

JUDICIAL COUNCIL MEETING
Minutes of the February 23, 2007, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:45 a.m. on Friday, February 23, 2007, at the Administrative Office of the Courts (AOC) in San Francisco, California.

Judicial Council members present: Chief Justice Ronald M. George; Justices Marvin R. Baxter, Richard D. Huffman, and Eileen C. Moore; Judges Peter Paul Espinoza, Terry B. Friedman, Jamie A. Jacobs-May, Suzanne N. Kingsbury, Carolyn B. Kuhl, Thomas M. Maddock, Charles W. McCoy, Jr., Barbara J. Miller, Dennis E. Murray, and James Michael Welch; Mr. Raymond G. Aragon, Mr. Anthony P. Capozzi, Ms. Barbara J. Parker, and Mr. William C. Vickrey; **advisory members:** Judges Scott L. Kays and Nancy Wieben Stock; Commissioner Ronald E. Albers; former Senator Joseph Dunn; Ms. Tamara Lynn Beard, Ms. Deena Fawcett, Mr. Michael M. Roddy, and Ms. Sharol Strickland.

Absent: Justice Candace D. Cooper; Senator Ellen M. Corbett; Assembly Member Dave Jones; and Mr. Thomas V. Girardi.

Others present included: Justices Ming W. Chin and Richard D. Aldrich; Judges Kevin A. Enright, Herbert J. Exarhos, Susan D. Huguenor, David B. Oberholtzer, Joel M. Pressman, Linda B. Quinn, Janis Sammartino, Kenneth K. So, Richard E. L. Strauss, Robert J. Trentacosta, Michael D. Wellington, and Margie G. Woods; Commissioner Robert L. Broughton; Executive Officer John A. Mendes; Mr. Robert Bradley, Mr. Stephen P. Cascioppo, Ms. Karen Dalton, Ms. Darlene Dornan, Mr. Robert Durant, Ms. Lucy Fogarty, Ms. Marilyn James, Ms. Beth Jay, Mr. Harold Kosakoff, and Ms. Winnie Tsou; **staff:** Mr. Peter Allen, Ms. Heather Anderson, Mr. Dennis Blanchard, Ms. Dianne Bolotte, Ms. Deborah Brown, Ms. Marcia Caballin, Ms. Ayanna Cage, Ms. Sheila Calabro, Ms. Casie Casados, Mr. Roderic Cathcart, Ms. Roma Cheadle, Ms. Patricia Clemons, Mr. Blaine Corren, Mr. Dexter Craig, Ms. Kim Davis, Mr. Kurt Duecker, Mr. Robert Emerson, Ms. Audrey Fancy, Mr. George Ferrick, Mr. Chad Finke, Ms. Monica Fiorentini, Mr. Michael Fischer, Mr. Bob Fleshman, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Ms. Susan Goins, Mr. Ruben Gomez, Ms. Bernadine Gonzalez, Ms. Janet Grove, Ms. Lynn Holton, Ms. Jonna Houghton, Ms. Kathleen T. Howard, Mr. Shawn Jackson, Mr. Mark Jacobson, Mr. Kenneth L. Kann, Ms. Martha Kilbourn, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Althea Lowe-Thomas, Mr. Dag MacLeod, Ms. Carolyn McGovern, Mr. Lee Morhar, Ms. Vicki Muzny, Mr. Stephen H. Nash, Ms. Diane Nunn, Mr. Patrick O'Donnell, Ms. Eraina Ortega, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Mr. Chung-Ron Pi, Ms. Mary M. Roberts, Ms. Gigi Robles, Ms. Rona Rothenberg, Ms. Robin Seeley, Ms. Marlene Smith, Ms. Nancy E. Spero, Ms. Karen M. Thorson, Ms. Ebru Tontas, Ms. Jennifer Walter, Mr. Alan Weiner, Ms. Josely Yangco-

Fronza, Ms. Daisy Yee, and Ms. Patricia M. Yerian; **media representative:** Ms. Amy Yarbrough, *San Francisco Daily Journal*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated February 23, 2007, that was sent to members in advance of the meeting.)

Public Comment Related to Trial Court Budget Issues

Chief Justice George noted that no requests to address the council had been received.

Approval of Minutes of the December 1, 2006, Business Meeting

The minutes of the December 1, 2006, business meeting were approved.

Visitors

Chief Justice Ronald M. George called on Judge Richard E. L. Strauss to introduce the visitors from the Superior Court of San Diego County. Judge Strauss introduced:

Hon. Janis Sammartino, Presiding Judge
Hon. Kenneth K. So, Assistant Presiding Judge
Hon. Herbert J. Exarhos, Supervising Judge, East County
Hon. Susan D. Huguenor, Presiding Judge, Juvenile
Hon. David B. Oberholtzer, Supervising Judge, Family
Hon. Linda B. Quinn, Supervising Judge, Civil
Hon. Robert J. Trentacosta, Supervising Judge, South County
Hon. Joel M. Pressman, Acting Supervising Judge, North County
Hon. Kevin A. Enright, Judge
Hon. Michael D. Wellington, Judge
Hon. Margie G. Woods, Judge
Mr. Michael M. Roddy, Executive Officer
Mr. Robert Bradley, Chief Financial Officer
Mr. Stephen P. Cascioppo, Assistant Executive Officer
Ms. Karen Dalton, Court Public Affairs Officer
Ms. Darlene Dornan, Director, Legal Services
Mr. Robert Durant, Assistant Executive Officer
Ms. Marilyn James, Chief Evaluation and Planning Officer
Mr. Harold Kosakoff, Assistant Executive Officer
Mentioned as absent: Ms. Celeste Schwartz, Chief Information Officer

Introduction of Newly Appointed Judicial Council Members

Chief Justice Ronald M. George announced the appointment of a new advisory member to the Judicial Council and welcomed former Senator Joseph Dunn in that capacity.

Chief Justice George noted that this was Judge Terry B. Friedman's first meeting as a member of the council in the capacity of having a three-year term as opposed to his ex officio role as President of the California Judges Association.

Chief Justice George also announced a newly appointed legislative representative, Senator Ellen M. Corbett, chair of the Senate Judiciary Committee. She was not able to attend the meeting.

Judicial Council Committee Presentations

Executive and Planning Committee

Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met four times by conference call since the December 1, 2006, Judicial Council meeting.

On January 30, 2007, the committee reviewed the advisory committee's work plans and requested revisions of those work plans for which the committee is responsible for oversight.

The issue of work plans and communications between the council and the advisory committees has become an important topic on which the committee will be making recommendations. Yesterday, Justice Huffman, Judge Dennis E. Murray, Judge Suzanne N. Kingsbury, and Justice Eileen C. Moore met with staff to develop recommendations that will be brought back to the council on methods that might improve the use of advisory committee work plans and other communications between the advisory committees and the council to advance the operational and strategic plans of the council and encourage new ideas among the advisory committees.

On January 31, 2007, the committee reviewed reports and set the agenda for the February 23, 2007, Judicial Council business meeting. A segment of the agenda setting involved a review of the report on the site selection for a new Contra Costa County courthouse, shown as item 1 on the council's consent agenda. Executive and Planning Committee member Judge Thomas M. Maddock, from the Superior Court of Contra Costa County, did not participate in any of the discussions or voting on that item.

The committee also approved the 2007 Annual Charge—Operational Plan Input to be sent to advisory committees and task forces for their 2007 work. The charge pertains to their participation in the development of the branchwide operational plan this year.

The committee also considered a staff report suggesting methods for increasing the level of and personalizing communication from Judicial Council members to California court leaders and judicial officers. The committee requested that staff bring these suggestions to the council at an issues meeting.

The committee reviewed nominations submitted by staff for an out-of-cycle vacancy on the Family and Juvenile Law Advisory Committee and made recommendations to be submitted to the Chief Justice.

Finally, on the recommendation of staff, the committee acted on behalf of the Judicial Council under rule 10.11(d) of the California Rules of Court to add an advisory member to the Judicial Council and to recommend to the Chief Justice that this position be filled by former Senator Joseph Dunn because of his unique and continuing leadership on statewide issues of concern to the judicial branch. This position is for one year only and will be reevaluated at the end of 2007.

On February 8, 2007, the committee further reviewed reports and set the agenda for the February 23, 2007, Judicial Council business meeting.

The committee reviewed a request from the Governing Committee of the Center for Judicial Education and Research (CJER) seeking direction regarding content and data for tracking and reporting judges' participation in continuing education. The committee deferred this matter, allowing CJER to receive more comments.

The committee reviewed and approved a request from CJER to appoint two advisory committee members to fill two vacant positions on the committee. These positions were created as part of CJER's two-year pilot program to improve communications between it and certain council advisory committees. E&P directed staff to forward CJER's recommendations to the Chief Justice.

On February 15, 2007, the committee reviewed one more report and set the agenda for the February 23, 2007, Judicial Council business meeting.

Staff presented information regarding the Judicial Council's policies on the Judicial Administration Efficiency and Modernization Fund and the Trial Court Improvement Fund, the council's delegation of authority to approve special funds allocations to the Executive and Planning Committee, and the council's delegation of administration of funds to the Administrative Director of the Courts. Staff further presented information regarding Judicial Council governance policies and principles and how they relate to the council's policies on special funds.

The committee reviewed and approved amendments to the Trial Court Improvement Fund guidelines.

The committee reviewed and approved, on behalf of the Judicial Council, the report on fiscal year 2005–2006 expenditures from the Trial Court Improvement Fund and the Judicial Administration Efficiency and Modernization Fund for submission to the Legislature.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met once since the December 1, 2006, council meeting.

On February 15, 2007, the committee took action on legislation regarding trial court limited-term employees.

The legislative deadline to introduce bills is February 23, 2007. The staff of the AOC Office of Governmental Affairs is now reviewing all bills.

On Monday, February 26, 2007, the judicial council will host the 13th annual Judicial–Legislative–Executive Forum at the State Capitol. The forum is an informational event for legislators, the Governor, and executive branch officials. As in the past, the forum will take place in conjunction with the Chief Justice’s State of the Judiciary address to the Legislature. The following day, February 27, the Bench-Bar Coalition Day will be held in Sacramento, with more than a hundred members of the bench and bar meeting with approximately 50 legislators on issues pertinent to the judicial branch.

Rules and Projects Committee

Judge Suzanne N. Kingsbury, chair of the Rules and Projects Committee (RUPRO), reported that the committee had met four times since the December 1, 2006, council meeting.

On February 21, 2007, RUPRO met in person to conduct its annual review of the work plans for the advisory committees for which RUPRO has oversight responsibility.

On December 21, 2006, RUPRO met by phone to review rules and forms proposals to circulate for comment during the winter cycle. The committee also adopted guidelines for approval of technical changes and corrections, and minor substantive changes to the civil and criminal jury instructions. This is discussed in more detail in an informational report, distributed in a handout to be placed under the Committee Reports tab in the Judicial Council binders.

On December 19, 2006, RUPRO met by phone to review a proposal and recommends the council’s approval of the proposal, which is item 5 on today’s discussion agenda.

On January 8, 2007, RUPRO met by phone to review an additional proposal and recommends the council’s approval of the proposal, which is item 4 on today’s consent agenda.

Members of RUPRO also communicated by e-mail to review a proposal to make an adjustment in the cost of living index for fee waiver applicants that was later approved by the council by circulating order (CO-07-01).

Administrative Director's Report

Mr. William C. Vickrey submitted a written report, which is attached to these minutes.

Chief Justice's Report

Chief Justice Ronald M. George reported on his activities since the December 1, 2006, business meeting.

On December 4, 2006, the Chief Justice, Mr. William C. Vickrey, Mr. Ronald G. Overholt, and Ms. Kathleen T. Howard met with the Governor to discuss the proposed budget, recently passed bills affecting the judicial branch including the one for new judgeships, the possible future conversion of 161 commissioner positions to judicial positions, and the transfer of court facilities from counties to the state. Also discussed were the issues of judicial pay and compensation and deficiencies in the judicial retirement systems. Legislation is proceeding that would lower the age of receipt of initial judicial retirement benefits from 65 to 63, for vesting purposes, and to include an opportunity to receive some benefit, albeit reduced, should a judge retire before being fully vested.

The Chief Justice reported that this year several court construction projects will commence. Efforts will be made to garner support for the Governor's budget proposal to approve two billion dollars in bond money for courthouse needs. That will be challenging because some voters will not want the state to add to its bond debt.

The Chief Justice indicated that no money was included in the Governor's budget proposal to extend court interpreter services to certain categories of civil cases, but the Governor indicated that he would be willing to sign a bill to that effect if passed in the Legislature.

The Chief Justice planned to address a number of the above matters in his State of the Judiciary address to the Legislature on February 26, 2007.

On December 4, 2006, the Chief Justice had the privilege of swearing in the members of the state Senate.

On the first business day of 2007, the Chief Justice swore in former Assembly Member and minority leader Rod Pacheco as the Riverside County district attorney and provided some remarks at the ceremony.

A few days later, the Chief Justice swore in Governor Arnold Schwarzenegger for his second term, as well as Lieutenant Governor John Garamendi. Later the Chief Justice attended Governor Schwarzenegger's State of the State address.

The Chief Justice accepted an invitation from Dave Jones, Assembly Member and Chair of the Assembly Judiciary Committee, to appear and testify before a legislative hearing on access to justice issues on February 13. The Chief Justice provided some introductory remarks and set the stage for discussions regarding the right to counsel and interpreter services in civil cases.

The Chief Justice reported that he had attended meetings with members of the Legislature: chair of the Senate Judiciary Committee Senator Ellen M. Corbett, Senate President pro Tem Don Perata, Speaker of the Assembly Fabian Núñez, Assembly Member Bill Maze, and Assembly Member John Laird.

The Chief Justice also met with Secretary of Health and Human Services Kim Belshé, with whom he is a co-chair on the Foster Care Council; the Governor's Chief of Staff Susan Kennedy; and Director of Finance Michael C. Genest.

The Chief Justice reported that on February 26 he will meet with the Governor's new judicial appointments advisor before the State of the Judiciary address.

The Chief Justice also met with various bar groups: the Italian American Bar Association, California Defense Counsel, Chancery Club, Consumer Attorneys Association, The Federalist Society, Sacramento Barristers' Club, Benchmark Coalition, and California District Attorneys Association. The Chief Justice also taped remarks for the Beyond the Bench Conference, because he was unable to attend.

The Chief Justice further reported that the Chief Justice of the United States, John G. Roberts, Jr., asked him to be a member of the Committee on Rules of Practice, Procedure, and Evidence, which evaluates various advisory committee recommendations involving criminal, civil, evidence, and bankruptcy rules. Chief Justice George is the only state judge who sits on that committee. He will attend a two-day meeting in Arizona in the coming weeks at which the impact of proposed rules on the judicial system will be discussed.

Chief Justice George continues to hold meetings with various courts statewide, recently meeting with members of the Superior Court of San Mateo County. A meeting with the Solano County Bench Bar was scheduled for February 27.

Chief Justice George reported that he participated in an hour-long interview on judicial branch initiatives with Michael Krasny on KQED.

Lastly, the Chief Justice met with the Governing Committee of the CJER to commend them for the excellent work that they have done in the area of judicial education and to discuss common issues regarding upcoming educational efforts in the Courts of Appeal and Supreme Court.

CONSENT AGENDA (ITEMS 1–4)

Item 1 Site Acquisition Approval for Contra Costa County’s New Antioch Area Courthouse (New East Contra Costa County Courthouse)

Staff of the Administrative Office of the Courts recommended that the Judicial Council take three actions for acquisition of the Pittsburg site for the new Antioch area courthouse (East Contra Costa County courthouse): (1) direct AOC staff to proceed with acquisition of the site, (2) adopt a mitigated negative declaration and mitigation monitoring program undertaken in accordance with the California Environmental Quality Act (CEQA), and (3) authorize the Administrative Director of the Courts to approve and execute the property transfer agreement. The Judicial Council should approve the site because it meets the site considerations of the advisory team (which included court representatives) and AOC staff, and it should adopt the CEQA document as required for the lead agency. Authorizing the Administrative Director of the Courts to approve and execute the property transfer agreement would allow completion in time for the meeting submittal requirements of the State Public Works Board.

Judicial Council member Judge Thomas M. Maddock abstained from voting on this item.

Council action

The Judicial Council, effective February 23, 2007:

1. Directed AOC staff to proceed with the acquisition of the designated site in Pittsburg for the new Antioch area courthouse;
2. Approved the resolution adopting a mitigated negative declaration and mitigation monitoring program for the project at the Pittsburg site; and
3. Authorized the Administrative Director of the Courts, or his designee, to approve and execute the agreement for property exchange and related documents for acquisition of the Pittsburg site.

Item 2 Educational Model for New Judicial Officers to Qualify for Commission on Judicial Performance (CJP) Insurance

AOC staff recommended that the Judicial Council modify the current educational model for Qualifying Ethics training for new judicial officers so that they maintain their Commission on Judicial Performance insurance. The modification ensured that all new judicial officers would receive the same amount of ethics training regardless of when they assumed office and when they completed New Judge Orientation and the Judicial

College. The modification also extended the current three-year Qualifying Ethics cycle one year to conclude December 31, 2009, instead of December 31, 2008. Because the first three-year cycle for minimum education expectations for judicial officers began January 1, 2007, and ends December 31, 2009, extending the current Qualifying Ethics cycle one year would make the current and future cycles concurrent.

Council action

The Judicial Council:

1. Modified the current model for Qualifying Ethics training so that during any Qualifying Ethics cycle in which new judicial officers are fulfilling, in a timely way, educational requirements for new judicial officers, they are deemed to have satisfied their CJP insurance ethics training requirements for that three-year cycle.
2. Extended the current three-year Qualifying Ethics cycle for one year to conclude on December 31, 2009, instead of December 31, 2008. Because the first three-year cycle for minimum education expectations for judicial officers began on January 1, 2007, and ends on December 31, 2009, extending the current Qualifying Ethics cycle one year would make these two cycles concurrent.

Item 3 Conflict of Interest Code for the Administrative Office of the Courts

AOC staff recommended that the Judicial Council adopt, effective February 23, 2007, revisions to the AOC Conflict of Interest Code that add new job classifications and delete classifications that no longer exist.

Council action

The Judicial Council, effective February 23, 2007, adopted a revised AOC Conflict of Interest Code. The revisions added various new job classifications and deleted classifications that no longer exist.

Item 4 Civil Jury Instructions: Approve Publication of Revisions to the California Civil Jury Instructions (CACI) (Cal. Rules of Court, rule 2.1050)

The Advisory Committee on Civil Jury Instructions recommended approval of CACI Release 8. Release 8 included 15 revised instructions on various subjects required by developments in the law since the last release in June 2006.

Council action

The Judicial Council, effective February 23, 2007, approved for publication under rule 2.1050 of the California Rules of Court the civil jury instructions prepared by the committee. The revisions will be officially published in a 2006–2007 supplement to the 2006 edition of *CACI*.

DISCUSSION AGENDA (ITEMS 5–11)¹

Item 6 Mediation Week: Resolution Recognizing the Benefits of Mediation and Court Mediation Programs

Mr. Alan Wiener, AOC Office of the General Counsel, presented this item with the participation of Ms. Heather Anderson, AOC Office of the General Counsel, and Ms. Audrey Fancy, AOC Center for Families, Children & the Courts.

AOC staff recommended that the Judicial Council adopt a resolution recognizing the third week of March as “Mediation Week,” to coincide with similar recognitions by the Governor and other public agencies and bodies. Information about the Judicial Council resolution will be disseminated throughout the judicial branch and to local bar associations, mediation providers, and the general public. Judicial Council recognition of Mediation Week will encourage courts to implement and improve mediation programs; promote public awareness and use of those programs; and acknowledge the court staff, mediators, and others who make them successful.

A copy of the resolution is attached to these minutes.

Council action

The Judicial Council, effective February 23, 2007, adopted a resolution recognizing March 18–24, 2007, as Mediation Week.

Item 7 Allocation of FY 2006–2007 Funding for New Trial Court Judgeships

Ms. Marcia Caballin, AOC Finance Division, presented this item with the participation of Mr. Stephen H. Nash, AOC Finance Division, and Ms. Kim Davis, AOC Office of Court Construction and Management (OCCM).

AOC staff and the Trial Court Budget Working Group recommended allocations of the funding for new trial court judgeships included in the Budget Act of 2006. The council considered and acted on the recommendations so that the trial courts receiving new judgeships under Senate Bill 56 would know the level of funding they would receive and could prepare appropriately for the appointment of their new judicial positions.

Council action

The Judicial Council:

1. Approved allocation of funding for new judgeships included in the 2006 Budget Act.

¹ Due to schedule conflicts, discussion items were presented in the following order: Item 6, Item 7, Item 5, Item 8, Item 9, Item 11, and Item 10.

2. Approved allocation of ongoing facilities funding included in the 2006 Budget Act based on the low-cost alternative prepared by staff of the AOC Office of Court Construction and Management. In addition, funding would be identified from available sources to pay for estimated one-time facilities costs in the current year, to be repaid over several years. The OCCM will monitor these facilities costs and allocate the funds as needed.
3. Directed that staff survey the 20 courts receiving the new judgeships funding before June 2007 regarding the actual and planned expenditures of new judgeships money that has been allocated in the current year, and reduce a court's current-year allocations by the amount of any new judgeships money not projected to be expended for that purpose. Any current-year funds not expended in support of new judgeships will be reallocated on a one-time basis to address other current-year costs in other courts related to the implementation of the new judgeships.
4. Directed AOC staff to develop reporting guidelines covering how the courts should report expenditures of these allocations. These guidelines should be presented to the Executive and Planning Committee before the end of this fiscal year for its approval.

Item 5 Juvenile Law: Notice Requirements for Juvenile Cases Under the Indian Child Welfare Act (Welf. & Inst. Code, § 224.2) (amend Cal. Rules of Court, rule 5.664)

Judge Susan D. Huguenor presented this item with the participation of Ms. Diane Nunn and Ms. Jennifer Walter, AOC Center for Families, Children & the Courts.

The Family and Juvenile Law Advisory Committee recommended amending rule 5.664, effective February 23, 2007, to conform the notice provisions of rule 5.664 to new Welfare and Institutions Code section 224.2(a). Effective February 1, 2007, the Legislature passed Senate Bill 678 ([Ducheny] Stats. 2006, ch. 838), which codified the federal Indian Child Welfare Act (25 U.S.C. § 1901 et seq.) by adding amendments to the Family Code, Probate Code, and Welfare and Institutions Code. The committee proposed this change, affecting only juvenile cases under the Indian Child Welfare Act, in order to prevent confusion between the language of the new statute and the existing rule. The committee, along with the Probate and Mental Health Advisory Committee, will recommend unified rules and forms implementing SB 678 in probate, family, and juvenile proceedings in the spring 2007 rules and forms cycle. This proposal will be circulated for comment with the unified rules proposal and is expected to come before the Judicial Council at its October 2007 meeting.

Council action

The Judicial Council, effective February 23, 2007, amended rule 5.664 of the California Rules of Court to conform the rule to Welfare and Institutions Code section 224.2(a).

Item 8 Report to the Judicial Council and the Legislature on the Uniform Civil Fees and Standard Fee Schedule Act of 2005

Justice Richard D. Aldrich, Chair, Task Force on Civil Fees, presented this item with the participation of Ms. Eraina Ortega, AOC Office of Governmental Affairs; Ms. Janet Grove, AOC Office of the General Counsel; and Mr. Ruben Gomez, AOC Finance Division.

The Task Force on Civil Fees recommended that the Judicial Council approve the report to the Legislature that makes recommendations on the effectiveness of the uniform fee structure, any operation or revenue problems, and how to address them; whether a fee differential should be implemented based on the number of cases a party files in a year; and a process to adjust fees in the future to accommodate inflation and other factors affecting operating costs for trial courts, county law libraries, and county programs that rely on court fees.

Council action

The Judicial Council:

1. Approved the following recommendations to the Legislature:
 - a. That it amend the Uniform Civil Fees and Standard Fee Schedule Act to clarify specific fees and improve the effectiveness of the fee structure.
 - b. That it not adopt a fee differential based on the number of cases a party files in a year.
2. Regarding the establishment of a Commission on Civil Fees in the Courts, directed staff to develop a proposal for review by the Policy Coordination and Liaison Committee, addressing which aspects of the proposal are appropriate for rule and whether any part should be adopted in statute.
3. Directed staff to convene a meeting of interested parties, including task force members and representatives of the Legislature, to discuss and consider fee issues in 2007 that cannot wait until the establishment and recommendations of the fee commission.

Item 9 Update of Judicial Workload Assessment and New Methodology for Selecting Courts in Which Subordinate Judicial Officers Should be Converted to Judgeships

Mr. Dag MacLeod and Mr. Chung-Ron Pi, AOC Executive Office Programs Division, and Ms. Kathleen T. Howard, AOC Office of Governmental Affairs, presented this item.

AOC staff recommended that the Judicial Council approve the update of the 2004 judicial workload assessment, taking into account the 50 new judgeships created by SB 56 and using the most recent filings data to ensure that the trial courts with the greatest need are on the priority list for the remaining 100 judicial officers that will be added in the next two years. Staff further recommended adapting the judicial workload methodology of

weighted filings to evaluate subordinate judicial officer (SJO) workload. That analysis would be used to determine which courts have SJO positions that are eligible to be converted to judgeships upon vacancy.

Council action

The Judicial Council:

1. Approved the updated priority ranking for 100 judgeships in the remaining two years of the judgeship allocation plan approved by the Judicial Council in 2004.
2. Approved the methodology for selecting courts in which SJO positions should be converted to judgeships.

Item 11 Final Recommendation on Science and the Law Policies

Justice Ming W. Chin presented this item with the participation of Mr. Roderic Cathcart, AOC Education Division/Center for Judicial Education and Research.

The Science and the Law Steering Committee recommended that the Judicial Council improve the judicial management of issues regarding science, technology, and the law by (1) directing the Governing Committee of the Center for Judicial Education and Research through its Science and the Law Education Committee to facilitate the exchange of information between the courts and the science and technology communities to assess emerging issues, resources, and potential partnerships relating to science, technology, and the law consistent with the guidelines approved by the Judicial Council in February 2006; (2) directing existing advisory committees and task forces to monitor the impact of science and technology in the California courts within the context of their areas of responsibility to identify priorities and recommend effective approaches; and (3) requiring that advisory committee and task force work plans include a science and the law component.

Council action

The Judicial Council:

1. Directed the Governing Committee of the Center for Judicial Education and Research, through its Science and the Law Education Committee, to facilitate the exchange of information between the courts and the science and technology communities to assess emerging issues, resources, and potential partnerships relating to science, technology, and the law consistent with the guidelines approved by the Judicial Council in February 2006.
 - A. Appoint representatives from the science and technology communities to membership of the Science and the Law Education Committee.
 - B. Report periodically to the Judicial Council on emerging issues in science and technology for further action by existing Judicial Council advisory committees, task forces, and working groups.
 - C. Integrate science and the law curriculum into new judge education by offering a course at the B. E. Witkin Judicial College.

- D. Integrate science and the law curriculum into education for experienced judges at subject-matter institutes, the Continuing Judicial Studies Program, and the biannual statewide judicial branch conference.
 - E. Develop judicial resources on science and the law such as streaming video broadcasts, benchbooks, updates on new developments, and an online Web presence.
 - F. Sponsor educational projects on science and the law in collaboration with California research organizations and institutes of higher learning, the Federal Judicial Center, and the National Center for State Courts.
 - G. Fund projects to develop science and technology faculty for judicial branch education.
2. Directed existing advisory committees and task forces to monitor the impact of science and technology in the California courts within the context of their areas of responsibility to identify priorities and recommend effective approaches, as follows:
- A. Access and Fairness Advisory Committee: Develop methods to improve access to online court resources for court users who are unfamiliar with computer technologies and engage community resources (e.g., JusticeCorps, law students, and public libraries) in an effort to improve access to computer technologies.
 - B. Advisory Committees on Civil and Criminal Jury Instructions: Develop instructions to assist jurors in evaluating computer-generated evidence and high-technology demonstrative evidence.
 - C. Appellate Advisory Committee: Develop rules regarding the preservation of electronic presentations for the record on appeal (e.g., PowerPoint and animations).
 - D. Civil and Small Claims Advisory Committee: Develop meet-and-confer procedures to improve agreement on scientific and technological evidence and develop uniform statewide standards for electronic discovery in collaboration with the Court Technology Advisory Committee.
 - E. Court Interpreters Advisory Panel: Consider and recommend new technologies for communication, interpretation, and translation.
 - F. Court Technology Advisory Committee: Sponsor programs for judges to promote use of new technologies; develop baseline courtroom technology standards for evidence presentation; coordinate technology initiatives among other advisory committees and task forces; and develop uniform statewide standards for electronic filing, discovery, and records retention in collaboration with the other advisory committees, task forces, and working groups.
 - G. Criminal Law Advisory Committee: Evaluate procedures regarding discovery and the admission of forensic science evidence in California criminal proceedings.

- H. Family and Juvenile Law Advisory Committee: Develop improved procedures for judicial consultation on the administration of psychotropic drugs in juvenile proceedings.
 - I. Task Force on Judicial Ethics Issues: Consider whether amendments to the Code of Judicial Ethics are needed to address judicial education or independent research on scientific issues.
3. Required that advisory committee and task force work plans include a science and the law component.

Item 10 Subordinate Judicial Officers: Policy for Approval of Number of Subordinate Judicial Officers in Trial Courts

Mr. Kenneth L. Kann, AOC Executive Office Programs Division, presented this item with the participation of Ms. Nancy E. Spero and Mr. Dag MacLeod, also AOC Executive Office Programs Division.

AOC staff recommended that the council adopt a policy regarding review and approval of requests from trial courts to change the number of subordinate judicial officer positions and delegate approval authority to its Executive and Planning Committee. Government Code section 71622(a) grants authority to the council to determine the number and type of subordinate judicial officer positions in each trial court.

Council action

The Judicial Council adopted the following policy regarding review and approval of trial court requests for changes in the authorized number of SJO positions under Government Code section 71622(a) and delegated authority to its Executive and Planning Committee as follows:

1. To establish a new SJO position, eliminate an SJO position, or change the time base of an existing SJO position, a court must request and obtain approval from E&P. The requesting court must fund and bear all costs associated with an additional or augmented SJO position.
2. Courts must submit their requests in writing to the appropriate AOC regional administrative director. A request must contain a certification by the presiding judge that the court has sufficient funds in its ongoing budget to cover the cost of any additional or augmented position. AOC staff must provide E&P with (a) an estimation of the requesting court's ability to fund one-time and ongoing costs resulting from the establishment or augmentation of a new position and (b) a confirmation of need, both SJO workload and overall judicial need, based on the most recent council-approved Judicial Needs Assessment.
3. E&P will authorize new or augmented SJO positions only if (a) the court can continually fund the associated increased costs and (b) the most recent council-approved Judicial Needs Assessment demonstrates that the requesting court's SJO workload justifies additional SJO positions and cannot be handled with existing judicial resources. E&P's decision to change the number or type of SJO

positions must be in writing and contain an analysis of the factors underlying the decision.

4. E&P will eliminate or decrease the time base of an SJO position on the request of a trial court.
5. AOC staff are directed to work with all trial courts to establish an official baseline number of authorized SJO positions in each court and to report this information to E&P. Once a court's baseline is established, E&P may consider and approve according to these criteria that court's request to approve currently unauthorized SJO positions that have been added since January 1, 2001.
6. This policy applies to subordinate judicial officer positions authorized under section 22 of article VI of the California Constitution and that are paid from a trial court's budget. Court commissioner and court referee positions are subject to this policy. The following positions are not covered by this policy: mental health hearing officers serving under Welfare and Institutions Code sections 5256.1 or 5334(c), referees appointed under Code of Civil Procedure sections 638 and 639, and child support commissioners supported by Assembly Bill 1058 funding.²

Circulating Orders

Copies of circulating orders are for information only; no action was necessary.

Appointment Orders

Copies of appointment orders are for information only; no action was necessary.

There being no further public business, the meeting was adjourned at 12:25 p.m.

Respectfully submitted,



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

² The council determines the number of AB 1058 child support commissioners under somewhat different criteria, in accordance with caseload, case processing, and staffing standards specifically for child support commissioners.



JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS

Resolution

— RECOGNIZING —

Mediation Week

March 18–24, 2007

Whereas mediation is a dispute resolution process in which a neutral third person facilitates communication between disputants to help them reach a mutually acceptable agreement;

Whereas during the past 25 years, California courts have increasingly encouraged, offered, and provided mediation to assist litigants in resolving civil, family, and juvenile actions and proceedings;

Whereas mediation offers many potential benefits to litigants, the courts, and the public, including increasing the interested parties' satisfaction with the litigation process and the courts and voluntary compliance with the terms of resolution, while reducing pretrial motions and trials, the time from the filing of an action to disposition, future disputes between the parties, recidivism, litigants' costs, and court workloads;

Whereas the availability and success of court mediation programs are largely attributable to the efforts of judicial officers, court staff, and the courts' justice partners, including local government agencies, state and local bar associations, mediation organizations, and individual mediators, many of whom contribute significant time and resources toward conducting mediations;

Whereas widespread public awareness of the nature, availability, and benefits of mediation and court mediation programs is essential to ensuring the use of these programs and access to justice; and

Whereas the Governor and other California state and local officials and agencies traditionally recognize the third week of March as Mediation Week;

Now, therefore, be it resolved that the Judicial Council of California and the Administrative Office of the Courts recognize the week of March 18 through 24, 2007, as Mediation Week, commend the efforts of all those who make mediation and mediation programs available to the citizens of California, and encourage the courts to recognize those individuals and publicize their mediation programs during Mediation Week.

I have hereunto set my hand this 23rd day of February, 2007.

Attest:

RONALD M. GEORGE
Chief Justice of California and
Chair of the Judicial Council of California

WILLIAM C. VICKREY
Administrative Director of the Courts