

Judicial Council of California
Executive and Planning Committee Meeting Minutes
December 8, 2008, 11:00 p.m.—12:30 p.m.
Judicial Council Conference Center, Golden Gate Room

Members Participating: Justice Richard D. Huffman; Judges Peter P. Espinoza, Thomas M. Maddock, Judge Winifred Younge Smith, and J. Michael Welch; and Mr. Raymond G. Aragon and Mr. Michael D. Planet.

Members Absent: Judge Kenneth K. So

Staff Participating: Mr. Dennis Blanchard, Mr. Stephen Chang, Mr. Ruben Gomez, Mr. Kenneth Kann, Mr. Stephen Nash, Mr. Ronald G. Overholt, Ms. Nancy Spero, and Mr. William C. Vickrey.

Minutes

The committee reviewed and approved the December 2, 2008, E&P meeting minutes.

Special Funds Budgets and Expenditures

The committee reviewed and approved the annual report to the Legislature of FY 2007-2008 expenditures from the Trial Court Improvement Fund and Judicial Administration Efficiency and Modernization Fund. The committee further reviewed and approved FY 2008–2009 budgets for the Trial Court Improvement Fund and the Judicial Administration Efficiency and Modernization Fund.

Judicial Council Nominations

The committee determined its recommendations to the Chief Justice for an upcoming out-of-cycle vacant Judicial Council position.

Respectfully submitted,



Ronald G. Overholt
Chief Deputy Director

Judicial Council of California
Executive and Planning Committee
December 20, 2008
Proposal Circulated by E-mail on December 17, 2008

Members Voting: Justice Richard D. Huffman; Judges Thomas M. Maddock, Winifred Younge Smith, Kenneth K. So, and James Michael Welch; and Mr. Michael D. Planet and Mr. Raymond G. Aragon.

Member Not Voting: Judge Peter Paul Espinoza

Staff Participating: Ms. Nancy E. Spero

Correction to Form APP-101-INFO

The committee, acting on behalf of the Judicial Council between meetings, reviewed and approved a correction on Form APP-101-INFO to avoid having the incorrect amount listed as a filing fee for the appeal of a limited civil case.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division

Judicial Council of California
Executive and Planning Committee Meeting Minutes
January 20, 2009, 3:00 p.m.–3:20 p.m.
Conference Call

Members Participating: Justice Richard D. Huffman; Judges Peter P. Espinoza, Thomas M. Maddock, Kenneth K. So, and J. Michael Welch; and Mr. Raymond G. Aragon and Mr. Michael D. Planet.

Members Absent: Judge Winifred Younge Smith

Staff Participating: Ms. Deborah Brown, Mr. Curt Child, Mr. Robert Fleshman, Mr. Ruben Gomez, Ms. Maria Kwan, Mr. Stephen Nash, Ms. Diane Nunn, Mr. Ronald G. Overholt, Ms. Nancy Spero, Mr. Alan Wiener, and Mr. William C. Vickrey.

Expanded Use of Modernization Funds Budget for ADR

The committee reviewed and approved the use of ADR Modernization Funds budget for statewide ADR projects, including ADR enhancements to CCMS.

Operating Guidelines & Directives for Budget Management in Judicial Branch

The committee, acting on behalf of the Judicial Council between meetings, reviewed and approved revised operating guidelines and directives for budget management in the judicial branch.

Respectfully submitted,



Ronald G. Overholt
Chief Deputy Director

Judicial Council of California
Executive and Planning Committee
February 2, 2009
Proposal Circulated by E-mail on January 29, 2009

Members Voting: Justice Richard D. Huffman; Judges Thomas M. Maddock, Peter Paul Espinoza, Winifred Younge Smith, Kenneth K. So, and James Michael Welch; and Mr. Michael D. Planet and Mr. Raymond G. Aragon.

Members Not Voting: None

Staff Participating: Ms. Nancy E. Spero

Conversion of Subordinate Judicial Officer Positions

The committee reviewed and confirmed the conversion of two SJO positions in the Superior Court of Los Angeles County, thereby reaching the maximum 16 SJO positions eligible for conversion in FY 2008–2009. The committee approved the request of three courts that seven other SJO positions (5 in Los Angeles, 1 in San Diego, and 1 in San Francisco) be exempt from the conversion process since no additional positions can be converted in this fiscal year.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division

Judicial Council of California
Executive and Planning Committee
February 2, 2009
Proposal Circulated by E-mail on January 28, 2009

Members Voting: Justice Richard D. Huffman; Judges Thomas M. Maddock, Winifred Younge Smith, Kenneth K. So, and James Michael Welch; and Mr. Michael D. Planet and Mr. Raymond G. Aragon.

Member Not Voting: Judge Peter Paul Espinoza

Staff Participating: Ms. Nancy E. Spero

Fiscal Year 2008-2009 Judicial Council Site Visits

The committee reviewed and approved a schedule for Judicial Council members to visit the Superior Courts of Sacramento, San Joaquin, Monterey, and Santa Clara counties in May and June 2009.

Respectfully submitted,



Kenneth L. Kann
Director, Executive Office Programs Division

**JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE**

**In-Person Meeting
October 23, 2008 – 10:00 am**

Summary Minutes of Meeting

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. Brad R. Hill, Vice-Chair; Hon. Terry B. Friedman; Hon. Carolyn B. Kuhl; Hon. Mary E. Wiss; Mr. Joel S. Miliband; and Mr. Michael M. Roddy.

Policy Coordination and Liaison Committee members absent: Mr. Anthony P. Capozzi

OGA staff present: Mr. Curtis Child, Ms. Donna Hershkowitz, Mr. Daniel Pone, Mr. Janus Norman, Mr. Henry Sepulveda, Ms. Dia Poole and Ms. Yvette Trevino.

Other AOC staff present: Mr. William C. Vickrey and Mr. Ronald G. Overholt.

ACTION ITEMS

1. Approval of minutes

The minutes of the July 31, 2008, conference call were approved as submitted.

2. Consent Item

N/A

3. Discussion Items

Proposal for Judicial Council-Sponsored Legislation:

a) Electronic Discovery, Court Operations and Bail Collection by the Franchise Tax Board

Resubmit proposals to the Legislature dealing with electronic discovery; miscellaneous court operation matters; and bail collection by the Franchise Tax Board.

PCLC Action: Recommend Judicial Council sponsorship.

OTHER BUSINESS

Confirm next PCLC conference call:

Proposed date: November 20, 2008

Respectfully submitted,

Curtis L. Child, Director
Office of Governmental Affairs

JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE

**Conference Call Meeting
November 20, 2008 – 4:30 p.m.**

Summary Minutes of Meeting

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. Brad R. Hill, Vice-Chair; Hon. Terry B. Friedman; Hon. Carolyn B. Kuhl; Mr. Joel S. Miliband; and Mr. Michael M. Roddy.

Policy Coordination and Liaison Committee members absent: Mr. Anthony P. Capozzi and Hon. Mary E. Wiss.

OGA staff present: Ms. Donna Hershkowitz, Ms. June Clark, Ms. Tracy Kenny, Mr. Janus Norman, Mr. Henry Sepulveda, and Ms. Yvette Trevino.

ACTION ITEMS

1. Approval of minutes

The minutes of the October 23, 2008, in person meeting were approved as submitted.

2. Consent Item

Action on Pending Legislation:

N/A

3. Discussion Items

Action on Pending Legislation:

N/A

4. Discussion Items

a) 2009 Judicial Council Legislative Priorities

Approve legislative proposals dealing with: a) Judges' Retirement System II; b) Blue Ribbon Commission on Children in Foster Care, c) third set of 50 new trial court judgeships; and d) subordinate judicial officer positions. Direct Office of Governmental Affairs (OGA) to coordinate council review and approval of individual proposals as needed.

PCLC Action: Recommend Judicial Council-sponsorship and recommend the Judicial Council direct OGA to coordinate future review and approval of statutory language as needed.

JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE

Conference Call Meeting
January 30, 2009 – 3:00 p.m.

Summary Minutes of Meeting

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. Brad R. Hill, Vice-Chair; Hon. Terry B. Friedman; Hon. Carolyn B. Kuhl; Mr. Anthony P. Capozzi; Mr. Joel S. Miliband; and Mr. Michael M. Roddy.

Policy Coordination and Liaison Committee members absent: Hon. Mary E. Wiss.

OGA staff present: Mr. Curtis Child, Ms. Donna Hershkowitz, and Ms. Yvette Trevino.

ACTION ITEMS

1. Approval of minutes

N/A

2. Consent Item

Action on Pending Legislation:

N/A

3. Discussion Items

Action on Pending Legislative Proposal:

a) Local Judicial Benefits

Legislation is required to remedy the defect found by the court in *Sturgeon v. County of Los Angeles*, 167 Cal. App.4th 630 in the provision of local judicial benefits that are not expressly prescribed by the Legislature. Absent a legislative remedy judges that are currently receiving locally provided benefits may lose these benefits, with dire financial consequences for some judicial officers. While it is critical to preserve any status quo benefits, the optimal legislation would authorize the provision of benefits on a more equitable basis to all judicial officers in the state to recruit and retain the highest caliber judicial branch.

PCLC Action: Support legislation on judicial benefits to preserve the status quo for supplemental judicial benefits and authorize the Judicial Council to provide statewide benefits, or in the alternative support legislation that would simply preserve the status quo benefits.

Minutes

Rules and Projects Committee Teleconference Meeting
Friday, October 3, 2008
12:00 - 12:30 p.m.

Members present: Hon. Dennis E. Murray (Chair), Hon. George Abdallah, Jr., Hon. Tani Cantil-Sakauye, Hon. Lee Smalley Edmon, Hon. Lon F. Hurwitz, Mr. John Mendes and Mr. James N. Penrod.

Members absent: Hon. Jamie A. Jacobs-May (Vice-Chair).

RUPRO staff present: Ms. Deborah Brown, Ms. Susan R. McMullan, and Ms. Camilla Kieliger.

AOC staff present: Mr. Bruce Greenlee and Ms. Anne Ronan.

Proposals to approve and to recommend Judicial Council approval

Civil

Item 1 *Case Management Statement* (revise form CM-110)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's consent agenda of this proposal, which includes a slight modification to form CM-110 to delete the reference to the discovery of electronically stored information.

Civil Jury Instructions

Item 2 **Civil Jury Instructions: Approve Publication of Revisions - 20 Instructions With Changes to Directions for Use or Sources and Authority Only**

Action: The Rules and Projects Committee approved publication of 20 instructions with the following modifications:

451, page 13:

Verify whether new quote should read "The issue [of whether something is in the public interest] is tested objectively, by the activity's ~~important~~ importance to the general public...".

2321, page 32:

Verify whether new quote should read “[A] condition of a policy requiring the cooperation and assistance of the ~~assured~~ insured...”.

2610, page 41:

Verify whether new quote should read “[S]ubdivision (k)(1) of [Government Code] section 12945.2 does not require an employer to submit disputes regarding an employee's entitlement to medical leave to a third party health care provider.”

The Rules and Projects Committee also asked that the Civil Jury Instructions Advisory Committee in the interest of brevity consider whether citations would be sufficient as opposed to additional quotes when adding new material to the Sources and Authorities section.

Item 3

Civil Jury Instructions: 62 New, Revised, and Revoked Instructions and Verdict Forms

Action: The Rules and Projects Committee recommended approval of the publication of 62 new, revised, and revoked instructions and verdict forms on the Judicial Council’s consent agenda with the following modifications:

VF-1101, page 36, item 4:

First paragraph: Change the first sentence to “Did ~~the~~ negligent or wrongful conduct...”.

Last paragraph: Change the second sentence to “If you answered no [to both questions], stop here...”.

1500, page 46:

The Rules and Projects Committee suggested that the Civil Jury Instructions Advisory Committee in a future revision consider changing the title to “Wrongful use of criminal proceedings” to mirror adjacent instructions.

1501, page 56, second to last bullet:

Delete proposed added citation to *Roberts*.

Approved by the committee on December 8, 2008

Minutes

Rules and Projects Committee Teleconference Meeting
Friday, November 14, 2008
12:00 - 1:00 p.m.

Members present: Hon. Dennis Murray (Chair), Hon. Jamie Jacobs-May (Vice-Chair), Hon. George A. Abdallah, Hon. Tani Cantil-Sakauye, Hon. Lee Smalley Edmon, Hon. Lon Hurwitz, Mr. John Mendes, and Mr. James Penrod.

RUPRO staff present: Ms. Deborah Brown, Ms. Susan McMullan, and Ms. Camilla Kieliger.

AOC staff present: Ms. Sue Hansen, Mr. Douglas C. Miller, Ms. Robin Seeley, and Mr. Courtney Tucker.

Proposals to approve and recommend Judicial Council approval

Traffic

Item 1 **2009 Uniform Bail and Penalty Schedule** (revise schedules)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's consent agenda.

Criminal Jury Instructions

Item 2 **Jury Instructions: Approve Minor Revisions and Additions to Criminal Jury Instructions**

Action: The Rules and Projects Committee approved publication of minor revisions and additions to the Criminal Jury Instructions.

Item 3 **Jury Instructions: Approve Publication of Revisions and Additions to Criminal Jury Instructions**

Action: The Rules and Projects Committee recommended approval on the Judicial Council's consent agenda with the following changes:

358, page 17, second paragraph:

Change the first sentence to read "When a defendant's statement is ~~an element of the charged offense~~ a verbal act, as in conspiracy or ~~criminal threats (Pen. Code, section 422)~~ cases, this instruction

applies.“

Change the fifth line to read “but cf. see People v. Zichko (2004)...”.

570, page 21, last paragraph, second sentence:
Add period after “sufficient.”

945, page 47, second paragraph:
The Rules and Projects Committee recommended that the Advisory Committee on Criminal Jury Instructions at a future meeting consider including an objective test to assist in determining the meaning of “requires professional medical treatment”.

2350, page 79, Authorities:
The Rules and Projects Committee directed that the Advisory Committee on Criminal Jury Instructions not make the proposed deletions to the Use Notes.

3131, page 96:
The Rules and Projects Committee asked the Advisory Committee on Criminal Jury Instructions to review language in the first paragraph (“in the *commission* [or attempted commission] of that crime”) – and item 1 (“in *connection* with the crime[s] charged”) and consider using the same term in both places.

3425:
Page 114: The Rules and Projects Committee recommended that the Advisory Committee on Criminal Jury Instructions withdraw the proposed revision and at a future meeting consider revising language to stress the presumption of consciousness.

Page 115, 3rd line: Add “not” after “that he or she was.”

Probate and Mental Health Advisory Committee

Item 4

Probate—Conservatorships: Authorization to Disclose a Conservatee’s or Proposed Conservatee’s Protected Health Information to Court Investigators (adopt form GC-336)

Action: The Rules and Projects Committee recommended approval on the Judicial Council’s consent agenda.

Litigation Management Committee

Item 5 **Litigation Management Rules: Changes to Conform to Policy and Practice** (amend Cal. Rules of Court, rules 10.14, 10.201, and 10.202)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's consent agenda.

Approved by the committee on December 8, 2008