

**PRESIDING JUDGE MARK R. FORCUM'S REPORT
TO
THE SAN MATEO COUNTY BAR**

October 17, 2003

Assistant Presiding Judge George A. Miram and I are extremely grateful for the time many of you were willing to spend talking with us in our lunch meetings. The constructive information and ideas you have given us have been very valuable. We have set in motion a series of Bench-Bar working groups and have initiated a number of significant, positive changes that arose from suggestions made during these meetings. Some ideas we are now implementing are major structural changes; others are easier to carry out, but no less important.

Here are some of the steps Judge Miram and I are in the process of initiating in response to your ideas.

I. FAMILY LAW

The overwhelming consensus of the Family Law section of the Bar is to have direct calendars and Judge Miram and I agree that such a calendaring system will result in many beneficial changes. As of January 1, 2004, the court will have three direct assignment Family Law Calendars. Starting in October 2003, we will assign new filings to one of the three family law departments randomly. Judge Miram and I, Judge Hall, Court Executive Officer Peggy Thompson, Deputy Court Executive Officer Bill Lowell and numerous court staff have met on a number of occasions to work out specific details of implementing this significant calendaring change.

II. PROBATE

As a result of your input, Judge Miram chairs a new Bench-Bar committee to update and take a fresh look at Probate Rules. This committee is made up of Judge Miram, myself, Judge Whitmer, Judge Pfeiffer, David Cairns, Walt Shjeflo, Colleen McAvoy, Larry Dugoni, Margaret Martin, Linda Dvorak and Ray Swope. The committee has broken into four subcommittees to update and clarify probate rules on subjects ranging from fees to criteria for appointment of private professionals.

In addition to rule changes, Judge Miram and I, after consultation with many probate lawyers, have carefully studied restructuring probate calendars. Our goal is to implement a user friendly system that will inform attorneys in advance of corrective action to be taken, when necessary. We also believe it is vital that probate counsel have regular access to the probate department for ex-parte relief. Accordingly, we will revamp the probate calendars effective January 1, 2004, as follows:

One judge will be assigned probate virtually full time and will be available every afternoon except Wednesdays for probate ex-partes. In addition, the probate department will play a proactive role in case managing cases and referring cases to ADR where appropriate.

III. ACCESS TO COURT FILES ON THE INTERNET

After receiving your input, Judge Miram and I met with Court Executive Officer Peggy Thompson, and we have retained the service of a software vendor to develop the capability of allowing you to have access to a register of actions in a case file over the Internet. We are hopeful this service will be available to you by March 2004.

IV. WIRELESS ACCESS TECHNOLOGY

Our court staff is in the process of studying the efficacy of contracting out with a vendor to provide wireless access to the Internet for attorneys while in the courthouse. This is an extremely positive enhancement for attorneys who are in trial who need to do research over the Internet to access e-mail or remain in contact with their office or their clients.

V. SETTLEMENT CONFERENCES

After eliciting a wide variety of opinions from you through our lunch meetings, Judge Miram and I believe that we should make some changes to the timing of mandatory settlement conferences. We are proposing that, in cases referred to mediation (which are typically more complex), that mandatory settlement conferences occur the week before the trial. This will enable counsel to complete their expert discovery, therefore making settlement discussions more meaningful.

In cases referred to arbitration (usually less complex, personal injury or contract dispute cases), mandatory settlement conferences will continue to be set two-three weeks before the trial date, so the parties can attempt to settle these cases before expending funds on expert discovery. With respect to trial day settlement conferences, the court would maintain its current practice of giving the presiding judge the authority and discretion to decide whether to send a civil jury or court trial to a settlement conference on the day of trial. This last recommendation is based on a careful review of trial day settlement conference statistics, which show that numerous civil cases settle on the day of trial, at the trial day settlement conferences.

We invite your input on these ideas about settlement conferences. If you are interested, please let us know your thoughts by clicking onto WEBMASTER and e-mailing Judge Miram or me with your views.

VI. USER FRIENDLY PRESIDING JUDGE'S EX PARTE CALENDAR

Since I became presiding judge, it is my priority to help attorneys with unusual problems and issues that need to be addressed. Please utilize the afternoon ex-parte calendar for this purpose, if you have a problem with no obvious solution or place for it to be addressed. To help you, Court Call is also now available on the morning calendar in both Judge Miram's and my department.

VII. COMPLEX LITIGATION

The management of complex civil litigation is a significant challenge to all courts. Judge Miram and I are in the process of setting up a Bench-Bar committee to evaluate how we are doing in this area and to suggest any areas of improvement. We will let you know in future reports about ideas and suggestions that come from this committee.

VIII. CONDITION OF CALENDARS

At the beginning of January 2003, there was a backlog of civil cases that were continued for lack of a courtroom and, in some instances, continued more than once on the day of trial. By rebalancing the calendars and sending more civil cases to trial, our backlog has been completely eliminated. As of September 1, 2003, our civil and criminal calendars, including felonies and misdemeanors are current. By achieving this goal and by having courtrooms for civil cases on their first trial call, we are seeing an increase in settlements either at the mandatory settlement conference or between the MSC and trial date. The addition of a Thursday trial calendar in South San Francisco, originally suggested by Supervising Judge, Robert D. Foiles, has helped reduce the backlog of misdemeanor cases in South San Francisco, significantly. This also has contributed to helping create more trial departments for civil cases.

CONCLUSION

On behalf of all the judges, Judge Miram and I are very appreciative of the input that each of you has provided us. The meetings between the court and Bar have enhanced long term communications and we will strive to build upon the process we have started. We are very appreciative of your willingness to help the superior court. If you have any other ideas or constructive suggestions, please feel free always to contact either Judge Miram or myself directly. You may also e-mail our Webmaster by clicking that link. All Webmaster comments are forwarded to Judge Miram and me. Thanks again.

Presiding Judge **Mark R. Forcum**

[View Reports Archive](#)