

JUDICIAL COUNCIL MEETING
Administrative Office of the Courts
San Francisco, California
October 26, 2001
8:30 a.m.–12:40 p.m.

AGENDA

8:30–9:00 a.m. **Public Comment Related to Trial Court Budget Issues**
 [Subject to requests]

9:00–9:05 a.m. **Approval of Minutes of August 25, 2001**
 [Minutes Tab]

9:05–9:15 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
 Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
 Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
 Hon. Ronald B. Robie, Chair
 [Council Committee Reports Tab]

9:15 –9:20 a.m. **Judicial Council Court Visit Report**
(see green court visit memo behind agenda)
 Hon. William C. Harrison, Team Leader

Consent Agenda (Tabs A1–33, B)

(If you wish to request that any item be moved from the Consent Agenda to the Discussion Agenda, please notify Dennis Blanchard at (415) 865–7455 at least 48 hours before the meeting.)

ITEM A RULES, FORMS, AND STANDARDS

General rules
Item A1

Defining the Words of Authority in the California Rules of Court (amend Cal. Rules of Court, Introductory Statement)
(Action Required)

Staff: Ms. Suzanne Murphy

The Rules and Projects Committee recommends updating the introductory statement to the California Rules of Court to reflect the council's recent policy decision regarding the use of "must" in place of "shall" in mandatory rules provisions, and revisions to rule 981.1 regarding preemption of local rules of court.

Item A2

New and Amended Rules on Rulemaking (amend Cal. Rules of Court, rule 6.20; adopt rules 6.21 and 6.22) (Action Required)

Staff: Ms. Melissa Johnson

The Rules and Projects Committee recommends revising rules of court to clarify how rule proposals are submitted and recommendations made to the council for rule and form changes, and to allow for exceptions to the normal process under compelling circumstances.

Appellate
Item A3

Appellate Advisory Committee: Membership Changes (amend Cal. Rules of Court, rule 6.40) (Action Required)

Staff: Ms. Suzanne Murphy

The Appellate Advisory Committee recommends revising the rule establishing the committee and enumerating its membership to create a position for the State Public Defender and to clarify that the committee member from the Attorney General's Office must be an appellate attorney.

Item A4

Interlocutory Appeals of Bifurcated Issues in Family Law Cases (amend Cal. Rules of Court, rule 1269.5) (Action Required)

Staff: Ms. Suzanne Murphy

The Appellate Advisory Committee recommends revising a rule to clarify that a party's failure to move for certification or for permission to appeal on a bifurcated issue does not preclude review of that issue after a final judgment.

Criminal
Item A5

Appellate Rules: Preparation of Pretrial Records in Death Penalty Cases (amend Cal. Rules of Court, rule 39.52) (Action Required)

Staff: Mr. Joshua Weinstein

The Criminal Law Advisory Committee recommends revising rule 39.52, which provides for uniform record preparation procedures in death penalty cases prior to trial to implement revisions made necessary by unification of the trial courts.

Item A6

Civil Forfeiture in Drug Cases: Form for Opposing Forfeiture (revise form MC-200, *Claim Opposing Forfeiture*) (Action Required)

Staff: Mr. Joshua Weinstein

The Criminal Law Advisory Committee recommends revising the form used for opposing forfeiture in drug cases to provide a place to specify the value of the property seized, enabling the clerks to determine whether to charge a filing fee.

Item A7

Notice of Appeal Form in Felony Cases (amend form CR-120, *Notice of Appeal—Felony (Defendant)*) (Action Required)

Staff: Mr. Joshua Weinstein

The Criminal Law Advisory Committee recommends revising a form to track the statutory requirements for obtaining a certificate of probable cause for appeal following a guilty plea or an admission of a probation violation.

Family and Juvenile
Item A8

Family Law: Forms to Establish Parental Relationship and Child Support in Title IV-D Cases (revoke forms 1298.1, 1298.02, 1298.08, 1298.10, 1298.11, and 1298.12) (Action Required)

Staff: Mr. Michael Wright

The Family and Juvenile Law Advisory Committee recommends revoking forms that have been superseded by more recently adopted forms that serve the same functions.

Item A9

General Family Law Forms and New Change-of-Address Form (revise forms 1296.70, 1296.75, and 1285, 1285.10, and 1285.60; approve forms and MC-040) (Action Required)

Staff: Ms. Bonnie Hough

The Family and Juvenile Law Advisory Committee recommends approving and revising forms to correct a technical error, clarify procedures, and improve proceedings involving families.

Item A10

Family Law: Renumbering All Forms (renumber forms 1281–1299, forms commencing with DV and OMB, and form MC–150) (Action Required)

Staff: Ms. Bonnie Hough

The Family and Juvenile Law Advisory Committee recommends adopting a new numbering system for all family law forms including domestic violence, governmental support, uniform parentage, and required federal forms in order to increase the ability to locate needed forms. The committee also recommends revising forms to make clerical and technical changes to conform to statutory amendments and to increase uniformity in the forms.

Item A11

Governmental and Family Law Forms for Initiating and Processing Child Support Cases (revise forms 1298.09, 1299.01, and 1299.04; approve forms 1285.66 and 1296.32; and adopt form 1299.02) (Action Required)

Staff: Mr. Michael Wright

The Family and Juvenile Law Advisory Committee recommends adopting and revising forms to provide an efficient format for drafting Title IV-D pleadings and orders, expedite entry of orders after hearing, and create a specialized notice and acknowledgment of receipt for governmental forms.

Item A12 **Domestic Violence Training Standards for Court-Appointed Child Custody Investigators and Evaluators (amend Cal. Rules of Court, rule 1257.7) (Action Required)**

Staff: Ms. Julia Weber

The Family and Juvenile Law Advisory Committee recommends revising the rule specifying domestic violence training standards to provide greater opportunities for meeting training standards and necessitating that the council approve of training that fulfills requirements.

Item A13 **Court-Connected Child Custody Mediation: Written Notice of Limitations on Confidentiality (amend Cal. Rules of Court, rule 1257.1) (Action Required)**

Staff: Ms. Julia Weber

The Family and Juvenile Law Advisory Committee recommends revising the rule providing standards for court-connected mediators to provide written notice of the limitations on confidentiality to the litigants they serve.

Item A14 **Family Court Services: Domestic Violence Protocol (adopt Cal. Rules of Court, rule 1257.2) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends adopting a rule that provides a protocol for family court services programs' handling of domestic violence cases as required by statute.

Staff: Ms. Julia Weber

Item A15 **Juvenile Joinder (adopt Cal. Rules of Court, rule 1434; adopt form JV-540) (Action Required)**

Staff: Ms. Beth Kassiola

The Family and Juvenile Law Advisory Committee recommends adopting a rule and form to provide protocols and notice for joinder of government agencies and private service providers in juvenile court proceedings where the agency or service provider is alleged to have failed to meet a legal obligation to provide services to a child under the juvenile court's jurisdiction.

Item A16

Juvenile Dependency: Health and Education Information (amend Cal. Rules of Court, rule 1441) (Action Required)

Staff: Mr. Christopher Wu

The Family and Juvenile Law Advisory Committee recommends amending the rule for obtaining health and education information from the child's parents or guardians on a juvenile dependency petition to specify when and how the form is to be completed and distributed.

Item A17

Juvenile Dependency: *Modification Petition Attachment* (revise form JV-180) (Action Required)

Staff: Ms. Audrey Evje

The Family and Juvenile Law Advisory Committee recommends revising a form to clarify the juvenile court's orders and findings.

Item A18

Juvenile Law: Caregiver Information Form (approve form JV-290) (Action Required)

Staff: Ms. Regina Deihl

The Family and Juvenile Law Advisory Committee recommends approving a form to provide a uniform way for foster parents and relative caregivers to submit information in advance of juvenile court hearings.

Traffic

Item A19

Traffic: Mandatory Statewide Form, *Continuation of Citation* (adopt form TR-108) (Action Required)

Staff: Mr. Courtney Tucker

The Traffic Advisory Committee recommends adopting a form that could be used with either a notice to appear or a notice to correct violation. Due to conflicting procedures and instructions, the current continuation of citation form cannot be used with a notice to correct violation form.

Probate
Item A20

Probate Forms: Technical Revisions (revise forms GC-310, GC-340, GC-348, DE-147, DE-350, GC-100, EA-120, and EA-125) and Approval of Instructions on Petitions for Elder Abuse Prevention (approve form EA-150) (Action Required)

Staff: Mr. Patrick O'Donnell

The Probate and Mental Health Advisory Committee recommends revising forms to conform to recent legislation and to make technical changes or corrections.

Item A21

Probate Rules on Trusts, Bonds, and Screening Forms (adopt Cal. Rules of Court, rule 7.902; and amend rules 7.201, 7.1001, and 7.1050), and Amendment of Probate Rules to Conform to the Policy Favoring Plain Language (amend Cal. Rules of Court, rules 7.2, 7.101, 7.102, 7.150, 7.202, 7.203, 7.204, 7.205, 7.206, 7.250, 7.301, 7.401, 7.402, 7.403, 7.451, 7.452, 7.453, 7.501, 7.650, 7.901, 7.1002, and 7.1051) (Action Required)

Staff: Mr. Patrick O'Donnell

The Probate and Mental Health Advisory Committee recommends adopting a statewide rule requiring that petitions and accounts involving trusts state the names and addresses of all vested or contingent beneficiaries. The committee also recommends revising rules to be consistent with statute and provide for certain exceptions.

Item A22

Minors' Compromises and Blocked Accounts: New Rules and Mandatory Forms (adopt Cal. Rules of Court, rules 378 and 7.950–7.954; repeal rule 241, adopt forms MC-350, MC-351, MC-355, MC-356, MC-357, and MC-358) (Action Required)

Staff: Mr. Patrick O'Donnell

The Probate and Mental Health Advisory Committee recommends adopting rules and statewide forms to give guidance to parties seeking to compromise cases involving claims of minors and incompetent persons and appropriate information to courts.

Civil and Small Claims

Item A23

Application and Order for Reissuance of Order to Show Cause and Temporary Restraining Order (approve form 982(a)(30)) (Action Required)

Staff: Mr. Patrick O'Donnell

The Civil and Small Claims Advisory Committee recommends approving a form for use by litigants applying for the reissuance of temporary restraining orders.

Item A24

Civil Procedure: Amendments to and Amended Pleadings (amend Cal. Rules of Court, rule 327) (Action Required)

Staff: Mr. Patrick O'Donnell

The Civil and Small Claims Advisory Committee recommends revising rule 327 to clarify that late amendments, which may result in trial postponement, can be made only on a proper showing of the reasons why the amendments could not have been made earlier.

Item A25

Memorandum of Costs on Appeal (adopt form MC-013) (Action Required)

Staff: Mr. Patrick O'Donnell

The Civil and Small Claims Advisory Committee recommends adopting a form for parties to use in applying for costs on appeal.

Item A26

Summary Judgment (amend Cal. Rules of Court, rules 342, 343, and 345) (Action Required)

Staff: Mr. Patrick O'Donnell

The Civil and Small Claims Advisory Committee recommends revising rules on summary judgment to require parties, upon request, to provide electronic versions of its statements.

Item A27 ***Form Interrogatories—Economic Litigation* (revise form FI-129) (Action Required)**

Staff: Ms. Cara Vonk

The Civil and Small Claims Advisory Committee recommends revising a form to delete references to municipal and superior courts.

Item A28 **Civil Judgment Form (approve form JUD-100) (Action Required)**

Staff: Ms. Cara Vonk

The Civil and Small Claims Advisory Committee recommends approving a new optional form to be used in simple civil cases for either a clerk’s judgment or a court judgment (1) after default, (2) on stipulation of the parties, or (3) after a court trial.

Item A29 **Civil Case Cover Sheet (amend Cal Rules of Court, rule 982.2) (Action Required)**

Staff: Mr. Patrick O’Donnell

The Civil and Small Claims Advisory Committee recommends revising rule 982.2 to specify that, if a party fails to file a *Civil Case Cover Sheet* with its first papers, the clerk must file the papers and allow the party 10 days to file the cover sheet.

Item A30 **Civil Rules: Technical Amendments (amend Cal. Rules of Court, rules 200, 201, 301, and 363) (Action Required)**

Staff: Mr. Patrick O’Donnell

The Civil and Small Claims Advisory Committee recommends amending several civil rules to eliminate obsolete references to “municipal courts” and to conform to recent statutory changes.

Item A31

Enforcement of Judgments (revise and renumber form 982(a)(1); and revise forms EJ-150, and EJ-190) (Action Required)

Staff: Mr. Patrick O'Donnell

The Civil and Small Claims Advisory Committee recommends revising forms to conform to recent statutory changes and to make technical changes recommended by commentators.

Item A32

Preemption of Local Rules: Retain Exception for Eminent Domain Law (amend Cal. Rules of Court, rule 981.1) (Action Required)

Staff: Mr. Patrick O'Donnell

The Civil and Small Claims Advisory Committee recommends revising the rule that preempts local court rules in most civil pretrial proceedings to provide an exception for local rules for eminent domain law.

Item A33

Receivership Rules and Forms (amend and renumber Cal. Rules of Court, rules 349, 351, and 353 of the; adopt rules 354 and 1903–1908; and approve forms RC-200, RC-210, RC-300, and RC-310) (Action Required)

Staff: Mr. Patrick O'Donnell

The Civil and Small Claims Advisory Committee recommends adopting and revising rules and approving forms to provide improved procedures for the appointment of receivers and for the conduct of receiverships, and provide standard form orders for optional use in appointing and confirming the appointment of, receivers in rents, issues, and profits receiverships.

Item B

California Drug Court Projects Under 2001 Budget Act (Action Required)

Staff: Ms. Nancy Taylor

The Collaborative Justice Courts Advisory Committee recommends that the council approve using 2001 Budget Act funds for the funding of California Drug Court Projects.

Discussion Agenda (Tabs C, D1–9, E)

ITEM C
9:20–9:30 a.m.

Achieving Adoption and Permanence for Children in California: A Resolution for the Courts (Action Required)

Presentation (5 minutes)

Speakers: Hon. Brenda Harbin-Forte
Ms. Diane Nunn
Ms. Audrey Evje

Discussion/Council Action (5 minutes)

The Family and Juvenile Law Advisory Committee recommends adopting a resolution proclaiming November 2001 to be Court Adoption and Permanency Month.

ITEM D

RULES, FORMS, AND STANDARDS

General Rules

Item D1
9:30–9:55 a.m.

Court Clerk’s Office: Signage (approve new form MC-800) (Action Required)

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve the form, *Court Clerk’s Signage*, to inform court users about the services and assistance that court clerks can provide.

Presentation (10 minutes)

Speakers: Ms. Diane Nunn
Ms. Bonnie Hough

Discussion/Council Action (15 minutes)

Item D2
9:55–10:10 a.m.

Revision of Rule 6.50 on the Governing Committee of the Center for Judicial Education and Research (amend Cal. Rules of Court, rule 6.50) (No Action Required)

The Executive and Planning Committee recommends that the council approve amending a rule on the Governing Committee of the Center for Judicial Education and Research to make it consistent with the rules for other advisory committees in all significant provisions.

Presentation (5 minutes)

Speakers: Ms. Karen Thorson
Mr. James Vesper

Discussion/Council Action (10 minutes)

Family and Juvenile

Item D3

10:10–10:25 a.m.

Family Law Information Centers and Family Law Facilitator Offices: Guidelines for Operation (adopt Division V of the Appendix to the Cal. Rules of Court) (Action Required)

The Family and Juvenile Law Advisory Committee recommends adopting guidelines on operating family law information centers and facilitator offices to help court clerks provide improved and increased customer service, particularly for self-represented litigants.

Presentation (5 minutes)

Speaker: Ms. Diane Nunn
Ms. Bonnie Hough

Discussion/Council Action (10 minutes)

Criminal

Item D4

10:25–10:35 a.m.

Rules Governing Habeas Corpus Proceedings in the Superior Court (amend and renumber Cal. Rules of Court, rule 4.500; adopt rules 4.550 and 4.552; and amend rule 201) (Action Required)

The Criminal Law Advisory Committee recommends adopting, revising, and renumbering rules to outline superior court habeas corpus proceedings in a logical and understandable format.

Presentation (5 minutes)

Speaker: Mr. Joshua Weinstein

Discussion/Council Action (5 minutes)

Item D5
10:35–10:45 a.m.

Judicial Determination of Factual Innocence of Identity Theft Victim (adopt rule 4.601 and form CR-150, *Certificate of Identity Theft: Judicial Determination of Factual Innocence*) (Action Required)

The Criminal Law Advisory Committee recommends adopting a form to comply with statutory changes.

Presentation (5 minutes)

Speaker: Mr. Joshua Weinstein

Discussion/Council Action (5 minutes)

10:45–11:00 a.m.

Break

Court Technology

Item D6
11:00–11:20 a.m.

Public Access to Electronic Trial Court Records (adopt Cal. Rules of Court, rules 2070–2077; repeal Cal. Standards Jud. Admin. §38) (Action Required)

The Court Technology Advisory Committee recommends adopting rules to set forth statewide policies on vendor contracts, privacy, and access to public records.

Presentation (10 minutes)

Speakers: Hon. Judith Ford
Hon. Terence Bruiniers

Discussion/Council Action (10 minutes)

Civil and Small Claims

Item D7
11:20–11:35 a.m.

Uniform Statewide Rules for Class Actions (adopt Cal. Rules of Court, rules 1850–1859 and 1861; amend and renumber rule 365) (Action Required)

The Civil and Small Claims Advisory Committee recommends adopting uniform statewide rules for class actions and a temporary exemption for local rules relating to class actions, which will expire on January 1, 2002.

Presentation (5 minutes)

Speakers: Hon. William Rylaarsdam
Ms. Susan Goins

Discussion/Council Action (10 minutes)

Judicial Administration

Item D8

11:35–11:50 p.m.

Making Judicial Assignments: Factors to Consider (amend Cal. Rules of Court, rule 6.603) (Action Required)

The Trial Court Presiding Judges Advisory Committee recommends adopting a rule to add factors that the presiding judge must take into account in making judicial assignments, to specify that assignments must not be based solely or primarily on seniority, to clarify that the authority to make judicial assignments rests with the presiding judge, and to specify that the presiding judge of the court must designate a presiding judge of the juvenile division.

Presentation (5 minutes)

Speakers: Hon. Wayne L. Peterson
Ms. Diane Eisenberg

Discussion/Council Action (10 minutes)

Item D9

11:50–12:10 p.m.

Judicial Branch Budget Process (repeal and adopt Cal. Rules of Court, rule 6.45; and amend rules 6.11, 6.34, 6.601, 6.700, and 6.701) (Action Required)

AOC staff recommends adopting a rule to establish the Judicial Branch Budget Advisory Committee and changing rules concerning trial court budgets and allocations.

Presentation (5 minutes)

Speakers: Ms. Christine Hansen
Mr. Michael Fischer

Discussion/Council Action (15 minutes)

ITEM E

12:10–12:40 p.m.

Statewide Assessment of Judicial Needs (Action Required)

AOC staff recommends adopting a prioritized list of new judgeships for fiscal year 2002–2003, which is based on the judicial workload standards approved by the council in August, and ranked using statistical methods to ensure that additional judicial officers will be allocated to those courts with the greatest need.

Presentation (15 minutes)

Speakers: Mr. Fred Miller
Mr. Chris Belloli

Discussion/Council Action (15 minutes)

Circulating Orders Approved Since Last Business Meeting
[Circulating Order Tab]

Judicial Council Appointment Orders Since Last Business Meeting
[Appointment Order Tab]