

Staff: Ms. Heather Anderson, Office of the General Counsel

To avoid having to update multiple rules each time a new statute requiring service on a public official is adopted, the Appellate Advisory Committee proposes deleting provisions in several rules that refer to specific statutory service requirements and adopting new rule 44.5, which would specify the procedures that generally must be followed when service on the Attorney General or other public officer is required by a statute or by rule. To alert both appellants and appellate court clerks if special service requirements apply in a case, the committee also recommends that Judicial Council form APP-001, the *Civil Case Information Statement*, be revised to include check boxes for the statutory provisions that require service of briefs or petitions on the Attorney General or other public officer.

Item A2 **Appellate Procedure: Permit Parties to File Replies to Answers to Petitions for Review Even If Those Answers Do Not Raise New Issues (amend Cal. Rules of Court, rules 28(a) and 28.1(d)) (Action Required)**

Staff: Ms. Heather Anderson, Office of the General Counsel

The Appellate Advisory Committee recommends that rules 28 and 28.1 of the California Rules of Court be amended to reflect the California Supreme Court's current practice of allowing replies to answers to petitions for review to be filed regardless of whether the answers raise new issues.

Item A3 **Appellate Procedure: Making Filing of an Answer to a Petition for Rehearing in the Court of Appeal Discretionary With the Court (amend Cal. Rules of Court, rules 25(b) and 29.5) (Action Required)**

Staff: Ms. Heather Anderson, Office of the General Counsel

The Appellate Advisory Committee proposes that rule 25(b) of the California Rules of Court be amended to eliminate the automatic right to file an answer to a petition for rehearing in the Court of Appeal and to provide that answers be filed only when the court requests them. This amendment is intended to help litigants focus their resources on filing answers in those cases in which the Court of Appeal concludes that such an answer would be helpful.

Item A4 **Appellate Procedure: Require Consecutive Pagination of Supporting Documents to Habeas Corpus Petitions Filed by Attorneys (amend Cal. Rules of Court, rules 56(i) and 56.5) (Action Required)**

Staff: Ms. Heather Anderson, Office of the General Counsel

The Appellate Advisory Committee proposes that rules 56 and 56.5 be amended to require that when a petition for a writ of habeas corpus is filed by an attorney, supporting documents accompanying that petition must be consecutively paginated.

Item A5 **Appellate Procedure: Proposed New Appellate Forms (approve forms APP-001, APP-002, APP-003, APP-005, APP-006, and APP-007, and renumber current form APP-001) (Action Required)**

Staff: Ms. Heather Anderson, Office of the General Counsel

The Appellate Advisory Committee proposes a Judicial Council–approved information sheet about the civil appellate process and new, optional forms that litigants can use to complete several of the common steps in appeals of unlimited civil cases. These forms are intended to help unrepresented litigants, as well as attorneys, unfamiliar with appellate procedure to understand the basic procedures followed in appealing an unlimited civil case and in preparing and filing appropriate papers in these appeals.

Item A6 **Appellate Procedure: Clarify Time Frame for Ordering Review on Supreme Court’s Own Motion (amend Cal. Rules of Court, rule 28.2(d)) (Action Required)**

Staff: Ms. Heather Anderson, Office of the General Counsel

The Appellate Advisory Committee recommends that the Judicial Council amend rule 28.2(d) to clarify that when the Supreme Court decides to deny a petition for review but nevertheless to order review on its own motion, it may so order within the time period in which it has jurisdiction to grant the petition.

Item A7 **Appellate Procedure: Create New Petition for Review to Exhaust State Remedies (adopt Cal. Rules of Court, rule 33.3 and amend rules 28.1 and 44) (Action Required)**

Staff: Ms. Heather Anderson, Office of the General Counsel

In response to proposals by practitioners representing indigent defendants in criminal appeals and at the request of the Supreme Court, the Appellate Advisory Committee is recommending adoption of new rule 33.3 giving criminal defendants, after a decision by the Court of Appeal, the option of filing an abbreviated petition for review in the Supreme Court for the sole purpose of exhausting state remedies before seeking federal habeas corpus review.

Civil and Small Claims

Item A8

Alternative Dispute Resolution: Rules Relating to the Judicial Arbitration Program (amend Cal. Rules of Court, rules 225, 1580.3, 1603–1605, 1606, and 1612–1618; renumber and amend rules 1600–1600.1, 1601, and 1607–1611; and repeal rules 1600.5, 1602, and 1605.5) (Action Required)

Staff: Ms. Heather Anderson, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends amending the rules relating to the judicial arbitration program to (1) eliminate outdated references and language; (2) reflect current case management practices; (3) reflect pending amendments to the judicial arbitration statutes that are likely to be adopted effective January 1, 2004; and (4) make the rules easier to understand. The committee also recommends: (1) amending rule 225 to incorporate language similar to that in existing rule 1618, making a party who fails to give notice of settlement at least two days before a scheduled alternative dispute resolution (ADR) hearing or session responsible for paying the compensation of the ADR neutral; and (2) amending rule 1580.3 to replace the arbitration administrative committee required in specified courts by existing rule 1603 with an alternative dispute resolution committee that has broader membership and responsibilities.

Item A9

Alternative Dispute Resolution: Forms Related to Attorney-Client Fee Arbitration and Contractual Arbitration (revise form ADR-103; revise and renumber form ADR-103A as form ADR-105; approve forms ADR-104 and ADR-106) (Action Required)

Staff: Mr. Alan Wiener, Office of the General Counsel
Southern Regional Office

To make it easier for litigants to request appropriate relief after attorney-client fee arbitrations and contractual arbitrations, the Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the two existing forms and approve two new forms, as follows: (1) revise form ADR-103 and retitle it *Petition to Confirm, Correct, or Vacate Attorney-Client Fee Arbitration Award*; (2) approve form ADR-104, *Request for Trial After Attorney-Client Fee Arbitration*; (3) revise and renumber form ADR-103A, *Information Regarding Rights After Attorney-Client Fee Arbitration*, as form ADR-105; and (4) approve form ADR-106, *Petition to Confirm, Correct, or Vacate Contractual Arbitration Award*.

Item A10 Sanctions for Violations of Rules of Court (amend Cal. Rules of Court, rule 227) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

Rule 227 provides sanctions for violations of the California Rules of Court. It is not clear whether the rule authorizes sanctions not just for violations of the rules in Title Two, but also for violations of all the rules relating to general civil cases and other specified types of civil cases in the rules of court. And it is not clear whether insurers and other individuals or entities whose consent is necessary for the disposition of a case are covered by the rule. The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend rule 227 to clarify its scope and to modify the definition of "person" so that it is clear that the rule applies to insurers and others whose consent is necessary for the disposition of a case.

Item A11 Memoranda of Points and Authorities; and Motions, Application, and Petitions Not Requiring Memoranda (amend Cal. Rules of Court, rule 313; adopt rule 314) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

Rule 313 on memoranda of points and authorities should be updated. Certain applications, motions, and petitions that are filed with the courts do not need memoranda in support. The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) amend Cal. Rules of Court, rule 313 to improve its style and to refer to new rule 314; and (2) adopt rule 314 that states which applications, motions, and petitions in civil cases do not require a supporting memorandum.

Item A12 Receivership Rules (adopt Cal. Rules of Court, rule 1902.5 and amend rule 1908) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) adopt rule 1902.5 of the California Rules of Court to provide that an applicant for the appointment of a receiver must propose, and state the reasons for, the specific amount of the undertaking required by statute and (2) amend rule 1908 to add that when the receiver files a motion or a stipulation for final account and report, the motion or stipulation must include a request for discharge, a request for exoneration of the receiver's surety, and a request for instructions.

Item A13 Notice of Stay and Notice of Settlement (adopt Cal. Rules of Court, rule 224 and amend rule 225; adopt forms CM-180 and CM-200) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

Rule 225 of the California Rules of Court presently combines notice requirements regarding (1) notice of stays and (2) notice of settlements. This combination is confusing. The two distinct types of notice should be covered by separate rules. While there are some local court forms relating to notices of stays or settlements, no Judicial Council forms currently exist for these purposes.

The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) adopt rule 224 of the California Rules of Court on notice of stays, (2) amend rule 225 on notice of settlement to eliminate the portions on stays, (3) adopt *Notice of Stay of Proceedings* (form CM-180) to implement the notice of stay requirements of rule 224, and (4) adopt *Notice of Settlement* (form CM-200) to implement the notice of settlement requirements of amended rule 225.

Item A14 Proof of Service of Summons (revise, rename and renumber form 982(a)(23) as form POS-010; amend Cal. Rules of Court, rule 982.9) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

Proof of Service (Summons) (form 982(a)(23)) was last revised effective January 1, 1987. It does not conform to the contemporary format of Judicial Council forms. It could be improved in several respects and should be modified to reflect current legislation. Rule 982.9 of the California Rules of Court on typewritten proof of service forms was adopted effective January 1, 1985, to authorize the filing of proofs of service of summonses prepared by typewriter or word processor. It is outdated.

The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) renumber and revise *Proof of Service of Summons* (form POS-010 (formerly 982(a)(23))); and (2) amend California Rules of Court, rule 982.9 (Computer-generated forms for proofs of service of summons and complaint (formerly *Typewritten proof of service forms*)) to be consistent with the revised form, contemporary practice, and technology.

Item A15

Petition and Declaration Regarding Unresolved Claims and Deposit of Undistributed Surplus Proceeds of Trustee's Sale (review form MC-095)(Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

Petition and Declaration Regarding Unresolved Claims and Notice of Deposit of Undistributed Surplus Proceeds of Trustees Sale (form MC-095) was adopted in 2001 to implement Civil Code section 2924j(h). The accounting method on the form is somewhat confusing. As a result, the foreclosure costs recoverable under Civil Code section 2924(a)(1) may be incorrectly recovered twice under item 16. The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend form MC-095 to eliminate the possibility of an erroneous double deduction of recoverable expenses.

Item A16

Ex Parte Application for Extension of Time to Serve Pleading and Orders (approve form CM-020) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

The California Rules of Court, which prescribe the times by which pleadings must be served, allow parties to apply for an extension of time for the service of pleadings. (Cal. Rules of Court, rule 201.7)(e.) Some local court forms are available for litigants to use to request an extension of time, but there is no statewide Judicial Council form available for this purpose. The Civil and Small Claims Advisory Committee recommends that the Judicial Council approve *Ex Parte Application for Extension of Time to Serve Pleading and Order* (form CM-020).

Item A17

Civil Summons Forms: Miscellaneous Revisions and One New Form (revise forms 982(a)(9), 982(a)(10), and 982(a)(11) and renumber as SUM-100, SUM-120, and SUM-130; adopt new form SUM-140) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The current civil summons forms are out of date. The forms call for “typewritten” responses, but a recent rule change allows handwritten responses. The forms contain misleading information concerning who to contact for legal assistance in preparing a response, and they do not advise about the availability of court forms. The forms are not consistent in the information they provide. A new summons form is needed to provide notice of the 10-day response time in a storage lien enforcement action, to help the public and the courts process these actions.

Item A18

Small Claims Hearings: New Optional Request and Order to Postpone (approve forms SC-110 and SC-111) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

Judicial Council–sponsored legislation, effective January 1, 2003, requires that a good cause request to postpone a small claims hearing be filed at least 10 days before the hearing date, unless the requesting party gives the court good cause for filing late. (Code Civ. Proc., § 116.570.) There currently is no form to assist small claims parties in making the request and to foster uniform application of small claims postponement proceedings in all courts.

Item A19

Small Claims: Optional Form to Amend Party Name Before Hearing (approve form SC-114) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

Approve the form *Request to Amend Claim Before Hearing (Small Claims)* (form SC-114) for optional use to provide a method for amending a claim after it has been served to change parties' names, or the amount owed, or to make other changes to correct facts or alter the relief requested.

Item A20

Small Claims: Discovery of Judgment Debtor's Assets (revise and adopt form SC-133) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

Adopt for mandatory use the *Judgment Debtor's Statement of Assets (Small Claims)* (form SC-133) and revise the form to clarify that the judgment can be executed immediately but that if the judgment is not paid then form SC-133 is due within 30 days after the clerk mails notice of the judgment.

Criminal Law

Item A21

Habeas Corpus: Procedure in the Superior Courts (amend rule 4.551 and approve form CR-175) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

Under current rule 4.551, if a superior court has not ruled on a petition for writ of habeas corpus within 30 days of filing, the petition is automatically deemed granted, resulting in an order to show cause being issued and invoking several procedural requirements. This proposal would replace the automatic granting of habeas petitions with a new procedure for petitioners to notify superior courts that there has not been a timely ruling and would also increase the time in which a superior court must rule on a habeas corpus petition from 30 days to 60 days. Finally, an advisory committee comment would be added, clarifying the authority for appointing counsel.

Item A22

Capital Trials: Appointment of Counsel and Judicial Education (adopt forms CR-190 and CR-191; adopt Cal. Stds. Jud. Admin., § 25.4; and amend Cal. Rule of Court, rule 4.117) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

The Judicial Council recently adopted rules of court setting forth minimum standards for appointed counsel defending capital cases. The recommended forms would standardize the method of determining counsel's expertise and the rule amendment would implement use of the forms. The proposed Standard of Judicial Administration would establish suggested training for judges hearing capital cases.

Item A23

Form Interrogatories for Collecting Unpaid Victim Restitution in Criminal Cases (adopt form CR-200, *Form Interrogatories—Crime Victim Restitution*) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

These form interrogatories, which would assist crime victims in collecting unpaid restitution, are required by Code of Civil Procedure section 2033.5(d).

Family and Juvenile Law

Item A24

Child Support: Implementation of New and Revised Governmental Forms by Local Child Support Agencies (adopt Cal. Rules of Court, rule 5.311) (Action Required)

Staff: Mr. Michael Wright
Center for Families, Children & the Courts

The Department of Child Support Services (DCSS) has encountered long delays in implementing new or revised Judicial Council forms. Because of the complexity of its computer systems, DCSS cannot reprogram those systems to complete the new or revised forms in the month between the forms' availability and their effective date. This has resulted in extended periods during which DCSS and local child support agencies are unable to use the forms then in effect.

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt rule 5.311 of the California Rules of Court to create a framework for an extended implementation period for new and revised Judicial Council governmental child support forms used by local child support agencies.

Item A25

Child Support: Stipulation and Waiver of Unassigned Child Support Arrearage (approve form FL-626) (Action Required)

Staff: Mr. Michael Wright
Center for Families, Children & the Courts

Some courts and local Department of Child Support Services offices have created local stipulation forms by which parents waive unassigned child support arrears. The creation of a Judicial Council form will give courts a uniform stipulation with all of the necessary disclosure provisions that ensure that a party knowingly, willingly, and intelligently waives any past-due child and spousal support arrears. The form will improve the administration of governmental child support cases within the court system.

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve form FL-626, *Stipulation and Order Waiving Unassigned Arrears (Governmental)*, to inform parents of the consequences of making a waiver of child support arrearages.

Item A26

Juvenile Dependency Mediation Program Requirements (adopt Cal. Rules of Court, rule 1405.5; repeal Cal. Stds. Jud. Admin., § 24.6) (Action Required)

Staff: Ms. Michelle Gordon
Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt rule 1405.5 of the California Rules of Court to mandate rules of practice and administration for court-connected dependency mediation programs, and repeal section 24.6 of the California Standards of Judicial Administration. The existing standards have improved the quality of dependency mediation practice. They should be mandated to ensure uniform delivery of this high quality of service across the state.

Item A27

Juvenile Law: Restraining Orders (amend Cal. Rules of Court, rule 1429.5; revise form JV-245) (Action Required)

Staff: Mr. John Sweeney
Center for Families, Children & the Courts

Assembly Bill 3028 was chaptered on September 27, 2002. The bill amended Welfare and Institutions Code section 213.5 to permit a court to reissue a temporary protective order in a juvenile case, on its own motion or by affidavit of the party seeking the order, when it

was not possible to achieve notice within the statutory limits. The proposed amendment to rule 1429.5 conforms it to Welfare and Institutions Code section 213.5. Proposed revisions to form JV-245 would make it a standalone form rather than an attachment to the dependency or wardship petition forms.

Item A28

Victim Restitution Form and Instructions (revise form CR-110/JV-790; approve forms CR-112/JV-792 and CR-117) (Action Required)

Staff: Ms. Audrey Evje
Center for Families, Children & the Courts

Form CR-110/JV-790, *Order for Restitution and Abstract of Judgment*, is used in criminal and juvenile delinquency cases. The form serves both as a restitution order and as an abstract of judgment for enforcing the restitution order as a civil judgment. The dual function is designed to assist crime victims in recovering financial losses. However, that recovery process may not be readily understandable to many victims. To aid crime victims, the form should be revised to clarify the restitution process and improve its legal accuracy. Additionally, two instruction forms (form CR-112/JV-692 and form R-117) to assist victims in obtaining and filing the restitution order and abstract of judgment are proposed for approval.

Item A29

***Emergency Protective Order* (revise and renumber form 1295.90 as form EPO-001) (Action Required)**

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

Emergency Protective Order, a form that is used by law enforcement to secure immediate court orders to protect adults and children at risk of abuse or other harm, needs to be revised. This Judicial Council form does not reflect current state law relating to the ownership and possession of firearms by restrained persons. The Civil and Small Claims, Criminal Law, and Family and Juvenile Law Advisory Committees recommend that the Judicial Council revise the *Emergency Protective Order* (form EPO-001 (formerly form 1295.90)) to conform to current law and clarify certain items on the form.

Item A30

Domestic Violence and Civil Harassment Orders: Allocation of Service of Process Fees (adopt form CH-101/DV-290) (Action Required)

Staff: Ms. Tamara Abrams
Center for Families, Children & the Courts

Assembly Bill 2030, effective January 1, 2003, authorizes the sheriff or marshal to serve, without charge to the petitioner, Domestic Violence Prevention Act (DVPA) restraining orders and civil harassment orders relating to stalking or sexual assault. AB 2030 requires the Judicial Council to establish a policy that allows the sheriff or marshal to bill the courts for the cost of serving such orders. The legislation also requires the Judicial Council to develop forms for litigants' use in seeking free service of process by the sheriff or marshal. The Family and Juvenile Law and Civil and Small Claims Advisory Committees recommend that the Judicial Council adopt form CH-101/DV-290, *Request and Order for Free Service of Restraining Order* to comply with the new legislation.

Item A31

Domestic Violence Prevention Act Forms (approve forms DV-260 and DV-720; revise forms DV-100, DV-105, DV-110, DV-130, DV-520, and DV-550) (Action Required)

Staff: Ms. Tamara Abrams
Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve forms DV-260 and DV-720 and revise forms DV-100, DV-105, DV-110, DV-130, DV-520, and DV-550 to assist individuals in renewing domestic violence restraining orders, to add to the information entered into the California Law Enforcement Telecommunications System (CLETS), and to clarify a variety of issues. The new and revised forms will clarify the procedure for renewing a restraining order; assist in the entry of information into DVROS, the Statewide Domestic Violence Restraining Order System accessed through CLETS; improve the courts' ability to make effective orders; and clarify a variety of issues.

Item A32

Adoption Rules and Forms (amend Cal. Rules of Court, rule 1464; revise forms ADOPT-200, ADOPT-210, and ADOPT-215) (Action Required)

Staff: Mr. Corby Sturges,
Center for Families, Children & the Courts

Shortly after the plain-language adoption forms adopted by the council took effect on January 1, 2003, a number of people, including judicial research attorneys, adoption practitioners, court clerks, and representatives of the California Department of Social Services, contacted the Administrative Office of the Courts (AOC) to suggest revisions and amendments. In addition, AOC staff identified several items on the forms that required revision. The Family and Juvenile Law Advisory Committee proposes amending rule 1464 of the California Rules of Court and revising three Judicial Council adoption forms to help petitioners, practitioners, and court and agency staff to complete the adoption process.

Item A33

Juvenile Law: Miscellaneous Rules and Forms (amend Cal. Rules of Court, rules 1425 and 1426; revise forms JV-450, JV-500, JV-501, JV-600, and 982(a)(27); revise form FJ-200 and renumber as FL-935) (Action Required)

Staff: Mr. Corby Sturges,
Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend two California Rules of Court and revise several Judicial Council forms to implement statutory requirements, promote effective coordination of proceedings, clarify the rules and forms, and correct typographical or technical errors.

Item A34

Family Law: Financial Declarations (revise forms FL-150 and FL-155) (Action Required)

Staff: Ms. Bonnie Hough
Center for Families, Children & the Courts

This revision of the *Income and Expense Declaration* (form FL-150) and *Financial Statement (Simplified)* (form FL-155) is designed to eliminate information that is not necessary and to add information that is required for child support calculations including background for ability-to-earn determinations. The *Financial Statement* has been amended to allow it to be used in more situations including cases where a litigant has interest income or the court wishes to have information about the litigant's expenses.

Item A35

Family Law: Miscellaneous Forms (approve forms FL-117, FL-144, and FL-345; revise forms FL-115, FL-180, FL-250, FL-260, FL-270, and FL-344) (Action Required)

Staff: Ms. Bonnie Hough
Center for Families, Children & the Courts

These family law forms are designed to assist self-represented litigants with the paperwork for a divorce and to enable parents who have adopted a child but are not married, including same-sex couples, to obtain custody and support orders upon separation. Three new forms include a notice of acknowledgment and receipt for family law, a property attachment for family law judgments, and a waiver of a final declaration of disclosure.

Item A36

Family Law Rules: Motion to Quash and Application for Court Order (adopt rule 5.121, amend rules 5.118 and 5.120) (Action Required)

Staff: Ms. Bonnie Hough
Center for Families, Children & the Courts

Amending rules 5.118 and 5.120 and adopting new rule 5.121 would clarify the procedures relating to a motion to quash, clarify that the court may grant or deny relief sought on a motion solely on the basis of the application and responses, and correct certain technical errors.

Item A37

Family Law: Child Custody and Visitation Orders (revise forms FL-311 and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355) (Action Required)

Staff: Ms. Bonnie Hough
Center for Families, Children & the Courts

This proposal consists of attachments to current custody and visitation forms to allow (1) litigants to set out a parenting schedule for holidays and (2) for judicial officers to specify the scope of joint legal custody and incorporate common provisions regarding physical custody. Also included is a standard stipulation form for parents to use to incorporate an agreement that they or family court services have drafted.

Item A38

Juvenile Law: De Facto Parent Status (adopt forms JV-295, JV-296, JV-297, and JV-298; approve form JV-299) (Action Required)

Staff: Mr. Corby Sturges,
Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends adopting forms JV-295, *De Facto Parent Request*; JV-296, *De Facto Parent Statement*; JV-297, *De Facto Parent Order*; and JV-297, *Order Ending De Facto Parent Status*, to provide a statewide uniform procedure or practice for individuals to request de facto parent status. Many individuals who request the status are not represented by counsel. The lack of a standardized process results in inefficiencies when judicial officers cannot readily ascertain the information needed to determine the appropriateness of granting the request. The item also proposes approving form JV-299, *De Facto Parent Pamphlet*, which will provide potential de facto parents with basic information. All forms use a plain English format intended to assist self-represented persons.

Item A39

Juvenile Law: Appellate Counsel Access to Court Records and Procedure for Distributing Juvenile Appellate Briefs (amend Cal. Rules of Court, rules 1423 and 39.1) (Action Required)

Staff: Ms. Evyn Shomer
Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends amending rules 1423 and 39.1 to clarify that appellate counsel appointed to represent parties in juvenile appeals are included within the definition of counsel who may inspect the juvenile case files in both the underlying juvenile case and related appeals. The proposal to amend rule 39.1 clarifies the procedure for distribution of appellate briefs in juvenile cases and also makes several technical changes in accordance with the standards for rules of court.

Item A40

Family and Juvenile Law: Technical Changes to Rules and Forms (renumber Cal. Rules of Court, rules 5.170 and 5.171; amend rules 5.220 and 5.230; revise forms FL-170, FL-651, and JV-635) (Action Required)

Staff: Mr. Corby Sturges
Center for Families, Children & the Courts

Members of the Family and Juvenile Law Advisory Committee, court personnel, members of the public, and Administrative Office of the Courts staff have identified non-controversial, technical errors and omissions that must be corrected in rules and forms. Staff recommends that the Judicial Council renumber two rules of court, amend two other rules of court, and revise three forms to correct these errors.

Judicial Administration

Item A41 Amend rule 989.7 on Acceptance of Gifts (and renumber as rule 6.102) (Action Required)

Staff: Ms. Susan Goins, Office of the General Counsel

Under existing rule 989.7 of the California Rules of Court, only the Chief Justice or his designee is authorized to accept gifts to the judicial branch or an individual court. The amendment would give the Administrative Director of the Courts the authority to accept gifts, and to delegate authority to accept gifts to executive officers, administrators, and the director of the Finance Division of the AOC.

Item A42 Court Executives Advisory Committee and Conference of Court of Court Executives Rules of Court (amend Cal. Rules of Court, rules 6.31, 6.48, and 6.49) (Action Required)

Staff: Ms. Marlene Hagman-Smith
 Executive Office Programs Division

The Court Executives Advisory Committee recommends that the Judicial Council amend rules 6.31, 6.48, and 6.49 of the California Rules of Court as they relate to the selection, governance, and membership of the Court Executives Advisory Committee and the Conference of Court Executives. The current rules need to be updated to be consistent with the governance and appointment of other Judicial Council advisory committees, and to add administrators from other sections of the judicial branch in the committee's membership to contribute to discussions and projects affecting court administration.

Item A43 Ethics Training for Judicial Council Members and Judicial Branch Employees (adopt Cal. Rules of Court, rule 6.301) (Action Required)

Staff: Mr. Mark Jacobson, Office of the General Counsel

Proposed rule 6.301 would mandate that Judicial Council members and judicial branch employees, including trial court employees, who are required to file statements of economic interests take an ethics orientation course within six months of assuming their positions and every two years thereafter. This proposed requirement parallels the one now contained in Government Code section 11146 for officers and employees of “state agencies.”

Item A44

Examination of Prospective Jurors and Juror Questionnaire (amend Cal. Stds. Jud. Admin., §§ 8 and 8.5; revise form MC-001) (Action Required)

Staff: Ms. Donna Clay-Conti, Office of the General Counsel

This proposal recommends amending sections 8 and 8.5 of the Standards of Judicial Administration and revising form MC-001, the civil juror questionnaire, to address the issues of domestic partnership and sexual orientation as they relate to the voir dire of prospective jurors in civil and criminal cases. The proposed amendments yield information that will better assist judicial officers and attorneys in determining whether a juror can be fair and impartial.

AOC staff recommends approval of the proposed amendments to the standards and the revisions to form MC-001, the Civil Juror Questionnaire.

Probate and Mental Health

Item A45

Probate Rules on Accounts and Petitions for Distribution in Decedents’ Estates (adopt rules 7.551, 7.651, and 7.652) (Action Required)

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends adopting three new rules in Title 7 of the California Rules of Court concerning decedents’ estate proceedings. One rule would require the filing of a tax clearance certificate from the Franchise Tax Board before the court could approve a final account or report in large estates that have non-resident beneficiaries eligible to receive substantial portions. Two other rules would prescribe the way certain property to be distributed must be described in petitions for preliminary or final distribution.

Item A46 **Probate Rules Concerning the Guardianship Status Report and Terminations of Guardianships and Conservatorships (adopt Cal. Rules of Court, rules 7.1003–7.1007, and 7.1052–7.1054) (Action Required)**

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends adoption of eight new rules concerning probate guardianships and conservatorships in Title 7 of the California Rules of Court. One rule would prescribe duties of the clerk concerning Judicial Council form GC-251, *Confidential Guardianship Status Report*. Seven rules would prescribe certain duties of outgoing guardians or conservators when they have been replaced or when their service has been completed because the proceedings have terminated.

Item A47 **Probate Forms: *Capacity Declaration—Conservatorship*, and *Dementia Attachment to Capacity Declaration—Conservatorship* (revise form GC-335 and adopt new form GC-335A) (Action Required)**

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends revisions to Judicial Council form GC-335, *Capacity Declaration—Conservatorship*, and adoption of new form GC-335A, *Dementia Attachment to Capacity Declaration—Conservatorship* to conform to statutory requirements, to enhance protection of conservatees by reducing inappropriate or unnecessary applications by conservators for powers to place conservatees in restricted and secure facilities or to consent to the administration of dementia medications, and to make the forms easier to use, sign, and file.

Item A48 **Miscellaneous Forms: *Petition to Establish Record of Death and Declaration in Support of Petition to Establish Record of Death* (approve forms MC-360 and MC-360A) (Action Required)**

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends approval of new forms for a petition and a supporting declaration to establish a record of death in the court proceeding authorized by Health and Safety Code sections 103450–103490. The advisory committee recommends that these forms be approved for optional use until Judicial Council forms are developed to establish records of births and marriages under the Health and Safety Code provisions.

Item A49 **Probate Form: *Consent of Guardian, Nomination, and Waiver of Notice* (revise form GC-211) (Action Required)**

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends that Judicial Council form GC-211, *Consent of Guardian, Nomination, and Waiver of Notice*, be revised to provide greater actual notice of the consequences of consenting to the appointment of a guardian for a minor and waiving notice of the hearing on the petition for appointment of that guardian.

Item A50 **Probate Rule on Notice to Persons Represented by a Guardian or Conservator (amend Cal. Rules of Court, rule 7.51(c)) (Action Required)**

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends revising the rule prescribing service of notices in probate proceedings on persons represented by a guardian or conservator.

Item A51 **Probate Form: *Petition and Order for Appointment of Guardian Ad Litem In a Probate Proceeding* (revise form DE-350/GC-100 and adopt new form DE-351/GC-101) (Action Required)**

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends revising the form used to request the appointment of a guardian ad litem in probate proceedings by (1) deleting the order portions and placing them in a separate new form; (2) adding a statement advising the form's users that appointment of a guardian ad litem is not the same as appointment of a guardian of the person and estate of a minor; and (3) changing a cross-reference to another form, reflecting a revision of that form.

Traffic
Item A52

Traffic: Notice to Appear Forms (adopt Cal. Rules of Court, rule 4.103; revoke form TR-110; revise forms TR-100, TR-106, TR-108, TR-115, TR-120, and TR-130; and revise form instructions, *Notice to Appear and Related Forms*) (Action Required)

Staff: Mr. Courtney Tucker, Office of the General Counsel

The Traffic Advisory Committee recommends that the Judicial Council adopt rule 4.103 and revise the notice to appear forms and form instructions in order to promote statewide uniformity and efficient processing of notice to appear citation forms. For certain offenses, the notice to appear may serve as a complaint if it is on a form approved by the council. The new rule will eliminate the previous requirement that law enforcement agencies submit their notice to appear forms to the council for individual review and approval. Instead, agencies will be required to use the council's forms and to follow the guidelines contained in the instruction manual for the notice to serve as a complaint. The forms include portions that are standardized and portions that may be customized to fit local needs.

Item A53

Traffic: Instructions on Appeal for Infractions (revise form TR-150) (Action Required)

Staff: Mr. Courtney Tucker, Office of the General Counsel

The Traffic Advisory Committee recommends that the Judicial Council revise form TR-150, *Instructions on Appeal Procedures for Infractions*, to clarify the procedures that apply to appeals for traffic infractions. Revision of form TR-150 will avoid confusion between requirements for the filing of particular documents on appeals, which is mandatory, and the use of Judicial Council forms to file such documents, which is discretionary.

Item C2
9:30–9:50 a.m.

Sealed Records Rules (amend Cal. Rules of Court, rules 12.5, 243.1, and 243.2) (Action Required)

The first statewide rules on the filing of records under seal (Cal. Rules of Court, rules 12.5, 56, and 243.2–243.4) were adopted by the Judicial Council, effective January 1, 2001. These rules have been of substantial assistance in providing guidance for the trial and appellate courts on the proper standard for sealing records under *NBC Subsidiary (KNBC), Inc. v. Superior Court* (1999) 20 Cal.4th 1178. The rules also provide procedures for handling records to be filed under seal. But based on the experience with these rules, they would benefit from the addition of some particular provisions. Specifically, three Judicial Council advisory committees recommend amending rules 12.5, 243.1, and 243.2 to: (1) clarify the standard to be considered for unsealing records in the trial and appellate courts, (2) specify that express factual findings are required to seal records, and (3) provide a party whose asserted confidential documents were obtained through discovery with notice and opportunity to request a sealing order in the trial court when another party intends to use the documents for adjudication, but does not intend to request that they be sealed. Some other amendments should be made to the rules based on suggestions from the public.

Presentation (10 minutes)

Speakers: Mr. Patrick O’Donnell, Office of the General Counsel
Ms. Heather Anderson, Office of the General Counsel
Mr. Joshua Weinstein, Office of the General Counsel

Discussion/Council Action (10 minutes)

Item C3
9:50–10:00 a.m.

Civil Harassment (revise forms CH-100, CH-120, and CH-140) (Action Required)

The civil harassment forms adopted by the Judicial Council need to be revised to conform to recent legislation, including Assembly Bill 2030 and Senate Bill 226. Certain changes in style and format should also be made to improve and clarify the forms. The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise (1) *Petition for Injunction Prohibiting Civil Harassment* (form CH-100); (2) *Order to Show Cause (Civil Harassment) and Temporary Restraining Order* (form CH-120), and (3) *Order After Hearing on Petition for Injunction Prohibiting Civil Harassment* (form CH-140).

Presentation (5 minutes)

Speaker: Mr. Patrick O'Donnell, Office of the General Counsel

Discussion/Council Action (5 minutes)

Item C4

10:00–10:40 a.m.

Trial Setting, Continuances, and Case Disposition Time Standards: Recommendations to Improve the Fair and Efficient Administration of Civil Cases (adopt Cal. Rules of Court, rules 204 and 375.1; amend rules 208, 209, 212, and 375; amend Cal. Stds. Jud. Admin. §§ 2 and 2.1; and repeal §§ 2.3, 2.4, and 9) (Action Required)

The Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases submitted its report to the Judicial Council at its July 16, 2003, meeting, with recommendations regarding setting cases for trial, continuing trial dates, and modifying civil case time disposition standards. The Civil and Small Claims Advisory Committee has reviewed the proposals and makes its recommendations with regard to each of the proposals. The committee recommends that the Judicial Council adopt the committee's recommended amendments to the California Rules of Court.

Presentation (20 minutes)

Speakers: Hon. Arthur E. Wallace

Member of the Blue Ribbon Panel and Chair of the Civil and Small Claims Advisory Committee's Case Management Subcommittee

Mr. Patrick O'Donnell, Office of the General Counsel

Mr. Daniel Pone, Office of Governmental Affairs

Staff to the Blue Ribbon Panel

Discussion/Council Action (20 minutes)

10:40–10:55 a.m.

BREAK

Item C5

10:55–11:05 a.m.

Juvenile Law: Responsibilities of Attorneys for Children in Delinquency Proceedings (adopt Cal. Rules of Court, rule 1479) (Action Required)

Adoption of proposed rule 1479 is necessary to further the statutory purpose for the juvenile court of public protection, rehabilitation, and redressability by articulating with greater specificity the responsibilities of attorneys for youth in delinquency proceedings. Attorneys representing youth in delinquency proceedings typically perform their duties in a fashion similar to criminal defense attorneys and do not participate in postdispositional proceedings. While some juvenile delinquency attorneys currently take on the role of advocating for their client’s broader interests, they are the exception rather than the rule.

Presentation (5 minutes)

Speaker: Ms. Diane Nunn
Center for Families, Children & the Courts
Ms. Audrey Evje
Center for Families, Children & the Courts

Discussion/Council Action (5 minutes)

Item C6
11:05–11:15 a.m.

Juvenile Law: Educational Representation (amend Cal. Rules of Court, rules 1456, 1460, 1461, 1493, 1496, and 1499; revise forms JV-535 and JV-536; amend Cal. Stds. Jud. Admin. § 24) (Action Required)

In 2002, California law governing the appointment of an educational representative for a child changed significantly with the enactment of Assembly Bill 886 and Senate Bill 1677. The Family and Juvenile Law Advisory Committee proposes amending rules 1456, 1460, 1461, 1493, 1496, and 1499 of the California Rules of Court, revising Judicial Council forms JV-535, *Order Limiting Parents’ Right to Make Educational Decisions for the Child and Recommendation for Surrogate Parent Appointment—Juvenile*, and JV-536, *Local Educational Agency Response to JV-535—Appointment of Surrogate Parent*, and amending section 24 of the California Standards of Judicial Administration to implement these statutory changes.

Presentation (5 minutes)

Speaker: Ms. Diane Nunn
Center for Families, Children & the Courts
Mr. Corby Sturges,
Center for Families, Children & the Courts

Discussion/Council Action (5 minutes)

Item C7
11:15–11:25 a.m.

Limitation on Intrabranch Contracting and on Contracting With Former Employees (adopt Cal. Rules of Court, rules 6.103 and 6.104) (Action Required)

Proposed rule 6.103 would prohibit judicial branch employees from contracting with other judicial branch entities to provide goods or services. Proposed rule 6.104 would prohibit any court or the AOC from contracting with certain former employees in policymaking positions for one or two years after the employee leaves, depending on whether the employee was involved in the process of making the contract while an employee. These rules are necessary to prevent self-dealing and favoritism, and the public perception thereof in the awarding of contracts within the judicial branch. There are statutes that address these matters for other branches of state government, but these statutes are not applicable to the judicial branch.

Presentation (5 minutes)

Speakers: Mr. Mark Jacobson, Office of the General Counsel
Discussion/Council Action (5 minutes)

Item C8
11:25–11:55 a.m.

Public Access to Trial Court Budget Information and Processes (amend Cal. Rules of Court, rules 6.5, 6.6, 6.45, and 6.702) (Action Required)

Staff recommends amending the California Rules of Court to increase public and employee representative access to trial court budget information and processes, provide for information sessions on trial court budgets for the general public and designated employee representatives, and reorganize the existing and new provisions to make them more accessible. These amendments would codify changes in policy that were previously approved by the council.

Presentation (15 minutes)

Speaker: Mr. Michael Fischer, Office of the General Counsel
Discussion/Council Action (15 minutes)

Circulating Orders Approved Since Last Business Meeting
[No Circulating Orders were completed since the last meeting.]

Judicial Council Appointment Orders Since Last Business Meeting

[Appointment Orders Tab]