

## RESOLUTION 08-06-2018

### DIGEST

#### Dispute Resolution Programs: Increase Allocation from Civil Filing Fees

Amends Business and Professions Code section 470.5 to increase the amount that may be distributed for dispute resolution programs from \$8 to \$12 per civil filing fee

### STATEMENT OF REASONS

#### The Problem:

1. While these programs are widely effective at efficiently resolving disputes and reducing the burdens on both civil and criminal courts, the reduction of disputes ending up in court has resulted in a severe decrease in civil case filings, resulting in diminished funding for the programs.
2. The \$8 cap set in 1986 has not changed to meet the cost of doing business in California. Despite the fact that these programs rely in large part on volunteer community members, the cost of training and administration have soured over the past forty years. CPI reflects that \$100.00 in 1987 has the same buying power as \$221.69 in 2017. Minimum wage in 1987 was \$3.35 and is presently \$11.00.
3. Historically DRPA funding was used to fund community mediation programs, not alternatives to the criminal courts. With the influx of criminal programs, DRPA funded ADR programs have been severely affected. In order to fund both types of programs adequately, counties require additional funding.
4. The high price of legal representation has increased the number of litigants forced to represent themselves requiring additional court time.
5. The number of litigants requiring the services of interpreters has also drastically increased.

The Solution: The National Lawyers Guild urges the Conference to ask the California Legislature to amend Bus. & Prof. Code, § 470.5 to raise the \$8 cap to \$12.

### TEXT OF RESOLUTION

**RESOLVED** that the Conference of California Bar Associations recommends that legislation be sponsored to amend Business and Professions Code section 470.5 to read as follows:

- 1 § 470.5
- 2 (a) On and after January 1, 2006, as described in Section 68085.1 of the Government
- 3 Code, the Administrative Office of the Courts shall make monthly distributions from superior
- 4 court filing fees for the support of dispute resolution programs under this chapter in each county
- 5 that has acted to establish a program. The amount distributed in each county shall be equal to the
- 6 following:
- 7 (1) From each first paper filing fee collected by the court as provided under Section
- 8 70611 or 70612, subdivision (a) of Section 70613, subdivision (a) of Section 70614, or Section
- 9 70670 of the Government Code, and each first paper or petition filing fee collected by the court
- 10 in a probate matter as provided under Section 70650, 70651, 70652, 70653, or 70655 of the
- 11 Government Code, the same amount as was required to be collected for the support of dispute

12 resolution programs in that county as of December 31, 2005, when a fee was collected for the  
13 filing of a first paper in a civil action under Section 26820.4 of the Government Code.

14 (2) From each first paper filing fee in a limited civil case collected by the court as  
15 provided under subdivision (b) of Section 70613 or subdivision (b) of Section 70614 of the  
16 Government Code, and each first paper or petition filing fee collected by the court in a probate  
17 matter as provided under Section 70654, 70656, or 70658 of the Government Code, the same  
18 amount as was required to be collected for the support of dispute resolution programs in that  
19 county as of December 31, 2005, when a fee was collected for the filing of a first paper in a civil  
20 action under Section 72055 of the Government Code where the amount demanded, excluding  
21 attorney's fees and costs, was ten thousand dollars (\$10,000) or less.

22 (b) Distributions under this section shall be used only for the support of dispute resolution  
23 programs authorized by this chapter. The county shall deposit the amounts distributed under this  
24 section in an account created and maintained for this purpose by the county. Records of these  
25 distributions shall be available for inspection by the public upon request.

26 (c) After January 1, 2006, a county that does not already have a distribution from superior  
27 court filing fees under this section and that establishes a dispute resolution program authorized  
28 by this chapter may approve a distribution under this section. A county that already has a  
29 distribution under this section may change the amount of the distribution. The total amount to be  
30 distributed for the support of dispute resolution programs under this section may not exceed ~~eight~~  
31 ~~dollars (\$8)~~ twelve dollars (\$12) per filing fee.

32 (d) The county may make changes under subdivision (c) to be effective January 1 or July  
33 1 of any year, on and after January 1, 2006. The county shall provide the Administrative Office  
34 of the Courts with a copy of the action of the board of supervisors that establishes the change at  
35 least 151 days before the date that the change goes into effect.

(Proposed new language underlined; language to be deleted stricken)

**PROPONENT:** National Lawyers Guild, San Francisco Bay Area Chapter

#### **IMPACT STATEMENT**

This resolution does not affect any other law, statute or rule other than those expressly identified.

#### **CURRENT OR PRIOR RELATED LEGISLATION**

None known.

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#### **RESOLUTIONS COMMITTEE RECOMMENDATION APPROVE IN PRINCIPLE**

#### History:

No similar resolutions found.

Reasons:

This resolution amends Business and Professions Code section 470.5 to increase the amount that may be distributed for dispute resolution programs from \$8 to \$12 per civil filing fee. This resolution should be approved in principle because each court would retain authority to make a determination as to the amount to be distributed to dispute resolution programs.

Despite the ongoing underfunding of California's judicial branch, courts have wide latitude to allocate their resources as best to serve their communities. In many courts, dispute resolution programs are valuable for reducing burdens on courts. Dispute resolution programs often help parties come to terms with their disagreements without civil litigation, which imposes significant costs and burdens on courts and the parties. Even in those circumstances where the parties still end up in trial, dispute resolution services help narrow and tailor the parties' disagreements, which likely helps to shorten trials and reduce the costs and other impacts of civil litigation on the parties and the courts. This is especially true for low-income litigants for whom an alternative to trial may mean the difference between access to justice and no access if they cannot compete with a more financially robust opponent in a litigation setting. Dispute resolution programs serve to level the playing field for the parties to a civil dispute.

Current law caps at \$8.00 per civil filing fee the amount that a court can allocate to dispute resolution programs. This cap has been in statute for over 30 years – since 1986 – and simply deserves to be increased so that courts may, but are not required to, increase the amount allocated from civil filing fees to the services that otherwise help reduce civil litigation. Because the courts' discretion is maintained, some courts may determine that it is not appropriate or necessary to increase the resources allocated to dispute resolution programs. However, that same discretion and an increased cap will allow other courts to increase the distribution and thereby better serve court users.