



Disability and Guardianship Project

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September 30, 2019

Honorable Tani Cantil-Sakauye
Judicial Council of California
350 McAllister Street
San Francisco, CA 94102

Re: Additional Information Regarding the *Sua Sponte* ADA Duties of California Courts

To the Judicial Council:

On September 24, 2019, I made a presentation to the Judicial Council at its Sacramento meeting. I also submitted a formal request for the Judicial Council to take appropriate actions to clarify to judges and judicial staff that they do have ADA accommodation responsibilities even if no request is made. Such duties arise when a judge or court employee becomes aware that a litigant or other participant has disabilities that interfere with effective communication or meaningful participation in a legal proceeding. Rule 1.100 fails to mention that responsibility. Judicial Council website materials are misleading on that topic. One brochure flat out states that if there is no request then no accommodation will be provided.

Recently we submitted a records request to the Judicial Council asking for access to all educational materials in the possession of the Center on Judicial Education and Research that focus on the responsibilities of judges and court staff under the ADA. We received a reply in which all such materials were provided to us.

I have personally reviewed all of these materials. Individually and collectively they give the impression that judicial responsibilities under the ADA are premised on a request being made. None of them state that judges and court staff must provide an accommodation, even without a request, for known disabilities that interfere with effective communications or meaningful participation in a legal proceeding. The educational materials, taken as a whole, are contrary to the requirements of federal law. <http://spectruminstitute.org/cal-vs-feds.pdf>

Our research is complete. Our factual findings and legal arguments have been presented to the Judicial Council. It is now the responsibility of the Judicial Council to take corrective action.

Respectfully,

Thomas F. Coleman
Legal Director

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cc: Hon. Harry E. Hull – Rules Committee
Ms. Amber Lee Barnett – Leadership Services Division