

9/16/11

Dear Members and Others:

The emergency funding offered to the San Francisco Superior Court as a result of the Judicial Council's action on Friday, September 9, 2011, comes from an "emergency fund" which is a statutory set aside in the Trial Court Improvement Fund. The Trial Court Improvement Fund is created by Government Code section 77209. That section provides that "[t]he Judicial Council shall reserve funds for projects by transferring 1 percent of the amount appropriated for support for operation of the trial courts to the Trial Court Improvement Fund. At least one-half of this amount shall be set aside as a reserve that shall not be allocated prior to March 15 of each year unless allocated to a court or courts for urgent needs." The AOC interprets this to mean that they are to hold one-half of this money annually until March 15 of each year to provide for potential urgent needs of the court.

Section 77209 also provides that "[a]ny funds in the Trial Court Improvement Fund that are unencumbered at the end of the fiscal year shall be reappropriated to the Trial Court Improvement Fund for the following fiscal year."

The AOC's documents presented to the Judicial Council reveal that one-half of this money over the last 11 years has been approximately \$118 million. The total amount has therefore been about \$236 million. The AOC and Judicial Council have only delivered \$6.4 million of this money to the trial courts as urgent needs. Where has the rest of the money gone?

The answer seems to be that it has been expended on the CCMS project. As we have previously reported, the AOC and Judicial Council have spent \$546,873,824 on CCMS through FY 2010-2011 according to the AOC's own report to the Legislature this year. Of that amount, \$200 million has come from the Trial Court Trust Fund, \$72 million from the Modernization Fund, and \$203 million from the Trial Court Improvement Fund.

This means that the "emergency fund" has for the most part been held and unexpended each year, then rolled into the entire fund, and then spent for CCMS.

We hope that this information further explains to our fellow judges why we have been so critical of the CCMS project as a boondoggle. This project has so consumed the resources of the courts over the years that we now lack the capacity to respond to critical funding emergencies. Even now, the Judicial Council doggedly insists on spending millions on this project while our trial courts close. We reiterate that the Judicial Council has authority to redirect an additional \$82.0 million this year for bridge funding to the trial courts, and they have refused to do so, preferring instead the AOC's bloated administrative functions, and the CCMS project, along with extravagant construction projects where the sites have not even been selected.

We include in this email an article from the Courthouse News Service titled "**Court Agency Needs \$2500 to Paint a Closet**", and a piece by Robyn Hagan Cain titled "**AOC Wishlist Proposes Frivolous Spending in Wake of Deficit**", which can be found at

http://blogs.findlaw.com/california_case_law/

Thank you for your continued support.

Directors,
Alliance of California Judges

Correction: In our last member email we mentioned that the AOC is spending \$600,000 per day on CCMS. That was a typo. It is between \$600,000 and \$700,000 per *week*. We apologize for the error.

Court Agency Needs \$2,500 to Paint a Closet

By MARIA DINZEO

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SAN FRANCISCO (CN) - In tough times, California's central court bureaucracy wants to pay \$2,500 to paint a closet. Actually a pair of closets, each at that price. Nice work if you can get it, say critical judges, when trial courts are laying off staff.

The Administrative Office of the Courts has already run into trouble with the Legislature over its spending ways, in a hearing earlier this year where legislators questioned the seemingly exorbitant cost to remove bubble gum and change smoke detectors.

A recent and voluminous report on proposed expenditures was dropped on the members of the Judicial Council late last month without comment, in a meeting eaten up, as it happens, by discussion of the legislature's \$350 million cut to overall court funding.

Included in the report's list of projects, for example, is a \$210,500 item to pave over a dirt parking lot in San Diego.

"I was concerned that we were going to spend \$210,500 on a lot that we did not own, were never going to own, and on which we had only a month-to-month tenancy," San Diego Judge Runston Maino wrote in a letter to several judges on the council's construction committee.

The closets and the parking lot are among more than four thousand "necessary" statewide repairs requested by the administrative office in the 213-page report.

"I was then told that this report was only a 'wish list' and did not represent what they were going to spend but only what they wished to spend," Maino continued. "My retort was that why would the AOC wish for something that they should not do."

The report lists repairs deemed "necessary, but not yet critical," and they include \$21,500 to replace light bulbs in the parking lot at a Los Angeles courthouse.

One figure -- \$51,999 -- is slapped on each of a widely different set of projects: resealing a parking lot in Amador, an "ergonomic review" of benches in each of the three courtrooms in Amador and repair of a walkway and broken planters outside the courthouse in Modesto.

The very same figure, \$51,999, is estimated for new ladders in Sutter.

Removal of graffiti outside courtrooms in San Mateo is proposed for \$55,000. According to the report, a men's restroom in Solano also requires \$11,000 to "upgrade the appearance and dignity of the property."

Patrick McGrath of the AOC's construction office said the process for estimating repairs starts

when somebody at a court building says something is broken.

"At that point we send out either the current wrench-turning service provider or we send out a team of engineers to go investigate that particular project and make sure we understand all the ramifications of the project and then an official cost estimate is developed for that work," said McGrath.

All of the items on the list are still awaiting approval, noted AOC spokesperson Teresa Ruano. "It's certainly well beyond what we can do this year," she said. "We only have \$30 million to work with."

In his letter, Maino took issue with several other high-cost items, including re-painting two closets in two judge's chambers in Santa Clara, at a cost of \$2,500 each, \$7,000 for landscaping work at the Santa Clara courthouse, and for landscaping in Solano, \$7,750.

"I cannot resist giving you information about item 146," said Maino. "The Alameda Superior Court would like the taxpayer to spend \$4,500, pending funding approval, to remove dead branches from a dead tree. Yes, you read that correctly: dead branches from a dead tree."

"When I read this," said the judge, "I thought of Dave Barry's comment when he said that 'A sense of humor is a measurement of the extent to which we realize that we are trapped in a world almost totally devoid of reason.'"

The report also lists the "enhancement" of a judge's courtyard in Santa Clara as relatively high-priority. Although off-limits to the public, it will cost \$7,000 to make it nicer.

I think it's an outrage," Maino said in an interview. "The public doesn't get to use it. It doesn't mean the courts stay open because you have it. A project like that shouldn't even be considered by the Santa Clara court."

The AOC considers this project a priority-level three, which it defines as impacting "the dignity of the court to a level that its correction will improve court operations and provide minimal maintenance standards."

Expenditures such as these appalled legislators last year, where the California assembly's Committee on Accountability and Administrative Review took AOC bureaucrats to task on a similar report that listed \$8,000 to remove gum from the sidewalk outside the Sacramento courthouse.

Maino said he thinks the new project list will likely catch the legislature's attention yet again.

"Local legislators will look at this thing and find out what the heck is being spent for their local court and think holy mackerel," he said. "We're out of money for this kind of silliness."

A series of spending decisions by the San Francisco-based Administrative Office of the Courts have been questioned by legislators and trial judges alike.

They range from the decision late last year, in a meeting chaired by the incoming chief justice, Tani Cantil-Sakauye, to give retroactive pay raises to most of the AOC's bureaucracy, down to relatively minor spending on electronic gadgets such as ipads for select staff and judges.

The questioned decisions include the practice of hiring temp workers, many paid more than \$100,000 a year, and the award of a gold-plated pension plan to the top 30 officials giving a 22% full ride from public funds on top of high salaries.

Overlaying those decisions are frequent problems tied to accounting for funds spent or projected to be spent, with the greatest controversy reserved for an IT project that is predicted to cost \$1.9 billion and continues to drain millions from the coffers of the courts.

On Monday, Maino received a response to his letter from Justice Brad Hill, a member of the council's courthouse construction committee. "As you can imagine, there is a great deal we have to do in a very short period of time," he said. "Items like this deserve our attention. We will defer

any recommendations as to who should be responsible for maintenance and/or modifications until we can evaluate all options-- including having the local courts being responsible -- to a far greater degree-- for such projects."

Maino said simply, "It does not matter if the AOC does the spending or the local courts do the spending. It is all taxpayer money and needs to be spent very carefully."

[FINDLAW.COM](http://findlaw.com), CALIFORNIA CASELAW BLOG

http://blogs.findlaw.com/california_case_law/2011/09/aoc-wishlist-proposes-frivolous-spending-in-wake-of-deficit.html

AOC Wishlist Proposes Frivolous Spending in Wake of Deficit

By Robyn Hagan Cain on September 15, 2011 3:03 PM | [No TrackBacks](#)

California Supreme Court Chief Justice denounced cuts to the state judiciary budget as "a blow against justice" earlier this year, but a recent report suggests that that state should have made deeper cuts to the Administrative Office of the Courts (AOC), the central court bureaucracy that is frequently criticized for bad ideas and irresponsible spending.

The California court system lost \$350 million through state budget cuts in the 2011-2012 fiscal year. According to the Judicial Council of California (Judicial Council) the legislature cut an additional \$310 million from the State Court Facilities Construction Fund, which will delay some courthouse projects for up to year. Although the judiciary accounts for 2.88 percent of the state budget, the FY 2012 judiciary budget adjustments represent 3.5 percent of the state's budget solution.

Of the \$350 million in California budget cuts, trial courts will suffer most with a proposed \$319.3 million cut, including a one-time \$183.5 million saving from delayed construction, technology, and non-critical projects according to the *San Jose Mercury News*. Other proposed budget cuts include \$2.8 million from the Supreme Court, and \$12.4 million from the appeals court. The AOC budget lost \$13.4 million.

Even with the budget cuts, an AOC facilities report to the Judicial Council proposes staggering expenditures for a wishlist of trivial projects.

- \$5,000 to paint two closets
- \$210,500 to pave over a dirt parking lot in San Diego
- \$21,500 to replace light bulbs in the parking lot at a Los Angeles courthouse
- 51,999 for new ladders in Sutter
- \$51,999 to reseal a parking lot in Amador
- \$51,999 for an "ergonomic review" of benches in each of the three courtrooms in Amador
- \$51,999 to repair a walkway and broken planters outside the courthouse in Modesto

- \$7,000 for landscaping work at the Santa Clara courthouse
- \$4,500 to remove dead branches from a dead tree

And this list goes on.

AOC spokesperson Teresa Ruano noted that all of the items on the list are awaiting approval, and the full list is beyond what the AOC will do over the next year with its \$30 million budget, reports Courthouse News Service.

If this is how the AOC operates in the wake of California budget cuts, perhaps the state should consider eliminating the Administrative Office of the Courts next year and dedicating its budget to the suffering trial courts.