

# How Long, How Long?

BY HERB FOX

It never fails. A civil litigant finds himself or herself needing or facing an appeal after several years of trial level proceedings, and he or she assumes that things will now zip along. And why not? No more law and motion, no more discovery disputes, no more trial dates shifting in time like sand dunes.

But it's not yet time for the client to hold his or her breath. According to the 2008 Court Statistics Report (CSR) issued by the Judicial Council last year, the length of time for resolution of an appeal increased by an average of 18 days in fiscal year 2007/2008 over the prior year. The median time between the filing a Notice of Appeal and the issuance of an Opinion increased from 432 days to 448 days statewide.

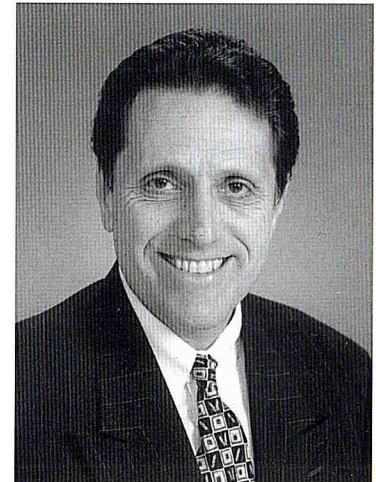
And our Division Six in Ventura is barely below the statewide average. The median time between the filing of the Notice of Appeal and the issuance of an Opinion out of the Ventura Courthouse, is 445 days — only three days shy of the statewide average.

To its credit, though, Division Six has one of the quickest turnarounds once the briefs are filed — i.e., when the Court gains control over the timing of the case. In Division Six, it is only 114 days — nearly a full month less than the statewide average of 141 days. The worst turnaround

time between briefing and issuance of an opinion is Division Eight of the Second District Court of Appeal — 198 days!

What is surprising is that the length of time it takes to process a civil appeal has increased while the number of civil appeals has slipped. The number of civil appeals declined by nearly 4% — from 6116 in 2006/2007 to 5913 in 2007/2008.

What should not be surprising is that the time for processing a civil appeal is likely to grow, in these days of furloughs and decreased staffing of the Courts throughout the state. Adding to that backlog is likely to be an increase in civil filings, now that parties can contract for judicial review of arbitration awards — a topic that be discussed by Tim Metzinger and me at our lunch presentation at the Bench and Bar Conference on January 23. See you there!



Herb Fox

*Herb Fox is a certified appellate law specialist with offices in Santa Barbara and Century City.*

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