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February 27, 2008

Hon. Ronald M. George
Chief Justice of California
350 McAllister Street
San Francisco, California 94102-7303

Re: Access to California Supreme Court Oral Argument

Dear Chief Justice George:

The California Academy of Appellate Lawyers requests that you consider making both live and archive video of California Supreme Court arguments available to the public. Our primary reasons for the request are the good will and understanding likely to be engendered among the public, the inherent virtue of transparency, and the usefulness to practitioners.

After the members asked me to make this request, I surveyed the websites of the other 49 state high courts and found that a large number make both live and archive video available. Those courts include Florida, Indiana, Massachusetts, Minnesota, Mississippi, Montana, New Hampshire, New Jersey, North Dakota, Ohio, and Washington. Other states make live video available but do not appear to maintain archives. Those states include Georgia (not all arguments), Kentucky, Louisiana, Maryland, Michigan, Texas (audio archive), and West Virginia.

Many members of our Academy have been exposed to the live video practices of other courts. For some, this has been by presenting arguments in other states. Many of our members have heard discussions of video practices at meetings of the American Academy of Appellate Lawyers. Judges in other states have reported a high degree of satisfaction with live video. The virtually universal reported experience is that the public exposure improves the average quality of oral argument. At the inception of a program a few states have had a few instances of lawyers playing to the camera, but judges have emphasized that the incidents are few and they cease quickly.

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The internet survey suggested several opportunities to develop a video access system without significant expense to the court's budget. Some courts have linked with community access channels available through other branches of government or philanthropic organizations. Others have developed alliances with law schools that appear to provide the service without charge because of collateral benefits reaped by the school. Some have developed their own video streaming from their web sites.

California unfortunately is among fewer than one-third of the states in offering neither live nor archived electronic access to oral arguments. Some states that do not have live video access have video archives, e.g., Alaska, Illinois, Iowa, and Nevada. Still others have live audio, archived audio, or both, e.g., Colorado, Delaware, Hawaii, Kansas, Missouri, South Dakota, Utah, Vermont, and Wisconsin.

In a separate letter to the administrative presiding justices, the Academy is asking that audio archives of Court of Appeal arguments be made available on the internet. A copy of that letter is enclosed. Although I did not attempt to survey the websites of other states' intermediate appellate courts, I believe audio archives are commonly available in the most analogous system: the federal circuit courts of appeals. The California Court of Appeal should be encouraged not only to make this service available to practitioners but also to consider stepping up to video access, particularly when courtrooms are enabled for video streaming because of sharing with the California Supreme Court. Because of our request to the Court of Appeal, I have copied this letter to the administrative presiding justices.

Thank you in advance for your consideration of this request.

Very truly yours,

Charles A. Bird
President

Encl.