

JUDICIAL COUNCIL MEETING
Minutes of the November 4, 2005, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:42 a.m. on Friday, November 4, 2005, at the Administrative Office of the Courts (AOC) in San Francisco, California.

Judicial Council members present: Chief Justice Ronald M. George; Senator Joseph Dunn; Justices Marvin R. Baxter, Richard D. Huffman, and Eileen C. Moore; Judges J. Stephen Czuleger, Suzanne N. Kingsbury, Barbara J. Miller, Douglas P. Miller, Dennis E. Murray, William J. Murray, Jr., Michael Nash, and Richard E. L. Strauss; Mr. Anthony P. Capozzi, Mr. Thomas V. Girardi, Mr. Rex S. Heinke, and Mr. William C. Vickrey; **advisory members:** Judges Terry B. Friedman and Frederick Paul Horn; Commissioner Ronald E. Albers; Ms. Tamara Lynn Beard, Ms. Deena Fawcett, Mr. Alan Slater, and Ms. Sharol Strickland.

Absent: Assembly Member Dave Jones; Justice Candace D. Cooper, Judges Michael T. Garcia and Charles W. McCoy, Jr.; Ms. Barbara J. Parker.

Others present included: Justice James R. Lambden; Judges George J. Abdallah, Jr. and Fumiko Hachiya Wasserman; Ms. Robin Allen, Mr. Stanley Bissey, Mr. Arturo Cásarez, Ms. Beth Jay, Ms. Miriam Krinsky, Ms. Jane B. Lorenz, Mr. Albert Marris, Mr. Anthony Marris, Ms. Cassandra Marris, Mr. Thomas Marris, Ms. Virginia Marris, Mr. Derek Peake, Mr. Ted Uno, Mr. Javier Uno-Peake, Ms. Melany Uno-Peake, and Mr. Nicholas Uno-Peake; **staff:** Ms. Heather Anderson, Ms. Melissa Ardaiz, Ms. Deirdre Benedict, Mr. Michael Bergeisen, Mr. Dennis Blanchard, Ms. Dianne Bolotte, Ms. Deborah Brown, Ms. Marcia Caballin, Ms. Sheila Calabro, Mr. Philip Carrizosa, Mr. James Carroll, Ms. Casie Casados, Ms. Roma Cheadle, Ms. Donna Clay-Conti, Ms. Patricia Clemons, Ms. Charlene Depner, Ms. Audrey Fancy, Mr. Malcolm Franklin, Mr. Ernesto Fuentes, Mr. Mark Garcia, Mr. Scott Gardner, Ms. Susan Goins, Ms. Sue Hansen, Ms. Christine M. Hansen, Ms. Lynn Holton, Mr. Kenneth Kann, Ms. Linda Katz, Mr. Jon Kidde, Ms. Camilla Kieliger, Ms. Leanne Kozak, Mr. John Larson, Ms. Sally Lee, Ms. Stephanie Leonard, Ms. Stacey Mangni, Ms. Linda McCulloh, Ms. Carolyn McGovern, Mr. David Meyers, Mr. Douglas C. Miller, Mr. Lee Morhar, Ms. Vicki Muzny, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Christine Patton, Ms. Romunda Price, Mr. Michael Roddy, Ms. Marlene Smith, Ms. Nancy Spero, Ms. Pat Sweeten, Ms. Marcia M. Taylor, Ms. Karen M. Thorson, Mr. Jim Vesper, Ms. Valerie Vindici, Mr. Joshua Weinstein, Mr. Tony Wernert, Mr. Alan Wiener, Mr. Mark Woodworth, Mr. Christopher Wu, Ms. Daisy Yee, and Ms. Patricia M. Yerian; **media representatives:** Mr. Mike McKee, *The Recorder*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated November 4, 2005, that was sent to members in advance of the meeting.)

Public Comment Related to Trial Court Budget Issues

Mr. Arturo Cásarez, President, California Court Interpreters Association addressed the Judicial Council. His remarks concerned the decline in the number of court interpreters in the state courts. He acknowledged the compensation package for state court interpreters and stressed the need to increase their daily compensation rate to more closely align with daily compensation rates in the private sector and the federal courts.

Approval of Minutes of the August 26, 2005, business meeting

The council unanimously approved the minutes of the August 26, 2005, business meeting.

Judicial Council Committee Presentations

Executive and Planning Committee

Hon. Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met three times since the last council meeting. On September 21, 2005, in a telephone meeting, the committee reviewed and approved, on behalf of the council, the report describing the method recommended by AOC staff to distribute the state appropriations limit (SAL) funding increase to increase financial parity to underfunded and well-performing California CASA programs and provide technical assistance to all California CASA programs in grants writing and development. The committee also reviewed and approved information and materials pertaining to the council's October 21 business meeting, which was subsequently rescheduled for November 4.

On October 3, 2005, the committee met by telephone to review more materials and further develop the agenda for the council's November 4 meeting. It also granted permission to Arturo Cásarez to speak at that meeting, during the public comment portion, and to include two newspaper articles regarding a shortage of court interpreters in the materials provided to the members for that meeting.

On October 25, 2005, the committee met by telephone regarding Proposition 77. The Chief Justice noted that he and Justice Baxter recuse themselves; they have not and will not be participating in any council discussions or decisions pertaining to Prop. 77, currently on the November 8, 2005, ballot.

Justice Huffman explained that, if Prop. 77 were to pass at the November 8, 2005, election, certain ministerial duties would be required of the council. The proposition, if passed, would amend California's Constitution, effective November 9, 2005, to mandate the creation of a panel of three "Special Masters" charged with the responsibility for drafting districting boundaries for use in certain subsequent elections. The proposed

constitutional provisions would require the council to identify “retired California state or federal judges” meeting specific criteria who would be willing to serve as “Special Masters” on the redistricting panel and “nominate by lot” 24 potential panelists, whose names would then be sent to the state Legislature for further consideration.

Justice Huffman stated that neither the Judicial Council, the courts, nor staff are taking a position on the merits of Prop. 77 or predicting whether it will pass. Before the election day, however, the Office of the General Counsel and the Administrative Director of the Courts asked E&P to meet to prepare for the ministerial acts that would be constitutionally mandated of the council. Waiting until after the election date would likely result in not being able to meet the constitutional deadlines. The committee approved a letter on behalf of the council that subsequently was sent to a potential pool of more than 1,100 retired judges to determine their interest in serving and certain required information.

If Prop. 77 passes, the council will notice and hold an emergency meeting to carry out its constitutional duties. If Prop. 77 does not pass, these issues will be moot and all materials received from retired judges will be destroyed.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met two times since the last council meeting. On October 20, 2005, the committee held an orientation meeting for its new members and welcomed Justice Candace D. Cooper, who will serve this year as vice-chair, back to the committee. It also welcomed new members Judge Terry B. Friedman, Judge Barbara J. Miller, Mr. Anthony P. Capozzi, and Mr. Thomas V. Girardi.

On November 3, 2005, the committee reviewed and recommended five proposals for council-sponsored legislation in 2006. These proposals, which will come before the council at its December meeting, include (1) improving procedures for changing a person’s name; (2) establishing consistent times for firearms relinquishment in civil harassment and workplace violence cases and for service of papers prior to a hearing in elder and dependent adult abuse cases; (3) providing an annuity option for judges who retire early; (4) clarifying standards regarding electronic submission of notice to appear forms for traffic and non-traffic citations; and (5) improving the collection of court-ordered fines and penalties.

The Legislature has adjourned for its interim recess and will reconvene January 4, 2006, for the second year of the 2005–2006 session.

Rules and Projects Committee

Judge Suzanne N. Kingsbury, chair of the Rules and Projects Committee (RUPRO), stated that there is a technical change to a Judicial Council form on today’s agenda: form

JV-320, which is part of item A29. A typographical error on page 3 of the form incorrectly refers to item 13a in the instructions following item 13c. The error has been corrected in the pink sheet circulated at today's meeting, changing 13a to 13c. This change has been approved by Judge Kingsbury, as chair of RUPRO, and by the chair of the Family and Juvenile Law Advisory Committee.

The committee met three times since the August council meeting. On September 14, 2005, the committee met in person and recommended approval of all items which it reviewed for today's agenda: items A1 through A42 on today's consent agenda and C1 through C4 on today's discussion agenda.

On September 30, 2005, the committee met by telephone to consider two new forms required by recent legislation. It approved public circulation of those forms proposals on a special cycle.

On November 3, 2005, the committee met in person for orientation. It also approved the circulation on a special cycle of ethics standards for neutral arbitrators and approved three proposals for the December 2, 2005, council meeting.

The Chief Justice acknowledged the presence at the meeting of Stanley Bissey, Executive Director of the California Judges Association. Council member and President of the California Judges Association, Judge Terry B. Friedman, spoke briefly about Mr. Bissey and introduced him.

Judicial Council Court Visit Reports

Mr. Michael Roddy, Ms. Sheila Calabro, and Justice Richard D. Huffman reported on visits to the Superior Court of Ventura County and Court of Appeal, Second Appellate District, Division Six with the participation of Ms. Camilla Kieliger.

Justice Huffman reported that the site visits on August 18–19, 2005, to the Superior Court of Ventura County and the Court of Appeal, Second Appellate District, Division Six, were extremely well attended. On the first date at the Ventura trial court, the presiding judge and other judges spoke with the council visitors about many of the positive features of their court, including consolidated family court services. The Ventura court uses a large number of temporary judges in civil matters and is concerned about attracting and retaining them. The court's concerns over security funding also were discussed. The new juvenile court facility, adjacent to the juvenile hall, is impressive. On the second day, at the Court of Appeal, a facility issue was raised. In addition, the appellate court's outreach program with high school students was discussed.

Regional Administrative Director Sheila Calabro stated that Ventura's Presiding Judge John R. Smiley, Assistant Presiding Judge Colleen T. White, and Executive Officer Michael D. Planet are enthusiastic and proud of their programs that serve the public. Many judges and justices have mentioned how they appreciated the willingness of the

council members to listen and the impressive attendance by council members. The Ventura trial court is very concerned about its security budget. Ms. Calabro expressed her understanding that AOC Finance Director Christine Hansen and Regional Administrative Director Michael Roddy are working with the court to address that issue.

Regional Administrative Director Michael Roddy then stated that he and AOC staff are working with the Ventura court on the security finance issues.

Resolution—Achieving Permanency for Children in California: A Resolution for the Courts

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council adopt a resolution declaring that the month of November 2005 is Court Adoption and Permanency Month. (A copy of the signed resolution is attached to these minutes.)

Ms. Diane Nunn presented this item and introduced the Marris and Uno-Peake families—Thomas and Virginia Marris and their three adopted children, Albert, Anthony, and Kassandra, and Ted Uno and Derek Peake and their three adopted children, Javier, Melany, and Nicholas. Ms. Stacey Mangni participated in the presentation.

Chief Justice's Report

The Chief Justice reported on a variety of activities and meetings since the last council meeting, including meetings with leaders on jury reform efforts; a positive meeting with the Attorney General and his staff; a speaking engagement before the County Counsel's Association in Los Gatos; Supreme Court hearings in Shasta County involving outreach and education with high school students, many of whom traveled by bus great distances that day to attend the hearings; a speaking engagement before the Conference of Chief Justices and the Council of Appellate Attorneys in San Francisco; attending and speaking at the Science and the Law program in La Jolla; giving an address at the National Center for State Courts' media workshop in San Francisco; and positive conversations with Assembly Speaker Fabian Nuñez and Senate President Pro Tempore Don Perata regarding Senate Bill 56, the new judgeships bill that did not get out of the Senate and is in the Assembly. The Chief Justice stated that in some portions of the state, especially the Central Valley and Inland Empire, there has been a 150 percent increase in population with only an increase of 1 to 2 percent in judgeships. The Chief Justice also reported on speaking at the dedication of the new headquarters of Public Counsel in Los Angeles, the nation's largest legal services agency; inviting those attending the New Judges Orientation to his chambers and describing the work of the Supreme Court; and attending the meeting of the California Supreme Court Historical Society and the *California Lawyer* Editorial Advisory Board. The Chief Justice traveled to the East Coast, with others representing the California judicial branch, to attend the National Center for State Courts' Rehnquist Award Dinner. While in Washington, D.C., the Chief Justice, the Administrative Director of the Courts, and the chief deputy director met and discussed federal funding for courts with Senator Dianne Feinstein. They also met with

- a. Provide that persons filing petitions for writs of habeas corpus who are not represented by an attorney need file only the original of a petition for writ of habeas corpus and one set of supporting documents in the Court of Appeal;
 - b. Clarify the provisions of rule 44 establishing the number of copies of supporting documents that must be filed in the Supreme Court and Courts of Appeal and incorporate references to those provisions in rule 56;
 - c. Exempt persons filing petitions for writs of habeas corpus who are not represented by an attorney from the form-and-format requirements not only in rule 56 but also in rules 14 and 44;
 - d. Eliminate outdated references in rule 60 to other original proceedings that may be used for the same purpose as a habeas petition;
 - e. Require that a party filing an application to extend time provide the Court of Appeal with sufficient copies of the application for all parties; and
 - f. Make other nonsubstantive changes to conform the rules to current rule format.
2. Adopted rule 60.5 of the California Rules of Court to separate out and clarify the requirements applicable to petitions for writs of habeas corpus filed by attorneys on behalf of a party.

Item A3 Appellate Procedure: Notice of Settlement (amend Cal. Rules of Court, rule 20)

The Appellate Advisory Committee recommends amending the rule to require that an appellant who files a notice of settlement with the Court of Appeal file an abandonment or a request to dismiss the appeal within 45 days—or a longer period if ordered by the court—after filing that notice. The amended rule would authorize the court to dismiss the appeal as to that appellant if the appellant does not file an abandonment, a request to dismiss, or a letter stating good cause not to dismiss the appeal within the required time period. This change will improve court administration by ensuring that appeals do not remain in limbo on the court’s docket after an appellant files a notice of settlement.

Council action

The Judicial Council, effective January 1, 2006, amended rule 20 of the California Rules of Court to:

1. Clarify that a notice of settlement must be filed by the settling appellant if a civil case settles either as a whole or as to any party;
2. Require that an appellant who has filed a notice of settlement file either an abandonment or a request to dismiss the appeal within 45 days;
3. Authorize the court to dismiss the appeal as to that appellant if the appellant does not file an abandonment, a request to dismiss, or a letter stating good cause not to dismiss the appeal within the required time period; and
4. Clarify that the notice of settlement requirement does not apply to appeals in which the parties are seeking the court’s approval of a settlement involving a stipulated reversal of a trial court decision.

Item A4 Appellate Procedure: Citations to the Record in Briefs (amend Cal. Rules of Court, rule 14)

The Appellate Advisory Committee recommends amending the rule regarding briefs in the appellate courts to require that citations to the record contained in those briefs be to the volume and page number of the record where the matter appears. This change will improve court administration and make court proceedings more efficient by making it easier for both the courts and opposing parties to locate cited materials in the appellate record.

Council action

The Judicial Council, effective January 1, 2006, amended rule 14 of the California Rules of Court to:

1. Require that citations to the record include the volume number and page number of the record where the matter appears;
2. Require that if any part of the record is submitted in electronic format, citations to that part identify, with the same specificity required for the printed records, the place in the record where the matter appears; and
3. Make other nonsubstantive changes to conform the rule to current rule format.

Civil and Small Claims

Item A5 Alternative Dispute Resolution: Recommendations About Alternative Dispute Resolution Programs and Referrals to Dispute Resolution Neutrals (amend Cal. Stds. Jud. Admin., §§ 32 and 33; and adopt § 32.1)

The Civil and Small Claims Advisory Committee recommends amending the Standards of Judicial Administration to (1) encourage all superior courts to implement mediation programs for civil cases as part of their core operations and to promote the development, implementation, maintenance, and expansion of successful ADR programs; (2) eliminate outdated references to forming committees to evaluate ADR providers; and (3) move the provisions concerning ADR committees into a separate section. These changes will (1) implement the Judicial Council's policy of supporting expansion of mediation programs for civil cases in California courts to the optimal level; (2) conform the standards to changes in the statutes and rules regarding court structure and administration; (3) and make these sections easier to understand.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended section 32 of the California Standards of Judicial Administration to encourage all superior courts to: (a) implement mediation programs for civil cases as part of their core operations; (b) promote the development, implementation,

- maintenance, and expansion of successful ADR programs by engaging in specified activities; and (c) coordinate their ADR activities with each other and with professional and community-based organizations;
- 2. Amended section 33 of the California Standards of Judicial Administration to: (a) eliminate outdated references to forming committees to evaluate ADR providers; (b) add evaluation of an ADR neutral's skills to the factors considered by a court screening potential neutrals; and (c) add adherence to applicable standards of conduct to the factors the court considers in continuing to refer cases to a specific ADR neutral; and
- 3. Adopted new section 32.1 of the California Standards of Judicial Administration to encourage courts that are not required to form ADR committees to do so.

Item A6 Alternative Dispute Resolution: Appointment and Reports of Referees (approve forms ADR-109, ADR-110, and ADR-111)

The Civil and Small Claims Advisory Committee recommends approving new forms for optional use in applying for and ordering the appointment of a referee and in submitting a referee's report to the court. These forms will improve court administration and make court proceedings more efficient by helping litigants, courts, and referees satisfy the statutory and rule requirements concerning references ordered under Code of Civil Procedure sections 638 and 639.

Council action

The Judicial Council, effective January 1, 2006:

- 1. Approved form ADR-109, *Stipulation or Motion for Order Appointing Referee*, for optional use in applying for the appointment of a referee under Code of Civil Procedure section 638 or 639;
- 2. Approved form ADR-110, *Order Appointing Referee*, for optional use in ordering the appointment of a referee under Code of Civil Procedure section 638 or 639; and
- 3. Approved form ADR-111, *Report of Referee*, for optional use in submitting the report of a referee appointed under Code of Civil Procedure section 638 or 639.

Item A7 Small Claims Plain-Language Forms (revise forms SC-100, SC-100A, SC-101, SC-103, SC-104, SC-104A, SC-120; adopt forms SC-104B, SC-104C, and SC-120A)

The Civil and Small Claims Advisory Committee recommends revision of seven small claims forms and adoption of three new small claims forms, including two new instruction sheets, in plain language so that the forms can be more easily understood, completed, and filed by laypersons who are representing themselves in small claims court.

Council action

The Judicial Council, effective January 1, 2006:

1. Revised form SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*;
2. Revised form SC-100A, *Other Plaintiffs or Defendants*;
3. Revised in plain-language format and renamed form SC-101, *Attorney-Client Fee Dispute (Attachment to Plaintiff's Claim)*, to *Attorney Fee Dispute (After Arbitration)*;
4. Revised in plain-language format and renamed form SC-103, *Fictitious Business Name Declaration to Fictitious Business Name*;
5. Revised in plain-language format form SC-104, *Proof of Service*;
6. Revised in plain-language format form SC-104A, *Proof of Mailing (Substituted Service)*;
7. Adopted a new plain-language instruction sheet, form SC-104B, *What Is "Proof of Service?"*;
8. Adopted a new plain-language instruction sheet, form SC-104C, *How to Serve a Business*;
9. Revised in plain-language format and renamed form SC-120, *Defendant's Claim and Order to Plaintiff*, to *Defendant's Claim and ORDER to Go to Small Claims Court*; and
10. Adopted new plain-language form SC-120A, *Other Plaintiffs or Defendants*.

Item A8 Small Claims Forms: Increased Jurisdictional Limit of \$7,500 for Natural Persons (revise forms SC-100, SC-101, and SC-150)

The Civil and Small Claims Advisory Committee recommends revision of three small claims forms to reflect the rise in small claims jurisdiction from \$5,000 to \$7,500 for actions brought by natural persons.

Council action

The Judicial Council, effective January 1, 2006, revised forms SC-100, *Plaintiff's Claim and ORDER to Go to Small Claims Court*; SC-101, *Attorney Fee Dispute (After Arbitration)*; and SC-150, *Information for the Small Claims Plaintiff*, to state that a natural person (not a business or public entity) may file a claim for up to \$7,500 rather than the current limit of \$5,000.

Item A9 Notice of Related Case (approve form CM-015; revise form CM-010)

The Civil and Small Claims Advisory Committee recommends the approval of the new optional *Notice of Related Case* (form CM-015) and the revision of the *Civil Case Cover Sheet* (form CM-010) to state that, if there are any related cases, notice must be given. These forms will assist counsel in providing notice of related cases and thereby increase information to the trial courts about such cases, especially early in the proceedings.

Council action

The Judicial Council, effective January 1, 2006:

1. Approved the *Notice of Related Case* (form CM-015); and
2. Revised the *Civil Case Cover Sheet* (form SC-010) to include a new item stating that, if there are any related cases, a notice of related case must be filed and served.

Item A10 Notice of Termination or Modification of Stay (amend Cal. Rules of Court, rule 224; adopt form CM-181)

The Civil and Small Claims Advisory Committee recommends that rule 224 of the California Rules of Court be amended to provide that if the party that filed a notice of stay fails to file a notice of termination or modification of stay, other parties in the case must do so. The committee also recommends the adoption of a new mandatory *Notice of Termination of Modification of Stay* (form CM-181) to ensure that trial courts are informed if a stay has been terminated or modified.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 224 of the California Rules of Court to provide that, if the party that filed the notice of stay fails to file a notice of termination or modification of stay, other parties in the case must do so; and
2. Adopted the *Notice of Termination or Modification of Stay* (form CM-181).

Item A11 Notice of Settlement (amend Cal. Rules of Court, rule 225; and revise form CM-200)

The Civil and Small Claims Advisory Committee recommends that rule 225 of the California Rules of Court be amended and that the *Notice of Settlement* (form CM-200) be revised to clarify that notice of settlement must be given only if the entire action is settled.

Council action

The Judicial Council, effective January 1, 2006, amended rule 225 of the California Rules of court and the *Notice of Settlement* (form CM-200) to clarify that the notice of settlement must be given only when an entire action is settled and to rename the form *Notice of Settlement of Entire Case*.

Item A12 Notice of Change of Address (revise form MC-040)

The Civil and Small Claims Advisory Committee recommends that the *Notice of Change of Address and Telephone Number* (form MC-040) be revised and renamed *Notice of Change of Address*. The revisions to the form include adding spaces for a fax number and e-mail address and changing the proof of service to provide for service by first-class mail

instead of certified mail.

Council action

The Judicial Council, effective January 1, 2006, revised form MC-040 and renamed it *Notice of Change of Address*.

Item A13 Form Complaints: *Complaint—Personal Injury, Property Damage, Wrongful Death and Complaint—Contract* (revise forms 982.1(1) and 982.1(20))

The Civil and Small Claims Advisory Committee recommends that the Judicial Council’s form complaints for use in personal injury and contract cases be revised so that a plaintiff may include specific allegations that Doe defendants were “the agents or employees of other named defendants” or “persons whose capacities are unknown to plaintiff.”

Council action

The Judicial Council, effective January 1, 2006, revised the *Complaint—Personal Injury, Property Damage, Wrongful Death* (form 982.1(1)) and *Complaint—Contract* (form 982.1(20)) to allow a plaintiff to include specific allegations that Doe defendants were “the agents or employees of other named defendants” or “persons whose capacities are unknown to plaintiff.”

Item A14 Claim and Delivery Actions (revise forms CD-100, CD-110, CD-120, CD-130, AT-160/CD-140, CD-160, CD-170, CD-180, CD-190, and CD-200; revoke form CD-150)

The Civil and Small Claims Advisory Committee recommends that the claim and delivery forms be revised. Most of these forms have not been revised since they were approved in 1974. The revisions would modernize the forms’ captions and make other stylistic and technical changes. In addition, the *Notice of Exception to Sureties and Hearing on Justification of Sureties* (form CD-150) should be revoked.

Council action

The Judicial Council, effective January 1, 2006, revised the following forms:

1. *Application for Writ of Possession* (form CD-100);
2. *Notice of Application for Writ of Possession and Hearing* (form CD-110);
3. *Order for Writ of Possession* (form CD-120);
4. *Writ of Possession* (form CD-130);
5. *Undertaking by Personal Sureties* (form AT-160/CD-140);
6. *Application and Notice of Application and Hearing for Order to Quash Ex Parte Writ of Possession* (form CD-160);
7. *Order for Release and Redelivery of Property* (form CD-170);
8. *Declaration for Ex Parte Writ of Possession* (form CD-180);
9. *Application for Temporary Restraining Order* (form CD-190);

10. *Temporary Restraining Order* (form CD-200); and
11. Revoked the *Notice of Exception to Sureties and Hearing on Justification of Sureties* (form CD-150).

Item A15 *Application for Emergency Protective Order* (revise form EPO-001)

The Civil and Small Claims Advisory Committee recommends that the *Application for Emergency Protective Order* (form EPO-001) be revised to clarify that it applies to civil harassment and workplace violence cases only if a case involves stalking.

Council action

The Judicial Council, effective January 1, 2006, revised the *Application for Emergency Protective Order* (form EPO-001) to eliminate the references to civil harassment and workplace violence on the form and to make certain technical changes.

Item A16 *Abstract of Judgment* (revise form EJ-001)

The Civil and Small Claims Advisory Committee recommends that the *Abstract of Judgment* (form EJ-001) be revised to include the names of each judgment creditor, be reorganized to be more logical, and be renamed to clarify that it may be used in small claims as well as other civil cases.

Council action

The Judicial Council, effective January 1, 2006, revised *Abstract of Judgment* (form EJ-001) and renamed it *Abstract of Judgment—Civil and Small Claims* (form EJ-001).

Item A17 *Writ of Execution* (revise form EJ-130)

The Civil and Small Claims Advisory Committee recommends that the *Writ of Execution* (form EJ-130) be revised to clarify that interest should not be charged on fees that were not paid by public entities but are imputed and included in the total judgment. Without this clarification of the writ form, the calculation of interest on judgments might erroneously include interest on fees imputed to public entities, contrary to Government Code section 6103.5.

Council action

The Judicial Council, effective January 1, 2006, revised the *Writ of Execution* (form EJ-130) to clarify the fees on which interest should not be charged.

Item A18 *Format of Papers* (amend Cal. Rules of Court, rule 201)

The Civil and Small Claims Advisory Committee recommends that rule 201 be amended to require that a fax number and an e-mail address must be provided, if available, on the first page of papers filed with the court.

Council action

The Judicial Council, effective January 1, 2006, amended rule 201 of the California Rules of Court to:

1. Require a fax number and an e-mail address, if available, on the first page of papers filed with the court; and
2. Provide that the clerk must not reject a paper for filing solely on the ground that it does not contain an attorney's or party's fax number or e-mail address on the first page.

Item A19 Petitions to Prevent Elder and Dependent Adult Abuse: Application and Order to Renew Restraining Order (adopt forms EA-135, EA-136, and EA-137; revise form EA-100)

The Civil and Small Claims Advisory Committee recommends the adoption of three new forms to be used to request the renewal of a restraining order issued after hearing in a case involving elder or dependent adult abuse. It also recommends revising the petition for protective orders to include information about the relationship between the person to be protected and the person to be restrained.

Council action

The Judicial Council, effective January 1, 2006:

1. Adopted the *Application to Renew Restraining Order After Hearing (Elder or Dependent Adult Abuse)* (form EA-135);
2. Adopted the *Notice of Hearing for Renewal of Restraining Order After Hearing (Elder or Dependent Adult Abuse) (CLETS)* (form EA-136);
3. Adopted the *Order Renewing Restraining Order (Elder or Dependent Adult Abuse) (CLETS)* (form EA-137); and
4. Adopted the *Petition for Protective Orders (Elder or Dependent Adult Abuse)* (form EA-100)

Court Technology

Item A20 Electronic Filing and Service (amend Cal. Rules of Court, rules 2050 and 2056)

The Court Technology Advisory Committee recommends amendment of rule 2050 in order to permit electronic filers to take advantage of the assistance offered by third-party electronic filing service providers. The committee also recommends amendment of rule 2056 in order to extend to 2010 the deadline for complying with a requirement that electronically filed documents be fully searchable. The amendments would modernize court practices by encouraging electronic filing of court documents.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 2050 of the California Rules of Court to define an electronic filing service provider and allow for filing through a service provider;
2. Amended rule 2056 of the California Rules of Court to extend the date for mandatory full-text searchable documents to 2010; and
3. Amended rule 2056 of the California Rules of Court to clarify a technical printing requirement.

Item A21 Photographing, Recording, and Broadcasting in Court (amend Cal. Rules of Court, rule 980)

The Court Technology Advisory Committee recommends amendment of rule 980 so that definitions of photographing, recording, and broadcasting in court would be added. The definitions are general in nature and would incorporate new technologies beyond the traditional camera and tape recorder. The amendment would improve court administration by clarifying that mixed-use devices with the potential to be used as a camera or recorder are subject to the requirement for a judicial order permitting their use.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 980 of the California Rules of Court to define photographing, recording, and broadcasting to encompass digital technology; and
2. Amended rule 980 of the California Rules of Court to conform the style of the rule to current usage, including eliminating the use of “shall” and specifying Judicial Council forms by name and number.

Criminal

Item A22 Criminal Procedure: Rules Governing Change of Venue in Criminal Cases (amend Cal. Rules of Court, rules 4.150–4.154; amend and renumber rule 4.162 as rule 4.155; repeal rules 4.160 and 4.161)

The rules governing change of venue would be amended to clarify procedures. The amended rules would set forth the responsibilities of the transferring and receiving courts by specifying the procedures after a change of venue motion has been granted. The underlying principle of the proposed amended rules is that the case generally remains the responsibility of the transferring court, with few procedures other than the trial being conducted in the receiving court.

Council action

The Judicial Council, effective January 1, 2006, amended rules 4.150–4.154; amended and renumbered rule 4.162 as rule 4.155; and repealed rules 4.160 and 4.161 of the California Rules of Court to clarify the change of venue procedures in criminal cases.

Item A23 Juror Questionnaire for Criminal Cases (approve form MC-002; amend Cal. Rules of Court, rules 4.200 and 4.201; and amend Cal. Stds. Jud. Admin., § 8.5)

The Criminal Law Advisory Committee recommends that the council approve a new form and amend the rules and standards of judicial administration to provide a model questionnaire for optional use in criminal cases. The model questionnaire is an optional form designed to assist the court in making juror voir dire more efficient; the court and counsel may use the questionnaire as a basis on which to build individual questionnaires tailored to particular cases. The model questionnaire also provides individual jurors the opportunity to flag for the court potentially sensitive and private matters. The amendments to the rules would (1) add three matters to be determined at the pre-voir dire conference in criminal cases, (2) clarify when the court may require that proposed voir dire questions be in writing, (3) add specific references to the form questionnaire, and (4) state the judge's affirmative duty to conduct an initial examination of prospective jurors in criminal cases. The amendments to the standards of judicial administration would (1) repeal language pertaining to voir dire in criminal cases that is inconsistent with Code of Civil Procedure section 223, (2) add a new subpart that advises judges that they may consider conducting sequestered voir dire under certain circumstances, (3) add a specific reference to proposed form MC-002, (4) add questions designed to screen for juror health concerns and for hardships at the beginning of voir dire, and (5) reorder and rephrase existing questions to create consistency with the questions in the proposed form using plain English.

Council action

The Judicial Council, effective January 1, 2006, approved form MC-002, *Jury Questionnaire for Criminal Cases*; amended California Rules of Court, rules 4.200 and 4.201; and amended section 8.5 of the Standards of Judicial Administration to provide a model questionnaire for optional use in criminal cases.

Family and Juvenile Law

Item A24 Child Support: Set-Asides of Paternity Judgments and Voluntary Declarations of Paternity (amend Cal. Rules of Court, rule 5.350; adopt forms FL-272, FL-273, FL-276, and FL-278; approve forms FL-274 and FL-281; and revise forms FL-280, FL-285, and FL-290)

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend a rule and adopt and approve new and revised forms that would implement changes to the Family Code made by Assembly Bill 252, which set forth procedures permitting certain persons or a local child support agency to move to set aside a judgment or a voluntary declaration of paternity.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 5.350 of the California Rules of Court;
2. Adopted forms FL-272, FL-273, FL-276, and FL-278;
3. Approved forms FL-274 and FL-281; and
4. Revised forms FL-280, FL-285, and FL290.

Item A25 Family Law: Miscellaneous Forms (amend Cal. Rules of Court rules 5.120, 5.121, and 5.154; revise forms FL-130, FL-220, FL-580, FL-800, FL-810; revise and renumber form FL-812)

The Family and Juvenile Law Advisory Committee recommends that, effective January 1, 2006, the Judicial Council make changes to the rules of court and Judicial Council forms to reflect changes in the law and make them easier for self-represented litigants to use.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 5.120 of the California Rules of Court to correct an inconsistency with Code of Civil Procedure section 418.10;
2. Amended rule 5.121 to eliminate subdivision (b)'s time period requirement for scheduling in order to reconcile the rule's provisions with those of Code of Civil Procedure section 1005(b);
3. Amended rule 5.154 to replace the phrase "of the marriage" with "subject to the action" to allow for joinder in cases involving domestic partners and other nonmarried persons with children;
4. Revised form FL-130, *Appearance, Stipulations, and Waivers (Family Law—Uniform Parentage—Custody and Support)* to update a statutory reference and reorganize the form for clarity;
5. Revised form FL-220, *Response to Petition to Establish Parental Relationship (Uniform Parentage)* to make it easier for self-represented litigants to complete;
6. Revised form FL-580, *Registration of Out-of-State Custody Decree* to update the notice requirements to reflect the reality of joint custody, to reorganize the form for clarity, and to rename the form *Registration of Out-of-State Custody Order*;
7. Revised form FL-800, *Joint Petition for Summary Dissolution of Marriage* to reflect the disclosure requirements of Family Code section 2104 and the change in the cost of living, as required by Family Code section 2400(b);
8. Revised form FL-810, *Summary Dissolution Information—English* to reflect the changes in form FL-800, protect the privacy of litigants, clarify the status of domestic partners vis-à-vis the summary dissolution procedure, and eliminate discussion of conciliation courts; and
9. Revised form FL-812, *Summary Dissolution Information—Spanish* to renumber it as form FL-810S and to incorporate the changes made to the English-language version, FL-800.

Item A26 Custody and Visitation: Orders Following Termination of Juvenile Court Proceeding or Probate Court Legal Guardianship Proceeding (Fam. Code, § 3105; Welf. & Inst. Code, § 362.4; Prob. Code, § 1602) (adopt Cal. Rules of Court, rules 5.475 and 7.1008)

The Family and Juvenile Law Advisory Committee and the Probate and Mental Health Advisory Committee recommend that the Judicial Council, effective January 1, 2006, adopt rules 5.475 and 7.1008 of the California Rules of Court to implement Family Code section 3105 and Probate Code section 1602. Proposed rules 5.475 and 7.1008 will implement a new statute that permits a former probate guardian to request the probate or family court to order visitation with the minor child formerly cared for by the guardian. The rules will provide guidance to probate and family court staff on the transmittal and filing of a former guardian's visitation order in a pending family court custody matter or, if no custody matter is pending, in a new file in the court in the county where the custodial parent lives. This proposal establishes uniform statewide practices to improve court administration and to make proceedings more fair and efficient.

Council action

The Judicial Council, effective January 1, 2006, adopted rules 5.475 and 7.1008 of the California Rules of Court to implement new Family Code section 3105 and new Probate Code section 1602.

Item A27 Juvenile Dependency: Dependency Petition and Modification Forms (revise forms JV-100, JV-101, JV-110, and JV-180)

The Family and Juvenile Law Advisory Committee recommends revising the existing form used for requesting the court to modify or set aside a prior dependency court order. This proposal creates a mandatory standalone, plain-language form that is easier to use and increases court accessibility. Other forms would be modified to delete references to their use for filing a modification petition and to make the language gender neutral.

Council action

The Judicial Council, effective January 1, 2006:

1. Revised forms JV-100, *Juvenile Dependency Petition (Version One)*, JV-101, *Additional Children Attachment*, and JV-110, *Juvenile Dependency Petition (Version Two)*, to change these forms from optional to mandatory, delete reference to modification requests under section 388 of the Welfare and Institutions Code, and revise the language to be gender neutral.
2. Revised form JV-180, *Modification Petition Attachment* in order to rewrite it in plain language that will make the form easier for self-represented litigants to complete, to rename it *Request to Change Court Order*, to conform the form's content to section 388 of the Welfare and Institutions Code, and to delete the requirement for dependent children, their siblings, and their caregivers to provide confidential information.

Item A28 Juvenile Law: Miscellaneous Rules and Forms (amend Cal. Rules of Court, rules 1413, 1438, 1456, and 1460–1463; revise forms ADOPT-210, ADOPT-215, JV-365, JV-500, and JV-501)

The Family and Juvenile Law Advisory Committee recommends amending several rules and forms in six areas of juvenile law: parentage, attorney contact information, reasonable efforts to prevent removal, maintaining children’s important relationships, notice, and adoption. These revisions are necessary to implement recent statutory changes and clarify the rules and forms.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 1413 of the California Rules of Court and revised forms JV-500, *Paternity Inquiry—Juvenile* and JV-501, *Paternity—Finding and Judgment (Juvenile Dependency)* to bring these into compliance with Government Code section 14771(a)(14)’s requirement that the rights and duties of marriage be extended to persons registered as domestic partners, to replace the word “Paternity” in the titles of forms JV-500 and JV-501 with “Parentage,” and to further revise form JV-501 to delete the word “dependency” so that this form can be used in delinquency proceedings;
2. Amended rule 1438 to conform it to Welfare and Institutions Code section 16010.6, which requires this rule of court to apply to attorneys for *all* children for whom a dependency petition has been filed, not simply those children adjudged dependents;
3. Amended rule 1456 to conform it to section 319(d) of the Welfare and Institutions Code, which disallows a court finding that failure to make reasonable efforts to prevent removal of a child from his or her home is itself reasonable, by deleting subdivision (e)(3) of this rule, which currently provides for such a finding of reasonableness;
4. Amended rules 1460–1463 to conform them to recently enacted statutory requirements for notice in juvenile dependency proceedings;
5. Further amended rules 1460–1463 to conform these rules to requirements of Assembly Bill 408 (Steinberg) (Stats. 2003, ch. 813) and its clarifying amendments in Assembly Bill 2807 (Steinberg) (Stats. 2004, ch. 810) concerning the definition of the children to whom certain requirements for maintaining positive relationships with individuals important to the child apply, as well as the content and distribution of social worker’s reports, requirements for children’s presence at Welfare and Institutions Code section 366.26 hearings, and other issues;
6. Revised form JV-365, *Termination of Dependency Jurisdiction—Child Attaining Age of Majority (Juvenile)* to include AB 2807’s requirement for maintenance of important relationships for children placed in group homes for six months or longer;

7. Revised form ADOPT-210, *Adoption Agreement* to bring it into compliance with Government Code section 14771(a)(14)'s requirement that the rights and duties of marriage be extended to persons registered as domestic partners and to correct an error in one of the signature lines; and
8. Revised from ADOPT-215, *Adoption Order* to bring it into compliance with Government Code section 14771(a)(14)'s requirement that the rights and duties of marriage be extended to persons registered as domestic partners and to delete information on type of adoption.

Item A29 Juvenile Law: Standard Statewide Forms for Use in Delinquency Proceedings (amend Cal. Rules of Court, rule 1402; adopt forms JV-640, JV-642, JV-644, JV-665, JV-760, and JV-794; approve forms JV-622 and JV-624; and revise forms JV-140, JV-190, JV-225, JV-280, JV-300, JV-305, JV-310, JV-320, JV-450, JV-520, JV-565, JV-567, JV-575, JV-580, JV-600, JV-615, JV-620, JV-625, JV-635, JV-735, JV-740, and JV-755)

The Family and Juvenile Law Advisory Committee recommends adopting new mandatory forms and revising existing forms, currently optional, to make them mandatory. The committee also recommends amending a rule of court to allow delayed implementation of mandatory forms where computer systems must be reprogrammed. This proposal implements the recommendations of the *Probation Services Task Force Final Report*, as directed by the Judicial Council at its August 29, 2003, meeting. Specifically, staff was directed to “work with probation departments and the Chief Probation Officers of California to develop statewide standards for enhanced probation services.” This proposal establishes uniform statewide practices to improve court administration and to make proceedings more fair and efficient.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 1402 of the California Rules of Court to allow courts to authorize use of a legally accurate alternative form, including any existing local form or the immediate prior version of the Judicial Council form, when a new or revised mandatory form is adopted, and where a computer, word processor printer, or similar process must be reprogrammed;
2. Adopted the following forms in order to provide a standard cover page and attachments for court orders and findings in juvenile delinquency proceedings:
 - JV-640, *Juvenile Court Delinquency Proceeding*
 - JV-642, *Initial Appearance Hearing—Juvenile Delinquency*
 - JV-644, *Jurisdiction Hearing—Juvenile Delinquency*
 - JV-665, *Disposition—Juvenile Delinquency*
 - JV-760, *Deferred Entry of Judgment Order*
 - JV-794, *Petition to Terminate Wardship and Order*

3. Approved the following forms to help facilitate consistent standard documentation by probation officers:
 - JV-622, *Informal Probation Agreement*
 - JV-624, *Terms and Conditions*

4. Revised form JV-190, *Waiver of Rights—Juvenile Dependency* to make minor technical changes to formatting and language and revised the following forms to make four existing dependency forms (JV-225, JV-280, JV-300, and JV-320) applicable to delinquency cases and to promote uniformity by making the rest of the listed forms (as well as form JV-190), currently optional, mandatory:
 - JV-140, *Notification of Mailing Address*
 - JV-225, *Health and Education Questionnaire*
 - JV-280, *Notice of Review Hearing*
 - JV-300, *Notice of Hearing on Selection of a Permanent Plan*
 - JV-305, *Citation for Publication Under Welfare and Institutions Code Section 294*
 - JV-310, *Proof of Service Under Section 366.26 of the Welfare and Institutions Code*
 - JV-320, *Orders Under Welfare and Institutions Code Sections 366.26, 727.3, 727.31*
 - JV-450, *Order for Prisoner’s Appearance at Hearing Affecting Prisoner’s Parental Rights and Waiver of Appearance*
 - JV-520, *Fax Filing Cover Sheet*
 - JV-565, *Findings and Request for Assistance Under Interstate Compact on the Placement of Children (ICPC)*
 - JV-567, *Interstate Compact on the Placement of Children—Findings and Orders*
 - JV-575, *Petition to Obtain Report of Law Enforcement Agency*
 - JV-580, *Notice to Child and Parent/Guardian Re: Release of Juvenile Police Records and Objection*
 - JV-600, *Juvenile Wardship Petition*
 - JV-615, *Deferred Entry of Judgment Notice of Noncompliance*
 - JV-620, *Violation of Law by Child*
 - JV-625, *Notice of Hearing—Juvenile Delinquency Proceeding*
 - JV-635, *Promise to Appear—Juvenile Delinquency (Juvenile 14 Years or Older)*
 - JV-735, *Notice of Hearing to Modify, Change, or Set Aside Previous Orders*
 - JV-740, *Petition to Modify Previous Orders—Change of Circumstances*
 - JV-755, *Deferred Entry of Judgment—Dismissal and Sealing of Juvenile Records*

Item A30 Juvenile Law: Findings and Orders After Hearing—Forms and Related Attachments for Dependency Court Proceedings (approve forms JV-185, JV-400, JV-401, JV-402, JV-405, JV-406, JV-410, JV-412, JV-415, JV-416, JV-417, JV-418, JV-419, JV-419A, JV-420, JV-421, JV-425, JV-426, JV-430, JV-431, JV-432, JV-433, JV-435, JV-436, JV-437, JV-438, JV-440, JV-441, JV-442, JV-445, JV-446, and JV-448)

The Family and Juvenile Law Advisory Committee recommends approving, for optional use in dependency proceedings, 32 new forms to enhance judicial efficiency and compliance with state and federal law. The Administrative Office of the Courts' Center for Families, Children & the Courts has received requests for standardized findings and orders from various participants in the dependency court system, including judges, court clerks, child and family services agencies, and attorneys. This proposal will assist local courts in ensuring that all required findings and orders are made and reflected in the court record.

Council action

The Judicial Council, effective January 1, 2006, approved Judicial Council forms JV-185, JV-400, JV-401, JV-402, JV-405, JV-406, JV-410, JV-412, JV-415, JV-416, JV-417, JV-418, JV-419, JV-419A, JV-420, JV-421, JV-425, JV-426, JV-430, JV-431, JV-432, JV-433, JV-435, JV-436, JV-437, JV-438, JV-440, JV-441, JV-442, JV-445, JV-446, and JV-448.

Item A31 Juvenile Law: Notice of Proceedings (amend Cal. Rules of Court, rules 37, 38–38.3, 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5; repeal rule 1470; revise forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822)

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2006, amend rules 37, 38–38.3, 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496, and 1496.5, and repeal rule 1470 of the California Rules of Court; revise Judicial Council forms JV-800, JV-820, JV-825, and JV-826; and approve form JV-822 to reflect the new statutory requirements and conform to existing law. These recommended changes eliminate replication of the Welfare and Institutions Code provisions in the respective rules of court, correct grammatical and technical inaccuracies, clarify the requirement for notice to the child's present caregiver, and clarify the application of the prison delivery rule to juvenile notices of appeal.

Council action

The Judicial Council, effective January 1, 2006, amended rules 37, 38–38.3, 1407, 1408, 1430, 1431, 1433, 1434, 1436, 1436.5, 1440, 1465, 1466, 1496 and 1496.5, and repealed rule 1470 of the California Rules of Court; revised Judicial Council forms JV-800, JV-820, JV-825, and JV-826; and approved form JV-822 to reflect new statutory requirements and conform to existing law.

Item A32 Juvenile Law: Technical Changes Related to California Department of Corrections and Rehabilitation (amend Cal. Rules of Court, rules 4.300, 4.453, 1475, 1493, 1494.5, 1495, and 1496.3; revise forms JV-060, JV-732, JV-750, and JV-751)

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2006, amend rules 4.300, 4.453, 1475, 1493, 1494.5, 1495,

and 1496.3; and revise forms JV-060, JV-732, JV-750, and JV-751 to comply with recent statutory changes that reorganized state-based departments administering secure detention facilities. In both the rules and the forms, these amendments and revisions would (1) replace references to the “California Youth Authority” with the “Department of Corrections and Rehabilitation, Division of Juvenile Justice” and (2) replace references to the “Department of Corrections” with “Department of Corrections and Rehabilitation, Division of Adult Operations.”

Council action

The Judicial Council, effective January 1, 2006, amended rules 4.300, 4.453, 1475, 1493, 1494.5, 1495, and 1496.3 of the California Rules of Court and revised forms JV-060, JV-732, JV-750, and JV-751 to comply with recent statutory changes that reorganized state-based departments administering secure detention facilities. In both the rules and the forms references to the “California Youth Authority” were replaced with the “Department of Corrections and Rehabilitation, Division of Juvenile Justice” and (2) references to the “Department of Corrections” were replaced with “Department of Corrections and Rehabilitation, Division of Adult Operations.”

Judicial Administration

Item A33 Judicial Administration Rules: Duties of All Judges (amend Cal. Rules of Court, rule 6.608)

Current rule 6.608, as written, could be interpreted as requiring that a presiding judge or master calendar judge concur when a judge determines that he or she is disqualified from hearing a matter. The proposed amendment would clarify that concurrence of the presiding judge, supervising judge, or master calendar judge is required only when the judge to whom a matter is assigned refuses to hear it for a reason other than disqualification.

Council action

The Judicial Council, effective January 1, 2006, amended rule 6.608(1) of the California Rules of Court to clarify that concurrence of the presiding judge, supervising judge, or master calendar judge is required only if the judge refuses to hear a case for a reason other than disqualification. The amended rule would provide: “Each judge must: (1) Hear all assigned matters unless: (a) he or she is disqualified; or (b) he or she has stated in writing the reasons for refusing to hear a cause assigned for trial and the presiding judge, supervising judge, or master calendar judge has concurred.”

Item A34 Complaints About Subordinate Judicial Officers (amend Cal. Rules of Court, rules 6.655(i) and 6.603(c)(4)(C); repeal Cal. Stds. Jud. Admin., § 16)

The proposed amendment of rule 6.655(i) would require a presiding judge to give a subordinate judicial officer (SJO) who is the subject of a complaint a copy of the

complaint or a summary of its allegations and an opportunity to respond when the presiding judge intends to impose discipline. The current rule raises due process concerns because it could result in discipline of an SJO without adequate notice and an opportunity to respond. This proposal would also repeal section 16 of the Standards of Judicial Administration because it became superfluous when rule 6.655 was adopted. The proposed amendment to rule 6.603 would delete a reference to the repealed section 16.

Council action

The Judicial Council, effective January 1, 2006:

1. Amended rule 6.655(i) of the California Rules of Court to require presiding judges to give subordinate judicial officers who have been the subject of a preliminary investigation a copy of the complaint or a summary of the allegations and an opportunity to respond before imposing disciplinary action;
2. Repealed section 16 of the Standards of Judicial Administration because adoption of rule 6.655 made this section unnecessary; and
3. Amended rule 6.603 to delete the reference in it to section 16.

Miscellaneous

Item A35 Court Orders Not Prepared on Mandatory Judicial Council Forms (amend Cal. Rules of Court, rule 201.1)

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2006, amend rule 201.1 of the California Rules of Court to provide that a court order not prepared on a mandatory Judicial Council form retains its validity and enforceability. This proposed amendment would prevent future challenges to otherwise sufficient court orders.

Council action

The Judicial Council, effective January 1, 2006, amended rule 201.1(b) of the California Rules of Court, concerning mandatory Judicial Council forms, to provide that a court order is not invalid or unenforceable because it was not prepared on a mandatory form or on the correct form.

Item A36 Miscellaneous Technical Changes to the California Rules of Court and Judicial Council Forms (amend Cal. Rules of Court, rule 870.2; revise forms 982(a)(15.5), CR-200, DV-100, DV-120, DV-160, FI-100, FI-120, FI-128, FI-129, FI-130, FL-110, FL-145, FL-192, JV-828, MC-030, MC-050, and SC-130; approve form FL-192S)

Advisory committee members, court personnel, members of the public, and Administrative Office of the Courts' staff have identified errors in rules, standards, and forms resulting from prior rule amendments, renumbering, and inadvertent omissions. These proposals were not circulated for comment because they are technical and noncontroversial.

Council action

The Judicial Council, effective January 1, 2006, amended rule 870.2 of the California Rules of Court; revised forms 982(a)(15.5), CR-200, DV-100, DV-120, DV-160, FI-100, FI-120, FI-128, FI-129, FI-130, FL-110, FL-145, FL-192, JV-828, MC-030, MC-050, and SC-130; and approved form FL-192S to:

1. Correct cross-references;
2. Correct statutory references;
3. Correct Spanish translations and separate Spanish from English;
4. Correct a title; and
5. Correct technical and typographical errors.

Probate and Mental Health

Item A37 Probate: *Petition for Appointment of Probate Conservator and Order Appointing Probate Conservator* (revise forms GC-310 and GC-340)

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise the *Petition for Appointment of Probate Conservator and Order Appointing Probate Conservator* to (1) enable the forms to be used for the appointment of a successor conservator, (2) conform to recent changes in the law concerning domestic partners and professional conservators, and (3) make technical improvements that would avoid duplication and make the forms easier to understand and complete.

Council action

The Judicial Council, effective January 1, 2006, revised the *Petition for Appointment of Probate Conservator* (form GC-310) and the *Order Appointing Probate Conservator* (form GC-340) to provide for the appointment of a successor conservator, conform them to the latest requirements of the law, and make them easier to understand and complete.

Item A38 Probate: Discharge of Court-Appointed Fiduciaries in Decedents' Estates, Conservatorships, and Guardianships (adopt form DE-295/GC-395)

The Probate and Mental Health Advisory Committee recommends that the Judicial Council adopt, effective January 1, 2006, the proposed *Ex Parte Petition for Final Discharge and Order* (form DE-295/GC-395). This new form will assist court-appointed personal representatives, guardians, and conservators to apply for and obtain their discharges at completion of their administrations in a prompt, efficient, and uniform manner throughout the state.

Council action

The Judicial Council, effective January 1, 2006, adopted the proposed new form *Ex Parte Petition for Final Discharge and Order* (form DE-295/GC-395) to provide a

uniform statewide means for personal representatives of decedents' estates, as well as conservators and guardians of the estates of conservatees and wards, to request and obtain their discharge from liability on their surety bonds.

Item A39 Probate: Guardianship and Conservatorship Screening Forms (revise forms GC-212 and GC-314)

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise the screening forms that most proposed guardians and conservators must complete before their appointment. The revised forms would inquire into a proposed fiduciary's status as a private professional guardian or conservator—information that is directly material to his or her eligibility for appointment under current law. Additional minor technical changes in the forms would also be made to improve their clarity, ease of use, and appearance.

Council action

The Judicial Council, effective January 1, 2006, revised the *Confidential Guardian Screening Form* and the *Confidential Conservator Screening Form* (forms GC-212 and GC-314, respectively) to seek additional information about proposed guardians and conservators that is required by current law.

Item A40 Probate Forms: Notice of Petition to Administer Estate and Probate Citations (revise forms DE-121, DE-122, and GC-320; and approve new form DE-121(MA))

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise the *Notice of Petition to Administer Estate* (form DE-121) and the probate citations (forms DE-122 and GC-320) to (1) provide notice to hearing-impaired persons served with these forms of their right to apply to the court for an accommodation; and (2) enable the *Citation (Probate)* (form DE-122, redesignated as DE-122/GC-322 and renamed *Citation—Probate*) to be used in all proceedings under the Probate Code except to start a conservatorship, for which form GC-320 will continue to be used. It also recommends that the council approve a new optional form proof-of-service attachment to the notice.

Council action

The Judicial Council, effective January 1, 2006:

1. Approved form DE-121(MA), *Attachment to Notice of Petition to Administer Estate—Proof of Service by Mail* to meet the need for an optional attachment to show service of form DE-121, *Notice of Petition to Administer Estate*; and
2. Revised forms DE-121, DE-122/GC-322, and GC-320 to add a notice to hearing-impaired persons of their right to apply for an accommodation, provide a citation form that can be used in all proceedings under the Probate Code, and make other improvements in these forms.

Item A41 Probate Forms: *Report of Sale and Petition for Order Confirming Sale of Real Property and Order Confirming Sale of Real Property* (revise forms DE-260/GC-060 and DE-265/GC-065)

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2006, revise the *Order Confirming Sale of Real Property* (form DE-265/GC-065) to clarify that the order confirming sale applies to conservators and guardians as well as to personal representatives of decedents' estates, and to make technical changes to the related *Report of Sale and Petition for Order Confirming Sale of Real Property* (form DE-260/GC-060) to make that form consistent with the revised order and improve its clarity and ease of use.

Council action

The Judicial Council, effective January 1, 2006, revised forms DE-260/GC-060 and DE-265/GC-065 to provide for the confirmation of sales of estate property by conservators and guardians and to improve the forms' appearance and ease of use.

Item A42 Probate Guardianships: Visitation by a Former Guardian After Termination of the Guardianship (revise forms GC-255 and GC-260)

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise the *Petition for Termination of Guardianship* (form GC-255) and the *Order Terminating Guardianship* (form GC-260) to permit a guardian petitioning for termination of the guardianship to request, and the court to order, visitation with the former ward after termination. This revision would implement new legislation that authorizes the court to order visitation between a former guardian and a former ward at or after termination of the guardianship when the court finds that visitation would be in the best interest of the child.

Council action

The Judicial Council, effective January 1, 2006, revised the *Petition for Termination of Guardianship* and *Order Terminating Guardianship* (forms GC-255 and GC-260, respectively) to permit a guardian petitioning for termination of the guardianship to request visitation with the ward after termination, and to provide for the court to order such visitations.

Item B California Collaborative and Drug Court Projects Grants: Revise the Allocation Formula Under the 2005–2006 Budget Act

The Collaborative Justice Courts Advisory Committee requests authorization to allocate \$1.066 million in California Collaborative and Drug Court Project funds to local jurisdictions in the form of mini-grants distributed through the Collaborative Justice Courts Project using a revised allocation formula. The 2005–2006 Budget Act provides for this allocation of \$1.066 million to California collaborative and drug court projects.

the General Counsel, presented this item.

The Civil and Small Claims Advisory Committee recommends amending the existing rules regarding mediators serving in court mediation programs for civil cases, adopting new rules, and approving a new form to help ensure that superior court procedures for receiving, investigating, and resolving complaints against court-program mediators are consistent with the requirements and underlying purposes of California's mediation confidentiality statutes. These rules and form will (1) ensure that any necessary disclosure of mediation communications is limited by requiring a single person to be appointed to receive complaints about mediators; (2) ensure that the disclosure of information about a complaint procedure does not reveal mediation communications by establishing the confidentiality of information and records regarding complaint procedures; (3) prevent disclosure of mediation communications by disqualifying all persons who participate in or receive information about a complaint from subsequently hearing or determining any contested issue in the action or related proceedings; (4) enable courts to contact mediation participants if a complaint subsequently arises to obtain their agreement to disclosure of mediation communications, if necessary, by requiring mediators to request that participants complete an attendance sheet and requiring the mediators to retain these records and provide them to the court on request; and (5) prevent mediators from obstructing the resolution of a complaint by requiring them to agree to disclosure of mediation communications for purposes of a complaint procedure.

Council action

1. Effective January 1, 2006, the Judicial Council:
 - a. Adopted rule 1621 of the California Rules of Court, requiring that mediators in court-program mediations (1) request that mediation participants complete an attendance sheet, (2) retain the attendance sheet for two years and submit it to the court upon request, and (3) agree that mediation communications may be disclosed solely for purposes of a procedure conducted under rule 1622 to address an inquiry or a complaint about the mediator;
 - b. Approved form ADR-107, *Attendance Sheet for Court-Program Mediation of Civil Case* for mediators' optional use in obtaining the participants' names and contact information as required by rule 1621;
 - c. Adopted rule 1622.1 of the California Rules of Court, requiring that the presiding judge of each superior court that is mandated by rule 1622 to establish a complaint procedure designate a person who is knowledgeable about mediation to receive and coordinate the investigation of any inquiries or complaints about the conduct of mediators subject to rule 1622;
 - d. Adopted rule 1622.2 of the California Rules of Court, establishing the confidentiality and limiting the disclosure of information and records regarding rule 1622 complaint procedures;
 - e. Adopted rule 1622.3 of the California Rules of Court, disqualifying any person who has participated in or received information about a rule 1622 complaint

procedure from subsequently adjudicating the dispute that was the subject of the underlying mediation or any other dispute that arises from the mediation; and

- f. Amended rule 1622 of the California Rules of Court to (1) clarify that the complaint procedures required by that rule are to address complaints that a mediator violated the standards of conduct set forth in rule 1620 et seq. while conducting a court-program mediation, and (2) authorize a court to require a mediator who failed to comply with the rules of conduct for mediators in rule 1620 et seq. to participate in additional mediation training, in addition to or instead of the other sanctions already permitted.
2. Effective January 1, 2007, the Judicial Council amended rule 1580.1 of the California Rules of Court to require that, to be included on a court list of alternative dispute resolution (ADR) neutrals, a neutral must sign a statement or certificate agreeing to comply with all applicable rules of court and current pro bono service requirements as well as with applicable ethical requirements.

Family and Juvenile Law

Item C3 Juvenile Dependency: Guidelines for Attorneys Representing Sibling Groups (amend Cal. Rules of Court, rule 1438)

Mr. David Meyers, Center for Families, Children & the Courts, and Ms. Miriam Krinsky, Executive Director, Children's Law Center of Los Angeles, presented this item with the participation of Ms. Melissa Ardaiz, Center for Families, Children & the Courts.

The Family and Juvenile Law Advisory Committee recommends amending rule 1438 concerning guidelines applicable to the appointment of counsel in juvenile dependency proceedings. These amendments provide the courts and attorneys with guidance in assessing any conflicting interests that exist among siblings and determining whether representation by a single attorney is appropriate.

Council action

The Judicial Council, effective January 1, 2006, amended rule 1438 of the California Rules of Court, to provide courts and children's attorneys with guidance in assessing conflicts of interest and determining whether a single attorney should be appointed to represent, or continue to represent, siblings in the same dependency proceedings.

Probate and Mental Health

Item C4 Qualifications and Continuing Education of Private Professional Guardians and Conservators (adopt Cal. Rules of Court, rules 7.1010 and 7.1060)

Mr. Douglas C. Miller, Office of the General Counsel, presented this item.

The Probate and Mental Health Advisory Committee recommends that the Judicial

Council adopt, effective January 1, 2006, rules 7.1010 and 7.1060 of the California Rules of Court. These rules will prescribe the qualifications and continuing education requirements for private professional guardians and conservators (as defined in current statutes) that are appointed by the courts beginning in 2006. Rule 7.1010 will apply to private professional guardians and rule 7.1060 will apply to private professional conservators. These rules are proposed in response to a specific mandate to the Judicial Council contained in legislation effective January 1, 2005.

Council action

The Judicial Council, effective January 1, 2006, adopted rules 7.1010 and 7.1060 of the California Rules of Court concerning the qualifications and continuing education required of private professional guardians and conservators.

Item D Additional Allocation of Trial Court Security Funds

Mr. Michael Roddy, Northern/Central Regional Office, and Ms. Marcia Caballin, Finance Division, presented this item

AOC staff recommends the council review and approve the recommended additional allocations of fiscal year 2005–2006 security funding.

Council action

The Judicial Council:

1. Approved additional allocations of \$8.517 million from the state appropriations limit (SAL) percentage adjustment to courts to address costs for confirmed changes in security negotiated salary increases, retirement, and other benefits (“SAL Funding Final”), and set aside up to \$2.669 million for those courts that have anticipated increases, to be allocated in the amount needed, once their cost needs are confirmed (“SAL Funding Pending”), as indicated in the two columns on Attachment 1; and
2. Delegated authority to the Administrative Director of the Courts to make technical adjustments to the allocations as required.

Item E Judicial Branch Education: Enhancements to Minimum Education Requirements for the Judicial Branch—Approve Concept and Direct Next Steps

The Chief Justice noted that he and Justice Baxter recused themselves from participating in any council discussions or decisions pertaining to this item.

After the Chief Justice and Justice Baxter left the room, Justice Richard D. Huffman presided over the meeting.

Hon. George J. Abdallah, Jr., Chair, CJER Governing Committee, Hon. Fumiko Hachiya

Wasserman, Vice-Chair, CJER Governing Committee, and Ms. Karen M. Thorson, Education Division/CJER, presented this item with the participation of Mr. Jim Vesper, Education Division/CJER.

The Governing Committee of the Center for Judicial Education and Research (CJER) recommends that the Judicial Council approve the model for minimum education requirements in the California judicial branch and seeks the council's guidance on the next steps for implementation of that model. Implementation of this model will establish uniform statewide standards for judicial branch minimum education. (Judge Michael T. Garcia was unable to attend the meeting. A copy of his October 21, 2005, letter, sent to Judicial Council members in support of this item, is attached to these minutes.)

Council action

The Judicial Council approved the proposed model for minimum education requirements for judges and court personnel and directed the CJER Governing Committee to formulate a proposed rule that would implement this model and asked the committee to submit it for approval through the standard rule making process.

Circulating Orders

There were no circulating orders since the last Judicial Council meeting.

Appointment Orders

Copies of appointment orders are for information only; no action was necessary.

There being no further public business, the meeting was adjourned at 11:40 a.m.

Respectfully submitted,

William C. Vickrey
Administrative Director of the Courts and
Secretary of the Judicial Council