Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

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CIRCULATING ORDER MEMORANDUM TO THE JUDICIAL COUNCIL

Circulating Order Number: CO-10-01

Title
Approval of the October 29, 2010, Judicial Council Meeting Minutes

Recommended by
Ronald G. Overholt, Chief Deputy Director

Kenneth L. Kann, Director
Nancy E. Spero, Senior Attorney
Executive Office Programs Division

Action Requested
VOTING MEMBERS ONLY: Vote and return by fax. Additionally, return original signature page.

Please Respond By
December 28, 2010

Date of Report
December 20, 2010

Contact
Nancy E. Spero, 415-865-7915
Nancy.Spero@jud.ca.gov

Executive Summary

This circulating order requests the Judicial Council to approve the October 29, 2010, Judicial Council Meeting Minutes. Rule 10.6(g) states that the Secretary of the Judicial Council must prepare written minutes of each council meeting for approval at the next council meeting. When approved by the council, the minutes constitute the official record of the meeting.

Recommendation

The Administrative Office of the Courts recommends that the Judicial Council approve the minutes of its October 29, 2010, meeting.

Attachments

1. October 29, 2010, Judicial Council Meeting Minutes
2. Voting instructions
3. Vote and signature pages

Instructions for Review and Action by Circulating Order

Voting members

- Please indicate your **vote, sign, and FAX** the signature pages to the attention of **Secretariat Unit, Executive Office Programs Division,** at 415-865-4586 by **5 p.m.**, December 28, 2010, if possible.

- If you are unable to reply by December 28, 2010, please do so as soon as possible thereafter.

- Additionally, **return the original** signature page to the Secretariat Unit, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, California, 94102-3688. **Please keep a copy for your records.**

Advisory members

The circulating order is being faxed to you for your information only. There is no need to sign or return any documents.

CIRCULATING ORDER
Judicial Council of California
Voting and Signature Pages

Effective immediately, the Judicial Council approves the *October 29, 2010, Judicial Council Meeting Minutes*.

My vote is as follows:

☒ Approve ☐ Disapprove ☐ Abstain

_____ Ronald M. George, Chair	/s/ Stephen H. Baker
_____ Marvin R. Baxter	_____ Tani Cantil-Sakauye
_____ Ellen M. Corbett	/s/ Lee Smalley Edmon
_____ Mike Feuer	_____ James E. Herman
/s/ Richard D. Huffman	/s/ Ira R. Kaufman
_____ Miriam A. Krinsky	/s/ Edith R. Matthai
/s/ Joel S. Miliband	/s/ Douglas P. Miller
/s/ James N. Penrod	/s/ Burt Pines

My vote is as follows:

☒ Approve ☐ Disapprove ☐ Abstain

Winifred Younge Smith

/s/
Kenneth K. So

Sharon J. Waters

/s/
David S. Wesley

/s/
Erica R. Yew

Date: January 5, 2011

Attest:
Administrative Director of the Courts and
Secretary of the Judicial Council

JUDICIAL COUNCIL MEETING
Minutes of the October 29, 2010, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:45 a.m. on Friday, October 29, 2010, at the Administrative Office of the Courts (AOC) in San Francisco.

Judicial Council members present: Chief Justice Ronald M. George Justices Marvin R. Baxter, Tani Cantil-Sakauye, Richard D. Huffman, and Douglas P. Miller; Judges Stephen H. Baker, Lee Smalley Edmon, James E. Herman, Ira R. Kaufman, Burt Pines, Winifred Younge Smith, Kenneth K. So, Sharon J. Waters, and Erica R. Yew; Ms. Miriam Aroni Krinsky, Ms. Edith R. Matthai, Mr. Joel S. Miliband, Mr. James N. Penrod, and Mr. William C. Vickrey; advisory members: Judges Keith D. Davis, Kevin A. Enright, Terry B. Friedman, Teri L. Jackson, Robert James Moss, Mary Ann O'Malley; Mr. Frederick K. Ohlrich, Commissioner Lon F. Hurwitz; Mr. Alan Carlson, Mr. Michael M. Roddy, and Ms. Kim Turner.

Absent: Senator Ellen M. Corbett; Assembly Member Mike Feuer; and Judge David S. Wesley.

Others present included: Judges Tia G. Fisher, William F. Highberger, David R. Lampe, David Edwin Power; Court Executive Officers Tamara Lynn Beard, Rosa Junqueiro, Tressa S. Kentner, James Perry; Ms. Silvia Barden, Ms. Rosa Castro, Ms. Beth Jay, Mr. Shawn Landry, Mr. Harry Ma, Ms. Arcelia Montoya, Ms. Debra Pearson, Ms. Barbara Power, Ms. Margot Reed, Ms. Arnella Sims, Mr. Ruben Sol, Mr. Gregor Strojin (Supreme Court and Judicial Council of Slovenia), Mr. Brian Tazuk, Mr. William Trupek, and Mr. J. Vogelsang; **staff:** Mr. Peter Allen, Ms. Gwen Arafiles, Mr. Nick Barsetti, Mr. Dennis Blanchard, Ms. Margie Borjon-Miller, Ms. Deborah Brown, Mr. Robert Buckley, Ms. Ayanna Cage, Ms. Sheila Calabro, Ms. Nancy Carlisle, Ms. Marcia Carlton, Mr. Philip Carrizosa, Mr. James Carroll, Ms. Tina Carroll, Mr. Steven Chang, Ms. Roma Cheadle, Mr. Curtis L. Child, Ms. Christine Cleary, Ms. Shannon Clawson, Ms. Lora Collier, Ms. Gisele Corrie, Mr. Kenneth Couch, Dr. Diane Cowdrey, Mr. Dexter Craig, Dr. Charlene Depner, Mr. Kurt Duecker, Mr. Edward Ellestad, Mr. Robert Emerson, Mr. Ekuike Falorca, Ms. Claudia Fernandes, Mr. George Ferrick, Mr. Chad Finke, Ms. Denise Friday, `Mr. Ernesto V. Fuentes, Ms. M. R. Gafill, Ms. Debbie Genzer, Ms. Angela Guzman, Ms. Marlene Hagman-Smith, Ms. Renea Hatcher, Ms. Eve Hershcopf, Ms. Donna Hershkowitz, Mr. Burt Hirschfeld, Ms. Lynn Holton, Ms. Kathleen Howard, Ms. Mary Jackson, Mr. Shawn Jackson, Mr. Jeffrey Johnson, Mr. John A. Judnick, Mr. Kenneth Kachold, Mr. Kenneth L. Kann, Mr. William L. Kasley, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Maria Kwan, Mr. John Larson, Ms. Arley Lindberg, Mr. David Loo, Ms. Althea Lowe-Thomas, Mr. Dag MacLeod, Ms. Donna McKibbon, Ms. Susan McMullan, Ms. Vicki Muzny, Mr. Stephen Nash, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel,

Ms. Christine Patton, Mr. Eric Pulido, Ms. Mary Roberts, Ms. Anne Ronan, Ms. Teresa Ruano, Ms. Robin Seeley, Mr. Colin Simpson, Mr. Curt Soderlund, Ms. Nancy E. Spero, Mr. Corby Sturges, Ms. Linda Theuriet, Mr. Nick Turner, Ms. Bobbie Welling, Mr. Don Will, Mr. Lee Willoughby, Mr. Jeffrey Wolcott, Mr. Christopher Wu, and Ms. Josely Yangco-Fronda; and **media representatives:** Ms. Maria Diazco, *Courthouse News Service;* Ms. Laura Ernde and Ms. Emily Green, *San Francisco Daily Journal;* Ms. Kate Moser, *The Recorder;* Mr. Vic Lee, *KGO-TV* (ABC San Francisco), and Mr. Simon Perez, *KPIX-TV* (CBS San Francisco).

Swearing-in of New Council Members
Chief Justice George administered the oath of office to the new Judicial Council members present.

Public Comment Related to Trial Court Budget Issues
Justice Richard D. Huffman reviewed the council's process of decision-making and the role of public comment, citing Cal. Rules of Court 10.6(d) and (e). He also informed the council of the E&P's response to two requests to speak at the meeting, granting one and denying one.

Judge Tia G. Fisher of the Superior Court of Los Angeles County and board member of the Alliance of California Judges addressed the council regarding budget concerns now and in the future.

Approval of Minutes
The minutes of the August 27, 2010, business meeting were approved.

Judicial Council Committee Presentations
The approved minutes of the meetings of the Judicial Council's internal committees—the Executive and Planning Committee, Policy Coordination and Liaison Committee, and Rules and Projects Committee—can be found at the Committee Reports tab in the Judicial Council's Reports and Recommendations binders. The approved minutes are also linked to the Judicial Council Committee Presentations title on the business meeting agenda.

Executive and Planning Committee
Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met three times since the August 27, 2010, Judicial Council meeting: two deliberations by teleconference call on October 6 and 21, and one meeting in person on October 28, 2010.

On October 6 the committee reviewed reports and set the agenda for the council's October 29 business meeting.

The committee also reviewed and approved, on behalf of the Judicial Council pursuant to the delegation on February 9, 1999, recommendations by the Family and Juvenile Law Advisory Committee regarding budget allocations for the Court Appointed Special Advocate grant program for fiscal year 2010–2011.

The committee also reviewed a staff memo recommending the addition of a probation officer position to the Criminal Law Advisory Committee and forwarded its recommendations to the Chief Justice.

The committee reviewed a staff memo regarding an out-of-cycle vacancy on the Family and Juvenile Law Advisory Committee and forwarded three names to the Chief Justice.

The committee also reviewed recommendations from the Trial Court Facilities Modifications Working Group and AOC, Office of Court Construction and Management, for Fiscal Year 2010–2011, regarding a budget for court facilities modifications and planning, and a prioritized list of court facilities modifications. The committee declined to act on behalf of the Judicial Council and placed this item on today's discussion agenda as Item K.

On October 21, the committee reviewed reports and further set the agenda for the council's October 29 business meeting.

On October 28, the committee reviewed materials and made recommendations to be sent to the Chief Justice regarding an out-of-cycle vacancy for a court commissioner position on the Judicial Council.

The committee was briefed on the October 26, 2010, request from a judge on behalf of the Alliance of California Judges to speak on Items H and I at the October 29, 2010, Judicial Council meeting. The committee affirmed and approved the action of its chair on October 26 to direct staff to communicate that the request was granted for one speaker, five minutes, regarding Item H, the trial court allocations item. The committee also affirmed and approved the chair's action to deny the request to speak regarding Item I, the informational report from the Advisory Committee on Accountability and Efficiency for the Judicial Branch. Members concurred with the reason provided to the requestor: Oral comments would be redundant since the Alliance already had distributed a three page written statement to Judicial Council members and others. The Alliance's October 26 letter was re-distributed to all council members and was thus made a part of the meeting record.

The committee also approved the staff recommendation to confirm the conversion of a vacant position in the Superior Court of Los Angeles County and another in the Superior Court of Marin County effective July 1, 2011, or the date of legislative ratification of the authority to convert positions in fiscal year 2011–2012, whichever is later. The committee approved that each court may employ a retired commissioner for each of these vacancies until a judge is named and sworn in for the corresponding position.

The committee also exempted the Superior Court of Fresno County from the conversion of one current subordinate judicial officer vacancy.

The committee requested a briefing from staff at its meeting on November 22, 2010, regarding new legislation concerning the conversion of subordinate judicial officer positions and the status of conversions, to date.

Policy Coordination and Liaison Committee
Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met once since the August 27, 2010, Judicial Council meeting.

Justice Baxter reported that, with the August 31 close of the legislative session, the meeting schedule for the PCLC relaxed since his last report to the Judicial Council. The committee met October 28 for its annual in-person orientation for new PCLC members.

Justice Baxter welcomed the new PCLC members: Vice-chair, Judge James E. Herman; Judges Keith D. Davis and Winifred Younge Smith; Ms. Miriam Aroni Krinsky, Ms. Edith R. Matthai, and Mr. Michael M. Roddy.

At the October 28 PCLC meeting, the committee considered recommendations for the council's legislative priorities for the 2011 session, some of which are familiar or continuing legislative priority items relating to the securing of sufficient funding in the budget, new judgeships, security, and interpreters. In addition, the committee reviewed five proposals for Judicial Council–sponsored legislation that arose in the advisory committee process and public comment. The proposals that will be presented to the council for sponsorship at the December meeting relate to vexatious litigants, venue in guardianship matters, judicial arbitration, timing for securing defendants' thumbprints, and dismissal procedures of criminal matters in the interests of justice.

Justice Baxter reported that this legislative year, the Governor signed 733 regular session bills and vetoed 299 bills. An additional 15 to 20 bills from the Legislature's several extraordinary sessions were also signed into law. He noted that the vast majority of Judicial Council–sponsored proposals were enacted this year.

Especially noteworthy was AB 12, which extended foster care from age 18 to age 21 and brought in federal funding for California's kinship guardianship program. This important measure was sponsored by the Judicial Council and other organizations and implemented a key recommendation of our California Blue Ribbon Commission on Children in Foster Care, chaired by Associate Justice Carlos R. Moreno.

Other noteworthy Judicial Council–sponsored proposals that were enacted include an ambitious collections package for improving the collection of court-ordered debt. Also enacted was a proposal from the Court Executives Advisory Committee relating to the

preservation of court records, and a proposal to improve electronic service of process. The attempt to secure the third set of 50 new judgeships was not successful. No Judicial Council–sponsored bill was vetoed.

The Legislature will reconvene December 6 for an organizing session for the first year of the 2011–2012 two-year session. Typically, legislators return to their districts after this session, and the work of the legislative session would begin in earnest on January 3, 2011. Justice Baxter indicated that he will update the council throughout the session on Judicial Council–sponsored bills, budget issues, and bills of interest to the branch.

Rules and Projects Committee
Justice Douglas P. Miller, chair of the Rules and Projects Committee (RUPRO), reported that the committee had met twice in person and once by telephone since the August 27, 2010, Judicial Council meeting.

On September 13, RUPRO met in person and on October 4, by telephone to review proposals for new and amended rules and forms, as well as proposed criminal jury instructions. RUPRO recommended approval of those proposals, which are items A1 through A38 on the consent agenda.

On October 28, RUPRO met in person for an orientation of new members.

Additionally, members of RUPRO communicated via e-mail to review a new proposal and an addition to the *Miscellaneous Technical Changes* report. On October 21, RUPRO recommended approval of revisions to the Uniform Bail and Penalty Schedules and revisions to two forms that provide for installment payments, to bring the schedules and forms into conformance with recent legislation enacted as part of Senate Bill 857, the budget trailer bill. These are items A38 and E on today's consent agenda.

Chief Justice's Report
Chief Justice Ronald M. George reported on the activities in which he had been involved since the council's last business meeting.

As the first business meeting of the council subsequent to the passage of the Budget Act for the current fiscal year, Chief Justice Ronald M. George noted his appreciation of Senate President pro Tem Darrell Steinberg and Assembly Committee on the Judiciary chair and council member Mike Feuer for their assistance in facilitating a budget solution for the judicial branch early in the budget process. He added his appreciation for the involvement of Mr. Stephen Nash, Director, AOC Finance Division and Mr. Curtis L. Child, Director, AOC Office of Governmental Affairs, in the success of the 2010 budget negotiations.

The Chief Justice then turned to the activities in which he had been involved since the council's last business meeting, beginning with the annual meeting of the State Bar of California, held in conjunction with the California Judges Association's annual meeting

in September. The highlights included the Bench-Bar Coalition meeting, the State Bar membership luncheon, and a California Judges Association event featuring a retrospective on the judiciary over his 14-year term. The Chief Justice also made award presentations for public lawyer of the year and various pro bono and diversity awards, in addition to participating in a speaking engagement before the California Women Lawyers. He noted with his congratulations that Ms. Beth Jay, Principal Attorney to the Chief Justice, was the recipient of the Witkin Medal, presented at the State Bar annual meeting this year, for her extraordinary service resulting in significant contributions to the quality of justice and legal scholarship in California.

For the ninth consecutive year, the California Supreme Court heard oral arguments this month in a setting outside the Supreme Court's traditional court rooms, this time in Fresno. This was designed as a special educational session to improve public understanding of the courts and to provide the hundreds of high school students who attended with a view of how the appellate courts function and an opportunity to address questions to the members of the court while in session. Students also benefitted from interaction with mentors from the State Bar and the bench before the court session. The Supreme Court has conducted similar sessions in Redding, Santa Rosa, Santa Barbara, San Jose, Riverside County, Santa Ana, and San Diego. Chief Justice George acknowledged the many justices and judges who have also conducted outreach sessions at schools and other public facilities as a public service and the career-altering impact that these volunteers have had on young people. He thanked the local public television channel in Fresno for its support in broadcasting the event. In addition to the Supreme Court special session, the Chief Justice held interviews with student journalists, attended the dedication of the new B.F. Sisk Courthouse in Fresno, and attended a luncheon recognizing pro bono activities.

Other appearances Chief Justice George made and conferences he attended since the last Judicial Council meeting included one at the California Board of Regents, where he took the opportunity to explain some of the areas of focus for the judicial branch; the National Association of Women Judges' national conference, where he was honored as the recipient of the Joan Dempsey Klein Honoree of the Year Award; a conference at the Golden Gate University School of Law; and a meeting with Associate Justice Stephen Breyer. According to the Chief Justice, Justice Breyer commended the efforts and achievements of the California judicial system with respect to policy and budget matters.

The Chief Justice, Administrative Director of the Courts William C. Vickrey, and AOC Chief Deputy Director Ronald Overholt, joined Presiding Judge Kevin A. Enright and Judge Kenneth K. So of the Superior Court of San Diego County in a meeting to review plans for the new 22-story downtown San Diego courthouse. The total project cost is projected to be approximately $634 million.

The San Diego meeting was followed by speaking engagements in the regional offices of the AOC (Burbank, Sacramento, and San Francisco) to deliver his farewell and to convey to the presiding judges, court administrators, and AOC staff assembled his appreciation

for the contributions and achievements accomplished by the branch in the past several years.

On October 26, 2010, another farewell took place for the Chief Justice and two of the six administrative presiding justices overseeing California's Court of Appeal: Administrative Presiding Justice James A. Ardaiz , Fifth Appellate District in Fresno and Administrative Presiding Justice Arthur G. Scotland, Third Appellate District in Sacramento. Chief Justice George acknowledged the achievements of each of his colleagues, not only in their appellate districts, but in their prior service on the Judicial Council and in various council working groups and on committees and task forces. He noted that Justice Brad R. Hill has been confirmed as Justice Ardaiz's successor. Appointment of a successor for Justice Scotland is expected by the end of the year.

Concluding his remarks, Chief Justice George noted his scheduled early departure from the meeting at 11:30 a.m. and announced that Justice Marvin R. Baxter would assume the duties of the chair in his absence.

This concluded the Chief Justice's report.

Administrative Director's Report

Mr. William C. Vickrey, Administrative Director of the Courts, distributed and referred to his written report. He opened with an update on the pension reform bills and recent legislation from a special session earlier in the month. The reforms, aimed at reducing state public pension costs, lower pension benefits of state workers, including employees of the Supreme Court, the Courts of Appeal, and the Administrative Office of the Courts. The reforms do not apply to trial court employees. He noted that Assembly Bill 2284, approved by the Legislature and signed into law by the Governor to expedite jury trials, was generated from a Judicial Council working group composed of attorneys and court leaders seeking efficiencies in the trial process as well as reviewing filing fees and penalties. He also called attention to the passage of Assembly Bill 2763, which authorizes the Judicial Council to convert 10 additional subordinate judicial officer positions, upon vacancy, to judgeships under specified conditions in order to increase the number of judges assigned to family and juvenile law.

Mr. Vickrey noted recognition and congratulations conferred recently on two Judicial Council members. Ms. Edith R. Matthai was presented with the 2010 Ernestine Stahlhut Award by the Women Lawyers Association of Los Angeles for her outstanding character, dedication to the cause of justice, and significant contributions to encourage women's entry into the legal profession. Presiding Judge Charles W. McCoy, Jr. of the Superior Court of Los Angeles County presented the award. Mr. Vickrey also congratulated council member and Judge Keith D. Davis as the recipient of the 2010 Library Advocate Award, conferred by the State, Court, and County Law Libraries, a Special Interest Section of the American Association of Law Libraries, for

his substantial contributions in the advancement of service and missions of law libraries.

Adding to the Chief Justice's report on the annual meeting of the State Bar of California, Mr. Vickrey mentioned that the meeting featured a demonstration of the California Court Case Management System (CCMS), delivered with the assistance of AOC Chief Deputy Director Ronald G. Overholt, Regional Administrative Director Ms Sheila Calabro, of the AOC's southern regional office, and other AOC staff. The Chief Justice interjected that the lawyers present for the demonstration were impressed by the case management system's benefits to practicing attorneys, in addition to the advantages afforded to the courts.

Mr. Vickrey turned to developments in the JusticeCorps program resulting from increased federal funding of $1 million per year for three years, awarded in July. The increase will expand the existing program in Los Angeles, the Bay Area, and San Diego and also enable a new program to launch as a partnership of the Superior Courts of Sacramento, Yolo and Placer Counties with students participating from U.C. Davis and California State University, Sacramento. The JusticeCorps program was first conceived by AOC staff in collaboration with the Superior Court of Los Angeles County and implemented with such success that the federal government took interest and supported broadening the program around the state.

He referred to the California Partnership to Reduce Long-Term Foster Care, a collaborative effort of the California Department of Social Services, the AOC, the Child and Family Policy Institute of California, the California Child Welfare Co-Investment Partnership, and the County Welfare Directors Association of California, funded by a $14.5 million grant from the federal Administration for Children and Families. The partnership aims to reduce the number of children in long-term foster care, with particular emphasis on issues facing Native American and African-American children disproportionately represented in the foster care system. In the first year, the grant will focus on four pilot counties: Fresno, Humboldt, Los Angeles, and Santa Clara.

Mr. Vickrey expressed optimism for the positive results to come from the newly appointed Community Corrections Advisory Committee, co-chaired by Presiding Justice Tricia Ann Bigelow of the Court of Appeal, Second Appellate District, and Ms. Isabelle Voit, president of the Chief Probation Officers of California, and referred the audience to his report for further details. The committee was established following a briefing on community corrections initiatives and evidence-based sentencing at the August 2010 Judicial Council meeting. The committee's purpose is to increase the sentencing options available to courts and thereby reduce recidivism.

Regarding the Commission for Impartial Courts' recommendations to the Judicial Council to establish a leadership group on civics education and public outreach, the process to appoint a committee to complete further work on civics education issues is

near completion. The AOC also continues to advocate according to the council's direction at state and federal levels for civics education to be included in the state's core curriculum.

With reference to dependency drug court activities, the AOC has submitted a final report to the State Justice Institute on a project the institute funded to develop and pilot statistical performance measures for juvenile dependency courts in California. These statistical performance measures will allow the courts to evaluate programs and services on whether they are achieving desired outcomes, using the first standardized dependency drug court performance measures in the nation. AOC researchers collaborated on the project with the National Center for State Courts, the California Department of Alcohol and Drug Programs, and others. AOC staff members are now working with the Department of Drug and Alcohol Programs on multi-agency plans to enable counties to apply for needed funding to maintain their dependency drug court programs.

In October, California hosted the annual conference of the National Association of Women Judges, an event founded by two California judges and since expanded into a national program attracting the participation of judges from every state, the U.S. territories, and other countries. Council member and Judge Lee Smalley Edmon, who attended, commented on the conference's success and commended Associate Justice Mark B. Simons of the Court of Appeal, First Appellate District; Claudia Fernandes of the AOC; and other AOC staff for their work in organizing the conference's educational session. Chief Justice George also participated as a panelist with other state court Chief Justices in a discussion moderated by Associate Justice Carol Corrigan of the Supreme Court. Supreme Court Associate Justices Ming W. Chin and Carlos R. Moreno and council member and Judge Erica R. Yew also participated as panelists.

Mr. Vickrey made reference to the National Judicial Education Program on sexual assault for which AOC staff has participated as faculty, and which was made possible with the programming and leadership of the AOC's Center for Families, Children & the Courts and the Education Division/CJER.

As an update on federal contacts and developments, Mr. Vickrey mentioned that outreach continues to the California delegation of congressional representatives and various departments of the federal government on initiatives of state and federal interest, such as the California Court Case Management System and the Federal Tax Intercept program. Associate Justice Ming W. Chin met with California's congressional representatives and other departments regarding CCMS, and the AOC continues to advocate for a federal tax intercept program for court-ordered debt.

Mr. Vickrey reported on the progress of court facilities modifications and construction. The remodel of the B.F. Sisk Courthouse in Fresno County was completed on October 15, 2010. The AOC looks forward to the November dedication of the Richard E.

Arnason Justice Center in Contra Costa under the leadership of Judge Mary Ann O'Malley. In addition, the contract negotiations on the public-private partnership project involving the new Long Beach court facility are expected to conclude soon. The selected bidder's sign-off and an approval from the Department of Finance remain to complete the final documentation. The AOC Office of Court Construction and Management, the Office of the General Counsel, Mr. Ronald G. Overholt, and others have been working on keeping state costs reasonable. During Mr. Vickrey's report, Judge Lee Smalley Edmon of the Superior Court of Los Angeles County commented on the merits of the Long Beach project and the wide appeal of the building's award-winning design, pointing out that the building can be viewed on a video clip at the California Courts website.

Regarding the statewide CCMS project, preparations for the deployment phase of the project, expected next year, is underway. The three early adopter courts (San Diego, San Luis Obispo, and Ventura) recently completed a round of testing with the vendor and the results exceeded expectations. AOC Chief Deputy Director Ronald G. Overholt has been meeting on a regular basis with State Chief Information Officer Teri Takai, along with their respective teams. A new governance committee will be appointed to oversee the deployment phase of the project, with responsibility for the project and all of the related electronic service and enhancements. Associate Justice Terence L. Bruiniers of the First Appellate District has agreed to chair the committee. In addition, two other advisory committees will serve under the new governance committee, one primarily composed of court executives focusing on administrative issues and a second focused on actual operations issues.

Mr. Vickrey concluded by referring the audience to the information in his written report on current judicial branch education programs. The AOC Education Division/CJER, under Dr. Diane E. Cowdrey's direction together with the curriculum committees, continues to expand the range and number of programs now accessible to courts around the state through alternative delivery methods such as online courses, videos, and broadcasts.

Presentation of Award Recognizing Ronald G. Overholt's 10-Year Anniversary With the Administrative Office of the Courts

Before turning to the consent and the discussion agendas, Mr. William Vickrey presented AOC Chief Deputy Director Ronald G. Overholt with an award in appreciation for his exemplary leadership and the progress he has facilitated in his 10 years with the AOC. Mr. Vickrey recognized Mr. Overholt for his early experience with the Superior Courts of San Diego and Alameda Counties. He also recalled Mr. Overholt's central involvement in state-level efforts to steer the branch toward statewide trial court funding and unification in the early 1990s. Mr. Overholt's many contributions have inspired others in their work serving the branch's many priorities, including the completion of statewide case management software and the historic transfer of the county courthouses to state responsibility.

This concluded the Administrative Director's report.

CONSENT AGENDA (Items A1–A38, B–E)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.

ITEMS A1–A38 RULES, FORMS, AND STANDARDS

Appellate

Item A1 Appellate Procedure: *Civil Case Information Statement* (revise form APP-004)

The Appellate Advisory Committee recommended revising the form used to provide the Court of Appeal with information about civil appeals by adding a page on which the appellant can provide necessary information concerning the parties to the appeal and their attorneys. Currently, appellants are asked to attach a page including this information, but they often fail to do so. This creates additional work for appellate court clerks and causes delay in appellate proceedings. Revising the form to include space for this information will increase the likelihood that the information is timely provided and thereby improve court administration.

Council action

The Judicial Council, effective January 1, 2011, revised the *Civil Case Information Statement* (form APP-004) to add a page on which the appellant can provide information concerning the parties to the appeal and their attorneys.

Item A2 Appellate Procedure: Clerk's Transcript in Civil Appeals (amend Cal. Rules of Court, rules 8.122 and 8.832)

The Appellate Advisory Committee recommended amending the rules relating to clerks' transcripts in civil appeals to eliminate the requirement that these transcripts contain the supporting and opposing memoranda and attachments relating to certain posttrial motions. While the motions themselves are typically needed to determine the timeliness of the appeal, the associated memoranda and attachments, which are often quite lengthy, are not typically necessary to determine the appeal's timeliness and may not be relevant to the issues on appeal. These amendments would reduce litigation costs and make proceedings more efficient by allowing the parties to designate these memoranda and attachments for inclusion in the clerk's transcript only if they are needed, rather than requiring their inclusion in every case.

Council action

The Judicial Council, effective January 1, 2011, amended rules 8.122 and 8.832 of the California Rules of Court to eliminate the requirement that clerks'

transcripts in civil appeals contain the supporting and opposing memoranda and attachments relating to any notice of intention to move for a new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order.

Item A3 Appellate Procedure: Judicial Notice (adopt Cal. Rules of Court, rule 8.809)

The Appellate Advisory Committee recommended adopting a new rule addressing how parties may request that the superior court appellate division take judicial notice of a matter. Adopting this rule will fill a gap in the appellate division rules.

Council action
The Judicial Council, effective January 1, 2011, adopted rule 8.809 of the California Rules of Court to address how parties may request that the superior court appellate division take judicial notice of a matter.

Item A4 Appellate Procedure: Transfer of Appellate Division Cases to the Court of Appeal (adopt Cal. Rules of Court, rule 8.1006; amend rules 8.25, 8.40, 8.887, 8.890, 8.1000, 8.1002, 8.1005, 8.1008, 8.1012, 8.1014, 8.1016, and 8.1018; and amend and renumber rule 8.1010 as rule 8.1007)

The Appellate Advisory Committee recommended amending the rules relating to transfer of cases within the appellate jurisdiction of the superior court appellate division to the Court of Appeal to make these rules clearer and easier to follow and to improve the administration of these proceedings by ensuring that the Court of Appeal has information to assist it in determining whether to order transfer. Among other things, these amendments will provide the Court of Appeal with a more complete record in the case and time to review that record before determining whether to order transfer and will allow a party to file a petition for transfer even if the appellate division has certified its opinion for publication.

Council action
The Judicial Council, effective January 1, 2011:

1. Amended rule 8.25 of the California Rules of Court to clarify that petitions for transfer and answers to these petitions are among the documents considered timely filed if the time to file has not expired on the date the document is mailed or sent by overnight carrier.
2. Amended rule 8.40 to clarify the format requirements for petitions for transfer and answers to those petitions.
3. Amended rule 8.887 to clarify that when a copy of an appellate division opinion certified for publication is sent to the Court of Appeal, the purpose is to assist the Court of Appeal in determining whether to order the case transferred to the court on its own motion.

4. Amended rules 8.890, 8.1005, 8.1016, and 8.1018 to consolidate and clarify the provisions that relate to remittitur and finality of decisions relating to transfer and decisions in transferred cases.
5. Amended rule 8.1000 to make nonsubstantive, clarifying changes to the rule language and to add an advisory committee comment indicating that rules 8.1000 to 8.1018 implement the Court of Appeal's authority to transfer appellate division cases under Code of Civil Procedure section 911 and Penal Code section 1471.
6. Amended rule 8.1002 to clarify that the Court of Appeal may order transfer if the appellate division certifies the case for transfer, on petition for transfer by a party, or on the Court of Appeal's own motion.
7. Further amended rule 8.1005 to:
   - Clarify that the appellate division may certify a case for transfer to the Court of Appeal if it determines that transfer is necessary to secure uniformity of decision or to settle an important question of law;
   - Clarify that if an appeal in a traffic case is assigned to a single appellate division judge, that judge may certify the case for transfer;
   - Update the language concerning the time for filing an application for certification for transfer in the appellate division to mirror the language in rule 8.889 regarding the time for filing a petition for rehearing in the appellate division; and
   - Clarify that this rule addresses certification for transfer, not certification for publication, by consistently referring to certification or certifying a case "for transfer" and by requiring that an appellate division order certifying a case for transfer clearly state that the appellate division is certifying the case "for transfer."
8. Adopted new rule 8.1006 addressing petitions for transfer, moved the provisions relating to those petitions from current rule 8.1008 to this new rule, and made the following changes to those provisions:
   - Permit parties to file a petition for transfer in the Court of Appeal even if the appellate division certified its opinion for publication,
   - Provide that a petition for transfer may be filed only after the appellate division issues its decision,
   - Clarify the format requirements for petitions for transfer and answers to those petitions by replacing the cross-reference to rule 8.504 with the text of the applicable language from that rule and citing the specific applicable subdivisions of rule 8.204,
   - Reduce the permissible length of petitions for transfer and answers to those petitions so that the length is the same as for briefs to the Court of Appeal in transferred cases—5,600 words or 20 pages, and
   - Eliminate the provision prohibiting a party from filing an answer to a petition for transfer unless the Court of Appeal requests an answer.
9. Renumbered current rule 8.1010 as rule 8.1007 and amended it to:

- Clarify that the record of the case is sent to the Court of Appeal to assist it in determining whether to order transfer and eliminate the term "record on transfer";
- Require that the record include any application for certification for transfer, any answer to that application, and the order of the appellate division on that application; and
- Specify that the record must be sent by the appellate division within five days after the appellate division certifies the case for transfer or sends the Court of Appeal a copy of an opinion certified for publication or after the appellate division receives a copy of a petition for transfer or a request for the record from the Court of Appeal.

10. Amended rule 8.1008 to:
    - Shorten it and limit its focus to orders for transfer by deleting the provisions relating to:
        - The Court of Appeal's authority to order transfer (which would be addressed in rule 8.1002);
        - Petitions for transfer (which would be moved to new rule 8.1006);
        - Letters supporting or opposing transfer; and
        - Limitations on issues to be briefed or argued (which would be moved to rule 8.1012).
    - Make the time for ordering transfer on a petition for transfer the same as for ordering transfer when the appellate division has certified a case for transfer—20 days after the filing of the record in the Court of Appeal; and
    - Make the time for ordering transfer on the Court of Appeal's own motion the same as the time for the Supreme Court to order review on its own motion—30 days after the lower court's decision is final.
11. Amended rule 8.1012 to:
    - Clarify the format requirements for briefs in transferred cases by citing the specific applicable subdivisions of rule 8.204 and by adding a provision regarding items that are not counted toward the applicable limits on the length of these briefs, and
    - Add provisions from rule 8.1008 relating to limitations on issues to be briefed or argued.
12. Further amended these rules and rule 8.1014 to make other nonsubstantive, clarifying changes.

Item A5 Appellate Procedure: Briefs and Petitions (amend Cal. Rules of Court, rules 8.204, 8.212, 8.360, 8.486, 8.504, 8.520, 8.630, 8.883, and 8.928)

The Appellate Advisory Committee recommended amending the rules relating to briefs and petitions to (1) clarify the applicable limits on the length of briefs and petitions by providing that the cover information, signature block, and any Certificate

of Interested Entities or Persons that must be included in a brief or petition are not counted in determining compliance with these length limits; (2) update the rules to reflect the use of current technology by eliminating the requirement that signatures on stipulations to extend briefing time in civil appeals in the Court of Appeal be in the form of faxed copies of the signature page; and (3) increase efficiency in matters involving amici curiae before the Supreme Court by giving parties the option of filing a consolidated response when multiple amicus briefs are filed in a case.

Council action

The Judicial Council, effective January 1, 2011:

1. Amended rules 8.204, 8.360, 8.486, 8.504, 8.520, 8.630, 8.883, and 8.928 of the California Rules of Court to specify that that the cover information, signature block, and any Certificate of Interested Entities or Persons included in a brief or petition filed in the Supreme Court, Court of Appeal, or superior court appellate division are not counted in determining compliance with the limits on the length of these briefs or petitions;
2. Further amended rule 8.520 to:
   a. Lengthen the time for filing an answer to an amicus curiae brief in matters before the Supreme Court from 20 days after the amicus curiae brief is filed to 30 days after either the court rules on the last timely filed application to file an amicus curiae brief or the time for filing applications to file an amicus curiae brief expires, whichever is later; and
   b. Permit parties to file a consolidated answer to multiple amicus curiae briefs filed in the case; and
3. Amended rule 8.212 to delete the requirement that signatures on stipulations to extend briefing time in civil appeals in the Court of Appeal be in the form of faxed copies of the signature page.

Item A6 Appellate Procedure: Numbers of Copies of Motions (amend Cal. Rules of Court, rules 8.44 and 8.931)

The Appellate Advisory Committee recommended amending the rule relating to the number of copies of documents that must be provided to the Court of Appeal to reduce the required number of copies of motions that must be provided. Not all of the copies currently required are needed in most cases. Reducing the number of required copies will reduce litigation costs.

Council action

The Judicial Council, effective January 1, 2011:

1. Amended rule 8.44 of the California Rules of Court to reduce the required number of copies of motions that must be provided to the Court of Appeal from an original and three copies to an original and one copy, unless the court orders otherwise; and

2. Further amended rule 8.44 and amended rule 8.931 of the California Rules of Court to make a nonsubstantive change in the language so that these rules are more consistent with other provisions regarding local rules.

Item A7 Appellate Procedure: Extension of Time to File Notice of Appeal (amend Cal. Rules of Court, rules 8.104, 8.108, 8.822, and 8.823)

The Appellate Advisory Committee recommended amending the rules relating to extensions of the time to appeal to include extensions required by statute when a public entity defendant takes certain postjudgment actions. The committee also recommended modifying the language of the rule regarding these extensions in Court of Appeal proceedings to make it more consistent with recent amendments to the rule on the time to file a notice of appeal. These amendments would consolidate the provisions regarding extensions of the time to appeal in a single rule and conform the rules to relevant statutes and rules of court.

Council action

The Judicial Council, effective January 1, 2011:

1. Amended rule 8.104 of the California Rules of Court to delete the provision relating to extending time to appeal if a public entity defendant elects, under Government Code section 984, to pay a judgment in periodic payments:
2. Amended rule 8.108 to:
   a. Consolidate all the provisions relating to extending the time to appeal in one rule and conform the rules to statute by adding a new provision extending the time to appeal if a public entity defendant takes one of the postjudgment actions specified in Government Code section 962, 984, or 985; and
   b. Conform it to recent amendments to rule 8.104 by providing that the extensions of the time for filing a notice of appeal established by this rule run from when the superior court clerk "serves," rather than "mails," the relevant judgment, order, or notice and adding language concerning the permissible methods of service;
3. Amended rules 8.822 and 8.823 to add language concerning the permissible methods of service; and
4. Further amended rule 8.823 to conform it to statute by adding a new provision extending the time to appeal if a public entity defendant takes one of the postjudgment actions specified in Government Code sections 962, 984, or 985.

Civil and Small Claims

Item A8 Judicial Administration: Membership of the Civil and Small Claims Advisory Committee (amend Cal. Rules of Court, rule 10.41)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council expand the membership categories of the committee to include a category for

an individual knowledgeable about court-connected alternative dispute resolution (ADR) programs for civil and small claims cases. A new membership category would allow the advisory committee to recruit members with significant interest and expertise in court-connected ADR programs.

Council action
The Judicial Council, effective January 1, 2011, amended rule 10.41 of the California Rules of Court to add a new category for members of the committee for persons knowledgeable about court-connected alternative dispute resolution programs used for civil and small claims cases.

Item A9 Alternative Dispute Resolution: *Case Management Statement* (revise form CM-110)

The Civil and Small Claims Advisory Committee recommended revising the portion of the *Case Management Statement* (form CM-110) relating to alternative dispute resolution (ADR) to clarify and supplement the information currently requested about the parties' past use of ADR and current agreements to use ADR. These revisions are designed to provide judicial officers with more complete information and to make the ADR portion of the form easier for parties to complete and for judicial officers to read and understand.

Council action
The Judicial Council, effective July 1, 2011, revised the *Case Management Statement* (form CM-110) to clarify and supplement the information about the parties' past use of alternative dispute resolution and current agreements to use ADR and to provide more information about eligibility for referral to civil action mediation.

Item A10 Alternative Dispute Resolution: *Order Appointing Referee* (revise form ADR-110)

The Civil and Small Claims Advisory Committee recommended revising the optional *Order Appointing Referee* (form ADR-110). The revised form would assist courts and inform litigants by more clearly indicating the State Bar of California membership status of the referee.

Council action
The Judicial Council, effective July 1, 2011, revised *Order Appointing Referee* (form ADR-110) to indicate whether the status of a referee who is a member of the State Bar of California is active, inactive, or other.

Item A11 Civil Case Coordination: Submission of Assignment Order (amend Cal. Rules of Court, rule 3.540)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council amend rule 3.540 to require that a petitioner seeking coordination of complex actions submit to the Chair of the Judicial Council the assignment order assigning a coordination trial judge when the assignment is made by the presiding judge. Currently, rule 3.540 does not address submission of the assignment order in these circumstances.

Council action
The Judicial Council, amended rule 3.540 of the California Rules of Court to require that a petitioner submit to the Chair of the Judicial Council an assignment order assigning a coordination trial judge.

Item A12 Civil Practice and Procedure: Response to Amended Complaint (amend Cal. Rules of Court, rule 3.1320)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council amend rule 3.1320, which governs demurrers, to eliminate its applicability to an amended complaint. An apparent conflict exists between rule 3.1320(j)(2) and Code of Civil Procedure section 471.5 concerning the time to respond to an amended complaint. Amending the rule as proposed would remove the conflict.

Council action
The Judicial Council amended rule 3.1320(j)(2) to eliminate its applicability to an amended complaint.

Item A13 Jury Trials: Expedited Jury Trial Procedures (adopt Cal. Rules of Court, rules 3.1545–3.1552, and *Expedited Jury Trial Information Sheet))* (form EJT-010)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council adopt new rules and a new form to implement the provisions of the Expedited Jury Trial Act (Assem. Bill 2284 [Evans]; Stats 2010, ch. 674). The act, enacted on September 30, 2010, and operative on January 1, 2011, established a new expedited jury trial process as an alternative, streamlined method for handling civil actions to promote the speedy and economic resolution of cases and to conserve judicial resources. The proposed rules will establish uniform but flexible procedures for litigating under the act while also providing that the scheduling and assignment of proceedings are left to each superior court.

Council action
The Judicial Council, effective January 1, 2011, adopted the following rules to set forth procedures for expedited jury trials:

1. Rule 3.1545 to provide that the rules in new chapter 4.5 apply to civil actions proceeding under the Expedited Jury Trial Act and definitions of key terms;
2. Rule 3.1546 to provide that the assignment of judicial officers for expedited jury trials is at the discretion of the presiding judge and to preclude the assignment of temporary judges requested by the parties under rules 2.830 through 2.835;
3. Rule 3.1547 to:
   - Require that the parties agreeing to an expedited jury trial submit proposed consent orders to the court at least 30 days before a scheduled trial date;
   - Limit when a high/low agreement between the parties may be submitted to the court; and
   - Allow certain agreements concerning trial procedures and evidentiary issues to be included in the proposed consent order.
4. Rule 3.1548 to provide for pretrial exchanges between the parties, advance filing of motions in limine, and a pretrial conference;
5. Rule 3.1549 to limit the time for voir dire to 15 minutes for the judge and 15 minutes for each side;
6. Rule 3.1550 to limit the time for presentation of the case to three hours per side, including time spent on cross-examination;
7. Rule 3.1551 to permit alternative methods of presentation of the case to the jury as long as the parties and the judicial officer have not approved them at the pretrial conference;
8. Rule 3.1552 to require that any agreement to modify the applicable evidentiary rules be included in the proposed consent order and that any objections be made in a timely manner; and
9. *Expedited Jury Trial Information Sheet* (form EJT-010-INFO), a summary of the laws and procedures applicable to expedited jury trials for parties contemplating taking part in such a trial.

Item A14 Civil Cases: Time for Making a Claim for Attorneys' Fees (amend Cal. Rules of Court, rule 3.1702)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council amend the rule governing claims for attorneys' fees in civil cases to expressly address what time frames apply to these claims in limited civil cases—the periods that apply only to cases appealed to the Court of Appeal or Supreme Court, or the shorter periods of time for filing a notice of appeal to the appellate division of the superior court. The proposed amendment would relate the time frame for claiming attorneys' fees in limited civil actions directly to the shorter appellate time periods for such cases.

Council action
The Judicial Council amended rule 3.1702 of the California Rules of Court, effective January 1, 2011, to specify the time for claiming attorneys' fees in limited civil actions.

Item A15 Civil Forms: Forms for Change of Gender and Issuance of New Birth Certificates (revise forms NC-300 and NC-320)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council revise two forms relating to petitions for change of gender and issuance of a new birth certificate to reflect the current state of the law and permit non-California residents to file petitions in California using Judicial Council forms. Although Health and Safety Code section 103425 requires these petitions to be filed in the petitioner's county of residency, the Court of Appeal recently held that venue requirement invalid for California-born transgender individuals residing outside the state who, under the statute, had no valid California venue in which to file a petition.

Other minor revisions were proposed at the same time, to clarify the forms and make them more consistent with rules and statute. These changes included clarifying the instructions concerning the documents to be used for setting a hearing on the petition and eliminating the "optional" notation from the items for counsel's fax number and e-mail address.

Council action
The Judicial Council, effective January 1, 2011, revised the *Petition for Change of Gender and Issuance of New Birth Certificate* (form NC-300) and *Notice of Hearing on Petition for Change of Gender and Issuance of New Birth Certificate* (form NC-320). The revisions eliminate the venue provision for out of-state petitioners and clarify the instructions regarding venue, notice of hearing, and new birth certificate requests.

Court Technology

Item A16 Electronic Service and Filing: Service, Filing, and Submission of Proposed Orders (amend Cal. Rules of Court, rules 2.252 and 3.1312; adopt form EFS-020)

The Court Technology and the Civil and Small Claims Advisory Committees recommended amendments to the California Rules of Court to establish a new procedure for electronically serving, filing, and submitting proposed orders in civil cases. The procedure would require a party filing documents electronically (1) to file a copy of its proposed order attached to a cover sheet, and (2) to submit to the court a version of the proposed order in an editable word processing format. The committees further recommended the adoption of a mandatory cover sheet to be affixed in front of the copy of the proposed order filed with the court. The combined cover sheet and

attached order filed with the court will provide a record of the proposed order. The editable version of the proposed order submitted to the court will be made available to the court for use in preparing its final order.

Council action

The Judicial Council, effective January 1, 2011:

1. Amended rules 2.252 and 3.1312 of the California Rules of Court to provide for the electronic service, filing, and submission of proposed orders; and
2. Adopted *Proposed Order (Cover Sheet)* (form EFS-020) to facilitate the electronic filing and submission of these orders.

Item A17 Electronic Service: Authorize Electronic Service by Notice and Hyperlink (amend Cal. Rules of Court, rules 2.250, 2.252–2.256, 2.259, 8.73, 8.75, 8.76, and 8.79; amend and renumber rules 2.260, 8.71, and 8.80 as rules 2.251, 8.70, and 8.71, respectively; repeal rules 2.251 and 8.71; and revise forms EFS-005, EFS-010, POS-050/EFS-050, and POS-050(P)/EFS-050(P))

The Court Technology Advisory Committee recommended that the California Rules of Court on electronic filing and service be amended to authorize electronic service by providing electronic notice and a hyperlink to a document as well as by the electronic transmission of a document. These amendments will make the rules on electronic service consistent with Senate Bill 1274, legislation that has been enacted authorizing electronic service by providing notice and a hyperlink. The amendments would be made to the trial court rules on electronic filing and service and to the appellate e-filing pilot program rules for the Court of Appeal, Second Appellate District. To be consistent with the terminology in the amended rules and statute on electronic service, four forms relating to electronic filing and service would be revised to use the term "electronic service address" rather than "electronic notification address."

Council action

The Judicial Council, effective January 1, 2011:

1. Amended Cal. Rules of Court, rules 2.250, 2.252–2.256, 2.259, 8.73, 8.75, 8.76, and 8.79; amended and renumbered rules 2.260, 8.71, and 8.80 as rules 2.251, 8.70, and 8.71, respectively; and repealed rules 2.251 and 8.71; and
2. Revised forms EFS-005, EFS-010, POS-050/EFS-050, and POS-050(P)/EFS-050(P).

Criminal Law

Item A18 Criminal Procedure: Imposition of Enhancements (amend Cal. Rules of Court, rule 4.428)

The Criminal Law Advisory Committee recommended that the Judicial Council amend rule 4.428 of the California Rules of Court to clarify that trial courts must impose

prison terms for enhancements that serve the interest of justice and must state the reasons for the sentence choices on the record at the time of sentencing. The amendments were required by recently enacted legislation that eliminated presumptive middle terms for enhancements.

Council action
The Judicial Council, effective January 1, 2011, amended rule 4.428 of the California Rules of Court to clarify that trial courts must impose prison terms for enhancements that serve the interest of justice and must state the reasons for the sentence choices on the record at the time of sentencing.

Item A19 Criminal Procedure: Application of Penal Code Section 654 (amend Cal. Rules of Court, rule 4.424)

The Criminal Law Advisory Committee recommended that the Judicial Council amend rule 4.424 of the California Rules of Court to clarify that trial courts must apply Penal Code section 654 by imposing sentence on all counts and staying execution of sentence as necessary to prevent multiple punishments. The amendment was required by recent case law that invalidated the rule.

Council action
The Judicial Council, effective January 1, 2011, amended rule 4.424 of the California Rules of Court to clarify that trial courts must apply Penal Code section 654 by imposing sentence on all counts and staying execution of sentence as necessary to prevent multiple punishments.

Criminal Jury Instructions

Item A20 Jury Instructions: Additions and Revisions to Criminal Instructions, *Judicial Council of California Criminal Jury Instructions (CALCRIM)*

The Advisory Committee on Criminal Jury Instructions recommended approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM).*

Council action
The Judicial Council, effective October 29, 2010, approved for publication under rule 2.1050 of the California Rules of Court the criminal jury instructions prepared by the committee. The revised instructions will be officially published in the new 2011 edition of the *Judicial Council of California Criminal Jury Instructions (CALCRIM).*

Family and Juvenile Law

Item A21 Child Support: Redundant Child Support Order Form (revoke form DV-160)

The Family and Juvenile Law Advisory Committee recommended revoking a rarely used optional domestic violence form that contains a child support order after hearing. Other child support order forms are available for judicial use.

Council action
The Judicial Council, effective January 1, 2011, revoked *Child Support Order — Order of Protection (Domestic Violence Protection)* (form DV-160), in favor of other existing "order after hearing" forms.

Item A22 Child Support: Protection of Obligor Social Security Number (revise form FL-480)

The Family and Juvenile Law Advisory Committee recommended revising *Abstract of Support Judgment* (form FL-480) to implement the provisions of Senate Bill 40 (Stats. 2009, ch. 552) which require that an abstract of judgment ordering a party to pay support contain only the last four digits of the judgment debtor's social security number.

Council action
The Judicial Council, effective January 1, 2011, revised form FL-480, *Abstract of Support Judgment,* to ensure that the persons completing the form comply with the requirements of Senate Bill 40 (Stats. 2009, ch. 552).

Item A23 Child Support: *Notice of Change of Responsibility for Managing Child Support Case* (adopt form FL-634)

The proposed new form would enable a local child support agency to provide notice to the parties and the court in a title IV-D governmental child support case when the responsibility for managing the child support case changes from one county's local child support agency to a different county's local child support agency.

Council action
The Judicial Council, effective January 1, 2011, adopted *Notice of Change of Responsibility for Managing Child Support Case* (form FL-634) so that the parents and court are informed when the responsibility for case management changes.

Item A24 Family Law: Disclosure Requirements (revise forms FL-141, FL-310, and FL-320; approve form FL-316)

The Family and Juvenile Law Advisory Committee recommended revising form FL-141 and approving form FL-316 to reflect amendments to Family Code section 2107 enacted by Assembly Bill 459 (Stats. 2009, ch. 110). The amendments provide additional remedies to a party when the other party fails to comply with mandatory disclosure requirements in a dissolution action. In addition, the committee recommends revising forms FL-310 and FL-320 to correct technical errors and make their captions consistent with other family law and governmental forms.

Council action

The Judicial Council, effective July 1, 2011:

- Revised *Declaration Regarding Service of Declaration of Disclosure and Income and Expense Declaration* (form FL-141) to allow a party to indicate that the court granted a voluntary waiver of the other party's preliminary or final declaration of disclosure under Family Code section 2107;
- Revised *Application for Order and Supporting Declaration* (form FL-310) and *Responsive Declaration to Order to Show Cause or Notice of Motion* (form FL-320) to correct technical errors and make their captions consistent with other family law and governmental forms; and
- Approved *Request for Orders Regarding Noncompliance With Disclosure Requirements* (form FL-316) to promote a uniform statewide practice for parties seeking relief under Family Code section 2107 when one party fails to comply with mandatory disclosure requirements. This form would list the remedies available to the complying party under Family Code section 2107.

Item A25 Family Law: Appearance, Stipulations, and Waivers (revise form FL-130, and approve form FL-130(A))

The Family and Juvenile Law Advisory Committee recommended revising *Appearance, Stipulations, and Waivers* (form FL-130) and approving *Declaration and Conditional Waiver of Rights Under the Servicemembers Civil Relief Act of 2003* (form FL-130(A)). The proposed changes would more completely conform the forms to the waiver of rights requirements of the Servicemembers Civil Relief Act of 2003 (SCRA) relating to default judgments entered against servicemembers.

Council action

The Judicial Council, effective January 1, 2010, revised form FL-130 and approved form FL-130(A) to provide information to the courts and servicemembers about the Servicemembers Civil Relief Act of 2003 (SCRA) and provide a form that complies with SCRA waiver requirements that can be used by a servicemember-respondent to request that the court enter a stipulated judgment or marital settlement agreement while he or she is on active duty.

Item A26 Family Law: Child Custody Evaluators (amend Cal. Rules of Court, rule 5.225, and revise forms FL-325 and FL-326)

The Family and Juvenile Law Advisory Committee recommended that the council amend rule 5.225 of the California Rules of Court and revise forms FL-325 and FL-326 to delete outdated experience requirements and clarify the time frame for completing initial and continuing education and training requirements for evaluators appointed to conduct child custody evaluations in family court.

Council action

The Judicial Council, effective January 1, 2011:

- Amended rule 5.225 to (1) delete the experience requirements in the rule that were effective until December 31, 2009, (2) clarify the requirements for a child custody evaluator's appointment, and (3) clarify when court evaluators must complete the continuing education and training requirements of the rule to remain eligible for appointment;
- Revised *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications* (form FL-325) to reflect the amendments to the rule regarding experience and continuing education and training requirements; and
- Revised *Declaration of Private Child Custody Evaluator Regarding Qualifications* (form FL- 326) also to reflect the amendments to the rule regarding experience and continuing education and training requirements.

Item A27 Juvenile Law: Family Finding (adopt Cal. Rules of Court, rule 5.637; amend rules 5.502, 5.534, 5.690, and 5.695; approve forms JV-285 and JV-287) (Action Required)

The Family and Juvenile Law Advisory Committee recommended adopting a new rule of court, approving two new forms, and amending existing rules to implement statutory requirements and establish procedures for judicial oversight of efforts by child welfare agencies to identify, locate, and notify a child's relatives within 30 days of the child's removal from the home. The proposal would ensure compliance with federal law and recently enacted state law, in particular Assembly Bill 938 (Comm. on Judiciary; Stats. 2009, ch. 261), which the Judicial Council sponsored to improve outcomes for children in foster care by seeking to ensure that children who have been removed from their parents can maintain connections with and be cared for by loving relatives. The proposal would also promote the longstanding statutory and Judicial Council policy of improving safety, permanency, and well-being for children in foster care.

Council action

The Judicial Council, effective January 1, 2011, adopted rule 5.637; amended rules 5.502, 5.534, 5.690, and 5.695 of the California Rules of Court; and approved two Judicial Council forms, *Relative Information* (form JV-285) and *Confidential Information* (form JV-287), to:

1. Incorporate the requirement in Welfare and Institutions Code sections 309(e) and 628(d) that a county social services agency or probation department (hereafter agency) use due diligence in conducting an investigation to identify, locate, and notify all of a child's relatives, as defined, within 30 days of the child's removal from the home of his or her parent or guardian;
2. Implement the requirement in Welfare and Institutions Code sections 309(e) and 628(d) that the agency notify located relatives, except any who have a history of family or domestic violence, of the child's removal and explain the various options for caring for the child or otherwise participating in the child's life;
3. Provide relatives with an instrument for informing the court about the child's health and welfare, as well as their ability to provide care and support for the child, with *Relative Information* (form JV-285) mandated by Welfare and Institutions Code, section 309(e)(2);
4. Offer a method for relatives and other individuals submitting information to the juvenile court to keep their addresses and telephone numbers confidential, as permitted by law, with *Confidential Information* (form JV-287).
5. Incorporate the requirement in Welfare and Institutions Code section 309(e)(2) 3 that the social worker distribute a copy of *Relative Information* (form JV-285) to each relative identified and located as a result of the investigation required by section 309(e)(1); and
6. Establish a procedure for the agency to report to the court on the nature and results of its required family-finding investigation; and establish a procedure for the juvenile court to consider whether the agency has used due diligence in conducting its investigation to identify, locate, and notify relatives, and affirm the court's authority to order the agency to conduct such an investigation.

Item A28 **Juvenile Law: Findings and Orders After Hearing and Termination of Juvenile Court Jurisdiction (approve forms JV-403, JV-443, JV-455, JV-456, and JV-457; revise forms JV-365, JV-405, JV-406, JV-410, JV-412, JV-415, JV, 416, JV-417, JV-418, 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, and JV-446) (Action Required)**

This proposal would create five new Judicial Council forms and revise other forms previously approved for use in juvenile dependency proceedings. The new, optional forms were primarily for findings and orders after hearing. The changes were required due to modifications in federal and state law that have expanded the number of issues the court must consider and about which the court must make determinations in the exercise of its oversight of the children and families under its jurisdiction. This proposal would also revise *Termination of Dependency Jurisdiction—Child Attaining Age of Majority* (form JV-365) to ensure that every child in a foster care placement

receives the services and information required under federal and state law to support the transition from foster care to independent living.

Council action

The Judicial Council, effective July 1, 2011:

1. Approved the following new optional forms for the additional 18-month hearing outcome and the new 24-month hearing created by Assembly Bill 2070:
   - *Eighteen-Month Permanency Attachment: Reunification Services Continued (Welf. & Inst. Code, § 366.22)* (form JV-443)
   - *Findings and Orders After 24-Month Permanency Hearing (Welf. & Inst. Code,§ 366.25)* (form JV-455)
   - *Twenty-four-Month Permanency Attachment: Child Reunified (Welf. & Inst. Code, § 366.25)* (form JV-456)
   - *Twenty-four-Month Permanency Attachment: Reunification Services Terminated (Welf. & Inst. Code, § 366.25)* (form JV-457)
2. Approved new optional form *Sibling Attachment: Contact and Placement* (form JV-403) so the findings and orders related to siblings will be included as an attachment only when the child has a sibling. There are many instances in which the child does not have siblings.
3. Revised forms JV-365, JV-405, JV-406, JV-410, JV-412, JV-415, JV-416, JV-417, JV-418, 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, and JV-446 to include the additions and modifications to the findings and orders that have occurred since January 1, 2006, due to changes in state and federal legal requirements.

Item A29 Juvenile Law: Eligibility for Special Immigrant Juvenile Status (SIJS) (revise form JV-224) (Action Required)

The Family and Juvenile Law Advisory Committee recommended revising the form used to determine whether a child declared dependent on the juvenile court is eligible for Special Immigrant Juvenile Status (SIJS). The applicable federal statute was revised in March 2009. The proposed form revisions were necessary to conform to statutory changes and to assist judicial officers, legal practitioners, and juvenile court parties in determining whether SIJS eligibility requirements have been met.

Council action

The Judicial Council, effective July 1, 2011, revised form JV-224 to comply with current statutory mandates and to facilitate consistency.

Item A30 Juvenile Law: Consideration of Parent's Incarceration or Institutionalization in Extending Services (amend Cal. Rules of Court, rule 5.710)

The Family and Juvenile Law Advisory Committee recommended amending the 6-month review hearing rule applicable to dependent children who have been removed from their parent or legal guardian. Effective January 1, 2010, the California Legislature adopted new Welfare and Institutions Code section 366.215, which required the court, in determining whether court-ordered services may be extended to the 12-month point for a child who is under three years of age or is a member of a sibling group, to take into account any particular barriers to a parent's ability to maintain contact with his or her child due to the parent's incarceration or institutionalization. The proposed rule was necessary to promote legal compliance with section 366.215.

Council action
The Judicial Council, effective January 1, 2011, amended rule 5.710 of the California Rules of Court to comply with current statutory mandates and to ensure consistency.

Judicial Administration

Item A31 Judicial Branch Education: Minimum Ethics Education Requirements for Trial Court Executive Officers (amend Cal. Rules of Court, rule 10.473(c)(1))

Continuing education on ethical practices is integral to the ability of trial court executive officers to maintain their current high level of professionalism and the competent performance of their job duties. The proposed amendment to rule 10.473(c)(1) would ensure that a minimum of 3 hours of ethics training be included in the 30 hours of continuing education that trial court executive officers are required to complete.

Council action
The Judicial Council, effective January 1, 2011, adopted the proposed amendment to rule 10.473(c)(1) of the California Rules of Court, which requires a minimum of 3 hours of ethics training be included in the 30 hours of continuing education that trial court executive officers must complete every three years.

Item A32 Court Administration: The Modernization of Trial Court Records (adopt Cal. Rules of Court, rules 10.850 and 10.854; amend rule 10.855; and repeal Cal. Stds. Jud. Admin., std. 10.80)

The Court Executives Advisory Committee and the Court Technology Advisory Committee recommended that the Judicial Council adopt a rule requiring the AOC, in collaboration with trial court presiding judges and court executives, to prepare, maintain, and distribute to the trial courts a manual providing standards and guidelines

for the creation, maintenance, and retention of trial court records, consistent with the Government Code and the rules of court and policies adopted by the Judicial Council. The *Trial Court Records Manual* will assist the courts and the public to have complete, accurate, efficient, and accessible court records. This rule proposal was part of a broader undertaking to modernize California law regarding trial court records. It was a companion to the legislation that will become effective January 1, 2011, to modernize the creation, maintenance, and preservation of trial court records.

Council action

The Judicial Council, effective January 1, 2011:

1. Adopted rules 10.850 and 10.854 of the California Rules of Court;
2. Amended rule 10.855; and
3. Repealed standard 10.80 of the California Standards of Judicial Administration.

Probate

Item A33 Probate Conservatorships: Orders Appointing and Directing the Actions of Court Investigators (adopt Cal. Rules of Court, rule 7.1060; revise form GC-330 and convert it to an optional form; approve forms GC-331 and GC-332)

The Probate and Mental Health Advisory Committee recommended revising the *Order Appointing Court Investigator* (form GC-330) and converting it to an optional form; moving some of its contents into two new optional forms, designated as forms GC-331 and GC-332; conforming the orders in the new and revised forms to recent changes in the law and adding an order for an investigation required by law that is absent from the current form; and adopting rule 7.1060 of the California Rules of Court. The new rule would authorize courts, by local rule, either to require the use of these forms and prescribe their preparation and filing or to direct that general orders, court-prepared orders, or local form orders be used instead.

Council action

The Judicial Council, effective January 1, 2011:

1. Revised the *Order Appointing Court Investigator* (form GC-330) to satisfy the requirements of current law, remove orders for review investigations from the form, and convert it to an optional form;
2. Approved two new optional forms, *Order Appointing Court Investigator (Review and Successor Conservator Investigations)* (form GC-331) and *Order Setting Biennial Review Investigation and Directing Status Report Before Review* (form GC-332), to contain the orders removed from form GC-330, modified to conform to current law, and to add an order directing an investigation required under some circumstances when the appointment of a successor conservator has been proposed; and

3. Adopted rule 7.1060 of the California Rules of Court, which would authorize courts to determine by local rule whether to use these forms and prescribe their preparation and filing.

Item A34 Probate Guardianships: Continuing Education of Counsel Appointed to Represent Minors in Guardianships of the Person (amend Cal. Rules of Court, rule 7.1101)

The Probate and Mental Health Advisory Committee recommended amending rule 7.1101 of the California Rules of Court, which prescribes the qualifications of counsel eligible for appointment by the court to represent minors in probate guardianship proceedings, including required continuing education. The amendment would permit certain counsel eligible for appointment to represent minors in guardianships of the person to satisfy the continuing education requirements of rule 7.1101 by meeting the continuing education requirements of rules 5.242 or 5.660. These rules govern the qualifications of counsel eligible for appointment to represent minors in family law custody or juvenile dependency proceedings.

Council action

The Judicial Council, effective January 1, 2011, amended rule 7.1101 of the California Rules of Court to permit counsel eligible for appointment as counsel for minors in probate guardianships of the person because they are qualified for appointment to represent minors in family law custody or juvenile dependency proceedings under rules 5.242 or 5.660, to satisfy the continuing education requirements of rule 7.1101(f) by satisfying the continuing education requirements of either of those rules.

Item 35 Probate Conservatorships: Statement of Duties and Liabilities of Conservators (revise form GC-348)

The Probate and Mental Health Advisory Committee recommended revising the statement of duties and liabilities of the office of conservator that most newly appointed conservators must receive, sign, and file to qualify for their office. The *Duties of Conservator and Acknowledgment of Receipt of Handbook* (form GC-348) would be completely revised to reflect substantial changes in the law affecting probate conservatorships and the duties and responsibilities of conservators made by legislation and changes in court rules and Judicial Council forms since the form was last revised.

Council action

The Judicial Council, effective January 1, 2011, revised the *Duties of Conservator and Acknowledgment of Receipt of Handbook* (form GC-348) to reflect current law on the duties and responsibilities of probate conservators.

Protective Orders

Item A36 Protective Orders: Confidentiality of the CLETS (California Law Enforcement Telecommunications System) Information Form (adopt Cal. Rules of Court, rule 1.51; revise form DV-260/CH-102/EA-102)

The Civil and Small Claims and the Family and Juvenile Law Advisory Committees recommended the adoption of a rule of court that would expressly state that the information provided on *Confidential CLETS Information* (form DV-260/CH-102/EA-102), used to provide information to law enforcement concerning protective orders is confidential. The rule would specify those who have access to the information on the form and would prescribe for how long courts must retain the form before it is destroyed. The committees also recommended that the form be revised to be applicable to juvenile law protective order proceedings, as provided under the rule.

Council action

The Judicial Council, effective January 1, 2011:

1. Adopted rule 1.51 on the use, confidentiality, and retention of the *Confidential CLETS Information* form; and
2. Revised the current *Confidential CLETS Information* (form DV-260/CH-102/EA-102) to add a designation as JV-248 to indicate that the form may be used in juvenile law protective order proceedings.

Item A37 Protective Orders: Prevention of Private Postsecondary School and Workplace Violence (adopt forms SV-100, SV-102, SV-109, SV-110, SV-120, SV-130, WV-102, and WV-109; approve forms SV-100-INFO, SV-120 INFO, SV-200, SV-200-INFO, SV-250, SV-800, WV-120-INFO, and WV-200-INFO; revise form WV-100; revise and renumber forms WV-150-INFO, WV-120, WV-110, WV-140, WV-130, WV-131, and WV-145 as forms WV-100-INFO, WV-110, WV-120, WV-130,WV-200, WV-250, and WV-800; revoke form WV-132)

The Civil and Small Claims Advisory Committee recommended the adoption and approval of a new set of protective order forms for use in preventing private postsecondary school violence under Code of Civil Procedure section 527.85. These forms were mandated by recent legislation. The committee also recommended revising the protective order forms used for preventing workplace violence under Code of Civil Procedure section 527.8 to be in an easily readable, plain-language format.

Council action

The Judicial Council, effective January 1, 2011:

1. Adopted forms SV-100, SV-102, SV-109, SV-110, SV-120, SV-130, WV-102, and WV-109;

2. Approved forms SV-100-INFO, SV-120 INFO, SV-200, SV-200-INFO, SV-250, SV-800, WV-120-INFO, and WV-200-INFO;
3. Revised form WV-100;
4. Revised and renumber forms WV-150-INFO, WV-120, WV-110, WV-140, WV-130, WV-131, and WV-145 as forms WV-100-INFO, WV-110, WV-120, WV-130,WV-200, WV-250, and WV-800; and
5. Revoked form WV-132.

Miscellaneous

Item A38 Rules and Forms: Miscellaneous Technical Changes (amend Cal. Rules of Court, rules 2.550, 3.860, 3.893, 3.1103, 3.1114, 5.727, 8.46, 8.328, 8.486, 8.842, 8.883, and 8.891; revise forms ADOPT-210, ADOPT-215, JV-320, MC-012, MC-350, SC-100, SC-104B, SC-120, SC-133, TR-300, and TR-310; and revoke GC-005 and GC-006)

Various Judicial Council advisory committee members, court personnel, members of the public, and AOC staff had identified errors in rules and forms resulting from inadvertent omissions, typographical errors, language inconsistencies, or changes in the rule and forms name and numbering systems. It was therefore necessary to make technical changes to the rules and forms listed above.

Council action

The Judicial Council, effective November 1, 2010:

1. Revised form TR-300, Item 5, to reduce the initial installment payment for a traffic infraction from 25 percent of the total due to 10 percent of the total due. The change is needed to comport with urgency budget provisions in Senate Bill 857 that amend Vehicle Code section 40510.5 to lower the required minimum for installment payments in traffic infraction cases, when the request is processed by a court clerk; and
2. Revised form TR-310, Item 4, to reduce the initial installment payment of the fee to attend traffic violator school from 25 percent of the total due to 10 percent of the total due. The change is needed to comport with urgency budget provisions in Senate Bill 857 that amend Vehicle Code section 42007 to lower the required minimum for installment payments of the fee to attend traffic violator school, when the request is processed by a court clerk.

The Judicial Council, effective January 1, 2011, made the following changes to the California Rules of Court and Judicial Council forms:

3. Amended the advisory committee comment for rule 2.550 to correct a rule reference from "985(h)" to "3.54 and 8.26";
4. Amended rule 3.860(b) to correct a typographical error from "compliant" to "complaint";
5. Amended rule 3.893 to correct a rule reference from "3.872" to "3.892";

6. Amended rules 3.1103(a)(1) and 3.1114 to reflect the enactment of Code of Civil Procedure 527.85 (school violence prevention);
7. Amended rule 5.727(d)(3) to correct a rule reference from "5.664" to "5.481";
8. Renumbered title 8, division 1, chapter 5, article "3" as article "4";
9. Amended the advisory committee comment to rule 8.46 to correct rule references from "8.160" to "8.46" and from "3.60" to "8.26";
10. Amended rules 8.328(a) and 8.486(d) to correct a rule reference from "8.160" to "8.46";
11. Amended rule 8.842(b)(2) to correct a rule reference from "8.60(d)" to "8.812";
12. Amended rule 8.883(c)(10)(A) to correct "presiding justice's" to "presiding judge's";
13. Amended rule 8.891(c)(1) to correct a rule reference from "3.1702(a)(1)" to "3.1700(a)(1)";
14. Revised form ADOPT-210, item 7, to correct a signature line from "adopting" parent to "legal" parent;
15. Revised form ADOPT-215, item 5, to correctly reference item "5" rather than item "6", and item 9, to correctly reference item "13" rather than "14";
16. Revoked forms GC-005 and GC-006. These forms implemented requirements of the Probate Code that were repealed by the Omnibus Conservatorship and Guardianship Reform Act of 2006, effective July 1, 2007. The rules of court cited in the forms, rules 7.1010 and 7.1060, were repealed by their own provisions effective July 1, 2008;
17. Revised form JV-320, item 8(b), by adding reference to item 13 as follows: "If item 8a or 8b is checked, go to item 9 unless item 10, 11, 12, or 13 is applicable," and to correctly reference "item 15 or 16" rather than "item 14 or 15";
18. Revised form MC-012, item 1f to correct a Code of Civil Procedure reference from "708.010" to "708.110" and to make minor formatting changes;
19. Revised form MC-350, item 19b(8) to correct a reference from "18b(8)" to "19b(8)"; and
20. Revised forms SC-100, SC-104B, SC-120, and SC-133 to update reference to forms that were repealed and adopted effective July 1, 2010, and to make minor formatting corrections.

Item B **Collaborative Justice Project: Substance Abuse Focus Grant Funding Allocation Recommendations for Fiscal Year 2010–2011**

The Collaborative Justice Courts Advisory Committee recommended funding allocations for Collaborative Justice Project Substance Abuse Focus Grants through the California Collaborative and Drug Court Projects as referenced in the Budget Act of 2010 (Stats. 2010, ch. 712, § 45.55.020, item 0250-101-0001). Grant funding levels are determined annually based on a distribution method approved by the Judicial Council in 2005. This report outlined recommendations regarding funding distribution

for 50 applicant courts for fiscal year 2010–2011 effective upon the passage of the State Budget. These grants will be used by the courts to expand or enhance collaborative justice programs throughout the state.

Council action
The Judicial Council, subject to passage of the State Budget, approved the committee's recommended allocations of fiscal year 2010–2011 Collaborative Justice Project Substance Abuse Focus Grant funds.

Item C **Commission for Impartial Courts: Recommendations 50, 54(b), 55, 56, 60, and 62**

The Implementation Committee of the Commission for Impartial Courts presented for Judicial Council action six recommendations from the commission's final report, all concerning the judicial appointment process. The recommendations were grouped according to the entity—the State Bar of California or the Executive Office Programs Division of the AOC—to which the committee believed they should be referred for further action. The recommendations in this report were consistent with the prioritization plan accepted by the council at its February 26, 2010, meeting.

Council action
The Judicial Council, effective October 29, 2010:

1. Endorsed recommendations 50, 54(b), 55, 56, and 60 and referred those recommendations to the State Bar for consideration, as follows:
   - CIC Recommendation 50: In order to increase trust and confidence in the judicial selection process, the background and diversity of the commission members should be given more publicity, including by placing photographs of the members on the State Bar's Judicial Nominees Evaluation (JNE) website and making that site more accessible on the State Bar's home page.
   - CIC Recommendation 54(b): The following websites should explain the judicial appointment process and link to each other: the State Bar's JNE website and the Governor's Judicial Application website, both of which should be more user-friendly, contain appropriate information about JNE procedures and the rating system, and include videos explaining the judicial appointment process.
   - CIC Recommendation 55: Law schools should be encouraged to provide information about the judicial appointment process to law students by, for example, encouraging qualified JNE members, both past and present, to give presentations at law schools.
   - CIC Recommendation 56: To increase public knowledge of the judicial selection process, JNE should be encouraged to have its members speak to local and specialty bar associations, service organizations, and other civic groups.

- CIC Recommendation 60: JNE should gather information regarding judicial applicants' exposure to and experience with diverse populations and issues related to those populations and should then communicate this information to the Governor.

2. Endorsed recommendation 62 and directed the Executive Office Programs Division of the AOC to take action on it as follows:
   - CIC Recommendation 62: The judicial branch's public outreach programs should encourage qualified members of the bar to consider applying for judicial office.

Item D **Conflict of Interest Code for the Administrative Office of the Courts**

Since the Conflict of Interest Code of the (AOC) was last amended (April 2010), the AOC has determined that several additional classifications should be included in the Conflict of Interest Code as designated positions to bring it up to date. Staff has also identified the types of financial interests that employees in these classifications should be required to disclose. In addition, the AOC proposed modifying the code's policy for disclosure of financial interests by special consultants. In accordance with Government Code sections 87303 and 87306, the Judicial Council must review proposed amendments to the code and approve the code as amended or direct that it be further revised and resubmitted for approval.

Council action
The Judicial Council, effective October 29, 2010, approved amendments to the AOC Conflict of Interest Code, that:

1. Added several classifications that staff have determined should file Statements of Economic Interests, along with their required categories of disclosure; and
2. Modified the disclosure policy for the Special Consultant classification.

Item E **Traffic: 2010 Uniform Bail and Penalty Schedules**

The Traffic Advisory Committee proposed revisions to the Uniform Bail and Penalty Schedules (schedules) to become effective November 1, 2010. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Under rule 4.102 of the California Rules of Court, trial courts, in performing their duties under Penal Code section 1269b, must revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions was established by the schedules approved by the Judicial Council. The proposed revisions brought the schedules into conformance with

recent legislation that increases the court security fee from $30 per conviction to $40 per conviction in criminal cases, including traffic infraction cases.

Council action
The Judicial Council, effective November 1, 2010, adopted the revised 2010 Uniform Bail and Penalty Schedules.

DISCUSSION AGENDA (Items F–K)

Item F Adoption and Permanency Month: Judicial Council Resolution

Ms. Diane Nunn and Mr. Corby Sturges, Center for Families, Children & the Courts, presented this item.

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council adopt the resolution attached to its report, effective October 29, 2010, proclaiming November to be Court Adoption and Permanency Month. The council can once again actively recognize National Adoption Month in California's courts by issuing this proclamation to encourage courts and local communities to take special measures to address the issues of adoption and permanency in their counties. Annual recognition of November as Court Adoption and Permanency Month reinforces the Judicial Council's commitment to finding permanent homes for children.

Council action
The Judicial Council adopted the resolution, effective October 29, 2010, proclaiming November 2010 to be Court Adoption and Permanency Month.

Item G Judicial Council Resolution: Commendation of Leadership and Achievements of Ms. Judy Johnson, Executive Director, State Bar of California

Mr. William C. Vickrey, Administrative Director of the Courts, presented this item.

The AOC recommended that the Judicial Council commend the leadership and achievements of Ms. Judy Johnson and extend to her the appreciation of the judicial branch of government for her leadership of the State Bar of California and her contributions to strengthening public trust and confidence in the justice system.

Council action
The Judicial Council approved the attached resolution. The resolution commends the leadership and achievements of Ms. Judy Johnson and expresses the appreciation of the judicial branch of government for her leadership and contributions to California's legal system over the past 23 years, including her service as executive director of the State Bar of California for the past 10 years.

Item H **Trial Court Budget: Allocations of Trial Court Funding for FY 2010–2011, and Various Funding Policies and Other Adjustments**

Mr. Stephen Nash and Mr. Steven Chang, Finance Division, presented this item with the participation of Ms. Vicki Muzny, Finance Division.

The AOC and the Trial Court Budget Working Group (TCBWG) recommended (except for recommendation 13, which is a technical item that the TCBWG did not review) the allocation of funding to the trial courts for fiscal year (FY) 2010–2011. These recommendations were provided in three sections: I. Adjustments for Prior Year Expenditures; II. Budget Allocations for FY 2010–2011; and III. Other Related Information and Recommendations. Due to the delay in the enactment of the State Budget, it was recommended that the council take action at this meeting to enable courts to implement local funding and expenditure plans.

Council action
The Judicial Council took the following actions, effective immediately:

I. Adjustments for Prior Year Expenditures

1. Revise the preliminary allocation of $5.000 million in the Voluntary Salary Waiver Program (VSWP) by adjusting it to $4.599 million, the actual level of program savings, and reallocate the funding based on the results of each court's actual program proceeds, based on the following thresholds:
   - Threshold 1: Courts in which judges' VSWP savings exceed 100 percent of the assumed level of savings ($5.000 million statewide) would be allocated 155 percent of their assumed savings.
   - Threshold 2: Courts in which judges' VSWP savings are between 50 and 100 percent of the assumed level of savings would be allocated 75 percent of their assumed savings.
   - Threshold 3: Courts in which judges' VSWP savings are between 10 and 50 percent of the assumed level of savings would be allocated 30 percent of their assumed savings.
   - Threshold 4: Courts in which judges' VSWP savings are below 10 percent but above zero percent of the assumed level of savings would be allocated 5 percent of their assumed savings.
   - Threshold 5: Courts in which judges' VSWP savings are zero percent of the assumed level of savings would be allocated zero percent of the overall savings in the program.
2. Approve a policy that $4.839 million in savings associated with the court interpreters' reimbursement program in FY 2009–2010, and any future program savings, be set aside and made available to address future reimbursable court interpreter costs, including base funding.
3. Approve adjusting the cost of administrative fees related to the Judicial Branch Workers' Compensation Program (JBWCP) so that all

administrative costs are distributed across the entire program proportionately.

4. Approve use of credits received from excess premium and third party administrator charges for fiscal years 2008–2009 and 2009–2010, a combined amount of $285,400, to partially offset combined workers' compensation program charges of $513,098, with the remaining deficit of $227,698 to be absorbed by the Judicial Branch Workers' Compensation Fund.

II. Budget Allocations for FY 2010–2011

5. Approve the use of $6.000 million, on a one-time basis in FY 2010–2011, from Trial Court Trust Fund (TCTF) reserves to offset the impact of additional reductions to trial court funding and to partially offset the impact of this year's late budget implementation upon revenues from new fees and fee increases, as follows:
   - $36.000 million from TCTF reserves;
   - $31.600 million from special funds (TCTF, Trial Court Improvement Fund, or Judicial Administration Efficiency and Modernization Fund); and
   - $98.400 million from facility program funds – $25.000 million from the State Court Facilities Construction Fund and $73.400 million from the Immediate and Critical Needs Account.
6. Approve the following allocation on a pro rata basis:
   - $96.313 million in one-time funding as an offset to court funding reductions; and
   - $17.981 million in ongoing funding as an offset to court funding reductions.
7. Allocate $1.375 million from the TCTF to offset the overall security funding shortfall.
8. Adjust individual court allocations for security in the amount of $14.798 million to reflect anticipated cost adjustments for FY 2010–2011.
9. Allocate a security funding shortfall of $12.726 million to all courts based on each court's share of the total statewide security funding, replacing the $10.257 million reduction from FY 2009–2010.
10. Approve the distribution of security funding to courts once a court has provided documentation to AOC staff verifying that security compensation and retirement cost increases are confirmed and ratified. As in previous years, some of the projected court security cost increases were based on projected cost changes for security employee compensation and retirement that had not been confirmed or ratified, and thus might be subject to adjustment.
11. Approve 2 one-time transfers to the Court-Appointed Dependency Counsel Program as follows: (a) $7.075 in FY 2010–2011; and (b) $3.538 million in FY 2011–2012.

III. Other Related Information and Recommendations

12. Approve revisions to the Trial Court Fund Balance Policy, which incorporated revised fund balance classifications consistent with the Governmental Accounting Standards Board's Statement No. 54, for implementation commencing in FY 2010–2011.
13. Delegate authority to the Administrative Director of the Courts to make minor or technical one-time and ongoing allocations and adjustments to allocations of funds to courts, as necessary, to address unanticipated needs and contingencies and to reflect updated cost estimates, to the extent that sufficient funding is available. Adjustments made under this provision will be reported to the council after the end of the fiscal year.

Item I **Judicial Branch Administration: Status Report of the Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch**

Hon. Tani Cantil-Sakauye, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, Ms. Marcia Carlton, Finance Division, and Mr. Kenneth Couch, Human Resources Division, presented this item.

On August 31, 2010, the new Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch met to review and discuss potential fiscal year 2010–2011 compensation issues related to AOC employees, fiscal year 2011–2012 AOC budget change proposal concepts, and audit reports. This report provided information on the advisory committee's review of fiscal year 2011–2012 AOC budget change proposal concepts and AOC employee compensation issues for fiscal year 2010–2011, including a recommendation that the Chief Justice approve a 3.5 percent merit salary adjustment for all eligible AOC employees, effective July 1, 2010, to be implemented upon enactment of the fiscal year 2010–2011 state budget. The advisory committee's review of audit reports was addressed in a separate report.

Council action
The Judicial Council took no action on this item.

Item J **Judicial Branch Administration: Superior Court of Marin County Audit Report for Judicial Council Acceptance**

Hon. Tani Cantil-Sakauye, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch, and Mr. John Judnick, Finance Division, presented this item.

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E) recommended, after consultation with the AOC, that the Judicial

Council accept the audit report concerning the Superior Court of California, County of Marin, entitled *Superior Court of California, County of Marin, Investigation Report: Destruction of Family Court Mediator Working Files*. This action complies with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Council action

The Judicial Council, effective October 29, 2010, voted to accept the audit report dated August 2010 concerning Superior Court of California, County of Marin, *Investigation Report: Destruction of Family Court Mediator Working Files*. This acceptance will result in its placement on the California Courts public website.

The council, further, referred to its Family and Juvenile Law Advisory Committee to review the policy considerations related to the retention and destruction of court employed mediators' working files and to return to the council with recommendations, if any, on this matter.

Item K Court Facilities: Modifications Budget and Prioritized List for Fiscal Year 2010–2011

Hon. David Edwin Power, Chair, Trial Court Facilities Modification Working Group, Hon. William F. Highberger, Trial Court Facilities Modification Working Group, Mr. Lee Willoughby, Office of Court Construction and Management, and Mr. Kenneth Kachold, Office of Court Construction and Management, presented this item.

The Trial Court Facility Modification Working Group and the AOC Office of Court Construction and Management recommended a budget of $50 million for statewide court facility modifications and planning in fiscal year 2010–2011. Also recommended was a prioritized list of facility modifications ranked according to the policy prescribed by the Judicial Council. This budget amount reflects the current legislatively authorized funds for court facility modifications, and these rankings prioritize hundreds of facility modifications according to their relative criticality and necessity.

Council action

1. The Judicial Council, approved a budget of $50 million, allocated as shown in the following table, for statewide court facility modifications and planning in FY 2010–2011.

Category	Amount	Percentage of Budget (%)
Statewide Facility	$3,500,000	7

Modification Planning		
Priority 1	5,000,000	10
Planned Priorities 2–6	0	0
Unforeseen or Out-of-Cycle Priorities 2–6	41,500,000	83
Total	$50,000,000	100

2. The council also approved the prioritized list of facility modifications, which is ranked according to the policy prescribed by the Judicial Council. According to this policy, the working group may make adjustments to the prioritization of planned priorities 2 through 6 and reallocate funds among the four budget categories.

Information Only Items

Trial Court Quarterly Investment Report for the Period Ending June 30, 2010
Trial court quarterly investment reports provide financial results for the funds invested by the AOC on behalf of the trial courts as part of the judicial branch treasury program.

The Need for New Judgeships in the Superior Courts: 2010 Update of the Judicial Needs Assessment
The Need for New Judgeships in the Superior Courts shows that trial courts currently need 2,352 positions – an increase of four Full-Time Equivalents (FTE) over 2008. The number of authorized judicial positions is currently 2,022 making the net need for new judgeships 330 or, expressed as a percentage of the total need, a 14 percent shortfall.

Written Comments Received

There were no Circulating Orders or Appointment Orders since the last business meeting.

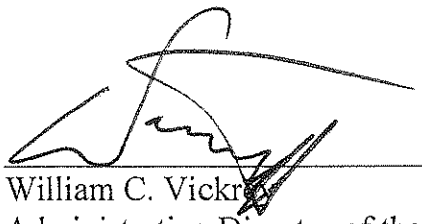
Chief Justice George closed the meeting with a moment of silence to remember judicial colleagues who are recently deceased and to honor them for their service to their courts and to the cause of justice. They are:

- Judge Horace Cecchettini (Ret.), Superior Court of Sacramento County
- Judge Joseph Desmond (Ret.), Superior Court of San Francisco County
- Judge Stanley Evans (Ret.), Superior Court of Santa Clara County
- Judge Alan Kalkin (Ret.), Superior Court of Los Angeles County
- Judge William Lally (Ret.), Superior Court of Sacramento County
- Judge Janice McIntyre (Ret.) Superior Court of Riverside County

- Judge Richard B. Wolfe, Superior Court of Los Angeles County
- Judge Michael McInnis (Ret.), Superior Court of Solano County
- Judge Victor E. Miceli (Ret.), Superior Court of Riverside County
- Judge Howard Turrentine (Ret.), Superior Court of San Diego County

There being no further public business, the meeting was adjourned at 1:25 p.m.

Respectfully submitted,



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