



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on July 27, 2012

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Title	Agenda Item Type
Judicial Sabbatical: Request for Approval of Unpaid Leave	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	July 27, 2012
Recommended by	Date of Report
Executive and Planning Committee Hon. Douglas P. Miller, Chair	July 19, 2012
	Contact
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### Executive Summary

The Executive and Planning Committee recommends approving an unpaid sabbatical leave for Judge Lisa Foster, Superior Court of California, County of San Diego, for a six-month period, September 1, 2012, through February 28, 2013. During this sabbatical leave, Judge Foster will analyze the civil caseload in California to identify efficiencies that will improve the administration of justice; she will provide her findings to the Judicial Council's Executive and Planning Committee and its Civil and Small Claims Advisory Committee. Judge Foster and the Presiding Judge of the Superior Court of San Diego County have presented information supporting a conclusion that this leave will benefit the administration of justice and her judicial performance and that her absence will not work to the detriment of the court.

### Recommendation

The Executive and Planning Committee recommends that the Judicial Council approve—under Government Code section 68554 and California Rules of Court, rule 10.502—an unpaid sabbatical leave for Judge Lisa Foster, Superior Court of California, County of San Diego, from September 1, 2012, through February 28, 2013, based on a finding that this leave will benefit the

administration of justice and Judge Foster's performance of judicial duties and that her absence will not work to the detriment of the Superior Court of California, County of San Diego. During the leave period, Judge Foster will receive no compensation, nor shall it count as service toward retirement; the leave time will not toll her term of office. On completion of the leave, Judge Foster shall report in writing to the council on how the leave benefited the administration of justice in California and on its effect on her official duties as a judge.

### **Previous Council Action**

Rule 10.502 of the California Rules of Court provides for a judicial sabbatical pilot program, including eligibility criteria, application procedures, and evaluation standards. Four requests for judicial sabbatical leave have been submitted since the rule's effective date, January 1, 2003. The Judicial Sabbatical Review Committee, designated in that rule, ceased to exist after 2006, after having considered only two requests, in 2004 and 2006. Two other judicial sabbatical requests have been submitted since then, in 2009 and 2010, and they were brought to the Judicial Council's Executive and Planning Committee. All four requests were approved by the Executive and Planning Committee, acting on behalf of the Judicial Council under California Rules of Court, rule 10.11(a).<sup>1</sup>

Government Code section 68554 authorizes the Judicial Council to grant a leave of absence to a judge for a period not to exceed one year:

[F]or the purpose of permitting study which will benefit the administration of justice and the individual's performance of judicial duties, upon a finding that the absence will not work to the detriment of the court. During a study leave, the judge shall receive no compensation, nor shall the period of absence count as service toward retirement, but the time of leave shall not toll the term of office.

### **Rationale for Recommendation**

Judge Foster, in her sabbatical application letters, states her request for an unpaid six-month sabbatical, including the specific steps and corresponding timeline for completing her study project.<sup>2</sup> She states that she will study the state of civil litigation in the California trial courts, review proposals by others, and make proposals about how to improve the administration of justice for civil litigation with fewer resources. Judge Foster anticipates three sets of recommendations resulting from this study leave: those that can be implemented by the trial courts, those that can be implemented as revisions to rules of court through Judicial Council approval, and those requiring legislative action. Judge Foster states that she will present her report and recommendations to the presiding judge of her court and to the chairs of the Judicial

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<sup>1</sup> See Attachment 1: December 9, 2004, March 9, 2006, June 9, 2009, and December 8, 2010, Executive and Planning Committee meeting minutes.

<sup>2</sup> See Attachments 2 and 3: May 30, 2012, letter from Judge Lisa Foster, Superior Court of California, County of San Diego, to Chief Justice Tani G. Cantil-Sakauye; and July 9, 2012, letter from Judge Lisa Foster to Justice Douglas P. Miller, Chair, Executive and Planning Committee.

Council's Civil and Small Claims Advisory Committee and its Executive and Planning Committee.

Judge Foster's presiding judge supports Judge Foster's study leave and states that her study will benefit the administration of justice and his court. He further states that his court will not be requesting an assigned judge to handle Judge Foster's caseload during her absence.<sup>3</sup>

The standards stated in rule 10.502 and in section 68554 are met in Judge Foster's request for a six-month leave. Because her presiding judge supports her leave request, the council may conclude that this leave will not be detrimental to her court. Judge Foster confirms her understanding that this leave will be uncompensated and the period of absence will not constitute service toward retirement. The council may conclude, based on her two letters, that her project will benefit the administration of justice and her performance of her judicial duties, as a judge in civil cases. The recommendation includes a requirement, under rule 10.502(h), that Judge Foster provide a written report to the council after completion of her leave on how the leave benefited the administration of justice in California and on its effect on her official duties as a judge.

### **Comments, Alternatives Considered, and Policy Implications**

No comments have been solicited on this request; the only comment comes from the requestor's presiding judge, who supports the request and states that judicial coverage for Judge Foster's caseload will be borne by the court without any need for a judge sitting by assignment.

The alternative to granting this request is to deny it. We have identified no reason to deny this request.

### **Implementation Requirements, Costs, and Operational Impacts**

There should be no economic cost to the judicial branch or to the Superior Court of San Diego County as a consequence of this judicial sabbatical leave. The court will assign Judge Foster's caseload, during a leave of absence, to other judicial officers with the court. Judge Foster will receive no compensation or service credit toward retirement during this leave.

### **Attachments**

1. December 9, 2004, March 9, 2006, June 9, 2009, and December 8, 2010, Executive and Planning Committee minutes
2. May 30, 2012, letter from Judge Lisa Foster, Superior Court of California, County of San Diego, to Chief Justice Tani G. Cantil-Sakauye
3. July 9, 2012, letter from Judge Lisa Foster to Justice Douglas P. Miller, Chair, Executive and Planning Committee

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<sup>3</sup> See Attachment 4: July 3, 2012, letter from Presiding Judge Robert J. Trentacosta, Superior Court of California, County of San Diego, to Justice Douglas P. Miller, Chair, Executive and Planning Committee.

4. July 3, 2012, letter from Presiding Judge Robert J. Trentacosta, Superior Court of California, County of San Diego, to Justice Douglas P. Miller, Chair, Executive and Planning Committee