

**JUDICIAL COUNCIL of CALIFORNIA**  
**Minutes of the Business Meeting—April 24, 2012**  
**Ronald M. George State Office Complex**  
**William C. Vickrey Judicial Council Conference Center**  
**Malcolm M. Lucas Board Room**  
**San Francisco, California**

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**OPEN MEETING (RULE 10.6(A))—BUSINESS MEETING**

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Chief Justice Tani G. Cantil-Sakauye, Chair, called the meeting to order at 10:30 a.m. on Tuesday, April 24, 2012, in the Malcolm M. Lucas Board Room of the William C. Vickrey Judicial Council Conference Center in the Ronald M. George State Office Complex.

**Judicial Council members present:** Chief Justice Tani G. Cantil-Sakauye; Justices Judith Ashmann-Gerst, Marvin R. Baxter, Harry E. Hull, Jr., and Douglas P. Miller; Judges Emilie H. Elias, James E. Herman, Teri L. Jackson, Ira R. Kaufman, Mary Ann O’Malley, Kenneth K. So, David S. Wesley, and Erica R. Yew; Ms. Angela J. Davis, Ms. Miriam Aroni Krinsky, Ms. Edith R. Matthai, Ms. Jody Patel, and Mr. Mark P. Robinson, Jr.; **advisory members present:** Judges David De Alba, Terry B. Friedman (Ret.), Robert James Moss, David Rosenberg, and David M. Rubin; Commissioner Sue Alexander; Ms. Kim Turner, Mr. David H. Yamasaki; and Mr. Frederick K. Ohlrich.

**Members absent:** Judge Stephen H. Baker, Senator Noreen Evans, and Assembly Member Mike Feuer.

**Advisory members absent:** Mr. Alan Carlson

**Others present included: public:** Justices Brad R. Hill, Jeffrey W. Johnson, and Kathleen E. O’Leary; Judges Steven J. Howell (Ret.), Suzanne N. Kingsbury, David R. Lampe, and David P. Warner; Court Executive Officer Ms. Kimberly Flener; Nevada City Council Member Robert Bergman; Ms. Beth Jay, Mr. Michael Keeley, Irene Kiebert, Mr. Merrell Schexnydre, Mr. Kyle Snowdon; **AOC staff:** Mr. Peter Allen, Mr. Nick Barsetti, Ms. Deborah C. Brown, Ms. Eunice Calvert-Banks, Ms. Nancy Carlisle, Ms. Gwen Carlson, Mr. Philip Carrizosa, Mr. James Carroll, Mr. Arturo Castro, Ms. Roma Cheadle, Mr. Curtis L. Child, Dr. Diane E. Cowdrey, Mr. Dexter Craig, Ms. Benita Downs, Mr. Mark W. Dusman, Mr. Edward Ellestad, Mr. Chad Finke, Ms. Cristina Foti, Ms. Pat Haggerty, Mr. Burt Hirschfeld, Ms. Lynn Holton, Mr. John A. Judnick, Mr. Gary Kitajo, Ms. Maria Kwan, Ms. Althea Lowe-Thomas, Ms. Susan McMullan, Ms. Leslie Miessner, Ms. Debora Morrison, Ms. Vicki Muzny, Ms. Diane Nunn, Mr. Alan Oxford, Ms. Kelly Quinn, Mr. John Remington, Ms. Mary M. Roberts, Ms. Rona Rothenberg, Ms. Teresa Ruano, Ms. Laura Sainz, Mr. David Smith, Mr. Curt Soderlund, Ms. Nancy E. Spero, and Mr. Zlatko Theodorovic; **media representatives:** Ms. Maria Dinzeo, *Courthouse News Service*, and Ms. Emily Green, *Daily Journal*.

**Public Comment**

The letters submitted to the Judicial Council for consideration at this meeting are attached. Presiding Judge David P. Warner, Superior Court of California, County of San Joaquin, addressed the council on court funding.

**Approval of Minutes**

The council approved minutes from the Judicial Council business meetings of February 28 and March 27, 2012.

**Chief Justice's Report**

Chief Justice Cantil-Sakauye acknowledged Judge Sharon Water's departure from the council and congratulated Clerk of the Supreme Court Mr. Frederick Ohlrich on his impending retirement, June 29, 2012. She noted that the Strategic Evaluation Committee, appointed to evaluate the operations of the Administrative Office of the Courts (AOC), was expected to issue a report in the next four to six weeks. The Chief Justice described activities of note that she had attended since the February 28, 2012, council meeting, including legislative hearings and a press conference on the impact of budget cuts on the public's access to justice organized by council member and chair of the Senate Judiciary Committee Senator Noreen Evans. The Chief Justice concluded with references to the upcoming statewide observance of Law Day, a first annual commemoration on May 8, 2012, and the success of a recent, informal discussion by court leadership on branch governance issues.

**Interim Administrative Director's Report**

Ms. Jody Patel, Interim Administrative Director of the Courts, distributed a report on the activities of the AOC to further the council's goals for the judicial branch, conducted since the previous council meeting. She provided a status report of the senate budget and fiscal review subcommittee hearing on the branch budget in which the committee requested a report detailing systemic and court-specific operational efficiencies adopted by the branch, a second report on differentials in court fund balances, and the progress on terminating the California Court Case Management System.

She noted that the AOC is moving forward with its own internal process for restructuring efforts to be able to comply with 2012–2013 budget cuts that will take effect on July 1. The AOC's restructuring efforts are fourfold: managing budget reductions, confirming AOC core priorities in an operating climate of reduced resources, identifying programs and services to be realigned or eliminated, and targeting employee positions to be realigned or eliminated. Her report also included the presentation of a retirement resolution to Mr. Michael Fisher, Senior Attorney, recognized for his 37 years of service with the AOC's Office of the General Counsel.

**Judicial Council Committee Presentations***Executive and Planning Committee (E&P)*

Justice Douglas P. Miller, Chair, reported that E&P had met six times by phone or by e-mail deliberation since February 28, 2012. In the course of those meetings, the committee set the

agendas for a special council meeting on March 27 to make decisions on the deployment of the California Court Case Management System and for the April business meeting. The committee was in the process of evaluating nominations for upcoming vacancies on the Judicial Council. With reference to the pending Strategic Evaluation Committee report mentioned by the Chief Justice, Justice Miller indicated that E&P would present it with E&P's recommendations to the council expected to receive it in the near future and at the council meeting in June.

He then asked four Judicial Council members, each assigned to individual trial courts as liaisons with the council's recently adopted trial court liaison program, to speak about their recent court visits: Judge Robert James Moss reported on the Superior Court of California, County of Inyo; Judge Erica R. Yew on the Superior Court of California, Counties of Monterey, San Benito, and Santa Cruz; Judge Mary Ann O'Malley on the Superior Court of California, County of Santa Clara; and Justice Judith Ashmann-Gerst on the Superior Court of California, Counties of Mono and Ventura.

#### *Policy Coordination and Liaison Committee (PCLC)*

Justice Marvin R. Baxter, Chair, reported that the PCLC had convened twice since February 28, 2012, taking positions on behalf of the Judicial Council on 11 separate pieces of legislation. On March 15, the committee acted to oppose Assembly Bill 1709 (jury trials in juvenile delinquency matters,) Assembly Bills 1444 and 2163 and Senate Bill 1214 (expedited review of California Environmental Quality Act cases). The committee approved for circulation for public comment a legislative proposal from the Criminal Law Advisory Committee regarding uniform procedures governing the various forms of supervision resulting from criminal justice realignment.

On April 12, PCLC acted to support Assembly Bill 1337 (service of notice in parentage proceedings where a parent is deceased), and Assembly Bill 2365 (permitting court consideration of a parent's use of prescription drugs in custody determinations). The committee also acted to support Senate Bill 1048 (authority of juvenile courts to join a governmental agency to an action) and to oppose Senate Bill 1124 (reimbursement of incarceration costs by a defendant), Senate Bill 1206 (imposing certain court obligations in child abduction cases), and Assembly Bill 2501 (relocation of the Supreme Court, the AOC, and other state entities under the direction of a constitutional officer, to the Sacramento metropolitan area). The committee took a multipart position on Assembly Bill 2076 regarding official court reporter fees and how they are assessed and distributed. The committee also approved for circulation a legislative proposal from the Criminal Law Advisory Committee regarding intercounty probation transfers.

Justice Baxter noted two Judicial Council-sponsored proposals that the Assembly and Senate Judiciary Committees introduced in the Legislature: Assembly Bill 2683 and Senate Bill 1574 on the subject of electronic discovery and forms for claimants in decedents' estates. PCLC was scheduled to convene in the next week to consider legislative proposals for Judicial Council sponsorship regarding operational efficiencies, cost savings, and new revenue to be included in branch budgeting.

### *Rules and Projects Committee (RUPRO)*

Justice Harry E. Hull, Jr., Chair, reported that RUPRO has met three times since February 28, 2012. On March 15, RUPRO met by telephone to review three proposals that had circulated for public comment during the winter rules cycle and recommended approval of these proposals, items A1, A2, and A4 on the consent agenda. Item A1 is a rule proposal to implement recently enacted legislation establishing expedited review of certain CEQA cases in the Court of Appeal. Although RUPRO recommended this item be on the consent agenda, members thought it was important to note several things about this item:

- The underlying legislation, AB 900, entitled the “Jobs and Economic Improvement Through Environmental Leadership Act of 2011,” is not uncontroversial. It made significant changes in the procedures for review of the cases covered under the act, including moving initial review from the superior court to the Court of Appeal, thereby eliminating the right to an appeal in these cases;
- This legislation was developed during the last week of the 2011 legislative session and it moved through the legislative process very quickly. The Judicial Council did not take a position on AB 900 because of the speed with which the bill moved.
- The proposed rules to implement this legislation were initially drafted by a working group that included judicial officers, court staff, and attorneys with experience handling CEQA cases. This working group, the Appellate Advisory Committee, and RUPRO all spent considerable time on this proposal, including, in particular, on determining whether the rule or its accompanying advisory committee comment should address the courts’ authority to summarily deny petitions filed under this act.

In response to a referral from the council, RUPRO also determined the appropriate advisory committee or task force to review and make recommendations concerning Ethics Standards for Neutral Arbitrators in Contractual Arbitration. RUPRO referred the proposal to the Civil and Small Claims Advisory Committee, with the recommendation that it create a working group that includes individuals with experience and expertise in the area of contractual arbitration and the proviso that meetings be held in a manner as to not incur travel expenses.

RUPRO reviewed and approved changes to the invitation to comment form. In response to recommendations from the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, RUPRO and added to the form:

1. An executive summary that includes the origin of the proposal so that courts and commentators will be able to get a quick overview of the proposal and whether it has been proposed in response to legislation or otherwise, and
2. A new section containing the following questions for courts to assist advisory committees in providing the Judicial Council with more information about the costs and operational impacts of a proposal:
  - Will the proposal provide cost savings?
  - What are the implementation requirements for courts?
  - How well would this proposal work in courts of different sizes?

On March 28, RUPRO met by telephone to review two proposals, one of which circulated for public comment during the winter rules cycle; the other proposal makes miscellaneous technical changes to the Family Law rules. RUPRO recommended approval of these proposals, items A3 and A5 on the consent agenda.

RUPRO members also met by video conference on April 11 to consider 27 proposals to circulate for public comment in the spring 2012 rules cycle, all of which were approved for circulation. These proposals are posted for public comment through June 15. Following public circulation and further review by the advisory committees and RUPRO, these proposals are expected to come before the Judicial Council at the October 2011 business meeting.

### *California Court Case Management System (CCMS) Internal Committee*

Judge James E. Herman, Chair, reported that the committee has been operating under a new working title, the Internal Committee on Technology, and has met twice since February 28, 2012: on March 19 in a joint meeting with E&P and on April 23. He deferred giving the details of those meetings until his presentation scheduled later in the meeting. He noted that he had made contact with the Court Executives Advisory Committee, a liaison of the Trial Court Presiding Judges Advisory Committee, and the Trial Court Technology Forum on the subject of a road map and vision for branch technology in the aftermath of the council's decision to terminate CCMS.

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## **CONSENT AGENDA (ITEMS A1–A5, B–C)**

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### **ITEMS A1–A5      RULES AND FORMS**

#### ***Appellate***

#### **Item A1    Appellate Procedure: Review of California Environmental Quality Act Cases**

The Appellate Advisory Committee recommended adopting rule 8.497 of the California Rules of Court and amending rules 8.485 and 8.499 to fulfill the Judicial Council's statutory obligation under recently enacted legislation to adopt rules implementing an expedited procedure for review in the Court of Appeal of California Environmental Quality Act claims involving certain large development projects.

#### ***Council action***

The Judicial Council, effective July 1, 2012, approved the recommendations to:

1. Adopt new rule 8.497 to:
  - Specify that a proceeding under the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 is instituted by filing a petition for a writ of mandate in the Court of Appeal with geographic jurisdiction over the project;

- Require that the petition include any other claims by the petitioner that new Public Resources Code section 21185 requires be concurrently filed;
- Require that the lead agency lodge both an electronic and a paper copy of the administrative record with the Court of Appeal and serve the parties an electronic copy within 10 days after the petition is served on that agency;
- Require that requests to augment or otherwise change the content of the administrative record be made by motions served and filed within 25 days after the record is served and that any opposition or other response be served and filed within 10 days after the motion is filed;
- Require that the petitioner immediately notify the court if a matter settles;
- Require the respondent and any real party in interest to serve and file any response to the petition and any motion challenging the sufficiency of the petition within 25 days after service of the administrative record or as specified by the court;
- Require that, unless otherwise ordered by the court, the petitioner serve and file its brief within 40 days after service of the administrative record, the respondent and real party in interest serve and file their briefs within 30 days after the petitioner's brief is filed, and the petitioner serve and file any reply brief within 20 days after the respondent's brief is filed;
- Require that these briefs comply with the general requirements concerning contents, form, and length of briefs in civil appeals in the Court of Appeal;
- Require that, except as otherwise provided by law, all documents that this rule requires be served on the parties must be served by personal delivery, electronic service, express mail, or other means consistent with Code of Civil Procedure sections 1010, 1011, 1012, and 1013 and reasonably calculated to ensure delivery of the document to the parties not later than the close of the business day after the document is filed or lodged with the court;
- Require that, within 10 days of service of the petition on the real party in interest, the person who applied to have the project certified as a leadership project must pay a special \$100,000 fee to the Court of Appeal designed to cover court costs associated with the case and that, if this fee is not timely paid, the case may be transferred to the trial court and proceed under normal California Environmental Quality Act review procedures; and
- Provide that the court may order extensions of time for proceedings under this rule only for good cause and in order to promote the interests of justice.

2. Amend rules 8.485 and 8.499 and the heading of Chapter 8 of Title 8, Division 1, to reflect that proposed new rule 8.497 would be placed in Chapter 8.

### ***Criminal Law***

#### **Item A2 Criminal Justice Realignment: Abstract of Judgment Forms**

In response to recently enacted criminal justice realignment, the Judicial Council revised the abstract of judgment forms (forms CR-290, CR-290(A), and CR-290.1), effective January 2, 2012, to include information regarding sentences under Penal Code section 1170(h), including mandatory supervision and county jail commitments. Because the form revisions were adopted without a period of public review, the revised forms were circulated for public comment in winter 2012. Upon review of the forms after the public comment period, the Criminal Law Advisory Committee recommended additional revisions designed to enhance the sentence information on the forms.

#### ***Council action***

The Judicial Council, effective July 1, 2012, approved the following revisions to *Felony Abstract of Judgment—Determinate* (form CR-290), *Felony Abstract of Judgment Attachment Page* (form CR-290(A)), and *Felony Abstract of Judgment—Determinate Single, Concurrent, or Full-Term Consecutive Count Form* (form CR-290.1) to:

1. Add new data fields to the chart in item 1 of each form for courts to specify whether a particular conviction qualifies as a serious or violent felony;
2. Delete obsolete data fields from the chart in item 1 on forms CR-290 and CR-290(A);
3. Add instructions to items 2 and 3 on each form for courts to note whether the punishment for an enhancement was stricken by the court;
4. Add check boxes to item 4 on forms CR-290 and CR-290.1 for courts to specify why the defendant is required to serve the sentence in state prison;
5. Add a check box and the word “probation” to item 4 on forms CR-290 and CR-290.1 to clarify whether the defendant must report to a probation or parole office upon release;
6. Replace the fixed amount of “\$50” with a blank space in item 9c on form CR-290 and item 5 on CR-290.1;
7. Replace the phrase “court security fee” with “court operations assessment” in item 9d on form CR-290 and item 5 on form CR-290.1; and
8. Add item 9f to form CR-290 and a check box to item 5 on form CR-290.1 for courts to note imposition of other fines, fees, or assessments.

## ***Family and Juvenile Law***

### **Item A3 Family Law: Miscellaneous Technical Changes to Rules**

The Family and Juvenile Law Advisory Committee identified technical errors in the chaptering of rules 5.380, 5.381, and 5.386 in Title V. In addition, with the adoption of rule 5.92, effective July 1, 2012, rules regarding the application for a court order would conflict with provisions of rule 5.118. To avoid confusion for family law court users, clerks, and judicial officers, the Family and Juvenile Law Advisory Committee recommended correcting these errors by rechaptering and amending the rules effective July 1, 2012.

#### ***Council action***

The Judicial Council, effective July 1, 2012, approved the following technical amendments to the California Rules of Court:

1. Amend rule 5.118 (Application for court order) to:
  - a. Delete subdivisions 5.118(a)–(e);
  - b. Change the title to “Declarations supporting and responding to a request for court order”;
  - c. Conform the rule to the provisions of rule 5.92 by replacing the terms “order to show cause” and “notice of motion” with “request for court order,” deleting references to revoked forms, and referencing newly adopted form FL-300; and
  - d. Reformat the rule to comply with requirements of the California Rules of Court.
  
2. Move rules 5.380, 5.381, and 5.386 from chapter 7 into a new chapter 8 entitled “Domestic Violence Cases,” with rules 5.380 and 5.381 grouped under article 1 (Domestic Violence Prevention Act Cases) and rule 5.386 under article 2 (Tribal Court Protective Orders).

### **Item A4 Juvenile Law: Extending Juvenile Court Jurisdiction—Nonminor Foster Youth**

The Family and Juvenile Law Advisory Committee recommended amending 6 of the rules and 10 of the forms adopted by the Judicial Council in October 2011 to implement those provisions of Assembly Bill 12 (the California Fostering Connections to Success Act) amended by AB 212 that relate to the extension of juvenile court jurisdiction and foster care services to dependents and wards up to 21 years of age. Four rules and eight forms included in this proposal were not circulated during the spring 2011 comment period because of the extensive expedited modifications required by the enactment of AB 212 on October 8, 2011. Although rule 5.707 and form JV-460 were circulated, both are included in this proposal to correct minor formatting, editing, and grammatical errors. Forms JV-462 and JV-468 have been added to correct minor technical errors brought to the committee’s attention during the winter 2012 comment period.



### **Council action**

The Judicial Council, effective July 1, 2012, approved the recommendations to:

1. Amend rule 5.555 to clarify that the right of a nonminor to have juvenile court jurisdiction terminated is limited to termination of dependency jurisdiction or transition jurisdiction;
2. Amend rules 5.555 and 5.812 and forms JV-367, JV-680, and JV-681 to reflect the requirement in Welfare and Institutions Code section 607.5 that the probation officer provide the ward with the specified notices and information;
3. Amend rules 5.555, 5.707, 5.812, and 5.906 and revise forms JV-387 and JV-464-INFO to modify language that made it appear a nonminor would not be able to return to juvenile court jurisdiction unless the court had entered an order retaining general jurisdiction when dismissing delinquency, dependency, or transition jurisdiction over the nonminor;
4. Amend rules 5.707 and 5.812 and revise forms JV-460 and JV-680 to delete unnecessary reference to continuing court jurisdiction;
5. Amend rule 5.812 and revise forms JV-680 and JV-681 to reflect the criteria and process for the modification of jurisdiction over a minor ward from delinquency jurisdiction to dependency jurisdiction;
6. Amend rule 5.812 to delete language that made it appear that *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466) had to be filed in the same action as the original dependency or delinquency proceeding;
7. Amend rule 5.900 to add an advisory committee comment clarifying that a nonminor is entitled to be represented in proceedings under rules 5.900, 5.903, 5.906, and 5.555 by an attorney of his or her choice rather than a court-appointed attorney, and that any fees for an attorney retained by a nonminor are the nonminor's responsibility;
8. Amend rule 5.906 and form JV-468 to include the attorney for the placing agency as a person who may have access to the nonminor dependent's juvenile court file;
9. Amend rule 5.906 to clarify that the purpose of permitting the placing agency to file *Request to Return to Juvenile Court Jurisdiction and Foster Care* (form JV-466) was to provide the nonminor with the opportunity to have assistance with the process of completing the form and to allow the agency to file the form on the nonminor's behalf;
10. Amend form JV-281 to delete reference to custody of the nonminor dependent;

11. Amend rules 5.502, 5.555, 5.707, 5.812, and 5.906 in response to commentators' grammar, punctuation, spacing, formatting, and word choice suggestions and to correct typographical errors; and
12. Revise forms JV-365, JV-367, JV-460, JV-462, JV-464-INFO, JV-466, JV-468, JV-680, and JV-681 in response to commentators' grammar, punctuation, spacing, formatting, and word choice suggestions and to correct typographical errors.

## **Probate**

### **Item A5 Probate: Substitutes for Decedent Estate Administration**

The Probate and Mental Health Advisory Committee recommended revising three forms that are used to transfer the property of a decedent to his or her successors in interest when a full estate administration is not required.

#### **Council action**

The Judicial Council, effective July 1, 2012, approved the recommendations to revise the following Judicial Council forms:

1. *Affidavit re Real Property of Small Value (\$50,000 or Less)* (form DE-305);
2. *Petition to Determine Succession to Real Property (Estates of \$150,000 or Less)* (form DE-310); and
3. *Order Determining Succession to Real Property (Estates of \$150,000 or Less)* (form DE-315).

### **Item B Judicial Branch Report to the Legislature: Annual Report of Fiscal Year 2010–2011 Court Facilities Trust Fund**

The Administrative Office of the Courts recommended approving the *Annual Report of Fiscal Year 2010–2011 Court Facilities Trust Fund Expenditures*. Government Code section 70352(c) requires that the Judicial Council report to the Legislature annually all expenditures from the Court Facilities Trust Fund after the end of each fiscal year.

#### **Council action**

The Judicial Council approved the *Annual Report of Fiscal Year 2010–2011 Court Facilities Trust Fund Expenditures* and directed the AOC to submit the report to the Legislature.

### **Item C Judicial Branch Report to the Legislature: Report on Flood Control and Water Conservation Liability in Los Angeles County**

The AOC recommended that the Judicial Council approve the *Report on Flood Control and Water Conservation Liability* covering the reporting period of 2007 through 2011. Government

Code sections 831.8 and 831.9 require that the Judicial Council report to the Legislature on the receipt of summary records of injuries and any civil actions ensuing from such injuries sustained by members of the public, in the unlined flood control channels and adjacent groundwater recharge spreading grounds in Los Angeles County.

**Council action**

The Judicial Council approved the *Report on Flood Control and Water Conservation Liability* covering the reporting period of 2007 through 2011 and directed the AOC to submit the report to the Legislature.

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**DISCUSSION AGENDA (ITEMS D–H)**

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**Item D Court Facilities: Recommendations on Reducing Costs of SB 1407 Projects**

The Court Facilities Working Group (the Working Group) recommended the next steps to reduce costs for each SB 1407 project, including reassessing 13 projects with the goal of significantly lowering their costs. Minimum reductions to hard construction costs were recommended for all projects along with a set of principles for use by the courts, the AOC, and the design teams to meet cost reduction minimum goals. In support of reducing SB 1407 project costs, the Working Group also recommended that the director of the AOC’s Office of Court Construction and Management be delegated authority to make technical adjustments to facility design standards, subject to working group oversight.

Four individuals asked to speak on this item and appeared in the following order:

1. Judge David R. Lampe, Superior Court of California, County of Kern, representing the Alliance of California Judges,
2. Mr. Robert Bergman, city council member and judge pro tem, County of Nevada,
3. Mr. Merrell G. Schexnydre, President and CEO, Judicial Development Partners LLC, and
4. Mr. Michael G. Keeley, JD., ARM, and Senior Vice President, Risk Management & Business Development, Judicial Development Partners LLC.

**Council action**

The Judicial Council, effective April 24, 2012, adopted the following:

1. A total of 13 projects—with an estimated \$1.1 billion in total project budgets—will be reassessed to find significant ways to reduce costs, including where feasible, reducing square footage, undertaking renovations of existing buildings instead of new construction, evaluating lease options, and using lower-cost construction methods. Projects to be reassessed are:

Imperial–New El Centro Family Courthouse; Inyo–New Inyo County Courthouse; Kern–New Delano Courthouse, New Mojave Courthouse; Los Angeles–New Eastlake Juvenile Courthouse, New Glendale Courthouse, New Santa Clarita Courthouse, New Southeast Los Angeles Courthouse; Mendocino–New Ukiah Courthouse; Monterey–New South Monterey County Courthouse; Nevada–New Nevada City Courthouse; Riverside–New Hemet Courthouse; and Santa Barbara–New Santa Barbara Criminal Courthouse.

2. A total of 24 projects—with an estimated \$3.2 billion in total project budgets—will move forward to reduce SB 1407 costs now, in addition to the four percent reduction mandated by the Judicial Council in December 2011. Lower-cost construction methods will be implemented where feasible. Projects to move forward to reduce SB 1407 costs are:

Butte–New North Butte County Courthouse; El Dorado–New Placerville Courthouse; Fresno–Renovation of Fresno County Courthouse; Glenn–Renovation and Addition to Willows Historic Courthouse; Kings–New Hanford Courthouse; Lake–New Lakeport Courthouse; Los Angeles–New Mental Health Courthouse; Merced–New Los Banos Courthouse; Placer–New Tahoe Area Courthouse; Plumas–New Quincy Courthouse; Riverside–New Indio Juvenile and Family Courthouse; Sacramento–New Sacramento Criminal Courthouse; San Diego–New Central San Diego Courthouse; San Joaquin–Renovation of and Addition to Juvenile Justice Center; Santa Clara–New Santa Clara Family Justice Center; Shasta–New Redding Courthouse; Siskiyou–New Yreka Courthouse; Solano–Renovation of Fairfield Old Solano Courthouse; Sonoma–New Santa Rosa Criminal Courthouse; Stanislaus–New Modesto Courthouse; Sutter–New Yuba City Courthouse; Tehama–New Red Bluff Courthouse; Tuolumne–New Sonora Courthouse; and Yolo–New Woodland Courthouse.

3. All projects moving forward to reduce SB 1407 costs now will achieve the following reductions to unescalated hard construction costs based on project type and current phase. Further reductions beyond the minimums are expected if no compromise in safety, security, building performance or court operations will result. Minimum SB 1407 cost reductions by project types and phases are as follows:

- 3.1. Renovation projects must reduce hard construction costs by a minimum of two percent. These projects are:

Fresno–Renovate Fresno County Courthouse, Glenn–Renovation and Addition to Willows Historic Courthouse, San Joaquin–Renovation and Addition to Juvenile Justice Center, and Solano–Renovation to Fairfield Old Solano Courthouse.

- 3.2. For all new construction projects, a range of cost-reduction minimums are established as follows:

- 3.2.1 Cost Reduction Demonstration Projects are established to demonstrate the effective implementation and utility of lower-cost construction methods with a target to limit overall costs to those of alternative, low-cost

construction methodologies, such as tilt-up construction. Other projects that are candidate for lower-cost construction methods shall look to these demonstration projects as models. These projects are:  
Merced–New Los Banos Courthouse; Placer–New Tahoe Area Courthouse; Plumas–New Quincy Courthouse; Riverside–New Indio Juvenile and Family Courthouse; Tehama–New Red Bluff Courthouse; Tuolumne–New Sonora Courthouse; and Butte–New North Butte County Courthouse.

3.2.2 Projects in Working Drawings or those that have their Preliminary Plans completed and submitted to the State Public Works Board by May 30, 2012, must reduce hard construction costs by a minimum of three percent. Qualifying projects are:  
Kings–New Hanford Courthouse; Lake–New Lakeport Courthouse; San Diego–New Central San Diego Courthouse; Santa Clara–New Santa Clara Family Justice Center; Sutter–New Yuba City Courthouse; and Yolo–New Woodland Courthouse.

3.2.3 For projects in Acquisition, reductions are established as follows:

3.2.3.1 Projects that can be constructed using low-cost construction methodologies will achieve minimum cost savings of 10 percent or more. Qualifying projects are:  
El Dorado–New Placerville Courthouse; Los Angeles–New Mental Health Courthouse; and Siskiyou–New Yreka Courthouse.

3.2.3.2 All other projects must reduce hard construction costs by a minimum of 10 percent. Qualifying projects are:  
Sacramento–New Sacramento Criminal Courthouse; Shasta–New Redding Courthouse; Sonoma–New Santa Rosa Criminal Courthouse; and Stanislaus–New Modesto Courthouse.

4. AOC staff will collaborate with the courts and project design teams to implement the above directed reductions using the Principles of Cost Reduction attached to the report submitted to the Judicial Council. Application of the principles should not compromise the security, safety, building performance, or operations of the courthouses.
5. In support of cost reduction efforts, the director of the AOC's Office of Court Construction and Management is authorized to make technical adjustments to the *California Trial Court Facilities Standards* for specific projects subject to majority approval of the following committee comprised of: Chair and Vice-Chair of the Court Facilities Working Group and the Chair of the Courthouse Cost Reduction Subcommittee. The technical adjustments should not compromise the security, safety, building performance, or operations of the courthouses.

6. The Alameda–New East County Courthouse project will move forward with no changes to project costs.
7. The Courthouse Cost Reduction Subcommittee of the Court Facilities Working Group shall oversee and have direct implementation authority with regard to the above recommendations. If a dispute arises between a court and the subcommittee, the Court Facilities Working Group will consider the issue and make a recommendation to the Judicial Council.
8. The AOC shall submit to the state Department of Finance technical corrections to FY 2012–2013 funding requests required to implement the above recommendations.

**Item E     Judicial Branch Administration: Audit Report for Judicial Council Acceptance**

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) and the AOC recommended that the Judicial Council accept the audit report that pertains to the Mono Superior Court.

***Council action***

The Judicial Council, effective April 24, 2012, accepted the “pending” audit report dated March 16, 2012, entitled: *Audit of the Superior Court of California, County of Mono*. The audit report will be posted on the California Courts public website.

**Item F     Judicial Branch Administration: Judicial Branch Contracting Manual**

At the Judicial Council’s regular business meeting on December 13, 2011, the council adopted revisions to the Introduction chapter of the *Judicial Branch Contracting Manual* and directed staff to report further to the council in April 2012 about comprehensive revisions to the manual. With the concurrence of the *Judicial Branch Contracting Manual* Working Group, the AOC recommended that the council revise the manual as proposed in the April 12, 2012, report and direct staff to report further to the council in August 2012 about additional revisions to the manual.

***Council action***

The Judicial Council, effective April 24, 2012, approved the proposed revisions of the Judicial Branch Contracting Manual and directed the AOC to report further to the council at its regular business meeting in August 2012 about additional revisions to the manual.

**Item G     Trial Court Allocation: Operational and Security Funding for El Dorado Superior Court’s Remodeled Juvenile Facility**

The AOC submitted to the Judicial Council four options for review and consideration for funding one-time and ongoing operational and security costs for the remodeled El Dorado Superior Court juvenile facility that is expected to open on June 11, 2012. The council had previously approved funding for this facility, but it had taken longer than expected for the work to be completed.

### ***Council action***

The Judicial Council approved, on a vote of 14 to 2, one-time funding of \$81,128 for fiscal year 11-12 for operating costs and \$88,192 for fiscal year 12-13 for security needs for the remodeled El Dorado Superior Court juvenile facility.

### **Item H Judicial Branch Administration: Update on Technology Activities**

As a follow up to the March 27, 2012, Judicial Council meeting, Judge James E. Herman, Chair of the council's California Court Case Management System Internal Committee was to provide an update on judicial branch activities related to terminating V4 as a statewide solution and leveraging the developed technology and software. In the absence of time, Judge Herman abbreviated his presentation and highlighted several current initiatives: a survey of the 58 trial courts by the Trial Court Presiding Judges Advisory Committee to collect information on their technology needs and the anticipated adjustments with the council decision to terminate CCMS V4 deployment; the Court Executive Advisory Committee's work to redefine a strategy for branch technology; recent contact with the Court Information Technology Forum to plan the transitional steps in branch technology without statewide CCMS V4 deployment; and the AOC workplan in place for decommissioning and leveraging the CCMS V4 product. Judge Herman referred council members to detailed documentation on these efforts in a document distributed to council members after the meeting.

### ***No action***

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## **INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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### **Government Code Section 68106: Implementation and Notice by Trial Courts of Closing Courtrooms or Clerks' Offices or Reducing Clerks' Office Hours (Report #11)**

In 2010, the Legislature enacted fee increases and fund transfers for the courts and also added section 68106 to the Government Code. In 2011, the Legislature enacted Assembly Bill 973, which amended section 68106 effective January 1, 2012. As amended, section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' office hours on days that are not judicial holidays, and (2) the council to post on its website and relay to the Legislature all such court notices. This is the eleventh report providing information about the implementation of these notice requirements. Since the tenth report, three courts—Plumas, Sierra, and Solano—have given such notice. Since section 68106 originally was added, on October 19, 2010, a total of 27 courts have given notice.

### **In Memoriam**

Chief Justice Cantil-Sakauye closed the meeting with a moment of silence to remember recently deceased judicial colleagues and honor their service to their courts and the cause of justice:

- Hon. Raymond F. Zvetina (Ret.), Superior Court of California, County of San Diego

- Hon. Charles E. Aguilar (Ret.), Superior Court of California, County of Stanislaus
- Hon. John F. Kraetzer (Ret.), Superior Court of California, County of Alameda
- Hon. Frank Cliff (Ret.), Superior Court of California, County of Santa Clara
- Hon. Ralph Nutter (Ret.), Superior Court of California, County of Los Angeles
- Hon. Rex Sater (Ret.), Superior Court of California, County of Sonoma
- Hon. Joseph Murphy (Ret.), Superior Court of California, County of Sonoma
- Hon. Robert M. Falasco, Superior Court of California, County of Merced
- Hon. Eric Wyatt (Ret.), Superior Court of California, County of Madera

There being no further public business, the meeting was adjourned at 3:25 p.m.

Respectfully submitted,

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Jody Patel  
Interim Administrative Director of the Courts and  
Secretary to the Judicial Council

### **Attachments**

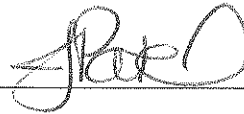
1. Correspondence submitted by Mr. John W. Givens, Nevada City
2. Correspondence submitted by Council Member Robert Bergman, Nevada City
3. Correspondence submitted by Mr. Michael G. Keeley,
4. Roll-Call Voting Sheet, Item G Option 6



- Hon. Charles E. Aguilar (Ret.), Superior Court of California, County of Stanislaus
- Hon. John F. Kraetzer (Ret.), Superior Court of California, County of Alameda
- Hon. Frank Cliff (Ret.), Superior Court of California, County of Santa Clara
- Hon. Ralph Nutter (Ret.), Superior Court of California, County of Los Angeles
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Respectfully submitted,



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Jody Patel  
Interim Administrative Director of the Courts and  
Secretary to the Judicial Council

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4. Roll-Call Voting Sheet, Item G Option 6



The Hon. Tani Cantil-Sakauye  
Chief Justice, California Supreme Court  
Hiram Johnson Building  
455 Golden Gate Avenue  
San Francisco, CA 94102-36888

April 20, 2012

Dear Chief Justice:

The following are comments I wish to make regarding Item D: Recommendations in Reducing Costs of SB 1407 Projects at the April 24, 2012 Judicial Council meeting.

In the news release dated April 13, 2012, the AOC announced that the Nevada County Courthouse was listed as one of thirteen courthouse projects being "reassessed" as part of a proposed \$1.1 billion construction cost reduction.

While I am not certain what the word "reassessed" means, along with many others in our little town I feel vindicated; because for almost two years we have been saying the same thing, namely that reassessment is precisely what this project needs.

Personally, I have found the OCCM staff, without exception, to be courteous, competent, and hard working professionals who believe in this project, and who have worked diligently to establish good community relations. And yet, despite their best efforts, it is safe to say there has been a firestorm of opposition to their proposed plans for a new courthouse. Why is this? The answer, I believe, is that the project was based on a fatally flawed assumption that doomed it from the start.

The assumption was that a top-down designed courthouse, with some minor adjustments to meet local sensibilities, if necessary, could be dropped into Nevada City, as if from a helicopter. Clearly, that approach has not worked out well; so may I propose another way as part of the reassessment?

Would not a bottom-up approach be more successful? Start by identifying all the stakeholders, which includes the court system, and then designed and build a courthouse to meet their needs into the foreseeable future.

Second, the default option should be that the historic Nevada County Courthouse be renovated, restored and rehabilitated so that it can continue to be the seat of the Superior Court of Nevada County as it has for over 150 years. It is also clear that there are six issues that need to be addressed in preserving the historic courthouse and meeting the needs of the stakeholders:

- Safety
- Security
- Accessibility
- Historic integrity and value
- Economic and cultural impact
- Cost

Based on my experience with the people at the OCCM, I have no doubts that they are up to what admittedly will be a difficult task, but so are the people of Nevada City.

And finally, would it not also be a good idea to proceed under Brown Act conditions to encourage community participation? And would not the interests of the citizens of Nevada City and California, along with the courts, best be served if we move forward in a co-operative and collaborative way, making these difficult and critical decisions in the clear light of day?

Sincerely,

John W. Givens  
Nevada City, CA  
Private Citizen, Retired  
[JGivens@Menke.com](mailto:JGivens@Menke.com)  
530.263.0264 (c)

**From:** r. bergman [mailto:rcontrol@pacbell.net]  
**Sent:** Sunday, April 22, 2012 4:32 PM  
**To:** Spero, Nancy  
**Cc:** David Brennan; Magnusson, Chris; Sainz, Laura  
**Subject:** The Judicial Council meeting/agenda item D/the Nevada City courthouse project

Good morning Ms. Spero.

I'm writing you now, albeit somewhat late, about Item D on the Council's agenda this week. (I am a council member in Nevada City, its former mayor, and I also serve as a judge pro temp for the court's small claims matters. Last October, I spoke for the City and our judges at the Court Facilities Working Group's meeting about Nevada City's courthouse.)

Specifically, I am asking to speak directly to the Judicial Council about the Nevada City courthouse, one of the 13 projects now being reassessed. My reasons for making this request are three-fold:

First and foremost, I want to restate just how important the location of the new courthouse is. I will be speaking for Nevada City with the unanimous support of the County's Board of Supervisors, our court, and the community as a whole. The Court Facilities Working Group, the Judicial Council, and others involved in this project should to hear firsthand that keeping our courthouse downtown is vital to Nevada City's future.

Second: A committee the City formed for the new courthouse has been working diligently on this project for nearly three years now. We are confident that a new courthouse that would meet all of the necessary safety and usability requirements can be build on the preferred site (downtown Nevada City) at a cost between 65% and 70% of the original budget. This projection significantly exceeds the Working Group's project-by-project cost reduction goals.

Finally, I've been told that you have had some communication with John Givens about the Nevada City courthouse. We are concerned here that the AOC, the Court Facilities Working Group, and others involved in this project have viewed him as a spokesman for the City. That is not the case. Mr. Givens does not represent any of the organizations I listed. (Do note, though, that Mr. Givens has *never* openly claimed that role.) Although he is, indeed, interested in the "future" of the art moderne courthouse building, he is not a resident of or business owner in Nevada City. I would like Justice Hill, the Court Facilities Working Group, and the Judicial Council as a whole to understand this.

Although Justice Hill and other members of the Working Group, and staff at the AOC may already know the points I've written about here, My colleagues and I feel that it is well worth the time and effort to come to the meeting Tuesday to emphasize what this project means to our community.

My comments are brief and should take only a few minutes. I hope the Council can accommodate my request. However, if it isn't possible, or in your opinion worthwhile, to speak, please circulate this message on my behalf. I plan on being there Tuesday regardless.

I appreciate whatever help you give us.

Robert Bergman

Good morning and I would like to address the Judicial Council tomorrow morning on Agenda item number D, Court Facilities. My relevant information is below. In essence my discussion talking points will focus on the effect of stakeholders to the process and the how construction of courthouses improve local economies as well as state and local business development. I will conclude by emphasizing that the private sector is both a willing and able partner to assist the state where business opportunities make prudent fiscal sense.

In addition, our company President and CEO Merrell Schexnydre will make a statement on the efficiencies of private financing for CA courthouse construction which could save millions versus raising monies via bond financing. He will point out the traditional funding vehicles versus the private lease back model which can create immediate and sustained construction revenue for CA courthouse projects.

In addition, I would appreciate you circulating this e-mail to members of the Judicial Council as a Written Comment.

Thank you,

**Michael G. Keeley J.D., ARM**  
**Senior VP Risk Management & Business Development**  
**Judicial Development Partners, LLC**  
735 University Ave.  
Sacramento, CA 95825  
(O) 916.243-5341  
(F) 916.358-9945  
(C) 916.825-1882  
[michael@judicialdev.com](mailto:michael@judicialdev.com)  
[www.judicialdev.com](http://www.judicialdev.com)

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**JUDICIAL COUNCIL ROLL CALL VOTE**  
**April 24, 2012, Meeting**

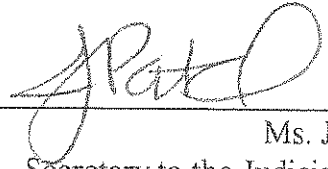
6

Agenda Item # / Subject \_\_\_\_\_

VOTING MEMBERS	VOTE			
	YES	NO	ABSTAIN	RECUSE
1. Hon. Tani Cantil-Sakauye, Chair				
2. Hon. Judith Ashmann-Gerst	X			
3. <del>Hon. Stephen H. Baker</del> <i>absent</i>	N/A	N/A	N/A	N/A
4. Hon. Marvin R. Baxter	X			
5. Ms. Angela J. Davis	X			
6. Hon. Emilie H. Elias	X			
7. <del>Hon. Noreen Evans</del> <i>absent</i>	N/A	N/A	N/A	N/A
8. <del>Hon. Mike Feuer</del> <i>absent</i>	N/A	N/A	N/A	N/A
9. Hon. James E. Herman	X			
10. Hon. Harry E. Hull, Jr.	X			
11. Hon. Teri L. Jackson		X		
12. Hon. Ira R. Kaufman		X		
13. Ms. Miriam Aroni Krinsky	X			
14. Ms. Edith R. Matthai	X			
15. Hon. Douglas P. Miller	X			
16. Hon. Mary Ann O'Malley	X			
17. Mr. Mark P. Robinson, Jr.	X			
18. Hon. Kenneth K. So	X			
19. Hon. David S. Wesley	X			
20. Hon. Erica R. Yew	X			

Totals: Yes \_\_\_\_\_ No \_\_\_\_\_ Abstain 14 Recuse 2 Absent \_\_\_\_\_

sec. 1-time  
 88192 + 81,128  
 Tot = 169,320

  
 Ms. Jody Patel  
 Secretary to the Judicial Council

\* The Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member, as his or her name is called, responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain"). A member's recusal is indicated in the right column.

After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. At the conclusion of the roll call, the names of those who failed to answer can be called again and, when appropriate, the chair can ask if any voting member entered the room after his or her name was called. Changes of votes are permitted at this time, before the result is announced.

In roll call voting, a record of how each member voted, as well as the result of the vote, will be entered in full in the minutes.