

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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Room 1501
Fresno, CA 93721

LAWRENCE J. O'NEILL
Chief United States District Judge



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June 19, 2018

PREFACE/PURPOSE

The purpose of this letter to the members of the Senate and the House of Representatives within the Eastern District of California is to provide notice of a current crisis and an upcoming exacerbation of that crisis that will have serious and catastrophic consequences if left unaddressed. The most serious consequence to inaction will be the inaccessibility to the Federal Courts by the more than 8 million people who reside within the Eastern District. We are 19 months away from that inevitability.

SIZE OF THE DISTRICT

The geographical size of the Eastern District of California (EDCA) is mammoth, and the corresponding judicial responsibilities are equally enormous. The Eastern District encompasses 87,010 square miles, some 55% of the land mass of the entire state of California. Thirty-four of the fifty-eight counties within California sit under the jurisdiction of the Federal Court in the Eastern District. If the Eastern District of California were itself a separate state, forty-one of the states in the Country would be smaller in size than our judicial area.

In addition to the vast geographical size and a population of 8,094,480 persons (based on Census Bureau estimates,¹ which is greater than the population of thirty-eight states), there are other challenges faced by the District Court Judges. The federal judicial responsibilities in the Eastern District of California include 4 federal prisons, 188 federal buildings, 13 national forests, 9 national parks (including Yosemite, Kings Canyon and Sequoia), 19 state prisons, and 923,000 acres of military land.

¹ Administrative Office of the U.S. Courts

JUDGESHIPS, CASELOADS and HISTORY

Currently (huge change to come within the next year and one-half), there are 6 District Judges, 3 Senior District Judges, 12 Magistrate Judges, and 6 Bankruptcy Judges. Each District Judge handles an average of approximately 900 cases at any given time, more than double the nationwide average caseload for District Judges, which is 425 cases.

Put in modern historical context, the last new District Judgeship created in the EDCA occurred in 1978 (now some 4 decades ago), when the population of the district was approximately 2.5 million people. Though the population has grown 220%, no new District Court Judgeships have been created in the Eastern District of California. For comparison purposes, the Northern District of California, with roughly the same population (less than a 4% difference) as the Eastern District of California, has 133% more District Judges (14 judges vs. 6 judges).

It is not debatable that the resources of our District have been deficient for three decades. For more than a decade, the Administrative Office of the Courts has recommended to the Judicial Conference that 4 to 6 new District Judges be added to the EDCA. Now, the judicial crisis rooted in the understaffing of District Court Judges is coming to fruition. Two of our six District Judges have given retirement dates that will occur in the next nineteen months. Neither has stated they intend to continue serving in senior status.

In addition, one of our three Senior District Judges has given notice of his intended retirement (departure from senior status service). Of the remaining two Senior District Judges, one judge turned 80 years old, and the other is no longer taking criminal cases and maintains a 50% civil caseload, which he may reduce further. The "shock-absorber" effect of senior-status judges filling in for the lack of new judgeship creation as the population in the District has more than doubled is rapidly becoming non-existent.²

² Historically, district court judges elect to continue in senior status, assisting with the normal workload in a district, at no additional salary. Due to the stress and weight of the current caseload, neither of the two upcoming retirees has indicated that they will continue to serve as senior-status judges. In addition, still another District Judge has given the Chief Judge notice that he will be leaving the Court in 2022 and will not take senior status. This is not because they have a lack of regard or compassion for the six authorized District Court Judges, but is indicative of how the more-than-double average caseload has worn down these dedicated members of the judiciary.

SPECIFIC RESULTS TO BE FELT IN 19 MONTHS ABSENT CONGRESSIONAL ACTION

Should the two District Judges, one Senior District Judge, and one recalled Magistrate Judge leave the Court as anticipated, in 19 months more than 2000 cases will need to be distributed among the remaining 4 District Judges. An **additional** 500 cases to each of the district judges (who already are handling twice the national average of caseload per judge) will result in an inescapable consequence of being wholly unable to handle civil matters.

The United States Attorney for the Eastern District of California has recently announced that they will be filling all vacant and newly created lawyer positions in their offices across the District. The total of new Assistant U.S. Attorney prosecutors will be 12 in number. The anticipated consequences are twofold: 1) a serious and substantial uptick in the number of indictments to be sought and filed; and 2) an insistence that the time from indictment to disposition of criminal cases (now three times the national average) will be cut severely. Both have immediate and obvious consequences on the Court's ability to conduct civil matters due to the statutory and Constitutional mandates that result in giving priority to criminal cases over civil ones.

REMEDIES TRIED/REMEDIES SOUGHT

Both the Administrative Office of the Courts (AO) and the Chief Judge of the Ninth Circuit have done everything possible to help the Eastern District of California's courts due to the overburdened caseloads that have become routine. The unprecedented ratio of Magistrate Judges to District Judges (two to one) is one example of that effort by the AO. The district judges have made certain that each Magistrate Judge is being utilized to the maximum benefit under law. A second example of continued help and effort is the accepted offer of loaning visiting judges to the district over the last 15 years. For reasons that are apparent, the continued and temporary short-term approach to addressing a long term and chronic problem will fall far short of being an honest or effective solution.

The District Judges of the Eastern District of California suggest and request the following two solutions:

1. When the two District Judges submit their letters to the President that give the required notice of leaving their current positions (one notice in December of this year, and the other in January of 2019), that there be an immediate commitment to act on the nomination and confirmation process to enable there to be a seamless

transition so that the new judges can be sworn into the court, one in December of 2019, and the other in January of 2020; and

2. The EDCA members of Congress unanimously introduce an emergency bill for the creation of a minimum of the five new judgeship positions that have been recommended year after year.

Any judge on this Court will make himself or herself available to talk with, or meet with, any member of Congress at any time or at any place to discuss this dire problem in an attempt to avoid the inevitable consequences should the issue remain unaddressed. Any of us will speak or testify, upon request, before any group or committee given even minimal notice.

With Concern and Respect,



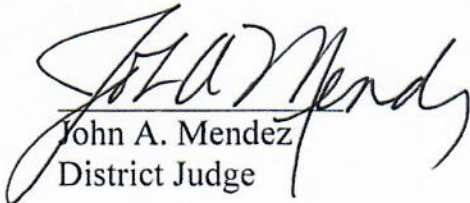
Lawrence J. O'Neill
Chief District Judge



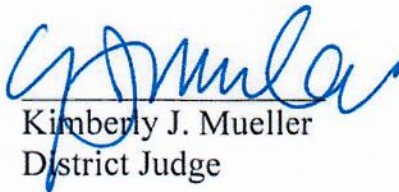
Dale A. Drozd
District Judge



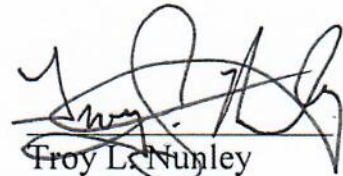
Morrison C. England
District Judge



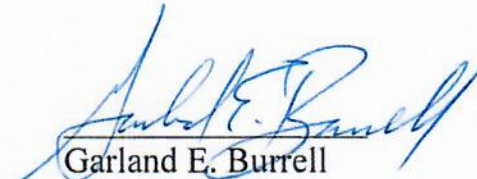
John A. Mendez
District Judge



Kimberly J. Mueller
District Judge



Troy L. Nunley
District Judge



Garland E. Burrell
Senior District Judge



Anthony W. Ishii
Senior District Judge



William B. Shubb
Senior District Judge