

October 19, 2020

Martin Hoshino

Administration of the Courts

455 Golden Gate Avenue

San Francisco, CA 94102-3688

Re: New Funding Source

Dear Mr. Hoshino;

The legal system is not immune to the downturn in the economy. As states try to balance budgets, many courts have instituted hiring freezes and eliminated salary increases. Jurisdictions have proposed taxes on legal services and the confiscation of client security funds. Some states may even need to curtail court functions due to severely reduced funding.

A potential solution to address budget shortfalls already exists, ready for immediate implementation. Most states have historically not utilized the ability to raise fines from sanctions and contempt motions. The courts can ill afford to continue that policy in these difficult economic times. Large court systems might add as much as \$50 to \$60 million to courts' budgets; with smaller court systems raising \$20 to \$30 million dollars from sanctions and fines for contempt. This is a best guess at the moment; you may realize a greater or lesser impact.

Fines for sanctions and findings of contempt range from \$250 to \$1,000, or more. In Texas the Family Code Chapter 157 is used for enforcement of court orders. Parents may be required to pay a fine of up to \$500 if they violate a child custody possession order. The South Dakota statute limits fines to \$1000. In Ohio, parenting plan enforcement has step-up penalties. A first offense may include a fine not more than \$250, with potential fines increasing to \$1,000 for third or subsequent offense. In Colorado parents who do not comply with a parenting time order can face a fine or jail sentence, and be ordered to pay a bond to ensure compliance with court orders. Florida also has financial remedies available.

Mechanisms for the collection of these new funding sources could mirror those collections mechanisms already in place at the various courts. Initially, revenue may be greater than later. Parents may come to terms with the higher enforcement penalties of the new policy, with sanctions and contempts gradually tapering off. Revenue from this source will likely continue as there will always be some cases that are more difficult than others.

Courts are facing dire shortfalls across the country. Officials say that at least 46 states are facing or will face severe revenue shortfalls in the current or upcoming fiscal budgets. Revenue gaps are predicted to reach \$350 billion. As a result, painful choices are being made. A summit in Charlotte, N.C., called "Justice Is the Business of Government: The Critical Role of Fair and Impartial State Courts." Chief justices from 34 states and three territories sent delegates representing the bar and the three branches of government to develop strategies to support state justice systems.

As New York State faces a growing deficit, its court system is freezing all hiring, cutting spending, and denying most elected judges requests for recertification to stave off outright furloughs. Bloomberg Law reported on September 30, 2020 “New York Courts to Cut \$300 Million as State Deficit Grows.” Governor Cuomo has asked the courts to cut their budget by 10%, along with all New York State entities. The state anticipates a \$14.5 billion budget shortfall for the current fiscal year, ending March 31, 2021. The deficit is expected to be \$62 billion over the next four years, according to the state budget office.

“Since the onset of the pandemic, courts throughout the country have determined to stay open to deliver justice without faltering, no matter the adjustments and sacrifices demanded. But also to protect staff... and the public from the risks of disease. We are learning new technology and practices together,” reported Texas Chief Justice Nathan Hecht, President of the Conference of Chief Justices. It is a sentiment shared by bar leaders across the country, spurring them into action. The efforts of state and local bars—along with groups on the national level such as the ABA, the National Center for State Courts, and the Conference of Chief Justices—underscore the importance of judicial funding and the dire circumstances confronting many courts.

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This is a solution that may help families as well as save the courts. Parents and organizations have long pleaded with the courts to order fines on contempt motions and sanctions in family law. I have been dealing with family law for 38 years: 24 years with the Los Angeles Police Department, during which I spent ten years researching the full impact of divorce and custody. Since 2006, I have worked as a Child Custody Consultant and Divorce Coach.

I urge the courts to consider the benefits of this proposal. Should you wish to make further inquiries please feel free to contact me on my direct line 702-675-5120.

Sincerely,

Catherine W. MacWillie

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