



Chambers of
THOMAS H. CAHRAMAN
Presiding Judge

4050 Main Street
Riverside, CA 92501

Superior Court of California
County of Riverside

TO: All Judges and Commissioners
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Southwest Bar President John Sicialiano
Desert Bar President Donald Griffith
Hemet/San Jacinto Bar President Heather Kirk
Civil Bench-Bar Committee Members
District Attorney Rod Pacheco, Asst. Sue Steding
Public Defender Gary Windom, Asst. Robert Willey
County Counsel Pamela J. Walls, Asst. Dorothy Honn
CDL Attorneys Steve Harmon, Paul Grech, Barbara Brand

FROM: Presiding Judge Thomas H. Cahraman

DATE: January 27, 2009

RE: (1) REOPENING TWO CIVIL COURTS
(2) DESERT VCD COURTS
[TENTATIVE DECISION, FOR COMMENT]

Colleagues, Counsel, & Friends of the Court:

We have 23,407 pending civil cases, countywide. Almost half are classified as unlimited civil. We presently have five departments devoted to civil trials: Department 7 of the Historic Courthouse, plus three courtrooms at the Hawthorne Court and one at the Autry Court. I sincerely appreciate the help of the Judicial Council, in making available the four judges necessary to staff Hawthorne and Autry—absent those judges our situation would be far worse. Unfortunately, however, five civil departments are simply not enough. Last year we tried 188 civil cases, more than we have tried in any year since 2001, but we must remember that for two years we tried very few civil cases. A huge backlog has built up, and unless we take action we will soon see many cases approach the five-year mark.

Profound human issues frequently arise in civil litigation, by example in wrongful death cases and matters involving the loss of a home. Even in business cases that present a dispute over money, the money is important to the parties and we are constitutionally obligated to provide a forum for resolution of such controversies.

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The Supreme Court recently denied review in *People v. Gurdian*, 165 Cal. App. 4th Supp. 1 (2008), so that case is now a binding precedent from the Court of Appeal. Under *Gurdian* the court has “discretion to allocate its resources in a manner consistent with the ends of justice.” The decision explains that the priority for criminal cases, as set forth in section 1050 of the Penal Code, is important but is “directory” and not mandatory. Finally, the *Gurdian* decision found that the trial judge appropriately “considered all relevant circumstances, including the welfare of the citizens of the State of California.”

The supervising deputy district attorney of the desert region recently sent over some data with regard to the caseload for the VCD courtrooms in Indio. I appreciated that data and I reviewed it carefully. Then I went further and reviewed the caseload figures throughout 2008 and the actual work done (settlements and prelims) in those departments. I have also compared the caseload there to the VCD caseload in southwest and in Riverside. I have been to the desert twice in the last two weeks to talk to the judges. On one of those occasions I took the bench and covered a VCD department for the day. I believe I have gained a great deal of information by all of these means.

Most of you received my memorandum of 12/16/08, in which I explained the reasons for consolidating the four Riverside VCD courts into three. At that time I mentioned that it was a close call, back when we closed down the PPCD courts, as to whether those departments should be used for trials or additional VCD work. Since many settlements were occurring in the VCD courts, Judge Fields and I chose to add a VCD in each region. Since then the VCD judges have continued to settle cases, and have continued to get the cases out to prelim when they cannot be settled. As a result, the caseload in those courtrooms has diminished. From the inception of our current case-management model, all parties anticipated that if the VCD courts did a good job, one day we would need fewer of them. We are now down 940 felonies since March (from 6,325 to 5,385), and I believe more progress will be made in the months to come.

For these reasons, and based upon the data we have seen, we converted one of the VCD courts in southwest to a criminal trial courtroom, and later we did the same thing in Riverside. We have also gained several additional criminal trial courtrooms with the appointment and election of additional judges. Meanwhile the AOC has been very helpful in continuing to provide assigned judges for criminal trials.

Since November 18, 2008 we have dismissed fifteen cases for lack of a courtroom. Three of these were felonies that can be refiled, and the rest were misdemeanors. In reviewing the charges and the facts involved, one has deep regret as to the dismissal of some of these cases. We don't ever want to dismiss any case for lack of a courtroom, but unless we accelerate our trial of pending civil matters, a large number of those cases will eventually need to be dismissed under the five-year rule.

When a society does not provide an effective means for adjudication of civil disputes, some parties will use self-help, thus endangering public safety.

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For all of these reasons I have reached a tentative decision to take the following steps:

1. Convert Department 3M (Judge Wells) to a criminal trial courtroom.
2. Re-institute Department 2G (Judge Hopp) as a civil trial courtroom.
3. Reapportion the VCD work now handled by 3M, 3N, and 3P between Departments 3N and 3P.
4. Re-institute Department 1 of the Historic Courthouse in Riverside as a civil trial courtroom.

If we implement these changes we will go from five civil trial courtrooms to seven. Historically we have had 11 such courtrooms, but I believe that with hard work we will see some progress if we make this modest change from five to seven. Of course we need more than seven, but first we should see how these changes turn out before proceeding further. Nothing settles a civil case like an open courtroom, so I believe that opening two more courtrooms will have a large multiplier effect. Further, since we are consolidating the three desert VCD courts into two, we will only lose one criminal trial court overall as a result of the actions set forth above.

I have carefully considered the “ends of justice,” and “the welfare of the citizens of the State of California” as the *Gurdian* case requires, in reaching these tentative choices.

A contrary argument can be stated, from a standpoint of court administration. Right now Judges Douglass, Wells, and Cribbs cover for one another when there is an absence, but with only two general VCD courts in the desert, it would be difficult to continue with that sort of informal coverage arrangement. I have spoken to the Supervising Judge of the Desert Region (Judge Hopp) about this point, and he will take appropriate steps to arrange coverage as necessary, but such steps always have a cost in terms of judicial resources.

I have also taken into account our large inventory of death penalty cases. I am aware that each of those important cases will absorb a judge, for pretrial and trial work, for an aggregate of about 15 weeks.

After considering everything, it remains my tentative view that we should take the steps outlined above. Again, we have recently gained several criminal trial departments, and our inventory of 23,407 pending civil cases presents a substantial challenge.

We remain with 3.4 bench officers per 100,000 residents in this county, which is far below the statewide average, so there are no cost-free choices in allocating judicial resources. Choices must still be made, however, and in facing that task we must pay heed to the available data and weigh it in light of the factors set forth in statute and in the appellate authorities.

In considering the progress we have made, I wish to acknowledge the extraordinary work done by our Past Presiding Judge, Richard Fields, over the last two years. Under his effective leadership our situation turned around, to the point where we were reducing the felony inventory on a steady basis, rather than seeing it rise. I wish also to acknowledge the conscientious and difficult work done by our criminal master calendar judges, in particular Judges Tranbarger and Hernandez, who were required to prioritize cases and then dismiss

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some of them. Our current master calendar judges in all three regions are exhibiting the same diligence and resolve. I wish to acknowledge the energy and courage of the VCD judges countywide, including the specialty VCD judges.

I wish to emphasize the unflagging energy of our trial judges, who routinely contact master calendar as soon as they send 12 jurors out to deliberate, so that they can start a new trial immediately. We completed almost 1,000 criminal jury trials in 2008, which easily sets a state record for a bench of our size.

In other settings I have mentioned the misdemeanor arraignment commissioners, traffic commissioners, small claims, probate, family law, and juvenile law. In every courtroom in the county the judges and commissioners are working very hard, and absent the problems mentioned above, each division of the court would have additional resources. (Not long ago I visited the Temecula court, where the commissioner had 53 unlawful detainer trials set at 1:30 PM.) Although this present memorandum is devoted to discussion of civil courts and VCD caseload, it is well to remember all of the bench officers in all of our 17 courthouses when we reflect upon the energy and diligence of the Riverside County courts.

Finally, in considering the progress we have made, I wish to acknowledge the dedication and hard work of the strike force judges, who helped us in late 2007 and the first half of 2008. Most of us ended up with some lasting friendships among those fine colleagues from other counties. I appreciate the efforts of Justice Richard Huffman, Judge David Wesley, and Judge Richard Couzens, and I'm grateful to the Chief Justice and to the Judicial Council for authorizing the strike force.

With regard to the changes proposed above, any concerned parties may offer comments by submitting them to the Executive Office of the court by February 10, 2009.

THOMAS H. CAHRAMAN
PRESIDING JUDGE
RIVERSIDE COUNTY SUPERIOR COURT