

**JUDICIAL COUNCIL OF CALIFORNIA**  
**Meeting Minutes—June 8, 2015**

This special business meeting was held to address an urgent matter and was conducted by telephone.

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**MONDAY, JUNE 8, 2015**

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**Business Meeting—Open Meeting**  
**(Rule 10.6(a))**

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**Voting Judicial Council members present:** Chief Justice Tani G. Cantil-Sakauye; Supreme Court Justice Ming W. Chin; Court of Appeal Justices Harry E. Hull, Jr., and Douglas P. Miller; Judges Marla O. Anderson, Brian John Back, James R. Brandlin, David De Alba, Emilie H. Elias, Gary Nadler, David Rosenberg, David M. Rubin, Dean T. Stout, and Martin J. Tangeman; Senator Hannah-Beth Jackson; Mr. Mark G. Bonino, Mr. James P. Fox, Ms. Donna D. Melby, and Ms. Debra Elaine Pole; **advisory members present:** Judges Daniel J. Buckley, Morris D. Jacobson, Brian L. McCabe, Marsha G. Slough, Kenneth K. So, and Joan P. Weber; Commissioner David E. Gunn; Court Executive Officers Richard D. Feldstein and Mary Beth Todd; Supreme Court Clerk Frank A. McGuire; **secretary to the council:** Mr. Martin Hoshino, Administrative Director.

**Members absent:** Court of Appeal Justice Judith Ashmann-Gerst; Judges James E. Herman and Charles D. Wachob; Assembly Member Richard Bloom.

**Speakers present:** Judge Mark S. Borrell, Superior Court of Ventura County.

**Call to Order**

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the meeting to order at 8 a.m. by teleconference. Justice Douglas P. Miller, chair of the council's Executive and Planning Committee, announced that this special business meeting was being held at the direction of the Chief Justice, who asked the council's Rules and Projects Committee, chaired by Justice Harry E. Hull, Jr., to develop, on an expedited basis, a new California Rule of Court that would allow people with traffic infractions to appear for arraignment and trial without prior deposit of bail.

**Opening Remarks From the Chief Justice**

The Chief Justice reported that, three weeks before this meeting, she asked the Judicial Council to take urgent action to adopt a new California Rule of Court to increase access to courts for people who want to challenge their traffic citations. She emphasized that the rule was to make certain that Californians would not have to pay bail for traffic infractions before appearing in their courts. The Chief Justice directed Justice Hull, as chair of the council's Rules and Projects Committee, to develop a rule of court that would promote procedural fairness in traffic infraction

cases. In developing the rule, she requested that Justice Hull seek input from trial court leadership as well as interested individuals and organizations. The Chief Justice indicated that the input received was very helpful and that she is grateful to those who provided their input.

The Chief Justice reported that, last April, the Lawyers' Committee for Civil Rights and other organizations issued a report entitled *Not Just a Ferguson Problem*, which raised a number of significant issues related to traffic laws and procedures, including the high cost of traffic fines and penalties, the loss of driver's licenses, and uncollected court-ordered debt, all of which are of great concern and need addressing. The Chief Justice, however, indicated that the issue that came to the fore for the judicial branch was the increasing barriers faced by people contesting their traffic citations, an issue that she felt could be immediately addressed by the council.

The Chief Justice noted that this issue reminded her, once again, of the 1926 ballot argument that urged voters to pass a state constitutional amendment creating the Judicial Council. The argument read, "...with a judicial council, whenever anything goes wrong any judge or lawyer or litigant or other citizen will know to whom to make complaint, and it will be the duty of the council to propose a remedy, and if this cannot be done without an amendment to the laws, the council will recommend to the Legislature any change in the law which it deems necessary." The Chief Justice, therefore, asked the council to address what it could do immediately through a new rule of court and to quickly study and recommend any other rules to increase access to justice.

The Chief Justice emphasized that many of the concerns highlighted in the report from the Lawyers' Committee for Civil Rights would require a solution from all three branches of government and that the council is working to that end with members of the Legislature and the Governor's administration. In the meantime, she is proud of the rule that was developed and believes that it will go far to address what some have coined "pay to play." It is an important first step to address an urgent access-to-justice issue, but more work lies ahead.

The Chief Justice reported that many of the comments received through Friday, June 5, raised important substantive issues that concern all three branches of government. She noted that the Commission on the Future of California's Court System, which she appointed, is also considering traffic infraction issues. The Chief Justice added that, as part of its action during this meeting, the council would be requesting that the Traffic and Criminal Law Advisory Committees consider recommendations to promote access to justice in all infraction cases, including non-traffic infractions and post-conviction proceedings, and in instances when an individual has failed to appear or pay.

The Chief Justice concluded her remarks by expressing her appreciation to everyone who worked on this important rule during the past month.

### **Written Comment**

Presiding Judge Harold W. Hopp of the Superior Court of Riverside County; Judge James K. Hahn of the Superior Court of Los Angeles County; Judge Mark A. Juhas of the Superior Court of

Los Angeles County, as chair of the California Commission on Access to Justice; Court Executive Officer Melissa Fowler-Bradley of the Superior Court of Shasta County, on behalf of the court; Court Referee Richard W. Bohlander of the Superior Court of Imperial County; Riverside County Sheriff Stan Sniff; and Ms. Cynthia Anderson-Barker, Ms. Marley Degner, Mr. Azar Elihu, Mr. Michael Herald, et al., Mr. Michael Kennedy, Mr. Bob Richmond, Ms. Christine Sun, Mr. Will Watts, and Ms. Theresa Zhen submitted written comments on Agenda Item 1.

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## Agenda

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### **Item 1     Traffic Law: Appearance in Court for Infractions Without Deposit of Bail**

The Rules and Projects Committee recommended that the Judicial Council adopt a new rule of court to state that courts must allow traffic infraction defendants to appear as promised for arraignment and trial without prior deposit of bail unless certain specified exceptions apply, and must provide defendants with notice of the option to appear in court for arraignment and trial without the deposit of bail in any instructions or other materials regarding bail provided by the court to the public. The rule was developed on an urgency basis at the request of the Chief Justice in response to recent concerns about court procedures for deposit of bail when defendants challenge infraction citations in court.

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

The Judicial Council, effective June 8, 2015:

1. Adopted rule 4.105 of the California Rules of Court to:
  - a. State that courts must allow traffic infraction defendants to appear for arraignment and trial without the deposit of bail unless a specified exception applies;
  - b. Describe three specific exceptions to the requirement that courts allow traffic infraction defendants to appear for arraignment and trial without prior deposit of bail;
  - c. Require courts to inform traffic infraction defendants of the option to appear in court without the deposit of bail in any instructions or other materials provided to the public that relate to bail for traffic infractions, including any website information, written instructions, courtesy notices, and forms; and
  - d. Provide advisory committee comments that clarify the meaning of specific provisions and the application and purpose of the rule, including that the rule is not intended to modify or contravene any of the various statutory provisions that authorize or require the deposit of bail in lieu of appearing in court.

2. Directed the Traffic Advisory Committee to expeditiously review all related Judicial Council traffic forms and to recommend any revisions that are needed to make the forms consistent with rule 4.105.
3. Directed the Criminal Law Advisory Committee to consider recommendations, consistent with rule 4.105, to provide for appearances at arraignment and trial without the deposit of bail in nontraffic-infracton cases.
4. Directed the appropriate advisory bodies to consider rule, form, or any other recommendations necessary to promote access to justice in all infraction cases, including recommendations related to post-conviction proceedings or proceedings after the defendant has previously failed to appear or pay.

Additionally, the Chief Justice directed the Rules and Projects Committee to coordinate and oversee the work of the Traffic and Criminal Law Advisory Committees as directed above. She also directed Justice Hull and the Rules and Projects Committee to name any advisory body deemed appropriate to consider any other recommendations necessary to promote access to justice in all infraction cases and report back to the Judicial Council during its August business meeting.

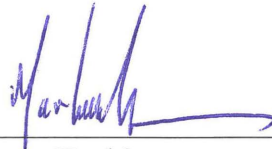
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## Adjournment

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Before adjourning, the Chief Justice again expressed her gratitude to Justice Hull, Judge Borrell, Judge Slough, Ms. Todd, the Judicial Council members, and Judicial Council staff for their expeditious work. With the meeting's business completed, the Chief Justice adjourned the meeting at 8:40 a.m.

Respectfully submitted,



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Martin Hoshino  
Administrative Director and  
Secretary to the Judicial Council

### Attachment

Judicial Council Roll Call/Voting Sheet for Agenda Item 1

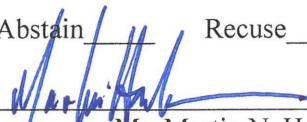
**JUDICIAL COUNCIL ROLL CALL / VOTING SHEET**  
**Monday, June 8, 2015 Meeting**

Agenda Item # / Subject: 1: APPEARANCE FOR INFRACTIONS Roll Call X Voice Vote \_\_\_\_\_  
w/o DEPOSIT OF BAIL

VOTING MEMBERS		PRESENT	YES	NO	ABSTAIN	RECUSE
1.	Justice Tani G. Cantil-Sakauye, Chair	X				
2.	Judge Marla O. Anderson	X	X			
3.	Justice Judith Ashmann-Gerst <i>absent</i>	N/A	N/A	N/A	N/A	N/A
4.	Judge Brian John Back	X	X			
5.	Assemblyman Richard Bloom					
6.	Mr. Mark G. Bonino	X	X			
7.	Judge James R. Brandlin	X	X			
8.	Justice Ming W. Chin	X	X			
9.	Judge David De Alba	X	X			
10.	Judge Emilie H. Elias	X	X			
11.	Mr. James P. Fox	X	X			
12.	Justice Harry E. Hull, Jr.	X	X			
13.	Sen. Hannah-Beth Jackson	X	X			
14.	Ms. Donna D'Angelo Melby	X	X			
15.	Justice Douglas P. Miller	X	X			
16.	Judge Gary Nadler	X	X			
17.	Ms. Debra E. Pole <i>(on call until 9:00am)</i>	X	X			
18.	Judge David Rosenberg	X	X			
19.	Judge David M. Rubin	X	X			
20.	Judge Dean T. Stout	X	X			
21.	Judge Martin J. Tangeman	X	X			

NON-VOTING MEMBERS		PRESENT
1.	Judge Daniel J. Buckley	
2.	Mr. Richard D. Feldstein	
3.	Commissioner David E. Gunn	
4.	Judge James E. Herman	
5.	Judge Morris D. Jacobson	
6.	Judge Brian L. McCabe	
7.	Mr. Frank A. McGuire	
8.	Judge Marsha G. Slough	
9.	Judge Kenneth K. So	
10.	Ms. Mary Beth Todd	
11.	Judge Charles D. Wachob	
12.	Judge Joan P. Weber	

Totals: Present \_\_\_\_\_ Absent \_\_\_\_\_ Yes 18 No \_\_\_\_\_ Abstain \_\_\_\_\_ Recuse \_\_\_\_\_

  
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 Mr. Martin N. Hoshino  
 Secretary to the Judicial Council

\* ALL council members attending telephonically on this date.

\*\* For a roll call vote, the Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member 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. 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.

\*\*\* For a voice vote, the Secretary indicates votes as he or she heard them.