Information Technology Advisory Committee (ITAC)

Public Business Meeting March 18, 2016 Teleconference

Hon. Terence L. Bruiniers Chair, Information Technology Advisory Committee

Open Meeting

I. Call to Order, Roll Call

Approval of February 22 Minutes (Open Session)

Refer to the DRAFT Minutes in the materials e-binder.

II. Public Comment

Item 1. Chair Report Hon. Terence L. Bruiniers Chair, Information Technology Advisory Committee

There are no additional slides for this report.

Item 2. Judicial Council Technology Committee (JCTC) Update Hon. Daniel J. Buckley Vice-Chair, JCTC

There are no additional slides for this report.

WORKSTREAM REPORTS

Item 3. Data Exchange Workstream Mr. David Yamasaki Executive Sponsor

Refer to the status report in the materials e-binder. There are no additional slides for this report. WORKSTREAM REPORTS

Item 4. E-Filing Strategy Workstream Hon. Sheila F. Hanson **Co-Executive Sponsor** Mr. Rob Oyung **Co-Executive Sponsor**

This report includes slides (that follow), a memo requesting action, and status report (provided in the materials e-binder).

E-filing Workstream Recommendations

March 2016

Our Charge: Judicial Council Technology Tactical Plan

- E-filing Manager (EFM)
 - Determine alternatives for implementing e-filing solutions for California trial courts
 - Recommend an implementation approach to ITAC and JCTC
 - Develop an e-filing Deployment Guide for selected approach
- E-filing Service Provider (EFSP) Selection/Certification
 - Determine alternatives for selecting and certifying EFSPs to file with California *trial courts*.
 - Recommend an approach to ITAC and JCTC
 - Develop an EFSP roadmap for selected approach

Executive Summary of Recommendations

Recommendations - EFM

Issue an RFP for an E-Filing Manager that:

- Selects more than one statewide EFM
- Covers all litigation types
- Integrates with "core" Case Management Systems (the three statewide CMS Vendors and Journal Technology's eCourt)
- Requires EFM vendors to describe their *approach for integration* with "nonstandard" CMS's including a free-standing e-Delivery option
- Integrates with Judicial Council approved Financial gateway vendors
- Support electronic payment types beyond credit card
- Provides a zero cost e-Filing option for Indigent and Government filers
- Allows individual Courts to retain authority as to which EFM they want to use
 - Clearly discloses costs and services to EFSPs
- Requires compliance with NIEM/ECF as the new State of CA e-Filing standard
- Requires option of electronic service of Court generated documents

Recommendations - EFSPs

Create a framework for EFSPs that:

- Requires all EFSPs to work with all "statewide" EFMs
- Requires all EFSPs to sign an agreement with:
 - JCC for overall statewide participation
 - Individual trial courts for county performance
 - Individual EFMs for management and coordination of program, and to minimize reconciliation for each court
- Requires all EFSPs to integrate with Judicial Council approved Financial gateway vendors
 - Requires EFSPs to be the entity to collect all monies due and distribute monies to:
 - EFSP (convenience fees)
 - EFM (EFM fee)
 - Court (Filing fees and optional Cost Recovery Fee)



Other E-Filing Recommendations

- All E-Filing in the state must adhere to a "consistent framework"
- EFM(s) must maintain and freely share "service list" for all cases
- EFMs may also be EFSPs*

* This will likely be how the EFM offers free e-Filing to fee-waiver and government

filers.



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EFM Option 1: Trial Court Decision (CA Status Quo)



Pros

- Each trial court determines their own fate.
- Individual courts can start immediately
- Court can tailor e-Filing to local constituencies
- Some economies of scale
 (similar CMS vendor)

Not all CMS vendors have a solution

Cons

- May limit synergistic opportunities
- May lead to inconsistent experiences across courts
- Each trial court has a cost to integrate

EFM Option 2: State / Multi-Court "Build" (Colorado)

Pros

- E-Filing revenue stream funds development and support and may even offset some CMS costs
- Highly tailored to the way we want to work.

Cons

- Requires strong governance to align participating courts
- Requires on-going organizational support.
- Requires integration with many
 CMS systems
- 6-12 months to implement
- Need an initial funding source
- Is this our core competency?
- Finding resources will be difficult

EFM Option 3: State / Multi-Court "Buy" (Texas)

Pros

- Consistent user experience across counties
- Majority of work outsourced to a vendor
- Can push CMS vendor integration onto E-Filing vendor

Multiple intermediaries (EFSP, EFM and Court) increases costs

Cons

- 3-6 month RFP and another 3-6 months for each court to on-board
- Might be difficult to get local customizations



EFSP Options

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	1. EFM Selected/Managed	2. JCC Built/Supported	3. Trial Court Selected/Managed
Pros	 Burden of work falls on EFM vendor Typically handles \$ reconciliation Covers all counties 	 Ensures statewide consistency Statewide management Covers all counties 	 Status quo Ensures performance Accommodates local attorney services Local support
Cons	 EFM exerts too much control over user experience EFM exerts too much control over financial management 	 Not staffed to support Not funded to support Inadequate experience 	 County-to-county variations EFSPs ignore smaller counties Burden to manage
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E-filing at 50,000 Feet

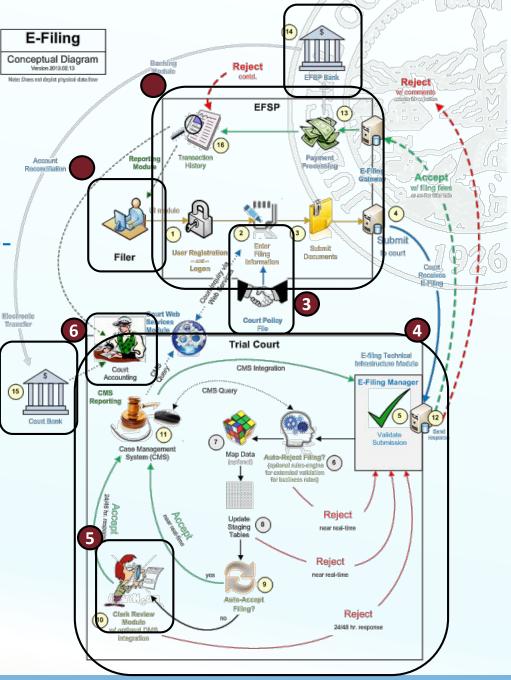
Filer	EFSP	EFM	Court
Lawyer, Para-legal, Legal secretary, Self-Represented Litigant, Government agency	E-filing Service Provider	E-filing Manager	Case Management Document Management
Initiates the process: - Data entry - Doc upload - Commit to pay	Help gather data, documents and money to complete an e- filing transaction; trains and provides support to filer	Organizes filings for clerical review. Prepares data for CMS and docs for DMS.	Accept/Reject. Store data in CMS. Store document in DMS. Settle charges.

E-Filing Filing Recommendations

E-filing at 100 Feet

Many Moving Parts

- At a LOCAL level there are many parts to a successful efiling program, including:
 - 1. The Filers
 - 2. The EFSPs
 - 3. Local Rules
 - Court Operations The Clerk
 - 6. The Money



5.

Case Management Systems

Pre-2013

>40 different CMS versions across 58 counties

▶ 2015



CMS	Contracted	Leaning	Total
Tyler Odyssey	25	5	30
Journal eCourt	4	3	7
Thomson Reuters C-Track	3	0	3
Justice Systems	1	0	1
Total	33	8	41

New CMS's Enable:

- <u>E-Filing</u> software licenses are included with Tyler & Journal
- <u>SRL Document Assembly</u> software licenses are included with Tyler (Tyler Guide & File)
- Case Access and Portal capabilities are included (at the trial court level) with the 4 statewide vendors



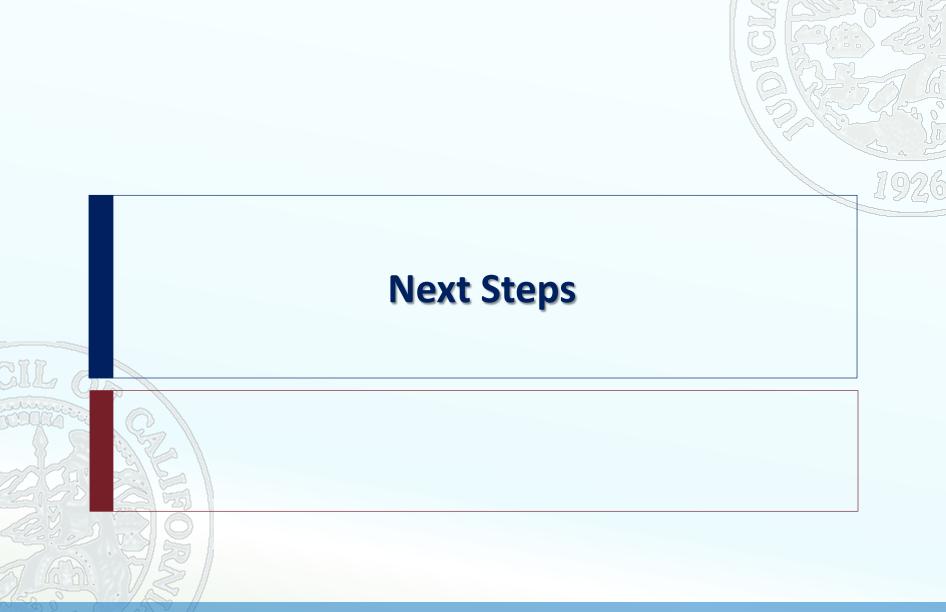
The Rapid Evolution of CA Court E-Filing

- ▶ 2014:
 - 9 counties offering some e-Filing
- ▶ 2015:
 - 17 counties offering some e-Filing
 - ▶ 8 counties leveraging Tyler File & Serve
- ▶ 2016:
 - ~35 counties will offer some e-Filing

Current E-Filing Challenges

- E-Filing is currently a county-by-county decision
- Historically little coordination amongst the EFSPs for consistency
- While the Tyler Courts are much more consistent across counties some challenges remain:
 - Tyler is slow to support non-Credit card payment types (adds costs to the EFSPs and ultimately the Filer)
 - Tyler is slow to support JCC financial gateways (adds costs to the Filer)
 - Tyler is slow to add EFSPs
 - Tyler does not currently enable e-Filing services for non-Tyler courts
 - May need to develop common work flows for e-filing review business practices

May need to develop common set of filing codes for e-filing transactions



Next Steps

- Get approval on recommendation (or refine!)
- Form an RFP sub-workstream
- Form a Contracts sub-workstream
- Issue RFP
- Select vendor(s)
- Implement



E-Filing Filing Recommendations





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"More than One" Statewide EFM

What it Means

- Individual trial courts will be able to choose from multiple
 Statewide E-Filing Managers based on what works best in their
 County. A trial court can elect to have more than one EFM.
- Rationale
 - CA is the largest trial court system in the Country and can accommodate multiple EFMs.
 - Multiple EFMs will ensure competition, which leads to greater access, quality service, innovation, and cheaper services.
 - A single EFM, that is also a CMS vendor, could control too much of the Court technology infrastructure creating risk to the Branch from cost and business continuity perspectives.

Covers All Litigation Types

- What it Means
 - A litigant in CA can E-File on any case in any court permitting efiling.
- Rationale
 - E-Filing vendors typically focus only on Civil which is more easily monetized.
 - Majority of Court case filings are not in Civil, meaning a Civilonly e-filing solution would limit a trial Court's ability to implement a "digital court" thereby limiting public access to the court.

Integrates with "core" Case Management Systems

What it Means

- A Court using one of the "core" CMSs will be able to add e-Filing capabilities and a court with more than one CMS can offer e-filing in more case types.
- Rationale
 - In 2012 the Trial Courts created a Master Services Agreement (MSA) with 3 primary case management vendors (Tyler, Thomson-Reuters and Justice Systems).
 - Since then 30 trial courts have purchased one of these CMS solutions
 In addition, several Courts had a significant investment with Journal
 Technologies (aka Sustain) and opted to upgrade their existing solution
 - Between the four CMS vendors, 80% of the state's population is served.

Requires EFM vendors to describe their *approach for integration* with "non-standard" CMS's including a freestanding e-Delivery option

- What it Means
 - Courts running non-standard CMSs will have insight into what it will cost to integrate their CMS with the Statewide E-Filing solution and will be able to integrate if they choose to; OR
 - Courts will have an e-Delivery option for litigants that is not integrated to their CMS
- Rationale
 - Several Courts have contracts in place with non-standard
 CMSs.
 - Several Courts lack the budget to pay for a full CMS replacement
 - Want to provide courts with a non-standard CMS some more options to move toward a "digital court"

Integrates with Judicial Council approved Financial gateway vendors

- What it Means
 - Filers will enjoy the lowest possible on-line commerce fees.
- Rationale
 - The Branch is typically able to negotiate cheaper on-line banking fees than private companies or individual trial courts.
 - These "merchant" fees (typically 2-3%) are either passed on to the Filer which leads to additional costs to the filer, or are absorbed by the Courts which leads to less revenue to Courts.

Support electronic payment types beyond credit card

- What it Means
 - Filers will be able to pay fees with a choice among multiple payment methods.
- Rationale
 - Some EFM vendors only support Credit Card payments. This adds to overall costs for filers to cover "merchant fees".
 - One of the ways the EFSP community differentiates services is through the handling of money.
 - In the paper world the majority of filing fees are NOT paid for with Credit Cards.
 - The Court should accommodate any / all practical electronic payment methods, thereby increasing access to the court.

Zero cost e-Filing option for Indigent and Government filers

- What it Means
 - Indigent and government filers, which by law cannot be charged for certain filings, will be able to file for free.
- Rationale
 - It's the law!
 - The Court's want every filing to be done electronically including indigent and governmental filers.
 - Government agencies are the single largest filer in the Court.
 - Indigent filers should not have to pay "convenience fees".
 - The EFM can spread these costs by distributing across filers who can afford convenience fees.

Allows individual Courts to retain authority as to which EFM they want to use

- What it Means
 - Each Trial Court gets to decide when to implement Statewide e-Filing and with whom, both as to EFM(s) and EFSP(s).
- Rationale
 - The biggest barriers to e-Filing identified by the trial courts were:
 - Insufficient funds to pay for it (integration with CMS, EFM, EFSP)
 - Insufficient staff to train and hand-hold e-filers
 - Inexperienced/untrained staff in the new world of e-filing
 - The decision on WHEN to e-File must sit with each individual trial court because there are many local issues that will determine acceptance and success.
 - Courts with an existing e-Filing capability may not directly benefit from an immediate change but will have more options in the future.
 - When a Court does choose to e-File, they need a contracting vehicle through which to hold the vendor(s) accountable.

Clearly disclose costs and services to EFSPs

- What it Means
 - Each Trial Court and EFSP will have a clear and transparent understanding of costs and distributions, extending to the clients/filers
- Rationale
 - The revenue (costs) associated with e-Filing cluster around 3 primary areas:
 - Court filing fees
 - EFM Management fees
 - EFSP service fees
 - An optional Court "cost recovery fee"
 - EFMs may also operate as an EFSP, which may create a competitive imbalance
 - In some implementations the EFM can tack on other costs to dilute revenues to EFSPs and/or optional Court recovery fees.

Requires compliance with NIEM/ECF as the new State of CA e-Filing standard

- What it Means
 - Establishes NIEM/ECF as the official technical specification for E-Filing in CA.
- Rationale
 - The current e-Filing technical standard is 2GEFS (2nd Generation E-Filing Specification), which is unique to CA.
 - Nationally, all states implementing e-Filing are adopting the NIEM/ECF standard

The 4 statewide CMS vendors are all required to support NIEM/ECF for e-Filing.

Requires option of electronic service of Court generated documents

- What it Means
 - The Courts will be able to use e-Service for court generated documents in cases in which e-Filing is mandated.
- Rationale
 - The Courts generate case documents that need to be distributed
 - If e-Filing is mandatory, or if all parties on a case agree to e-File, e-Service of court documents should also be available.
 Allowing Courts to distribute/serve Court generated case documents through e-Service will save the court money.

Require all EFSPs to work with all "statewide" EFMs

- What it Means
 - Every trial court will benefit from the full complement of EFSPs
 - Every e-Filer will have multiple EFSP options allowing them to e-file to any court accepting e-filing
 - Every e-Filer that files across multiple Counties will only need to partner with a single EFSP, if desired

Rationale

- EFSPs are very interested in providing services to the large counties and typically less interested in smaller counties.
- Multiple EFSPs provide a competitive environment for filers ensuring costs are balanced against services
- The EFSP is the marketing and user support organization for E-Filing.
 Filers will build relationships with EFSPs that best complement their business model.

Requires EFSPs to enter into agreements with Branch, Court and Individual EFMs

- What it Means
 - An EFSP can be terminated for non-performance at either the Branch or local trial court level.
 - An EFSP can be terminated for non-performance with the EFM vendor.
- Rationale
 - The Branch needs a contracting vehicle in place to ensure consistency and alignment with relevant Branch programs (e.g., financial gateways, Phoenix accounting system)
 - The Trial Court needs a contracting vehicle in place to ensure quality of service to the public and compliance with Court policies for e-Filing services, in addition to articulating how money is handled.
 - The EFM vendors need a contracting vehicle in place to ensure quality of service and payment.

Requires all EFSPs to integrate with Judicial Council approved Financial gateway vendors

(Same answers as EFM)

- What it Means
 - Filers will enjoy the lowest possible on-line commerce fees.
- Rationale
 - The Branch is typically able to negotiate cheaper on-line banking fees than private companies or individual trial courts.
 - These "merchant" fees (typically 2-3%) are either passed on to the Filer which leads to additional costs to the filer, or are absorbed by the Courts which leads to less revenue to Courts and the Branch.

Requires EFSPs to be the entity to collect and distribute monies

- What it Means
 - The Filer interacts with the EFSP for all financial aspects of online services.
 - The EFSP distributes the money to the appropriate entity.
- Rationale
 - The filer interacts with the EFSP (not the EFM and only tangentially with the Court) for on-line services. As such any issues around performance, collection, refunds, etc. should be handled by the EFSP.
 - Allowing the EFSP to be the money collector allows EFSP to offer a greater variety of payment options to the filer (e.g., credit card, debit card, ACH, EFSP fronts filing fees, EFSP gives free e-Filing in exchange for process serving, etc...)

E-Filing Workstream Participants

The following participated in some/all calls

County	Participant	County	Participant
Contra Costa	Heather Pettit, CIO	Sacramento	Chris Stewart, CIO
JCC	Patrick O'Donnell, Attorney Tara Lundstrom, Attorney	San Bernardino	Mary Davis, Deputy CEO Nancy Eberhardt, Ops Mgmt
Los Angeles	Snorri Ogata, CIO** Pratik Desai, IT Manager II Tarah Vadini, Exec. Assistant	San Diego	Hon. Jeffrey Barton Mike Roddy, CEO
		San Joaquin	Anh Tran, CIO
Monterey	Hon. Mark Hood Paras Gupta, CIO	San Mateo	Rick Walery, CIO
Orange	Hon. Sheila Hanson* Alan Carlson, CEO Brett Howard, CIO	Santa Clara	Hon. Aaron Persky Rob Oyung, CIO*

WORKSTREAM REPORTS Item 5. Next Generation **Hosting Strategy** Workstream Hon. Kyle S. Brodie **Co-Executive Sponsor** Mr. Brian Cotta **Co-Executive Sponsor**

There are no additional slides for this report.

WORKSTREAM REPORTS

Item 6. Video Remote Interpreting Workstream Hon. Terence L. Bruiniers Executive Sponsor

Refer to the status report. There are no additional slides for this report.

WORKSTREAM REPORTS Item 7. Self-Represented **Litigants E-Services** Workstream Hon. Robert B. Freedman Co-Executive Sponsor Hon. James M. Mize **Co-Executive Sponsor**

Refer to the status report. There are no additional slides for this report.

WORKSTREAM REPORTS

Item 8. Disaster Recovery Framework Workstream Hon. Alan G. Perkins Executive Sponsor

Refer to the status report. There are no additional slides for this report.

SUBCOMMITTEE REPORTS

Item 9. ITAC Projects Subcommittee Hon. Robert B. Freedman Chair, Projects Subcommittee

There are no additional slides for this report.

SUBCOMMITTEE REPORTS

Item 10. Joint Appellate Technology Subcommittee Hon. Louis R. Mauro Chair, Joint Appellate Technology Subcommittee

This report includes slides (that follow), two proposal memoranda requesting action, and status report (both provided in the materials e-binder).

JATS Action Item (a)

(a) Review Rules and Forms Proposal to Further Modernize Appellate Rules and Forms (Action Requested)

 Review and decide whether to recommend for public circulation a rules and forms proposal that would further modernize the appellate rules of court and appellate forms. This proposal would amend California Rules of Court, rules 8.104, 8.130, 8.144, 8.150, 8.336, 8.409, 8.416, 8.450, 8.452, 8.454, 8.456, 8.480, 8.482, 8.489, 8.619, 8.625, 8.834, 8.866, 8.919, 8.1007, and 10.1028; would amend Judicial Council forms APP-002, APP-003, APP-004, APP-005, APP-006, APP-007, APP-008, APP-009, APP-009-INFO, APP-010, APP-011, APP-012, APP-101- INFO, APP-102, APP-103, APP-104, APP-106, APP-107, APP-109, APP-109- INFO, APP-110, APP-150-INFO, APP-151, CR-120, CR-126, CR-132, CR-133, CR-134, CR-135, CR-137, CR-141-INFO, CR-142, CR-143, CR-145, JV-810, JV-816, JV-817, JV-822, JV-825, and MC-275, and would create two new Judicial Council forms, APP-009E and APP-109E.

JATS Action Item (b)

(b) Review Rules and Forms Proposal to Update Appellate E-Filing Rules (Action Requested)

 Review and decide whether to recommend for public circulation a rules proposal that would update the appellate e-filing rules to reflect the current e-filing practices of the appellate courts. This proposal would amend California Rules of Court, rules 8.70, 8.71, 8.72, 8.73, 8.74, 8.75, 8.76, 8.77, 8.78, 8.79, and 8.204.

SUBCOMMITTEE REPORTS

Item 11. ITAC Rules & Policy Subcommittee Hon. Peter J. Siggins Chair, Rules & Policy Subcommittee

This report includes slides (that follow), two proposal memoranda requesting several actions, and status report (both provided in the materials e-binder).

RPS Action Item (a)

(a) Review Legislative Proposal on E-Filing, E-Service, and E-Signatures (Action Requested)

Review and decide whether to recommend circulating for public comment a legislative proposal on e-filing, e-service, and esignatures. This proposal would amend Code of Civil Procedure sections 664.5, 1010.6, and 1110 and would add a new section 1013b.

RPS Action Item (b)

(b) Review Legislative Proposal to Authorize E-Service in Probate Proceedings (Action Requested)

Review and decide whether to recommend circulating for public comment a legislative proposal that would amend the Probate Code and Welfare and Institutions Code section 5362 to authorize e-service by consent of notices and other papers in guardianship, conservatorship, and other probate matters. This proposal would amend Probate Code sections 366, 453, 1050, 1209, 1212–1217, 1220, 1250, 1252, 1265, 1266, 1460, 1461, 1461.4, 1461.5, 1511, 1513.2, 1516, 1542, 1822, 1826, 1827.5, 1830, 1842, 1847, 1851, 2214, 2250, 2352, 2357, 2361, 2610, 2611, 2612, 2614, 2683, 2684, 2700, 2702, 2804, 2808, 3088, 3131, 3206, 3602, 3704, 3801, 3918, <u>8100, 8110, 8111, 8469, 8522, 8803, 8903</u>, 8906, 8924, 9052, 9153, 9732, 9762, 9783, 9787, 10585–10587, 11601, 13200, 13655, 15686, 16061.7–16061.9, 16336.6, 16501–03, 17203–05, 17403, 17454, 19011, 19024, 19040, 19052, 19150, 19153, 19323, 20122, and 20222; amend Welfare and Institutions Code sections 728 and 5362; delete Probate Code section 1216; and add Probate Code section 1266.

RPS Action Item (c)

- (c) Review Legislative Proposal to Authorize E-Filing and E-Service in Juvenile Proceedings (Action Requested)
 - Review and decide whether to recommend circulating for public comment a legislative proposal that would amend the Welfare and Institutions Code to allow for e-service by consent and e-filing in juvenile dependency and delinquency proceedings. This proposal would add Welfare and Institutions Code section 212.5 and would amend sections 248, 248.5, 290.1, 290.2, 291, 292, 293, 294, 295, 297, 302, 316.1, 342, 362.4, 364.05, 366.05, 366.21, 366.26, 387, 607.2, 630, 658, 660, 661, 727.4, 777, 778, 779, 785, and 903.45.

RPS Action Item (d)

 (d) Review Legislative Proposal to Clarify Authority for Permissive E-Filing and E-Service in Criminal Proceedings (Action Requested)

 Review and decide whether to recommend circulating for public comment a legislative proposal that would add a new statute to the Penal Code to clarify the application of permissive e-filing and e-service under Code of Civil Procedure section 1010.6 in criminal proceedings.

RPS Action Item (e)

(e) Review Rules Modernization Project (Phase II) Rules Proposal (Action Requested)

Review and decide whether to recommend circulating for public comment a rules proposal that would amend titles 2, 3, and 5 of the California Rules of Court to introduce substantive changes to the rules of court to facilitate efiling, e-service, and modern e-business practices. This proposal would amend rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392.

Meeting Adjourn

Next Meeting: June 17 by teleconference

End of Presentation (Slides)

Meeting Materials E-Binder provided separately.