoxically led to continuing and ever-accumulating cuts to the courts’ annual operating budget. Thus, at the same time demand for court services has increased, the availability of those services has been undermined by consistent funding shortfalls. Consequently, trying to do more with less, the state courts in San Diego are now coming perilously close to violating Learned Hand’s prescient admonition, with San Diegans from all walks of life left to suffer the consequences.
While the legislative debate over court funding often focuses narrowly on a seemingly endless array of shifting facts and figures, there is a fundamentally human component to court funding decisions which is often overlooked. To be sure, despite the diligence and conscientious attempts of San Diego’s court leadership to continue to deliver court services with drastically reduced resources at their disposal, every San Diegan should understand the grim reality that their local courts – long the shining example statewide of judicial efficiency – have now been hobbled to such an extent that extensive delays, the closure of courtrooms, the unavailability of essential court services, and long wait times now characterize those court systems instead. Those delays and the elimination of essential court services have only been exacerbated by the forced consolidation of numerous trial court functions to courts located only in downtown San Diego, the very same services which were previously available to San Diegans in North County (Vista), East County (El Cajon), and South Bay (Chula Vista), with the Ramona Branch courthouse shuttered altogether. As a practical reality, this means that troubled families confronting difficult custody issues now have to wait up to ten weeks to schedule a first appointment with Family Law Services. This means that a party wishing to contest even a simple traffic ticket will have to wait at least seven months or longer before that matter will be heard. This means a significant backlog in the entry of judgments in a variety of cases, which now take well over six months after a matter is concluded before a final, enforceable judgment is entered. This means that the setting of routine motions in civil disputes, which formerly were scheduled and heard within a few weeks, are instead being set for hearing six to eight months out. And this means the elimination of court reporters in civil, probate, and family law departments, severely compromising the integrity of unreported court proceedings and the ability of parties to preserve issues for subsequent appeal.
The purpose of this report is not to survey or scrutinize every facet of court operations in San Diego. Nor is it to catalog how budget cuts have affected all court services. Instead, this report will attempt to portray a snapshot of the present state of our local courts by first explaining the background of statewide budget cuts and shortfalls over the last five budget cycles. It will then highlight the reductions in operations, services, and personnel those consistent cuts have necessarily but unfortunately imposed on our local courts. And finally, by focusing on representative categories of services and cases impacted the most, this report will examine the practical, human consequences suffered by San Diego families, businesses, and everyday citizens, as a direct result of ongoing budget cuts.

In short, this report demonstrates how the consistent failure to provide adequate funding to the courts is effectively – and at times, quite literally – closing the doors of our local justice system. Undoubtedly, the courts are easy prey for Draconian budget cuts, because they lack the power to tax to support themselves and hence are at the mercy of the legislative and executive branches’ shifting political priorities. And yet any perceived “savings” to a state government from drastic cuts in funding the justice system are typically insignificant when viewed in terms of a government’s overall fiscal woes. Indeed, historically, the courts in California, even at a fully-funded level, have typically accounted for less than 2% of General Fund expenditures. By comparison, when courts are underfunded, the societal costs are profound. To be sure, when businesses cannot timely enforce contracts or prevent rivals from engaging in unfair competition or misappropriating trade secrets, they cannot develop new products, penetrate new markets, and hire new employees. Similarly, when broken families cannot promptly resolve custody battles, the undue delay or outright denial of effective judicial action results not only in further harm to those who need prompt and fair resolution of their disputes, but also, in many instances, imposes further burdens on the criminal justice system. In short, by cutting the courts, particularly in times of great need, a societal “safety net” is substantially weakened, encouraging parties in many instances to take matters into their own hands, a trend which not only threatens public safety but also tears at the very fabric of any ordered democracy.

“...the consistent failure to provide adequate funding to the courts is effectively – and at times, quite literally – closing the doors of our local justice system.”
B. Court Funding Cuts at the State Level: A Synopsis

Beginning with the 2008-2009 budget cycle, funding for California’s Judicial Branch – which historically has accounted for approximately 2% of the State’s overall General Fund funding – has been slashed by over $1.2 billion.\(^1\) That figure includes permanent budget reductions of $535 million, and $125 million in “trigger cuts” included in the 2012-2013 budget, with the balance of cuts imposed by the Legislature through a dizzying array of “sweeps,” “loans,” or “one-time redirections” of funds from the Judicial Branch budget.\(^2\)

Such a striking shift in Judicial Branch funding from Fiscal Year 2007-2008 has caused significant dislocations in county trial courts statewide. For example, through the beginning of 2013, over 46 courthouse buildings in 18 California counties have been altogether shuttered, and nearly 170 courtrooms in 25 counties have been similarly closed.\(^3\) In Fresno County, all seven branch courts have been closed, requiring court users to travel to downtown Fresno, exclusively, which may involve a drive in excess of 130 miles round trip. Similarly, as of May 2013, courthouse closures in San Bernardino County will require many court users to drive up to 175 miles each way for court service. And in Los Angeles County, as of July 2013, ten courthouses will close and 18,000 civil cases will be consolidated into two courtrooms in downtown Los Angeles, from which all personal injury cases in Los Angeles County will be handled.\(^4\)

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As courthouse staff and operations personnel constitute a significant portion of the courts’ operating budget, over 2,200 employees in 36 counties have also been laid-off, with numerous others offered incentivized retirements. As a result, the overall staff vacancy rate in California’s trial court system is estimated to be just under 40%, those positions remaining unfilled due to the lack of allocated funds to pay for them. With respect to the court staff that do remain, nearly every county trial court system in California has instituted furlough days for their employees, with 25 trial court systems in the state having 12 or more furlough days a year. Other essential court services have also been impacted. Court reporters have been altogether eliminated in civil, family, and probate court matters in over 30 counties statewide, including San Diego, with those same services drastically reduced (along with interpreter services in civil matters) in as many as 36 county trial court systems. Court hours have correspondingly been slashed, with 43 counties providing nearly 20% fewer public service hours than they did just five years ago.5

On a statewide basis, the Judicial Branch has attempted to maintain support for court operations impacted by continuing General Fund reductions through the transferring of funds within the Branch which were previously earmarked for other purposes. Unfortunately, court reserve balances – meant to incentivize responsible budget management and to support basic court operations at the local level – have been “redirected” to other courts in other counties, while still other county courts have been forced to “spend down” any reserve funds they maintained through good stewardship in lieu of receiving further General Fund support.6 Ironically, although those reserves have been lauded by policy makers as a useful source of readily available operational funding, the Legislature has also stripped local courts from the ability to maintain similar reserve balances in the future.

Other funds maintained by the Judicial Branch for courthouse maintenance and construction, or funds supported by court user fees and fines, have either been reallocated within the Judicial Branch to prop-up basic court operations in financially depleted courts, or altogether “swept” by the Legislature back into the General Fund to help balance the State’s overall budget. Specifically, it is estimated that in addition to the significant General Fund reductions to the Judicial Branch discussed above, the Legislature has further swept $790 million in court construction funds (most of which were raised from court fees and fines, and not from General Fund funding) into General Fund coffers to make up for statewide budget shortfalls.

6 Id. at pp. 9-10.
As a result, over 11 courthouse construction projects in 10 counties – even in those situations where the courthouses in question have been determined to be in dire need of replacement or to constitute a public hazard – have been either cancelled or indefinitely delayed.7

Of course, the spending down of reserves and transferring of remaining special and construction fund balances is only a short term solution to the ongoing, annual need to support basic court operations. Indeed, the Administrative Office of the Courts (“AOC”) has estimated that the balances in those special fund accounts have already been reduced by nearly 72% from prior years. As a result, in the coming years, those special and construction funds which have provided life support for the trial courts in the short term will no longer be available to backfill or mitigate reduced General Fund support.8

Finally, to keep courthouses open, court users statewide have been asked to shoulder more of the costs of the justice system. In recent years, civil fees have been increased substantially in all 58 state trial courts to help fund court operations. Similarly, criminal penalties and fines have also been increased. However, the AOC estimates that such increased fees, fines, and penalties will likely only add $120 million a year statewide to support the courts, while at the same time, posing the very real danger of substantially impacting the public’s ability to use basic court services because they are no longer affordable to them.9

The Courts of Appeal and California Supreme Court – although funded out of a separate account than the trial courts – have also suffered statewide due to the same consistent budget cuts. For example, the Fourth District Court of Appeal (Div. One), located in downtown San Diego and serving San Diego and Imperial counties, is currently operating

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7 Id. at p. 11.
8 Id. at p. 9.
9 Ibid.

8 SDCBA Court Funding Action Committee Report on the State of the Judiciary in San Diego County
with a large number of staffing vacancies (approximately 10%) due to the same Judicial Branch budget cuts which have impacted the trial courts. With no additional funding, the Court of Appeal will also have to endure a fifth year of mandatory, one day a month, furloughs for all court staff, equivalent to an additional 5% cut in staff work time. Notably, those cuts to court staff have occurred while overall filings at the Court of Appeal continue to rise. As a result, the disposition of non-priority civil appeals has been substantially delayed since the court must focus what resources and manpower it has left on statutorily prioritized criminal and juvenile cases. Specifically, although the time from completion of briefing to oral argument used to routinely be two to four months, that time has been rapidly expanded to seven to eight months (and even longer in some instances), further prolonging the processing of appeals from what used to be 12 to 14 month to 18 to 20 months.

In the Governor’s proposed budget for Fiscal Year 2013–2014, released in January of 2013, only 1% of the General Fund – one penny out of each dollar — goes to fund the entire Judicial Branch statewide. Similarly, in the Governor’s proposed Revised Budget for that same fiscal year (the “May Revise”), that allocation of funding to the Judicial Branch remains unchanged, with no additional funding earmarked for the Judicial Branch or to restore substantial funds which were previously “swept,” “redirected,” or “loaned” from the Judicial Branch to cover General Fund shortfalls. Specifically, despite what amounts to a $261 million annual deficit for the Judicial Branch, the Governor has not proposed any further funding to the courts, notwithstanding recent lifts in California’s economic conditions and revenues which have exceeded projections made in the Governor’s original budget. In short, without any restoration in funding, the courts are expected to withstand permanent and severe budget shortfalls moving forward even though operating and personnel expenses have already been reduced to critical levels, and cannot be reduced further without permanent and irreparable harm inflicted on the ability of the courts to provide even basic services statewide.
C. Operational Effects of Court Funding Cuts in San Diego County

As the second largest county court system in California, the San Diego trial courts have been particularly hard hit by recurring cuts to the Judicial Branch budget. In response, local court leaders have undertaken significant efforts to reduce operating expenses and court overhead while also providing statutorily mandated and prioritized services in criminal, juvenile, dependency, and some family law matters. Consequently, while all aspects of our local courts have been impacted by continuing budget shortfalls, the civil justice system (including general civil matters, family law, probate, small claims, and traffic) has been particularly impacted.

A summary of those effects to the San Diego trial courts are as follows:

1. Courthouse Consolidations and Closures

The Fiscal Year 2012-2013 budget plan calls for the closing of 20 courtrooms in San Diego County by June 2013, reducing the number of trial courtrooms in the county from 157 to 137, nearly a 13% decrease. However, the closure of courtrooms does not result in direct budget savings to the trial courts. Rather, any savings are realized by laying-off courtroom clerks, court reporters, and other staff positions assigned to those courtrooms, and then by holding those vacancies open.
The San Diego Superior Court altogether closed its Ramona Branch courthouse, which handled traffic, small claims, and unlawful detainer cases. That courthouse closure results in the need for customers of the court to drive into El Cajon (25 miles from Ramona) to handle their traffic cases, and to downtown San Diego (35 miles from Ramona) to handle their small claims and unlawful detainer cases.

All civil business offices in East County Division (El Cajon) and South County Division (Chula Vista) have been closed and consolidated into the Central Division in downtown San Diego. As a result, court users in those regions of San Diego County must now travel to downtown San Diego to file civil and unlawful detainer (landlord/tenant) cases, and for all other handling of proceedings in their cases which were previously heard in their local branch courthouses. That service cut impacts the East County and South County regions’ access to justice by requiring inconvenient and time consuming travel to downtown San Diego for all civil cases. Indeed, the East County Division serves a population of over 500,000, and the South County Division serves over 450,000.

Moreover, although the Civil Business Office in downtown San Diego absorbed all the cases that were previously handled in the East County and South County Divisions, the Central Division did not receive any additional staffing. Consequently, the downtown Central Division Civil Business Office is handling double the filing load with no additional support. Consequently, the services it provides are significantly reduced and the types of documents accepted for filing considerably limited. Specifically, such routine documents like new case filings, Writs of Mandate, and Answers are no longer accepted over the counter and must be left in a “drop box” to be subsequently processed as resources permit, causing significant delays in the processing of all types of filings. For example, new Complaints, especially unlawful detainer actions, are no longer processed the same day, causing significant delay in the initiation and processing of landlord/tenant disputes which are subject to statutory calendar priority.

Similarly, probate operations in the North County (Vista) Division have been closed and all matters have been consolidated with and relocated to the Central Division in downtown San Diego. This requires all parties with probate cases previously filed in the North County Division (40 miles from downtown San Diego), and all newly filed cases, to travel to downtown San Diego to process even routine probate matters. Additionally, one of the two juvenile dependency courtrooms in the North County Division has been closed and all cases heard in that department are now being heard at the main Juvenile Court facility near downtown
San Diego. This impacts families, child victims, as well as social workers and law enforcement officers, who must now travel greater distances for these proceedings.

Furthermore, small claims in East County Division (El Cajon) and South County Division (Chula Vista) have all been consolidated in the Central Division in downtown San Diego, or moved to the Kearny Mesa Branch court. As a result, the courts are experiencing difficulty recruiting Temporary Judges to hear the ever-increasing overflow of small claims cases, resulting in delayed trial dates and final resolution of those matters. Also reduced are the number of small claims Night Court sessions from one night a week to one night a month, resulting in delays and inconvenience for parties who cannot appear during day-time sessions.

Finally, criminal courtrooms have also been closed and calendars have been consolidated, resulting in longer court sessions and the need to schedule court hearings in advance. Specifically, all criminal departments have eliminated “walk-ins,” so criminal defendants must schedule a court date in advance to appear rather than simply appearing on the date indicated on a warrant.

### 2. Staff Layoffs, Reductions, and Furloughs

Since 2007, San Diego County trial courts have instituted a combination of layoffs, voluntary separation programs, hiring freezes, and the holding of open vacancies, saving the court over $30 million annually. For example, in Fiscal Year 2012-2013, layoffs and a voluntary separation program resulted in a reduction in the workforce of over 170 permanent staff members, a drastic measure that returned $16 million to the budget annually, but resulted in a highly understaffed operation. Of that reduction of 170 staff, 40 were court operations clerks, court reporters, managers, and information technology staff. Not included in those permanent staff reductions is the layoff of 106 student workers, law clerks, and “retire/rehires” which was completed at the beginning of Fiscal Year 2012-2013.

Additionally, the courts have offered to staff a “voluntary separation program,” similar to what they instituted in 2010, by which 63 staff members were reduced. In light of those layoffs and reductions, the San Diego trial courts have held vacancies unfilled since 2007, and anticipate those vacancies will remain unfilled for the foreseeable future given the acknowledgement that if the court experiences further budget cuts, additional layoffs will be unavoidable.
With respect to furlough days imposed upon court staff, in Fiscal Year 2009-2010, all court employees were required to take 10 unpaid furlough days, associated with statewide court closures, which returned an estimated $3.84 million to the budget. Those furlough days have increased dramatically in Fiscal Year 2012-2013, in which all court staff are required to take a total of 24 unpaid furlough days over the two fiscal years in an effort, which is expected to garner an additional $8 million.

With the exception of the furlough days taken during statewide court closures, the requirement for staff to take furloughs results in fewer staff being at work. This exacerbates the short-staffing issues already associated with hiring freezes, voluntary separations, and layoffs. As a result, court backlogs are increasing, and lines and wait times for all basic court services are necessarily longer because there are fewer court clerks available to assist the public. At the same time, where clerks were previously available to the public eight hours each day the court was open, clerks’ availability has been reduced to seven hours a day Monday through Thursday, and three and one-half hours on Fridays. While in many instances, layoffs and furloughs may be cynically viewed by those outside the court system as a way to “trim the fat,” they instead represent the cutting of essential muscle and bone – critical operational structures and components sacrificed to the detriment of all who rely on services only a sufficiently staffed court can provide.

Additionally, over the last five years, the total number of court reporters has been reduced by 38% (from 142 to 88). That reduction is due to a combination of separations, layoffs, and a hiring freeze. Moreover, effective Fiscal Year 2012-2013, the San Diego trial courts no longer provide court reporters in civil, probate, and most family law cases, and as a result, directly laid-off an additional 25 court reporters, saving an additional $8.4 million annually. Consequently, in those cases where court reporters are no longer provided by the courts,
unless the parties retain their own reporters at their own expense, there is no record of the proceedings heard and decided by the courts.

Overall, the San Diego trial courts project that by the end of next fiscal year, they will have 470 vacant positions among permanent staff, a vacancy rate of 28%. In the interim, all temporary positions, with the exception of a few isolated grant-funded positions, have now been eliminated. Those temporary positions are not contemplated in the vacancy rates stated above, but the loss of those services has also significantly impacted delivery of court services.

In addition to the layoffs, holding all vacancies open, closing courtrooms, closing business offices, consolidating and closing facilities, and furloughs discussed above, other significant actions court leadership has taken over the last fiscal year in response to continuing budget shortfalls include the following:

- Eliminating the use of retired commissioners;
- Eliminating the use of paid *pro tem* juvenile referees;
- Suspending Court Appointed Special Advocates (“CASA”) funding. CASAs represent the best interests of abused and neglected children in the courtroom and other settings;
- Pooling/sharing civil Independent Calendar clerks (one clerk per two civil departments);
- Pooling/sharing judicial secretaries;
- Restructuring salaries and benefits to lower the salary costs of new employees hired by the courts, reducing the percentage increases between steps in step classifications for all new employees and existing staff moving to new step classifications, freezing annual merit increases in non-step classifications since 2007, pro-rating health benefits, introducing a new (lower) retirement tier for new hires after August of 2009, and reducing the court-paid retirement contributions of new employees (thereby increasing employee contribution rates);
- Eliminating cost of living payroll adjustments since 2008;
- Reducing the Family Court Services (“FCS”) program. In 2009, the program had 35 counselors available to provide child custody recommendations and counseling sessions and in January of 2013 has only 27 counselors, representing a 23% decrease. As a result of those vacancies, FCS has seen a reduction in the number of child custody
recommending counseling sessions it is able to conduct. Moreover, while in 2008 (before budget reductions), the wait times to obtain an FCS appointment averaged two weeks for first time appointments and three weeks for return appointments, current wait times for FCS appointments average eight weeks for first time appointments and ten weeks for return appointments. This means that troubled families now have to wait approximately two months to have their child custody issue heard by a Family Court Counselor so that either a custody agreement can be reached or a recommendation can be returned to the court for further hearing, significantly impacting and delaying crucial decisions in family law cases involving children and families;

- Reducing the Small Claims Advisor (“SCA”) program, which assists litigants with small claims issues and procedures, by cutting the number of SCA offices from four to only two. By the end of this fiscal year, it is projected that an additional office will close and services will be further reduced and provided by phone only, with limited walk-in availability;

- Reducing Information Technology (“IT”) expenditures by over $5 million by restructuring or cancelling contracts for goods and services as a way to meet the budget reductions. This includes critical court technology upgrades, and in some cases, replacement of failing systems while at the same time, requests from the public for increased online services and computer-based accessibility continue to grow; and

- Suspending court facility improvement projects and limiting those projects to fixing environmental problems, and ergonomic issues and hazards.

3. **Operational Backlogs and Delays**

As a direct result of the budget cuts and significant reductions in court staff outlined above, among the many operational backlogs and delays the San Diego trial courts have experienced include the following (in no particular order of importance):

- Central Division Civil Independent Calendar departments are currently scheduling routine law and motion matters six to seven months into the future, where those motions used to be scheduled and heard in as little as 16 days;
• Central Division Civil Independent Calendar departments currently handle an average caseload of 1,500 cases each, where those same departments used to process an average case load of 500 cases each;

• Traffic court trials with time waivers are set at least 210 days out for trial, where they previously were set within 90 days, as there are now only two court Commissioners in Central Division to hear 120 traffic court trials set on a calendar each day;

• The time to obtain a Family Court Services appointment was on average two weeks for first-time appointments and three weeks for returns. Now those same wait times average eight and ten weeks, respectively;

• Family Law Facilitator backlog of files prepared for the resolution of family law disputes take approximately five weeks to process orders, and up to eight weeks to prepare judgments;

• Central Division’s Civil Department has seen an increase in the hours of clerical office backlog from 216 hours in June of 2012 to a staggering 2,057 in December of 2012;

• Processing a default judgment can take more than six months, where that process used to take only two weeks;

• There is at least an eight week backlog on the issuance of misdemeanor warrants for failure to comply with a court order, where those warrants used to issue in no more than one week; and

• Daily Interpreter activity logs, which are to be entered into the statewide interpreter database, are backlogged four months, where those logs used to be current.
D. Real World Impacts of Court Funding Cuts on San Diegans

While San Diegans from many different walks of life rely upon local courts to address and resolve a wide variety of disputes, the continuing cycle of severe budget cuts imposed on the courts in the county generally impact all San Diegans in the same way: delay. As many of the actions the courts have taken in response to those cuts have only been instituted within the last two budget cycles, their long-term societal effects – while anticipated to be significant – are still not completely known. What is known, however, are the immediate real world impacts those cuts have already imposed on nearly every type of case or dispute currently pending before the trial and appellate courts in San Diego. The following examples aptly illustrate that point.10

10 The examples referenced herein involve real parties and real cases pending in San Diego which were reported to the San Diego County Bar Association by its attorney members. However, the names of the parties and any identifying information have been changed to protect the parties’ privacy and to avoid the disclosure of attorney-client, attorney work product, or other privileged or compromising information in those pending matters.
1. Impacts on San Diego Businesses

Business A is a small business which routinely extends credit to its customers in order to conduct its business. However, if those customers default on their payment obligations, Business A’s “bottom line” and cash flow is substantially affected. When it then institutes legal action in the San Diego trial courts to recover on those defaulted customer accounts, most of those legal suits are uncontested and proceed to the entry of a default in Business A’s favor. However, because staff at the courts is substantially reduced due to continuing budget cuts, the entry of default judgments takes five to six months to process. If there are any perceived problems with the documents submitted to support those requested default judgments, Business A is facing another five to six month delay before a collectible default judgment can be finalized. Additionally, once that process has concluded, the issuing of writs of execution now take an additional four to five months to process. Consequently, by the time Business A successfully seeks and obtains a legal remedy, obtains a default judgment, and is in a position to proceed with collecting the amount the court had awarded, nearly a year has passed and the judgment debtor is either out of business or all of its assets have long been dissipated. Accordingly, Business A cannot afford to conduct business in San Diego, as it cannot be assured that it can enforce customer contracts or seek timely legal redress where those contracts are breached.

“Consequently, by the time Business A successfully seeks and obtains a legal remedy, obtains a default judgment, and is in a position to proceed with collecting the amount the court had awarded, nearly a year has passed and the judgment debtor is either out of business or all of its assets have long been dissipated. “

Business B, employing numerous San Diegans, has four locations in San Diego County, all of which are situated in commercial retail complexes. However, when a dispute arises with the commercial landlord at one of those locations and an adverse ruling is handed down by the trial court, Business B must pursue an appeal. That appellate process, which used to take 12 to 14 months to complete, has been significantly slowed due to lack of funding for essential court staff and operations at the Court of Appeal. In fact, that appeal has now been pending for nearly 22 months, and has been awaiting an oral argument date since it was fully briefed.
over seven months ago. As a result of that intractable delay, the appeal will likely not be fully adjudicated for another four to five months, and in the interim, Business B cannot make important business decisions concerning continuing operations at the location in question, hiring new employees, or expanding its business to other potential locations.

A former employee of Business C left to work for a competitor, taking with him proprietary client lists as well as other trade secret information, while also claiming ownership to a patent developed while working for Business C. Although Business C quickly files suit and seeks a preliminary injunction to protect its trade secrets and intellectual property, the former employee and competitor file numerous motions in the trial court, significantly delaying Business C’s ability to proceed to trial and to vindicate its rights. Indeed, where prior to the latest round of budget cuts, those motions would be scheduled and decided within two to three months, some of those motions cannot now be heard for seven to eight months, only further pushing back the previously scheduled trial date. The trial court judge, burdened with a significantly higher caseload and lacking court staff to assist in the processing of those cases, is powerless to move Business C’s case along any faster. Indeed, the court acknowledges that it could set the matter for trial in a relatively short period of time, but when motions are filed, there is simply not enough staff and resources to process them in a timely manner. Thus, a perverse incentive is created for some litigants to file motions solely for the sake of delaying a final adjudication on the merits at trial, all to the detriment of businesses like Business C, which are unable to protect and effectively utilize their trade secrets and patents due to that intractable delay and the inherent uncertainties imposed by the unresolved nature of those disputes.

2. Impacts on San Diego Families

Mother A seeks and obtains a child support order from the family law court, directing Father A to pay a monthly amount to support his children. Mother A depends on those funds to support and to feed her children. However, following the issuance of that order by the court, Father A has not made any support payments, primarily because it has taken over four months since Mother A submitted findings and a final order to the court for signature and processing. In the interim, Mother A is left with no options to enforce the monthly child support payments the court has already ordered Father A to make, as she can neither seek collections against Father A nor attempt to pursue wage garnishment without a final, signed support order from the court.
Mother B and Father B decide to handle their divorce and related custody, visitation, and support issues concerning their minor children as amicably as possible. Accordingly, each engage counsel to draft an appropriate settlement agreement and to have it finalized by the court. However, when even that uncontested divorce takes nearly four months to process before it becomes final, the family cannot move on with their lives, and subsequent enforcement of support and visitation agreements cannot occur, as well as many other actions which may need to go into effect immediately after that settlement is reached. Indeed, although saving time is one of the primary factors that fueled the parties’ desire to settle in the first place, the benefit of such a settlement is overshadowed by the time it now takes the court to process and reduce that settlement to an enforceable judgment, psychologically trapping all the members of that family (including the children) in a “slow down” which is not of their making.

Mother C, who has sole custody of her minor children, unilaterally removed them from school for several months, claiming she was homeschooling them instead. When Father C discovered this was not so, he immediately sought to have his children placed back in school before they fell too far behind in their course work. Father C retained counsel to file a motion seeking the family court’s intervention, but that motion is not scheduled to be heard for over three months. In the interim, the children remain out of school for several months, and continue to fall behind for their grade level.

Following a short cause hearing on a support issue, counsel for Mother D and Father D cannot agree on what, precisely, the family law court decided. Yet as no court reporter was provided by the court for that short hearing, there are no transcripts available to resolve that question. Moreover, the court’s minute order from that hearing is equivocal and incomplete, and the trial judge has no specific recollection of what he ordered. Consequently, the parties are forced to re-litigate that same contested issue yet again in order to obtain a final, enforceable order, all at significant extra expense and delay to both the parties and the court.

3. Impacts on Individual Litigants

Unbeknownst to her, Party A was subject to an unopposed motion for terminating sanctions and dismissal of her case because her attorney abandoned her and did not comply with court rules. Upon finding out about those actions, Party A immediately hired new counsel to seek relief from that ruling through the filing of a motion with the trial court. However, due to the calendar backlog in processing motions in the courtroom to which Party A’s case is assigned
(and which is now handling upwards of 1,500 other cases at the same time), Party A’s motion cannot be set for hearing and determination for nearly six months. Party A’s new attorney even appeared ex parte, seeking to expedite that hearing under those circumstances, as Party A’s case is at a standstill and she cannot seek discovery or prepare for trial in the interim. In response, the trial court judge, although sympathetic with Party A’s plight, responded that he could not expedite the hearing on Party A’s motion for relief unless another matter settled or was taken off-calendar at some indefinite point in the future.

Party B, a residential landlord of several properties in San Diego, is regularly confronted with tenants who do not pay rent in a timely manner, if at all. While the process for evicting those tenants is relatively straightforward and is subject to calendar preference when an unlawful detainer action is necessitated and filed by landlords like Party B, every day that its tenants remain in possession of their property without paying rent represents significant income loss to Party B. Before the recent onslaught of budget cuts to the courts, Party B could file an unlawful detainer action in San Diego over the counter at the court’s Business Office, receiving a summons which could then be served on the hold-over tenant that same day. However, due to budget cuts and reduced staff in the Business Office, even statutorily prioritized unlawful detainer actions must be “clocked” and “dropped” into a filing box for subsequent processing by available clerks. Consequently, it can now take several days for Party B to obtain a summons in order to initiate unlawful detainer proceedings against hold-over tenants, all to Party B’s substantial financial detriment.
E. Observations & Conclusions

As the foregoing plainly demonstrates, the crippling and cumulative effects of continuous cuts to the Judicial Branch budget have far-reaching consequences on the well-being and safety of businesses, families, and individuals throughout San Diego County. Although a new budget “allocation formula” approved by the Judicial Council – by which the Judicial Branch has agreed to revisit how funds are allocated statewide to county trial courts and to make sure that allocation is equitable – has recently been settled, discussions with local elected officials regarding the importance of an adequately funded court system must continue in earnest. Indeed, following the adoption of that new allocation formula, there have been some preliminary indications from the Legislature of a willingness to restore up to $100 million statewide to the Judicial Branch budget to ameliorate some of the previously mentioned impacts caused by multiple year budget reductions and cuts. While doing so would certainly be a good start and a welcomed change from past budget cuts, those elected officials should also understand that such one-time appropriations cannot make up for years of repeated cuts and chronic underfunding, or erase the structural deficits that underfunding has wrought on the courts. Further, by application of the proposed restoration of $100 million to the Judicial Branch budget, San Diego trial courts would likely see only $4 million to $5 million of those funds, with our local Court of Appeal not currently slated to receive any additional funding under that proposal.
The San Diego County Bar Association’s Court Funding Action Committee (CFAC) was formed to organize and facilitate conversations with our elected officials to bring to light what courtroom closures, court staff reductions, and fundamental delays in the administration of justice mean, as a practical matter, to all San Diegans. CFAC’s mission is to educate the Legislature about the critical importance of a fully-funded, independent judicial system – the third co-equal branch of government – and to lobby for reinvestment in our courts so they can adequately fulfill their constitutional mandate.

Our local courts provide a guarantee to our rights to life, liberty, and property. Our courts are where questions of innocence and guilt are determined, financial culpability is decided, business disputes are addressed, and complex family matters are resolved. If an individual or business is denied prompt access to their “day in court,” or if justice is delayed, then ultimately, the citizens and businesses in our community suffer together. Accordingly, meaningful access to justice should not be the concern of the legal community alone. Rather, the health and well-being of all San Diegans are negatively affected if we cannot ensure the stability of a system that can efficiently resolve disputes. All of which aptly demonstrates why Learned Hand’s warning about the need to adequately fund our courts in order to preserve our democratic way of life has particular resonance now: When we diminish the capacity of our courts, how do we choose who does and who does not receive justice?

“If an individual or business is denied prompt access to their ‘day in court,’ or if justice is delayed, then ultimately, the citizens and businesses in our community suffer together.”