



Via Email and U.S. Mail

June 10, 2022

Hon. Michael T. Smyth
Presiding Judge
Superior Court of California, County of San Diego
Central Courthouse
1100 Union Street, Tenth Floor
San Diego, CA 92101
Michael.Smyth@sdcourt.ca.gov

Mr. Michael M. Roddy
Court Executive Officer
Superior Court of California, County of San Diego
Central Courthouse
1100 Union Street, Tenth Floor
San Diego, CA 92101
mike.rodny@sdcourt.ca.gov

Re: Pausing the Court's Civil Assessment Program and Halting Collections on Illegally Imposed Civil Assessment Debts

Dear Presiding Judge Smyth and CEO Roddy,

We are writing to request that the Court stop imposing new civil assessment late fees under Penal Code § 1214.1 and immediately halt collections on all outstanding civil assessment debts pending further potential action from the Governor and the Legislature to end civil assessments.

Several of our organizations represent clients who recently sued the Judicial Council of California for sending million-dollar incentive payments to trial courts as a reward for collecting civil assessments from low-income traffic defendants.¹ This regressive system uses late fees to amass additional funding for the California courts.

This Court has received substantial incentive payments from the Judicial Council in past years—which have provided a direct financial incentive for the Court to collect more civil assessments.

¹ See *Debt Collective v. Superior Court of California, County of San Mateo, et al.*, No. 22CV006393 (Alameda Sup. Ct. Feb. 2, 2022). A copy of the First Amended Verified Petition and Complaint filed in this action is available at: <https://lccsf.org/wp-content/uploads/2022/05/First-Amended-Verified-Petition-for-Writ-of-Mandate1.pdf>.

This scheme creates a conflict of interest and violates the Court’s obligation to adjudicate all matters in accordance with due process.² As a result, this Court has illegally imposed and collected thousands of civil assessments from low-income Californians—and continues to do so.

Two weeks ago, the Judicial Council of California agreed to a stay in the lawsuit filed against it, pending potential action from the Governor and the Legislature to end civil assessments permanently.³ As part of that agreement, San Mateo Superior Court—which was attempting to collect at least \$30 million in civil assessment late fees in more than 100,000 cases—agreed to stop collecting that debt and to stop imposing new late fees pending further action.

We ask this Court to take the same steps. Thousands of low-income Californians should not be made to pay unlawful and costly late fees while this matter is resolved. Please advise what steps you are prepared to take to pause your civil assessments program. We respectfully request a response to this letter by **June 30, 2022**.

Sincerely,

Zal Shroff
Rio Scharf
Lawyers’ Committee for Civil Rights
of the San Francisco Bay Area

Rebecca Carr Miller
Richard Rothschild
Western Center on Law & Poverty

Brian Hardingham
Public Justice

Amelia Piazza
Emily Olivencia-Audet
Social Justice Legal Foundation

Cc: Tina Carroll, Executive Office Liaison for the Judicial Council (tina.carroll@jud.ca.gov)
Martin Hoshino, Administrative Director for the Judicial Council (martin.hoshino@jud.ca.gov)
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² *Marshall v. Jerrico, Inc.* (1980) 446 U.S. 238, 242 (“The Due Process Clause entitles a person to an impartial and disinterested tribunal in both civil and criminal cases. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affected individuals in the decisionmaking process”); *Brown v. Vance* (5th Cir. 1981) 637 F.2d 272, 284 (conflict of interest is assessed “as the system works in practice and as it appears to defendants and to the public”); *Brucker v. City of Doraville* (N.D. Ga. 2019) 391 F. Supp. 3d 1207, 1212 (“[T]he Court’s focus should be on the municipal structure as a whole and whether it would appear, to the average citizen, that that system potentially fuels impropriety in judicial proceedings.” (citing *Brown*, 637 F.2d at 284)).

³ See *Debt Collective v. Superior Court of California, County of San Mateo*, Stipulation and Order Holding Litigation in Abeyance (filed May 25, 2022 in Alameda Sup. Ct.), available at <https://lccrsf.org/wp-content/uploads/2022/05/2022.05.25-Debt-Collective-v.-Superior-Court-Stipulation-and-Proposed-Order-Execution-Copy.pdf>.