

**JUDICIAL COUNCIL MEETING**  
**Minutes of the October 26, 2007, Meeting**  
**San Francisco, California**

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:45 a.m. on Friday, October 26, 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, Brad R. Hill, Richard D. Huffman, and Eileen C. Moore; Judges Peter Paul Espinoza, Terry B. Friedman, Jamie A. Jacobs-May, Carolyn B. Kuhl, Thomas M. Maddock, Charles W. McCoy, Jr., Dennis E. Murray, and James Michael Welch; Mr. Raymond G. Aragon, Mr. Anthony P. Capozzi, Mr. Thomas V. Girardi, Ms. Barbara J. Parker, and Mr. William C. Vickrey; advisory members: Judge Ira R. Kaufman, Commissioner Ronald E. Albers; and Ms. Deena Fawcett, Michael D. Planet, and Ms. Sharol Strickland.

**Absent:** Senator Ellen M. Corbett; former Senator Joseph Dunn; Assembly Member Dave Jones; Judges George J. Abdallah, Jr., Barbara J. Miller, and Nancy Wieben Stock; and Mr. Michael M. Roddy.

**Others present included:** Justice Roger W. Boren; Judges John Jeffrey Almquist, Robin Appel, Robert B. Atack, Jacqueline A. Connor, Don Edward Green, Denine J. Guy, Lesley D. Holland, Dallas S. Holmes (Ret.), Paul M. Marigonda, Heather D. Morse, William J. Murray, Jr., Richard Vlavianos, David P. Warner; Executive Officers Mr. Alex Calvo and Ms. Rosa Junqueiro; Mr. Philip Brozeman, Ms. Sharon Atkins, Ms. Sierra Atkins, Ms. Linda Courtright, Mr. Larry Doyle, Mr. James Flohrschutz, Assistant Executive Officer Ms. Pat Hammermaster, Ms. Denise Hill, Ms. Beth Jay, and Ms. Sharon Morris; staff: Mr. Peter Allen, Ms. Kelly Beck, Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Huong Bui, Ms. Francine Byrne, Ms. Marcia Caballin, Ms. Ayanna Cage, Ms. Sheila Calabro, Mr. Philip Carrizosa, Ms. Tina Carroll, Ms. Roma Cheadle, Ms. Cindy Chen, Mr. Dexter Craig, Mr. Patrick Danna, Ms. Kim Davis, Ms. Charlene Depner, Ms. Angela Duldulao, Ms. Diana Earl, Mr. Edward Ellestad, Mr. Robert Emerson, Ms. Sara Fisher, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Mr. Evan Garber, Ms. Marlene Hagman-Smith, Mr. Brad Heinz, Ms. Donna S. Hershkowitz, Ms. Lynn Holton, Ms. Jonna Houghton, Ms. Melanie Jones, Mr. Kenneth L. Kann, Ms. Camilla Kieliger, Ms. Youn Kim, Mr. Gary Kitajo, Ms. Leanne Kozak, Mr. John Larson, Ms. Althea Lowe-Thomas, Mr. Dag MacLeod, Ms. Stacey Mangni, Ms. Susan McMullan, Mr. Douglas C. Miller, Mr. Lee Morhar, Mr. James Mullen, Mr. Stephen H. Nash, Mr. Tim Newman, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Susan Reeves, Ms. Pam Reynolds, Ms. Mary M. Roberts, Ms. Katherine Runkel, Ms. Chantal Sampogna, Ms. Robin Seeley, Ms. Lusia Siaki, Mr. Curt Soderlund, Ms. Penne Soltysik, Ms. Nancy E. Spero, Ms. Donna Strobel, Ms. Marcia M. Taylor, Ms. Maria

Topete, Mr. Jim Vesper, Ms. Susie Viray, Ms. Jennifer Walter, Mr. Tony Wernert, Ms. Leah Wilson, Ms. Josely Yangco-Frona, and Ms. Daisy Yee; **media representatives:** Ms. Janice Wright, KCBS; Ms. Julie Cheever, Bay City News Service; and Ms. Amy Yarbrough, *Daily Journal*.

## **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**

The minutes of the August 31, 2007, business meeting will be submitted for approval at the December 7, 2007, business 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 three times since the August 31, 2007, Judicial Council meeting.

On October 3, 2007, the committee met by conference call. The committee set the agenda for the October 26, 2007, business meeting, approved the minutes of its August 29, 2007, meeting, considered CASA grant program proposals, and approved CASA funding grants. They also addressed a request from the California Court Reporters Association (CCRA) that a certified shorthand reporter provide live online text streaming during council business meetings. The committee determined that the process was not viable at this time and directed staff, on behalf of the council, to thank CCRA for their suggestions and decline assistance at this time. Finally, the committee approved an out-of-cycle nomination to the council's Advisory Committee on Civil Jury Instructions and forwarded three names to the Chief Justice as required by the California Rules of Court.

On October 15–16, 2007, the committee met in person in San Francisco. The committee further set the agenda for the October 26, 2007, Judicial Council business meeting, oriented new members of the committee, and received a briefing from the Administrative Director on the judicial pay and benefits issues. The committee also discussed statewide infrastructure initiatives, including the California Court Case Management System (CCMS) and the Phoenix Financial and Human Resources Systems, and received input from Ms. Diane Cummins, Chief Fiscal Policy Advisory for Senate President pro tem Don Perata, and Mr. Anthony L. Williams, Partner, Wada Williams Law Group, on the importance of the judiciary's statewide infrastructure projects and how they interface with the needs of the state. The committee received an update from Northern/Central Regional Administrative Director Jody Patel on the Phoenix Financial System and asked

Ms. Patel to prepare a report for discussion at the October 26, 2007, council meeting. She and Chief Deputy Director Ronald G. Overholt will continue to report on the progress of this project. The committee reviewed and discussed the council's 1998 Policies and Principles governance document and 2007 revisions to same. Justice Huffman recognized the efforts of Executive Office Programs Division Director Kenneth L. Kann and Senior Attorney Nancy Spero in developing the document for presentation to E&P and the council in December 2007. Finally, the committee received a report on Senate Bill 56's reporting requirements for standards and measures that promote the fair and efficient administration of justice.

On October 25, 2007, the committee met in person in San Francisco to complete agenda setting for the October 26, 2007, Judicial Council business meeting. The committee reviewed and approved the minutes of its October 3 and October 15–16, 2007, meetings and continued its review of revisions to the 1998 Policies and Principles governance document.

#### *Policy Coordination and Liaison Committee*

Justice Marvin R. Baxter, chair, reported that the Policy Coordination and Liaison Committee (PCLC) had met twice since the August 31, 2007, council meeting. PCLC provided an orientation to new PCLC members and welcomed new members Judge Ira R. Kaufman; Judge Charles W. McCoy, Jr.; Ms. Barbara J. Parker; and Mr. Michael M. Roddy.

PCLC reviewed 11 proposals for council-sponsored legislation for 2008, including legislation concerning court facilities, court security, telephonic appearances in small claims cases, night court assessment, local rules re: increased filing time with the council, small claims postjudgment fees, small claims postponement fees, and subordinate judicial officer relocation costs.

Justice Baxter reminded the council that in January 2008 the council's various advisory committees will be contacted by PCLC for comments and suggestions about proposed council-sponsored legislation for 2008. He also stated that over the course of the legislative term, PCLC will review and take positions on any legislation not sponsored by the council that impacts the judicial branch.

Justice Baxter reported that the 2007–2008 Legislative Session has been successful. Four council-sponsored measures were signed into law: (1) Assembly Bill 159 created 50 new superior court judgeships and authorized the conversion of subordinate judicial officers to judgeships; (2) Assembly Bill 367 contained provisions relating to criminal fines and penalties; (3) Assembly Bill 1248, the council's court operations bill, included provisions allowing the courts to collect bail forfeitures in installment payments without requiring an appearance in court; raising the cap on habeas investigation costs; and permitting the council to establish a travel policy for the branch; and (4) Senate Bill 340 gave probate

investigators access to criminal history information. Two council-sponsored measures were vetoed: Assembly Bill 467, relating to fee waivers, and Senate Bill 396, relating to civil fee commissions. The Legislature will reconvene on January 7, 2008.

#### *Rules and Projects Committee*

Justice Eileen C. Moore, chair, reported that the Rules and Projects Committee (RUPRO) had met twice in person and three times by conference call since the August 31, 2007, council meeting.

On September 10, 2007, RUPRO met in person to review rules and forms proposals that are before the council today. RUPRO recommended approval of these rules and forms proposals. They consist of Items A-1 through A-30, A-32, A-33, and A-42 on the October 26, 2007, consent agenda.

On September 14, 2007, RUPRO met by conference call to review additional rules and forms proposals that are now before the council. RUPRO recommended approval of these rules and forms proposals, which are in Items A-31 and A-43 on the October 26, 2007, consent agenda.

On October 1, 2007, RUPRO met by conference call to review additional rules and forms proposals, all of which implement the Omnibus Conservatorship and Guardianship Reform Act of 2006. RUPRO recommended approval of these rules and forms proposals: they are Items A-34 through A-36, A-38, A-39, and A-41 on the October 26, 2007, consent agenda, and Item E on the discussion agenda.

On October 12, 2007, RUPRO met by conference call to review two proposals that implement the Omnibus Conservatorship and Guardianship Reform Act of 2006. RUPRO recommended approval of these rules and forms proposals, which are Items A-37 and A-40 on the October 26, 2007, consent agenda.

On October 25, 2007, RUPRO met in person to offer an orientation program to new committee members. In addition, RUPRO reviewed three rules proposals and updated civil jury instructions. These proposals will be presented to the council at its December 7, 2007, meeting.

#### **Introduction and Recognition of Visitors From the Superior Court of California, County of Santa Cruz and the Superior Court of California, County of San Joaquin**

Chief Justice George welcomed visitors from the Superior Court of Santa Cruz County, led by former council member Judge Heather D. Morse, and the Superior Court of San Joaquin County, led by former council member and incoming Presiding Judge William J. Murray, Jr. The Chief Justice met with these courts on October 25, 2007, during a program orienting them to the work of the AOC and the Judicial Council. The Chief

Justice welcomed them and thanked them for expressing interest in the work of the council and the AOC.

Judge Morse then introduced the members of her delegation and thanked the Chief Justice for hosting them: Assistant Presiding Judge Robert A. Atack, Judges John Jeffrey Almquist, Denine J. Guy, and Paul M. Marigonda; and Executive Officer Alex Calvo, and Assistant Executive Officer Pat Hammermaster.

Judge Murray introduced the members of his delegation and thanked the Chief Justice for hosting them: incoming Assistant Presiding Judge Robin Appel; Judges Lesley D. Holland, Richard Vlavianos, and David P. Warner; and Executive Officer Rosa Junqueiro, Assistant Executive Officer Sharon Morris, Chief Financial Officer Linda Courtright, Business Services Manager James Flohrschutz, and Human Resources Manager Denise Hill.

### **Presentation of Plaque to Mr. Larry Doyle**

Chief Justice George and Mr. William C. Vickrey presented a plaque to Mr. Larry Doyle, retiring chief legislative counsel for the State Bar of California. Mr. Doyle was recognized by the Judicial Council and the Administrative Office of the Courts for 18 years of service to the State Bar and a strong partnership with the judicial branch. Mr. Doyle was an active participant and leader in the Bench-Bar Coalition, which is supported by the Administrative Office of the Courts and the State Bar. Mr. Doyle is also the outgoing editor of the newsmagazine *Sacramento Scene*. Some of his accomplishments with the State Bar were leading efforts in 1999 to support the bar's dues activities, advocating issues raised by the voluntary sections of the State Bar, and successfully advocating for more than 100 major policy issues in the Legislature.

Mr. Doyle will transition to the private sector on November 2, 2007, to practice trusts and estates law in Sacramento. Mr. Doyle is a graduate of the University of the Pacific McGeorge School of Law and Dartmouth College. He has also served as a legislative consultant.

Chief Justice George and Mr. Vickrey thanked Mr. Doyle for his service to the State Bar and his enduring partnership and friendship with the judicial branch.

### **Administrative Director's Report**

Mr. Vickrey submitted a written report to the council of the activities in which he has been involved and presented an oral report highlighting certain of those activities since the August 31, 2007, business meeting.

Mr. Vickrey reported on the status of the Commission for Impartial Courts chaired by Supreme Court Justice Ming W. Chin. The commission held its inaugural meeting attended by judges, lawyers, former legislators, and other judicial branch stakeholders. The commission is composed of a steering committee, a Task Force on Judicial Campaign Finance, a Task Force on Judicial Candidate Campaign Conduct, a Task Force on Judicial Selection and Retention, and a Task Force on Public Information and Education. The commission's task forces will report to the steering committee after 18 months. Six months later, the steering committee will report to the council. The task forces will hold various public hearings, and the council will be notified of these hearings.

Mr. Vickrey next reported on the work of the Blue Ribbon Commission on Children in Foster Care chaired by Supreme Court Justice Carlos R. Moreno. The commission will conclude its work in 2008. It has attracted attention across the country and has been supported by the Governor's Office and the Legislature. A number of states have sent delegations to California to meet with members of the commission, Justice Moreno, and staff. For example, at the request of the Chief Justice of the Texas Supreme Court, a delegation from Texas recently visited with the commission and returned to their state to testify before the Texas Supreme Court on the state of dependency reform and the need for commissions on dependency in other states to effect improvements. Mr. Vickrey also referred the council to the summary of the commission's activities on pages 2–3 and 10–11 of his written report.

Mr. Vickrey also reported on the status of some administrative infrastructure projects undertaken by the AOC, found on pages 3–4 of his written report:

- California Court Case Management System: Development of the final phase software, V-4, is under way and projected for completion in 2010. The CCMS Steering Committee and the courts will develop deployment schedules for V-4 in 2008. Mr. Vickrey acknowledged the efforts of the Superior Courts of Orange County, San Diego County, and Ventura County and the AOC's Northern/Central Regional Office in piloting some of the initial programs.
- Phoenix Financial System: Work on this project will be completed by July 2008. In 2007, the AOC will report to the Legislature on the progress of implementation of the system.

Mr. Vickrey's report was concluded.

### **Chief Justice's Report**

Chief Justice George presented an oral report of the activities in which he has been involved since the August 31, 2007, council business meeting.

The Chief Justice reported on the dedication of the new courthouse for the Court of Appeal, Fifth Appellate District, in Fresno. He was pleased to attend and referred to the building as functional and beautiful. The Chief Justice noted that Administrative Presiding Justice James A. Ardaiz personally contributed to the design of the building.

The Chief Justice reported on the groundbreaking ceremony for the new courthouse for the Court of Appeal, Fourth Appellate District, Division Three, in Santa Ana. Construction is projected for completion in 18 months.

The Chief Justice also noted that he participated in the inaugural meeting of the Commission for Impartial Courts referred to in the Administrative Director's report.

The Chief Justice reported that he traveled to Washington, D.C., to attend and offer remarks to a conference focused on the challenges to judicial independence at the state level sponsored by retired U.S. Supreme Court Justice Sandra Day O'Connor. Justice O'Connor is working to promote efforts to protect the impartiality and independence of the courts. In 2006, the Chief Justice attended a similar conference focused mainly on the federal courts and delivered an address.

To illustrate the importance of California's judicial independence initiatives, the Chief Justice noted that individuals from California had promoted efforts in South Dakota to challenge judicial immunity and judicial independence but those efforts were defeated. However, similar efforts by the same individuals may take place in Florida during the next election cycle. It is believed that the goal of these activists is to ultimately challenge the system in California after achieving success in other states.

As further illustration, the Chief Justice brought the status of judicial elections in Pennsylvania to the council's attention. A few years ago the Pennsylvania Legislature was accused of enacting a legislative pay raise that also benefited judges during the final hours of the session. In response to the legislature's actions, voters reacted against two state Supreme Court justices up for reelection. One justice was narrowly reelected; the other one was defeated. Presently, a "clean sweep" movement based on no particular issue has surfaced in Pennsylvania, designed to oppose 65 of the 67 judges eligible for reelection, including 1 Supreme Court justice, 1 or 2 intermediate court of appeal justices, and trial judges. Elections are scheduled for the first week in November 2007.

The Chief Justice reported that he appeared by videotape at the Pro Bono Awards at the Superior Court of Contra Costa County, the court in which council member Judge Thomas M. Maddock sits, and conferred awards on the recipients. He was unable to attend in person due to a conflicting commitment to address the presiding judges' orientation program chaired by council member Presiding Judge Nancy Wieben Stock.

The Chief Justice also mentioned that he has received requests from Senate Majority Leader Gloria Romero and council member and Senator Ellen M. Corbett to meet to discuss various issues, including the formulation of a statewide solution for some of the problems in negotiating contracts for court interpreters. He also will meet with Senate President pro Tempore Don Perata to discuss bond issue legislation. He will discuss expediting a \$2-billion courthouse construction project proposed by the Governor's Office and will encourage Mr. Perata to collaborate with Assembly Speaker Fabian Núñez to extend court facilities transfer legislation. To date, 113 courthouses have been transferred, and it is anticipated that approximately 200 more facilities will be transferred in the next 12 months, following the passage of Senate Bill 10.

### **Update on Riverside County Strike Team by Justice Richard D. Huffman and Regional Administrative Director Sheila Calabro**

The Chief Justice asked Justice Richard D. Huffman and Regional Administrative Director Sheila Calabro of the AOC Southern Regional Office to provide an update on the progress of the Riverside County Strike Team. First, the Chief Justice expressed his appreciation to the members of the strike team and their staff who have selflessly undertaken this assignment. They have spent a good deal of time apart from their homes and families. The Chief Justice remarked that the judicial branch undertook this project as a statewide responsibility to assist an area where access to justice, the motivating principle of the branch, was being threatened.

Justice Huffman reviewed the history of the caseload in the Superior Court of Riverside County and the formation of the strike team under the direct supervision of Judge David S. Wesley, Superior Court of California, County of Los Angeles and Judge Richard K. Couzens, Superior Court of California, County of Placer. The team reviews cases older than two years. Justice Huffman acknowledged the cooperation and collegiality of the judicial branch. The following county trial court systems have contributed judges to the strike team: Alameda, Los Angeles, Marin, Orange, Sacramento, San Diego, and Ventura. Retired judges with expertise in criminal law also have offered their services. The judges who volunteer receive no additional compensation for their time and services.

Justice Huffman reported that with the increased attention to criminal calendars, Riverside's civil courts have heard motion practice but have not tried civil cases in a substantial period of time. Another issue that has been encountered by the court is an increased number of filings and challenges for dispositions from an aggressive and well-staffed prosecutorial team. The strike team, Ms. Calabro, consultant Mr. John Greacen, Mr. Frederick Miller, and other AOC staff are attempting to adopt a new system for processing incoming cases and perhaps a system to address long-term case management, including opening civil courts for trials, in collaboration with all justice system partners in Riverside County.



Ms. Calabro provided an update in her capacity as chair of a working group to address long-term case management practices and foster a sense of teamwork in the county. She drew the council's attention to the fact that cases constituting the backlog have factual basis in downtown Riverside and do not include the Southwest or Indio branches. The cases the strike force is managing are old, difficult death penalty, murder, and attempted murder cases.

Ms. Calabro complimented Justice Huffman's diplomatic skills and the trust he has garnered among Riverside County's justice partners. The strike team will next meet on November 28, 2007, and will discuss new case management practices for implementation on March 1, 2008.

In concluding remarks, Justice Huffman stated that the Chief Justice's Assigned Judges Program has provided great assistance to Riverside County. The program has provided 12 full-time equivalents of judges in the Riverside court and additional judges to substitute for vacationing judges or judges on leave. Due to space constraints, the strike team plans to reduce the number of assigned judges to 6 full-time positions after June 2008.

Justice Huffman provided statistics about the efforts of the strike team:

- As of October 19, 2007, 181 cases have been addressed;
- Thirty-four pleas have been entered;
- Sixty trials have been completed; and
- When on recess, strike team judges have presided over 60 preliminary hearings from the calendar of current cases.

Justice Huffman reported that he has met with community groups and spoken with the media who seem to recognize and appreciate the work the Chief Justice is doing in Riverside County.

The Chief Justice again commended the members of the strike team and reiterated that the strike team is a temporary solution in Riverside County. Appointment of new judgeships will assist but not solve the problem. Riverside County will receive 7 judgeships from the first group of 50 appointments, 7 from the second group of 50, and 6 from the third group of 50. Ultimately, the county will need to develop long-term solutions for case management.

The Chief Justice also referenced the Superior Court of San Bernardino County, in which council member Judge James Michael Welch sits, as also being in need of assistance to address its caseload. San Bernardino will receive new judgeships from the first group of appointments. Judge Welch commented that the relationships with justice system partners are good, and the court is working to address the workload issues with these partners. The

Chief Justice mentioned that the council’s annual report has been released, which demonstrates the progress that the branch has made.

### **Presentation of U.S. Postal Service Stamp Commemorating Jury Service**

The Chief Justice concluded his report with the mention of a commemorative stamp issued by the U.S. Postal Service promoting jury service. Sample stamps were distributed to each council member. The stamp was first issued in September 2007 and calls attention to jury service as an obligation and a right of all individuals. Retired Judge Dallas S. Holmes, Superior Court of California, County of Riverside and Judge Jacqueline A. Connor, Superior Court of California, County of Los Angeles, who were both active in the jury reform movement and members of the Task Force on Jury System Improvements, were present for the stamp’s release.

The Chief Justice’s report was concluded.

### **Adoption and Permanency for Children in California: A Resolution for the Courts**

An adoptive family slated to appear for execution of the resolution was unable to attend during the original time listed on the agenda for this item. Instead, the item was heard out of order, following discussion Item D.

Chief Deputy Director Ronald G. Overholt and Ms. Charlene Depner, Center for Families, Children & the Courts (CFCC), presented this item with the participation of CFCC’s Ms. Kelly Beck and Ms. Stacey Mangni.

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council declare the month of November “Court Adoption and Permanency Month,” as the council has done since 1999. The month of November was selected to coincide with National Adoption Month. The goal is to highlight innovative efforts aimed at expediting adoption and permanency while raising awareness of the need for safe and permanent homes for children. The Family and Juvenile Law Advisory Committee has worked closely with the Governor’s Office and the California Legislature to develop resolutions issued by each of the three branches of state government—executive, legislative, and judicial—every year.

#### ***Council action***

The Judicial Council declared the month of November “Court Adoption and Permanency Month,” and Chief Justice Ronald M. George and Administrative Director William C. Vickrey executed a resolution commemorating the declaration.

## CONSENT AGENDA (ITEMS A1–A43, B–C, J)<sup>1</sup>

### ITEM A RULES, FORMS AND STANDARDS

#### Item A1 Appellate Procedure: Remittitur, Costs, and Sanctions in Appeals and Writ Proceedings (adopt Cal. Rules of Court, rules 8.278, 8.386, and 8.499; and amend rules 8.272, 8.276, 8.366, and 8.490)

The Appellate Advisory Committee recommended adopting new rules addressing remittitur in habeas corpus and other writ proceedings; amending the rule on costs in civil appeals to clarify that filing fees are among the recoverable costs; amending the rule on sanctions in civil appeals to clarify that sanctions can be awarded for filing frivolous motions; amending the rule on petitions for writs of mandate, certiorari, or prohibition to clarify that the court may impose sanctions for frivolous writ petitions; and making other clarifying changes to these rules. These new and amended rules would fill some gaps in the existing rules and should make the requirements relating to remittitur in writ proceedings easier for litigants to find and the procedures relating to costs and sanctions easier for litigants to understand and implement.

#### *Council action*

The Judicial Council, effective January 1, 2008:

1. Amended rule 8.272 to delete the provision relating to remittitur in writ proceedings and add an advisory committee comment indicating that remittitur in writ proceedings is addressed in rules 8.386 and 8.499;
2. Amended rule 8.276 to:
  - a. Delete the provisions relating to costs on appeal and move them to new rule 8.278;
  - b. Provide that sanctions can be imposed for filing frivolous motions;
  - c. Clarify the time frame for filing a motion for sanctions under rule 8.276 after a motion to dismiss the appeal is denied; and
  - d. Make other minor, clarifying changes;
3. Adopted rule 8.278, addressing costs in civil appeals, and amended the language relating to costs that was formerly in rule 8.276 and its advisory committee comment to:
  - a. Clarify that costs are available only in civil cases other than juvenile cases;
  - b. Clarify that filing fees are among the recoverable costs; and
  - c. Make other minor, clarifying changes;

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<sup>1</sup> Item J appears out of alphabetical order on the consent agenda due to its being added after the Judicial Council agenda item numbers were assigned.

4. Amended rule 8.366, addressing hearing and decision in criminal appeals, to correct the cross-references to the rules on hearing and decision in civil appeals and clarify that sanctions are not available for filing a frivolous criminal appeal;
5. Adopted rule 8.386, addressing remittitur in habeas corpus proceedings;
6. Amended rule 8.490, relating to petitions for writs of mandate, certiorari, or prohibition, to:
  - a. Clarify the court's authority to award costs in civil writ proceedings; and
  - b. Provide that the court may impose sanctions for frivolous writ petitions; and
7. Adopted rule 8.499, addressing remittitur in mandate, certiorari, prohibition, and the other miscellaneous writ proceedings addressed in chapter 7 of title 8.

**Item A2      *Appellate Procedure: Records in Civil and Criminal Cases (amend and renumber Cal. Rules of Court, rule 8.120 as rule 8.122; adopt rules 8.120, 8.121, and 8.123; amend rules 8.124, 8.128, 8.130, 8.134, 8.137, 8.144, 8.147, 8.224, and 8.320; and revise *Appellant's Notice Designating Record on Appeal* (form APP-003))***

The Appellate Advisory Committee recommended adopting a new rule and revising the current *Appellant's Notice Designating Record on Appeal* (form APP-003) regarding designation of the record in civil appeals to address all the available options for providing the record on appeal; adopting a new rule establishing a procedure for transmitting to the Court of Appeal administrative records that were admitted in evidence, refused, or lodged in the trial court; and making other clarifying changes to the rules and form relating to records in civil and criminal appeals. Adopting rules that more clearly lay out the options for designating the record in a civil appeal and that establish a procedure for transmitting administrative records to the Court of Appeal, and providing a form that encompasses all these options, should make the record designation process easier for civil litigants to understand and implement.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Adopted new rule 8.120 to clearly lay out all the options for providing the record of the documents and the oral proceedings from the trial court in a civil appeal;
2. Adopted new rule 8.121 to provide for a single notice that informs the trial court what form of the record of the documents and what form of the record of the oral proceedings, if any, the appellant elects to use in a civil appeal;
3. Renumbered rule 8.120, relating to the clerk's transcripts in civil appeals, as rule 8.122 and amended it to:
  - a. Eliminate the separate requirement for a notice designating a clerk's transcript in light of the proposed new notice requirement in rule 8.121;

- b. Make the language concerning jury instructions and motions in clerk's transcripts more consistent with the language in rule 8.320 relating to clerk's transcripts in felony appeals; and
- c. Add a cross-reference to the rules that establish the timeliness of an appeal;
4. Adopted new rule 8.123 to establish a procedure for designating and transmitting to the reviewing court administrative records that were presented to the trial court;
5. Amended rules 8.124, 8.128, 8.130, 8.134, 8.137, 8.147, and 8.224 to:
  - a. Eliminate the separate requirements for notices electing to use an appendix, original court file in lieu of a clerk's transcript, a reporter's transcript, an agreed statement, or a settled statement in light of the proposed new requirement in rule 8.121; and
  - b. Correct cross-references to the proposed new and revised rules;
6. Amended rule 8.144 to require that the index of exhibits in the reporter's transcript identify each exhibit by letter or number and a brief description of the exhibit; and
7. Revised *Appellant's Notice Designating Record on Appeal* (form APP-003) to:
  - a. Reflect the proposed changes to the record designation rules, including adding a box for designating an administrative record under proposed rule 8.123;
  - b. Add boxes that the appellant can check to indicate that he or she will be using the superior court file instead of a clerk's transcript under rule 8.128, an agreed statement under rule 8.134, or a settled statement under rule 8.137;
  - c. Add a box the appellant can use to request a reporter's transcript in computer-readable format; and
  - d. Make other clarifying changes to the design of the form.

**Item A3      Appellate Procedure: Certificate of Interested Entities and Persons (amend Cal. Rules of Court, rules 8.208 and 8.490; and approve form APP-008, *Certificate of Interested Entities or Persons*)**

The Appellate Advisory Committee recommended approving a new optional *Certificate of Interested Entities or Persons* (form APP-008) and amending the rules relating to these certificates to: (1) clarify the types of proceedings in which a certificate is required and when in the life of such proceedings the certificate must be filed; and (2) provide that a party may seek to file a certificate under seal if the identity of a party has not been publicly disclosed. These rule amendments should make the rules easier to understand and use, and the new statewide form should make compliance with the certificate requirements easier for individuals who practice in more than one appellate district.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rules 8.208 and 8.490 to:
  - a. Clarify that the requirement to file a *Certificate of Interested Entities or Persons* applies in civil cases other than family, juvenile, guardianship, and conservatorship cases; and
  - b. Clarify that a party may seek to file a certificate under seal if the identity of a party has not been publicly disclosed.
2. Further amended rule 8.208 to clarify that the *Certificate of Interested Entities or Persons* must be served and filed with the first application, motion, or opposition to such an application or motion filed before the principal brief or, if no such prebriefing motion, application, or opposition is filed, with the principal brief; and
3. Approved *Certificate of Interested Entities and Persons* (form APP-008) for optional use and amended the advisory committee comments to rules 8.208 and 8.490 to add a reference to this new form.

**Item A4 Appellate Procedure: Petitions for Writs of Supersedeas (amend Cal. Rules of Court, rule 8.112)**

The Appellate Advisory Committee recommended amending rule 8.112 regarding petitions for writs of supersedeas (which are petitions requesting that the Court of Appeal stay the enforcement of a trial court judgment or order pending a decision on an appeal of that judgment or order) to expand the record that must be filed with a petition for a writ of supersedeas when the record on appeal has not yet been filed. The amendment would make proceedings for writs of supersedeas more efficient by helping ensure that the reviewing court receives sufficient information with a petition for a writ of supersedeas to properly determine whether to issue the writ.

***Council action***

The Judicial Council, effective January 1, 2008, amended rule 8.112 to clarify the record that must be filed with a petition for a writ of supersedeas when the record on appeal has not yet been filed, by requiring that petitioners:

1. Expand the documents that must be filed with the petition to include any application for a stay in the trial court, any opposition to such an application, and any other document from the trial court proceedings necessary for proper consideration of the petition; and
2. Provide a mandatory statement of the case that is sufficient to show that the petitioner will raise substantial issues on appeal and that includes a fair summary of the issues likely to be raised on appeal and any statement by the trial court concerning its rulings relating to these issues.

**Item A5 Appellate Procedure: Miscellaneous Appellate Rules (amend Cal. Rules of Court, rules 8.32, 8.155, and 8.1008)**

The Appellate Advisory Committee recommended (1) amending the rule regarding addresses of record to clarify that each attorney representing a party may use only a single address; (2) amending the rule regarding motions to augment the record to require consecutive numbering of documents attached to such a motion; and (3) amending the rule regarding petitions to transfer a case from the superior court appellate division to the Court of Appeal to give potential petitioners sufficient time to file a petition and to provide that a party may not file an answer to a petition for transfer unless the court requests an answer. The changes to the rules relating to addresses of record and augmentation motions would establish uniform statewide practices in these areas. The changes to the rule relating to petitions for transfer would make these proceedings both fairer to potential petitioners and more efficient.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 8.32 to clarify that if an attorney representing a party has more than one address, only one address can be used as the address of record for that attorney;
2. Amended rule 8.155 to require that a party who files a motion to augment the record in a civil appeal must consecutively number the pages of the documents attached to the augmentation motion that are to be added to the record; and
3. Amended rule 8.1008 to:
  - a. Extend the time to file a petition to transfer a case from the superior court appellate division to the Court of Appeal from 8 days to 15 days after the decision of the appellate division is final;
  - b. Provide that a party may not file an answer to a petition for transfer unless the court requests an answer; and
  - c. Give the respondent 10 days from the date the court requests an answer to file the answer.

**Item A6      Appellate Procedure: Applications to File Amicus Briefs in the Court of Appeal and the Supreme Court (amend Cal. Rules of Court, rules 8.200 and 8.520)**

The Appellate Advisory Committee recommended amending the rule relating to briefs in the Court of Appeal to require that an application to file an amicus brief in the Court of Appeal be filed no later than 14 days after the last appellant's reply brief is filed or could have been filed and amending both this rule and the rule regarding amicus applications in the Supreme Court to provide that the deadline for filing amicus applications can be extended for "good cause." Setting a time frame for filing an amicus application in the Court of Appeal would fill a gap in the current rules and improve court administration by eliminating late applications that either are denied or can delay the processing of appeals.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 8.200 to:
  - a. Require that an application to file an amicus brief in the Court of Appeal be filed no later than 14 days after the last appellant's reply brief is filed or could have been filed under rule 8.212;
  - b. Provide that the Court of Appeal may extend this deadline for good cause; and
  - c. Require that the Attorney General file any amicus brief by this same deadline; and
2. Amended rule 8.520 to provide that the California Supreme Court, for good cause, may extend the deadline for filing an amicus application in that court.

**Item A7      **Appellate Procedure: Notices of Appeal and Notices of Various Defaults (amend Cal. Rules of Court, rules 8.100, 8.108, 8.140, 8.220, 8.308, and 8.400)****

The Appellate Advisory Committee recommended (1) amending the rule regarding extensions of the time to file a notice of appeal in a civil case to clarify that the rule only operates to extend, not shorten, the normal time to appeal; (2) amending the rules relating to various default procedures to make the notice of default and sanctions provisions more consistent, including requiring the notice to state that the court may, rather than will, impose the specified sanctions if the party does not correct the default; and (3) making other small, clarifying amendments to these rules. Clarifying the time to file a notice of appeal and the sanction rules should make these rules easier to understand and use.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rules 8.100, 8.140, and 8.220 to make the notice of default and sanctions provisions more consistent, including requiring the notice to state that the court may, rather than will, impose the specified sanctions if the party does not correct the default;
2. Further amended rule 8.100 to create separate subdivisions addressing the procedures that apply if an appellant fails to pay the appellate filing fee and the procedures that apply if an appellant fails to pay the superior court deposit;
3. Amended rule 8.108 to:
  - a. Clarify that this rule operates only to increase the time to appeal otherwise prescribed in rule 8.104(a); it does not shorten the time to appeal; and



- b. Clarify when a notice of appeal must be filed if the court issues an order granting a new trial conditional on plaintiff's acceptance of an additur or remittitur; and
4. Amended rules 8.308 and 8.400 to clarify when a cross-appeal must be filed in felony and juvenile cases.

**Item A8      Appellate Procedure: Over-length Briefs in Capital Cases (amend Cal. Rules of Court, rule 8.630; and adopt rule 8.631)**

The Appellate Advisory Committee recommended amending the rule regarding briefs in capital appeals to increase the permissible length of appellants' opening briefs and respondents' briefs in these appeals and adopting a new rule regarding applications to file over-length briefs in these cases that sets out the factors that will be considered in determining whether good cause exists for filing an over-length brief and that establishes when such applications must be filed. Increasing the basic brief length should improve efficiency by decreasing the number of cases in which applications to file over-length briefs are needed. Establishing a filing deadline and factors for assessing such applications should improve efficiency by helping counsel assess, early on, whether it is appropriate to file an application and, if so, what needs to be included in such an application and by providing the court with information to assess whether good cause exists for granting the application without having to read the entire record and draft brief.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 8.630 to:
  - a. Increase the permissible length of appellants' opening briefs and respondents' briefs in capital appeals to 102,000 words if prepared on a computer or 300 pages if typewritten; and
  - b. Provide that if the Chief Justice permits the appellant to file an opening brief that exceeds these limits, the respondent's brief may not exceed the length of appellant's opening brief approved by the Chief Justice; and
2. Adopted new rule 8.631 to establish an application procedure for requests to file over-length briefs in capital appeals that:
  - a. Applies to capital appeals in which the certified record is filed in the California Supreme Court on or after January 1, 2008;
  - b. Sets out eight factors that will be considered in determining whether good cause exists for filing an over-length brief and requires that parties address these factors in their applications; and
  - c. Requires that, if no extension of time to file the brief is sought, applications to file an over-length brief be filed either 45 days (appellant's opening brief and respondent's brief) or 30 days (appellant's reply brief) before the brief is

due. If an extension of time to file the brief is sought, the application would be due on the date specified in the court's order concerning the extension of time.

**Item A9 Rules Applicable to All Courts: Format of Citations (adopt Cal. Rules of Court, rule 1.200; amend rule 3.1113 and the advisory committee comment to rule 8.204)**

The Appellate Advisory Committee and the Civil and Small Claims Advisory Committee recommended adopting a new rule requiring that citations in all papers filed in the trial or appellate courts be in the style prescribed by either the *California Style Manual* or *The Bluebook: A Uniform System of Citation*, at the option of the filing party, and making conforming amendments to the rules relating to memoranda and briefs. This would establish a uniform statewide rule regarding the format of citations.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Adopted new rule 1.200 to establish the format of citations in all papers filed in the trial or appellate courts;
2. Amended rule 3.1113 to delete subdivision (i) concerning the format of citations and to add an advisory committee comment referring rule users to new rule 1.200; and
3. Amended the advisory committee comment to rule 8.204 to add a cross-reference to new rule 1.200.

**Item A10 Request and Order to File New Litigation by Vexatious Litigant (approve form MC-701)**

The Civil and Small Claims Advisory Committee recommended the approval of the *Request and Order to File New Litigation by Vexatious Litigant* (form MC-701), a new form that will standardize vexatious litigants' requests to file new litigation that are currently filed in many different ways.

***Council action***

The Judicial Council, effective January 1, 2008, approved the *Request and Order to File New Litigation by Vexatious Litigant*.

**Item A11 Small Claims: Interpreter Instructions (revise forms SC-100 and SC-150)**

The Civil and Small Claims Advisory Committee recommended revising two small claims forms to clarify the responsibility of the court and the parties concerning small

claims court interpreters. Instructions on the two forms delete reference to a “free” interpreter, reorder the sequence of the instructions, add an instruction to ask the court for an interpreter at least five days before the court date, and add an instruction to ask for a list of interpreters and the fee waiver application form. The revised forms would correct misleading information that implies the court can provide an interpreter for free. Although some courts try to provide interpreter assistance, there is no guarantee that a free interpreter can be provided in all cases. Parties may be disappointed with the court system and the case unnecessarily postponed if the parties are not informed in advance to bring someone to the hearing to interpret for them or to ask the court for an interpreter. Only if a small claims party qualifies for a fee waiver must the court appoint an interpreter at public expense.

***Council action***

The Judicial Council, effective January 1, 2008, revised *Plaintiff’s Claim and ORDER to Go to Small Claims Court* (form SC-100) and *Information for the Small Claims Plaintiff* (form SC-150), to clarify the responsibility of the court and the parties concerning court interpreters.

**Item A12     Alternative Dispute Resolution: Mandatory Settlement Conferences  
(amend Cal. Rules of Court, rule 3.1380)**

The Civil and Small Claims Advisory Committee recommended that the Judicial Council amend the rule relating to mandatory settlement conferences to (1) clarify that courts have the authority to set more than one settlement conference; (2) prohibit courts from appointing a person to conduct a settlement conference under this rule at the same time that the person is serving as a mediator in the same action; and (3) prohibit courts from appointing a person to conduct a mediation under this rule. The amendment regarding multiple settlement conferences would address concerns raised by recent case law, and the amendments drawing a clearer line between appointing mediators and appointing persons to conduct settlement conferences should help conform practices with the Evidence Code provisions concerning mediation confidentiality.

***Council action***

The Judicial Council, effective January 1, 2008, amended rule 3.1380 to:

1. Clarify that courts have the authority to set more than one settlement conference;
2. Prohibit courts from appointing a person to conduct a settlement conference under this rule at the same time that the person is serving as a mediator in the same action;
3. Prohibit courts from appointing a person to conduct a mediation under this rule; and

4. Add an advisory committee comment explaining that these prohibitions are intended to prevent confusion about whether the Evidence Code sections establishing the confidentiality of mediations apply.

**Item A13 Rules Modernization: Updating Antiquated References to “Attachés” (amend Cal. Rules of Court, rules 2.400, 3.58, and 3.60)**

The Civil and Small Claims Advisory Committee recommended that rules 2.400, 3.58, and 3.60 of the California Rules of Court be modernized and clarified by replacing the terms “attaché” and “attachés” with “authorized court personnel.”

***Council action***

The Judicial Council, effective January 1, 2008, amended rules 2.400, 3.58, and 3.60 of the California Rules of Court to modernize and clarify these rules by replacing the terms “attaché” and “attachés” with “authorized court personnel.”

**Item A14 Commission to Take Deposition Outside California (approve form DISC-030)**

The Civil and Small Claims Advisory Committee recommended the approval of the *Commission to Take Deposition Outside California* (form DISC-030), a new optional form to be used by parties to make requests for, and by courts to issue or order, a commission to take out-of-state depositions.

***Council action***

The Judicial Council, effective January 1, 2008, approved *Commission to Take Deposition Outside California* (form DISC-030).

**Item A15 Offer to Compromise and Acceptance Under Code of Civil Procedure Section 998 (approve form CIV-090)**

The Civil and Small Claims Advisory Committee recommended the approval of the *Offer to Compromise and Acceptance Under Code of Civil Procedure Section 998* (form CIV-090), an optional form that litigants may use to make and accept offers to compromise in simple, two-party civil cases involving only money judgments.

***Council action***

The Judicial Council, effective January 1, 2008, approved a new optional form, *Offer to Compromise and Acceptance Under Code of Civil Procedure Section 998* (form CIV-090).

**Item A16 Revised Format for Separate Statements in Support of Motions for Summary Judgment (amend Cal. Rules of Court, rule 3.1350)**

The Civil and Small Claims Advisory Committee recommended that rule 3.1350, on the format of separate statements in support of or opposition to motions for summary judgment and summary adjudication of issues, be amended. The amendment will modify the format for separate statements and reduce the amount of reformatting required to prepare a separate statement in opposition to a motion.

***Council action***

The Judicial Council, effective January 1, 2008, amended rule 3.1350 to revise the format for separate statements submitted in support of a motion for summary judgment or motion for summary adjudication of issues.

**Item A17     Protecting Private Information in Public Court Documents (amend Cal. Rules of Court, rule 1.20 and adopt *Confidential Reference List of Identifiers* (form MC-120))**

Please Note: the meeting agenda incorrectly referred to “*Confidential Reference List of Personal Identifiers* (form CM-120).” The correct name is “*Confidential Reference List of Identifiers* (form MC-120).” This title is reflected in the report presented to the council.

The Civil and Small Claims Advisory Committee recommended that rule 1.20 of the California Rules of Court be amended to require parties and their attorneys to exclude or redact social security numbers and financial account numbers from documents presented for filing with the court. The committee further recommends the adoption of the *Confidential Reference List of Identifiers* (form MC-120), a form containing a list of complete identifiers that may be filed confidentially if the court so orders on a showing of good cause.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 1.20 of the California Rules of Court to require parties and their attorneys to exclude or redact certain identifying information—social security and financial account numbers—from documents presented for public filing; and
2. Adopted *Confidential Reference List of Identifiers* (form MC-120), a new form that may be filed confidentially, if the court orders. The form would contain a confidential list of the redacted identifiers and corresponding references to be used to refer to those identifiers in publicly filed documents.

**Item A18****Requests for Admission (revise form DISC-020)**

The Civil and Small Claims Advisory Committee recommended that the *Requests for Admission* form be revised to include information that explains, among other things, the purpose of the form, the importance of carefully considering whether to admit or deny the truth of facts or the genuineness of documents, and the potential penalties that exist for failing to admit the truth of a matter later proven.

***Council action***

The Judicial Council, effective January 1, 2008, revised *Request for Admissions* (form DISC-020) to include instructions and to change the name of the form to *Requests for Admission* to reflect the terminology used in the Code of Civil Procedure.

**Item A19 Telephone Appearances in Civil Cases (amend Cal. Rules of Court, rules 3.670, 3.722, and 3.1207; amend Cal. Stds. Jud. Admin., std. 3.1; and revise form CM-020)**

The Civil and Small Claims Advisory Committee recommended that rules 3.670, 3.722, and 3.1207 of the California Rules of Court and standard 3.1 of the California Standards of Judicial Administration relating to telephone appearances in civil cases be amended to improve access by telephone to conferences, hearings, and proceedings; to promote uniformity in the procedures relating to telephone appearances; and to reduce litigation costs. The amendments are consistent with Assembly Bill 500 on telephone appearances in civil cases. The committee also recommended revising the *Ex Parte Application for Extension of Time to Serve Pleading and Orders* (form CM-020) to be consistent with the amended rules.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 3.670 of the California Rules of Court to: (a) permit parties to appear by telephone at case management conferences and other specified conferences, hearings, and proceedings, unless the court determines on a hearing-by-hearing basis that a personal appearance is required; (b) specify the types of proceedings at which a personal appearance is required, unless the court orders otherwise; (c) shorten the time for a party to provide notice of intent to appear by telephone; and (d) permit a party to join in a request to appear by telephone;
2. Amended rule 3.722, on case management conferences, to be consistent with amended rule 3.670 and AB 500;
3. Amended standard 3.1 to eliminate subdivision (c) that is not consistent with amended rule 3.670 and AB 500;

4. Amended rule 3.1207, on ex parte applications, to be consistent with the new provision in rule 3.670 that parties do not need to appear in person on ex parte applications for an extension of time to serve pleadings; and
5. Revised *Ex Parte Application for Extension of Time to Serve Pleading and Orders* (form CM-020) to include a statement that the court will consider the application without a personal appearance, as provided in amended rules 3.670 and 3.1207.

**Item A20 Appellate Procedure: Copies of Briefs in Civil Appeals (amend Cal. Rules of Court, rule 8.212)**

The Appellate Advisory Committee and the Court Technology Advisory Committee recommended amending the rule regarding the number of copies of briefs that must be served, to give parties in civil appeals the option of serving one electronic copy, rather than four paper copies, of their briefs on the Supreme Court. This amendment would improve efficiency by allowing transmission of the electronic copy to the depository libraries, saving printing, shipping, and digitization costs.

***Council action***

The Judicial Council, effective January 1, 2008, amended rule 8.212 to give parties in civil appeals the option of serving one electronic copy, rather than four paper copies, of their briefs on the Supreme Court.

**Item A21 Electronic Filing and Service and Service by Fax (amend Cal. Rules of Court, rules 2.250, 2.253, 2.256, 2.257, 2.259, 2.260, and 2.306)**

The Court Technology Advisory Committee recommended that the rules on electronic service and filing, and the rule on service by fax, be amended to improve their application and reflect changes in practice.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 2.250 (Definitions);
2. Amended rule 2.253 (Court order requiring electronic service or filing);
3. Amended rule 2.256 (Responsibilities of electronic filer);
4. Amended rule 2.257 (Requirements for signatures on documents);
5. Amended rule 2.259 (Actions by court on receipt of electronic filing);
6. Amended rule 2.260 (Electronic service); and
7. Amended rule 2.306 (Service of papers by fax transmission).

**Item A22 Access to Electronic Records (amend Cal. Rules of Court, rule 2.503)**

The Civil and Small Claims and the Court Technology Advisory Committees recommended that rule 2.503 of the California Rules of Court be amended to provide that records in cases involving the abuse of elder or dependent adults and workplace violence must be made available electronically, to the extent it is feasible to do so, only at the courthouse and not by remote electronic access. This amendment was intended to protect the privacy of persons involved in these cases.

***Council action***

The Judicial Council, effective January 1, 2008, amended rule 2.503 of the California Rules of Court to expand the list in subdivision (c) of the types of records that are available electronically only at the courthouse.

**Item A23 Family Law and Juvenile Law: Confidential Intermediary Appointment for Sibling Contact After Adoption (adopt Cal. Rules of Court, rule 5.410; adopt forms ADOPT-330 and ADOPT-331)**

The Family and Juvenile Law Advisory Committee recommended adopting rule 5.410 and two mandatory forms. The rules and forms establish the procedure for siblings to contact each other after at least one of them has been adopted. The rules and forms were necessary for implementation of recent legislation, which authorized a sibling to ask for court assistance in seeking contact with a sibling who has been adopted.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Adopted rule 5.410 of the California Rules of Court to assist the self-represented, guardian ad litem, and attorneys in the process of seeking contact for a sibling;
2. Adopted form ADOPT-330, *Request for Appointment of Confidential Intermediary*, to simplify the process for requesting sibling contact; and
3. Adopted form ADOPT-331, *Order for Appointment of Confidential Intermediary*.

**Item A24 Family Law: Counsel Appointed to Represent a Child in Family Law Proceedings (amend Cal. Rules of Court, rule 5.10; adopt rules 5.240, 5.241, and 5.242; repeal Cal. Stds. Jud. Admin., stds. 5.10 and 5.11; and approve forms FL-322 and FL-323)**

The Family and Juvenile Law Advisory Committee recommended amending rule 5.10 of the California Rules of Court; adopting rules 5.240, 5.241, and 5.242; repealing standards



5.10 and 5.11 of the California Standards of Judicial Administration; and approving forms FL-322, *Declaration of Counsel for a Child Regarding Qualifications* and FL-323, *Order Appointing Counsel for a Child*, effective January 1, 2008, to establish minimum experience requirements for counsel appointed to represent children in family law cases and to promote greater consistency among the courts by providing criteria for the court to consider when making appointments.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 5.10 of the California Rules of Court to add the term “best interest of the child” and a reference to Family Code section 3011 for a description of this term;
2. Adopted rule 5.240 (incorporating standard 5.11 of the California Standards of Judicial Administration) to establish criteria for appointing counsel to represent a child in family court proceedings; specify the issues that must be addressed in orders appointing counsel; require courts to have complaint procedures; and include provisions regarding counsel’s termination;
3. Adopted rule 5.241 (incorporating standard 5.10 of the California Standards of Judicial Administration) to include provisions relating to the determination of counsel’s compensation, the parties’ ability to pay, and payment of counsel’s fees;
4. Adopted rule 5.242 to establish the education, training, and experience requirements for counsel appointed to represent a child in family law proceedings, and to highlight counsel’s rights and responsibilities in representing a child;
5. Approved the *Declaration of Counsel for a Child Regarding Qualifications* (form FL-322) and *Order Appointing Counsel for a Child* (form FL-323) for optional use; and
6. Repealed standards 5.10 and 5.11 of the California Standards of Judicial Administration.

**Item A25 Family Law: Summary Dissolution (revise forms FL-800 and FL-810)**

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council, effective January 1, 2008, revise forms FL-800 and FL-810. These revised summary dissolution forms would reflect statutory cost-of-living increases and would make minor clarifying changes.

***Council action***

The Judicial Council, effective January 1, 2008, amended forms FL-800, *Joint Petition for Summary Dissolution of Marriage*, and FL-810, *Summary Dissolution Information*.

**Item A26 Family Law: *Child Custody Information Sheet* (approve form FL-314-INFO)**

The Family and Juvenile Law Advisory committee recommended that the Judicial Council, effective January 1, 2008, approve optional form FL-314-INFO, *Child Custody Information Sheet* as a statewide information sheet to inform litigants of the child custody court process and alternative dispute resolution options.

***Council action***

The Judicial Council, effective January 1, 2008 approved optional form FL-314-INFO, *Child Custody Information Sheet* as a statewide information sheet to inform litigants of the child custody court process and alternative dispute resolution options.

**Item A27 Family, Juvenile, and Probate Law: Enactment of the Federal Indian Child Welfare Act as California Law in the Family, Probate, and Welfare and Institutions Codes (adopt Cal. Rules of Court, rules 5.480–5.487 and 7.1015; repeal rule 5.664; revise forms GC-210(CA), JV-100, JV-101(A), JV-110, and JV-600; adopt forms ICWA-010(A), ICWA-020, and ICWA-030; approve forms ICWA-005-INFO, ICWA-030(A), ICWA-040, ICWA-050, and ICWA-060; and revoke forms ADOPT-226, JV-130, and JV-135)**

The Family and Juvenile Law and Probate and Mental Health Advisory Committees recommended that the Judicial Council, effective January 1, 2008, adopt California Rules of Court, rules 5.480–5.487 and 7.1015; repeal rule 5.664; revise forms GC-210(CA), JV-100, JV-101(A), JV-110, and JV-600; adopt forms ICWA-010(A), ICWA-020, and ICWA-030; approve forms ICWA-005-INFO, ICWA-030(A), ICWA-040, ICWA-050, and ICWA-060; and revoke forms ADOPT-226, JV-130, and JV-135. All of the proposed changes are necessitated by passage of Senate Bill 678 (Ducheny; Stats. 2006, ch. 838), effective January 1, 2007, which codified the federal Indian Child Welfare Act into state law.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Adopted rules 5.480 through 5.487, which are applicable to family, probate, and juvenile court matters. These rules eliminate, where possible, language that is contained in the new statutes, and they improve on rule 5.664 by separating the ICWA provisions into eight rules, each addressing a different subject: application, inquiry and notice, proceedings after notice, transfer of case, placement of an Indian child, termination of parental rights, petition to invalidate orders, and adoption record keeping.

2. Adopted rule 7.1015, applicable to probate guardianships and certain conservatorships. This rule notes the applicability of proposed rules 5.480 through 5.487 to all probate proceedings, unless otherwise stated, when a proposed ward is an Indian child. The committees propose the adoption of rule 7.1015 to avoid confusion among probate practitioners who would not know to look for clarification on ICWA provisions in Title 5, a division of rules governing family and juvenile matters, and also to address specific issues unique to the probate guardianship and conservatorship context.
3. Repealed rule 5.664, which is now both duplicative of the new code provisions and obsolete in light of the broader scope of the ICWA state statutory provisions.
4. Revised existing juvenile and guardianship/conservatorship forms (GC-210(CA), JV-100, JV-101(A), JV-110, and JV-600) to address the required Indian child inquiry and notice procedures.
5. Adopted a new set of ICWA forms for mandatory use in family, probate, and juvenile court proceedings, i.e., ICWA-010(A), ICWA-020, and ICWA-030.
6. Approved a new set of ICWA forms for optional use in family, probate, and juvenile court proceedings, i.e., ICWA-005-INFO, ICWA-030(A), ICWA-040, ICWA-050, and ICWA-060.
7. Revoked forms ADOPT-226, JV-130, and JV-135, which have been replaced by the new proposed set of forms applicable to proceedings under all three affected codes.

*Please Note:* An incorrect version of Item A27 containing a technical error was included in the materials distributed to the council. The council was alerted to the error prior to deliberations. The version of the report posted at [www.courtinfo.ca.gov](http://www.courtinfo.ca.gov) and referenced above is the corrected version.

**Item A28     Juvenile and Family Law: Miscellaneous Rule and Form Changes (amend Cal. Rules of Court, rules 5.726, 5.727, 5.728, 8.450, and 8.454; revise forms FL-327, JV-321, JV-323, and JV-324; adopt forms JV-325, JV-326, JV-326-INFO, JV-327, and JV-328; and revoke forms JV-325, JV-325- INFO, JV-720, and JV-730)**

The Family and Juvenile Law Advisory Committee recommended making several changes to miscellaneous family and juvenile law rules and forms. These changes were necessary to comply with statutory mandates and policies and to facilitate consistency and court procedures.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rules 5.726, 5.727, 5.728, 8.450, and 8.454 of the California Rules of Court;
2. Revised forms FL-327, *Order Appointing Child Custody Evaluator*, JV-321, *Request for Prospective Adoptive Parent Designation*, JV-323, *Notice of Intent to Remove Child*, and JV-324, *Notice of Emergency Removal*;
3. Adopted forms JV-325, *Objection to Removal*, JV-326, *Proof of Notice*, JV-326-INFO, *Instructions for Notice of Prospective Adoptive Parent Hearing*, JV-327, *Prospective Adoptive Parent Designation Order*, and JV-328 *Prospective Adoptive Parent Order After Hearing*; and
4. Revoked forms JV-325, *Proof of Notice of Hearing*, JV-325-INFO, *Instructions for Notice of Prospective Adoptive Parent Hearing*, JV-720, *Supplemental Petition for More Restrictive Placement (Attachment)*, and JV-730, *Supplemental Petition for Commitment for 30 Days or Less (Attachment)*.

**Item A29      Child Support: Administration of Title IV-D Child Support Cases (amend Cal. Rules of Court, rule 5.324; revise form FL-679; adopt forms FL-618 and FL-679-INFO; and revoke forms FL-500, FL-505, FL-525, FL-526, FL-556, FL-557, FL-558, FL-559, and FL-571)**

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council amend rule 5.324 and revise form FL-679 to allow the local child support agency to request a telephone appearance in title IV-D child support cases on behalf of a parent, a party, or a witness. The Family and Juvenile Law Advisory Committee further recommended that the Judicial Council adopt forms FL-618 and FL-679-INFO to request dismissal of title IV-D actions to promote greater clarity of the reasons for dismissal for parties and court clerks, and that the council revoke nine forms used in the enforcement of interstate child support because they are no longer needed.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 5.324 (Telephone appearance in title IV-D hearings and conferences);
2. Revised *Request for Telephone Appearance (Governmental)* (form FL-679);
3. Adopted *Request for Dismissal (Governmental, UIFSA)* (form FL-618);
4. Adopted *Information Sheet—Request for Telephone Appearance* (form FL-679-INFO);
5. Revoked *Uniform Support Petition* (form FL-500);
6. Revoked *Child Support Enforcement Transmittal #1—Initial Request* (form FL-505);
7. Revoked *Affidavit in Support of Establishing Paternity* (form FL-525);
8. Revoked *General Testimony* (form FL-526);
9. Revoked *Registration Statement* (form FL-556);

10. Revoked *Child Support Enforcement Transmittal #2—Subsequent Actions* (form FL-557);
11. Revoked *Locate Data Sheet* (form FL-558);
12. Revoked *Child Support Enforcement Transmittal #3—Request for Assistance/Discovery* (form FL-559); and
13. Revoked *Notice of Determination of Controlling Order* (form FL-571).

**Item A30     Juvenile Law: Psychotropic Medication Forms and Rule (amend Cal. Rules of Court, rule 5.640; revise form JV-220; revoke form JV-220A; and adopt forms JV-219-INFO, JV-220(A), JV-221, JV-222, and JV-223)**

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council, effective January 1, 2008, amend rule 5.640, revise form JV-220, revoke form JV-220A, and adopt forms JV-219-INFO, JV-220(A), JV-221, JV-222, and JV-223 to improve the statewide procedure used to seek juvenile court authorization for administering psychotropic medication to children in out-of-home placements.

***Council action***

The Judicial Council, effective January 1, 2008, amended rule 5.640; revised form JV-220, *Application Regarding Psychotropic Medication*; revoked form JV-220A, *Opposition to Application for Order for Authorization to Administer Psychotropic Medication—Juvenile*; and adopted forms JV-219-INFO, *Information About Psychotropic Medication Forms*, JV-220(A), *Prescribing Physician’s Statement—Attachment*, JV-221, *Proof of Notice: Application Regarding Psychotropic Medication*, JV-222, *Opposition to Application Regarding Psychotropic Medication*, and JV-223, *Order Regarding Application for Psychotropic Medication* to improve the statewide procedure used to seek authorization for administering psychotropic medication to children in out-of-home placements.

**Item A31     Juvenile Law: Ensuring Foster Children’s Educational Rights (amend Cal. Rules of Court, rules 5.502, 5.518, 5.534, 5.650, 5.668, 5.695, and 5.790; adopt rule 5.651; revise forms JV-225, JV-365, JV-535, and JV-536; and approve forms JV-537, JV-538, and JV-539)**

The Family and Juvenile Law Advisory Committee recommended that, effective January 1, 2008, the Judicial Council amend rules 5.502, 5.518, 5.534, 5.650, 5.668, 5.695, and 5.790 of the California Rules of Court; adopt rule 5.651; revise forms JV-225, JV-365, JV-535, and JV-536; and approve forms JV-537, JV-538, and JV-539 to assist the juvenile court in performing its oversight role of ensuring that children who are dependents or wards of the juvenile court receive the educational services to which they are entitled under state and federal law.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rules 5.502, 5.518, 5.534, 5.650, 5.668, 5.695, and 5.790 of the California Rules of Court;
2. Adopted rule 5.651;
3. Revised forms JV-225, *Your Child's Health and Education*; JV-365, *Termination of Dependency Jurisdiction—Child Attaining Age of Majority*; JV-535, *Findings and Orders Limiting Right to Make Educational Decisions for the Child, Appointing Educational Representative, and Determining Child's Educational Needs*; and JV-536, *Local Educational Agency Response to JV-535—Appointment of Surrogate Parent*; and
4. Approved forms JV-537, *Educational Representative or Surrogate Parent Information*; JV-538, *Findings and Orders Regarding Transfer From School of Origin*; and JV-539, *Request for Hearing Regarding Child's Education*.

**Item A32     Judicial Administration: Court Self-Help Centers (adopt Cal. Rules of Court, rule 10.960)**

The Task Force on Self-Represented Litigants recommended that the Judicial Council, effective January 1, 2008, adopt rule 10.960 on administration of court self-help centers. The rule identifies assistance to self-represented litigants as a core court function and sets out a broad basic architecture for the administration of court self-help centers that will ensure that the public continues to be provided with high quality self-help services.

***Council action***

The Judicial Council, effective January 1, 2008, adopted rule 10.960 of the California Rules of Court in order to establish the foundation for the administration of California court self-help centers.

**Item A33     Probate: Qualifications for Membership in the Probate and Mental Health Advisory Committee (amend Cal. Rules of Court, rule 10.44)**

The Probate and Mental Health Advisory Committee recommended that the rule of court that states the committee's mission and establishes qualifications for committee membership be amended to clarify certain qualifications for membership and enhance the committee's ability to address important issues in probate and mental health law and practice. The rule would be amended to (1) ensure that at least one court probate investigator is a member of the committee at all times; and (2) increase participation in committee activities of persons knowledgeable in mental health or developmental disability law. These changes would address substantial changes made in recent years in probate conservatorship practice, and would also increase the committee's focus on mental health-related legal issues.

***Council action***

The Judicial Council, effective January 1, 2008, amended rule 10.44(c ) to:

1. Create a membership category for court investigators separate from the court staff positions of examiner and probate attorney;
2. Separate the membership category of persons knowledgeable in mental health or developmental disabilities and private manager of probate matters into two categories; and
3. Modify the latter categories to provide that knowledge in mental health and developmental disabilities refers to knowledge of the law pertaining to these fields and to clarify that private management of probate matters refers to management in a fiduciary capacity.

**Item A34     Probate: Written Notice to Conservatees and Others of the Conservatee's Rights (adopt form GC-341 and approve form GC-341(MA))**

The Probate and Mental Health Advisory Committee recommended that the council adopt and approve Judicial Council forms that would (1) notify and advise a conservatee and his or her close family members of important rights the conservatee retains after the court has appointed a conservator; and (2) help conservators prove to the court that the notice form has been properly mailed. These forms would implement a requirement of the Omnibus Conservatorship and Guardianship Reform Act of 2006.

***Council action***

The Judicial Council, effective January 1, 2008, adopted form GC-341, *Notice of Conservatee's Rights*, a mandatory form containing a statement of a conservatee's retained rights after appointment of a conservator, instructions on its mailing, and a proof of mailing; and form GC-341(MA), *Attachment to Notice of Conservatee's Rights*, an optional form designed to show the names and addresses of additional persons to whom the notice form and the appointment order are mailed.

**Item A35     Probate: Standards for the Good Cause Exception to Notice of Hearing of a Petition for Appointment of a Temporary Guardian or Conservator (adopt Cal. Rules of Court, rules 7.1012 and 7.1062)**

The Probate and Mental Health Advisory Committee recommended that the council adopt new rules of court to establish uniform standards for the good cause exception to notice of the hearing on petitions for the appointment of temporary conservators or guardians. These rules would implement requirements of the Omnibus Conservatorship and Guardianship Reform Act of 2006.

***Council action***

The Judicial Council, effective January 1, 2008, adopted rules 7.1012 and 7.1062 of the California Rules of Court to establish uniform standards for the good cause exception to the notice of hearing of a petition for appointment of a temporary guardian or temporary conservator required by Probate Code section 2250(c).

**Item A36     Probate: Additional Surety Bond in Conservatorships and Guardianships to Cover Cost of Recovery on the Bond (adopt Cal. Rules of Court, rule 7.207)**

The Probate and Mental Health Advisory Committee recommended that the council adopt a new rule of court to establish the amount of additional surety bond conservators and guardians must furnish to cover the costs of recovery on the bond, including attorney's fees. The proposed rule would establish the amount of additional bond as a sliding scale of percentages of the total value of bondable income and property in the estate and certain public benefit payments to the conservatee or ward. The rule would implement a requirement of the Omnibus Conservatorship and Guardianship Reform Act of 2006.

***Council action***

The Judicial Council, effective January 1, 2008, adopted rule 7.207 of the California Rules of Court to establish the amount of additional surety bond to be required for the cost of recovery on the bond, and to provide a reasonable period of time for conservators and guardians of estates appointed and qualified before January 1, 2008, to give the additional amount of bond.

**Item A37     Probate: Notices of Changes of Residence of Conservatees and Wards (adopt Cal. Rules of Court, rules 7.1013 and 7.1063; revise form GC-080; adopt form GC-079; and approve forms GC-079(MA) and GC-080(MA))**

The Probate and Mental Health Advisory Committee recommended that the Judicial Council (1) adopt two new California Rules of Court; (2) revise a current Judicial Council form and adopt a new form; and (3) approve two new optional forms, to clarify and implement a new law that requires written notice to the court and interested persons of moves to new residences made by conservatees or minor children under the care of conservators or guardians appointed by the court. The rules would provide definitions and guidance for conservators and guardians concerning their responsibilities under the new law. The forms would provide the written notices and the means of proving their delivery. This proposal would implement a requirement of the Omnibus Conservatorship and Guardianship Reform Act of 2006.



***Council action***

The Judicial Council, effective January 1, 2008:

1. Adopted rules 7.1013 and 7.1063 of the California Rules of Court;
2. Revised *Post-Move Notice of Change of Residence of Conservatee or Ward* (form GC-080);
3. Adopted *Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward* (form GC-079); and
4. Approved *Attachment to Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward* (form GC-079(MA)) and *Attachment to Post-Move Notice of Change of Residence of Conservatee or Ward* (form GC-080(MA)).

**Item A38     Probate: Standards for the Conduct of Conservators and Guardians of Estates and for Determining Compensation of Conservators and Guardians (renumber Cal. Rules of Court, rule 7.756; and adopt rules 7.756, 7.1009, and 7.1059)**

The Probate and Mental Health Advisory Committee recommended that the Judicial Council adopt three new rules of court that would establish standards for the conduct of conservators and guardians of estates and for determining reasonable compensation payable to conservators and guardians from the estates of their conservatees and wards. These rules would implement requirements of the Omnibus Conservatorship and Guardianship Act of 2006.

***Council action***

The Judicial Council, effective January 1, 2008, renumbered rule 7.756 of the California Rules of Court as rule 7.776, adopted a new rule 7.756 to provide statewide standards for determining just and reasonable compensation for conservators and guardians from the estates of the persons in their care, and adopted rules 7.1009 and 7.1059 to establish standards for the conduct of guardians and conservators of estates, respectively.

**Item A39     Probate: Giving Notice of Filing an Inventory and Appraisal, and Objecting to an Inventory and Appraisal (adopt form GC-042; approve forms GC-042(MA) and GC-045)**

The Probate and Mental Health Advisory Committee recommended that the council (1) adopt and approve Judicial Council forms to be used to give notice of the filing of an Inventory and Appraisal in a conservatorship or guardianship and instructions on how to object to the inventory as a whole or to one or more appraisals contained in it, and to prove that the notice form has been mailed; and (2) approve a form of objections to an

Inventory and Appraisal. These forms would implement a requirement of the Omnibus Conservatorship and Guardianship Reform Act of 2006.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Adopted *Notice of Filing of Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property* (form GC-042);
2. Approved *Attachment to Notice of Filing of Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property* (form GC-042(MA)); and
3. Approved *Objections to Inventory and Appraisal of Conservator or Guardian* (form GC-045).

**Item A40     Probate: Standard and Simplified Accountings by Conservators and Guardians (adopt Cal. Rules of Court, rule 7.575; adopt forms GC-400(SUM)/GC-405(SUM), GC-405(A), and GC-405(C); and approve forms GC-400(PH)(1)/GC-405(PH)(1), GC-400(PH)(2)/GC-405(PH)(2), GC-400(AP)/GC-405(AP), GC-400(A)(1), GC-400(A)(2), GC-400(A)(3), GC-400(A)(4), GC-400(A)(5), GC-400(A)(6), GC-400(B)/GC-405(B), GC-400(OCH)/GC-405(OCH), GC-400(NI), GC-400(C)(1), GC-400(C)(2), GC-400(C)(3), GC-400(C)(4), GC-400(C)(5), GC-400(C)(6), GC-400(C)(7), GC-400(C)(8), GC-400(C)(9), GC-400(C)(10), GC-400(C)(11), GC-400(D)/GC-405(D), GC-400(DIST)/GC-405(DIST), GC-400(OCR)/GC-405(OCR), GC-400(NL), GC-400(E)(1)/GC-405(E)(1), GC-400(E)(2)/GC-405(E)(2), GC-400(F)/GC-405(F), GC-400(G)/GC-405(G), and GC-400(A)(C))**

The Probate and Mental Health Advisory Committee recommended that the Judicial Council adopt or approve Judicial Council forms for use by conservators and guardians to prepare and file standard and simplified accountings, and adopt a California Rule of Court to define these types of accountings and prescribe the use of the new forms. This proposal would implement a requirement of the Omnibus Conservatorship and Guardianship Reform Act of 2006.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Adopted rule 7.575 of the California Rules of Court to define standard and simplified accountings under Probate Code section 2620(a) and to prescribe how the Judicial Council forms required by that section are to be used;
2. Adopted the following forms for mandatory use:

- Summary of Account—Standard and Simplified Accounts* (form GC 400(SUM)/GC-405(SUM));
- Schedule A, Receipts—Simplified Account* (form GC-405(A)); and
- Schedule C, Disbursements—Simplified Account* (form GC-405(C)); and
3. Approved the following forms for optional use:
- Cash Assets on Hand at Beginning of Account Period—Standard and Simplified Accounts* (form GC-400(PH)(1)/GC-405(PH)(1));
- Non-Cash Assets on Hand at Beginning of Account Period—Standard and Simplified Accounts* (form GC-400(PH)(2)/GC-405(PH)(2));
- Additional Property Received During Period of Account—Standard and Simplified Accounts* (form GC-400(AP)/GC-405(AP));
- Schedule A, Receipts, Dividends—Standard Account* (form GC-400(A)(1));
- Schedule A, Receipts, Interest—Standard Account* (form GC-400(A)(2));
- Schedule A, Receipts, Pensions, Annuities, and Other Regular Periodic Payments—Standard Account* (form GC-400(A)(3));
- Schedule A, Receipts, Rent—Standard Account* (form GC-400(A)(4));
- Schedule A, Receipts, Social Security, Veterans’ Benefits, Other Public Benefits—Standard Account* (form GC-400(A)(5));
- Schedule A, Receipts, Other Receipts—Standard Account* (form GC-400(A)(6));
- Schedule B, Gains on Sales—Standard and Simplified Accounts* (form GC-400(B)/GC-405(B));
- Other Charges—Standard and Simplified Accounts* (form GC-400(OCH)/GC-405(OCH));
- Net Income From Trade or Business—Standard Account* (form GC-400(NI));
- Schedule C, Disbursements, Conservatee’s Caregiver Expenses—Standard Account* (form GC-400(C)(1));
- Schedule C, Disbursements, Conservatee’s Residential or Long-Term Care Facility Expenses—Standard Account* (form GC-400(C)(2));
- Schedule C, Disbursements, Ward’s Education Expenses—Standard Account* (form GC-400(C)(3));
- Schedule C, Disbursements, Fiduciary and Attorney Fees—Standard Account* (form GC-400(C)(4));
- Schedule C, Disbursements, General Administration Expenses—Standard Account* (form GC-400(C)(5));
- Schedule C, Disbursements, Investment Expenses—Standard Account* (form GC-400(C)(6));
- Schedule C, Disbursements, Living Expenses—Standard Account* (form GC-400(C)(7));
- Schedule C, Disbursements, Medical Expenses—Standard Account* (form GC-400(C)(8));
- Schedule C, Disbursements, Property Sale Expenses—Standard Account* (form GC-400(C)(9));

*Schedule C, Disbursements, Rental Property Expenses—Standard Account* (form GC-400(C)(10));  
*Schedule C, Disbursements, Other Expenses—Standard Account* (form GC-400(C)(11));  
*Schedule D, Losses on Sales—Standard and Simplified Accounts* (form GC-400(D)/GC-405(D));  
*Distributions to Conservatee or Ward—Standard and Simplified Accounts* (form GC-400(DIST)/GC-405(DIST));  
*Other Credits—Standard and Simplified Accounts* (form GC-400(OCR)/GC-405(OCR));  
*Net Loss From Trade or Business—Standard Account* (form GC-400(NL));  
*Schedule E, Cash Assets on Hand at End of Account Period—Standard and Simplified Accounts* (form GC-400(E)(1)/GC-405(E)(1));  
*Schedule E, Non-Cash Assets on Hand at End of Account Period—Standard and Simplified Accounts* (form GC-400(E)(2)/GC-405(E)(2));  
*Schedule F, Changes in Form of Assets—Standard and Simplified Accounts* (form GC-400(F)/GC-405(F));  
*Schedule G, Liabilities at End of Account Period—Standard and Simplified Accounts* (form GC-400(G)/GC-405(G)); and  
*Schedule A and C, Receipts and Disbursements Worksheet—Standard Account* (form GC-400(A)(C)).

**Item A41 Probate and Mental Health: Ex Parte Communications in Proceedings Under the Probate Code and in Lanterman-Petris-Short Act Conservatorship Proceedings (adopt Cal. Rules of Court, rule 7.10)**

The Probate and Mental Health Advisory Committee recommended that the council adopt a new rule of court that would (1) restrict ex parte communications to the court from parties and attorneys in matters pending in proceedings under the Probate Code and Lanterman-Petris-Short Act conservatorships for the gravely disabled; and (2) prescribe appropriate conduct by the court when ex parte communications are received from persons interested in these proceedings who are not parties. This rule would implement a requirement of the Omnibus Conservatorship and Guardianship Reform Act of 2006.

***Council action***

The Judicial Council, effective January 1, 2008, adopted rule 7.10 of the California Rules of Court to provide guidance to the courts concerning ex parte communications they receive that are described in new section 1051 of the Probate Code and new section 5372 of the Welfare and Institutions Code.

**Item A42 Miscellaneous Technical Changes to the California Rules of Court and Judicial Council Forms (amend Cal. Rules of Court, rules 2.111, 3.300, 3.512, 3.816, 3.823, 3.867, 3.924, 3.1203, 4.151, 5.475, 8.112, 10.48,**

**10.780, and 10.951; revise forms CIV-010, CR-110/JV-790, DE 350/GC-100, DISC-001, EJ-001, FL-342(A), FL-692, FL-935, JV-180, JV-505, MC-300, SUBP-025, and WG-003**

The AOC recommended making technical and minor substantive changes to miscellaneous rules and forms. These changes are necessary to correct inadvertent omissions, typographical errors, improper formatting, and language inconsistencies, and to clarify the rules and forms at issue.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Amended rule 2.111(9) to correct an outdated reference to Government Code section 72055;
2. Amended rule 3.300(h)(1)(E) to correct a rule reference from 367 to 3.350;
3. Amended rule 3.512(a) to correct a rule reference from 1511(a) to 3.511(a);
4. Amended rules 3.816(b)(1) and 3.924(b)(1) to correctly reference renumbered provisions in canon 6 of the Code of Judicial Ethics;
5. Amended rule 3.823(b)(3)(A) and (b)(3)(B) to correct references to renumbered sections of the Code of Civil Procedure;
6. Amended rule 3.867, Advisory Committee Comment, to correct “participants” to “participant” in two instances;
7. Amended rule 3.1203(a) to correct “seeing” to “seeking”;
8. Amended rule 4.151, Advisory Committee Comment, to delete the unintended repetition of the words “in every case”;
9. Amended rule 5.475 to correct a Welfare and Institutions Code reference from 364.4 to 362.4;
10. Amended rule 8.112(d)(3) to correct a rule reference from 8.490(j) to 8.490(k);
11. Amended rule 10.48(f) to correct “appoints” to “appoint”;
12. Amended rule 10.780 to correct a reference from title 2 to title 3;
13. Amended rule 10.951(b) to correct “deposition” to “disposition”;
14. Revised form CIV-010, *Application and Order for Appointment of Guardian ad Litem—Civil*, to correct typographical errors and a form reference from FJ-100 to FL-935;
15. Revised forms CR-110/JV-790, *Order for Restitution and Abstract of Judgment*, and EJ-001, *Abstract of Judgment—Civil and Small Claims*, to reflect Senate Bill 644, which provides that only the last four digits of a social security number or driver’s license number be included on an abstract of judgment;
16. Revised form DE 350/GC-100, *Petition for Appointment of Guardian ad Litem—Probate*, to correct a form reference from 982(a)(27) to CIV-010 and to correctly reflect amendments to Probate Code sections 3600–3613;

17. Revised form DISC-001, *Form Interrogatories—General*, section 5, to correct references to renumbered forms;
18. Revised form FL-342(A), *Non-Guideline Child Support Findings Attachment*, to correct the reference on page 1, items 2(a) and 2(d)(3) to change from “mother” and “father” to “petitioner/plaintiff” and “respondent/defendant”;
19. Revised form FL-692, *Minutes and Order or Judgment*, to correct the Family Code section reference from 7406 to 17406;
20. Revised form FL-935, *Application and Order for Appointment of Guardian ad Litem of Minor—Family Law*, to correct a form reference from 982(a)(27) to CIV-010;
21. Revised form JV-180, *Request to Change Court Order*, item 8 to correct a Welfare and Institutions Code section reference from 380 to 386;
22. Revised form JV-505, *Statement Regarding Parentage*, to correct the page reference for notice to the alleged parent of the child from 3 to 4;
23. Revised form MC-300, *Petition for Declaration of Emancipation of Minor, Order Prescribing Notice, Declaration of Emancipation, and Order Denying Petition*, item 5, to correct gender reference from “her” to “him”; and revised the last sentence in the declaration of emancipation to correct “emancipation” to “emancipated”;
24. Revised form SUBP-025, *Notice to Consumer or Employee and Objection*, to correct a Code of Civil Procedure section reference from 202.510 to 2020.510; and
25. Revised form WG-003, *Employee Instructions*, to correct references from “the family support division of your district attorney’s office” and “the district attorney” to “the local child support agency.”

**Item A43 Code of Judicial Ethics (amend Cal. Rules of Court, rules 1.3 and 1.4; remove Code of Judicial Ethics)**

At the request of the Supreme Court, the staff of the Administrative Office of the Courts recommended that the Code of Judicial Ethics be removed from the California Rules of Court and that publishers be advised to place the code in the supplementary materials in their published volumes of rules in a suitable location preceding other Supreme Court rules, policies, and guidelines. The AOC further recommended that rules 1.3 and 1.4 of the California Rules of Court be amended to reflect the removal and relocation of the Code of Judicial Ethics.

***Council action***

The Judicial Council, effective January 1, 2008:

1. Removed the Code of Judicial Ethics from the California Rules of Court; and
2. Amended rules 1.3 and 1.4 to reflect that the Code of Judicial Ethics is removed from the California Rules of Court.

Publishers would be advised to include the Code of Judicial Ethics with the supplementary materials in their published volumes placing it in a suitable location preceding the other Supreme Court rules, policies, and guidelines.

Publishers would be further advised to indicate, in the text preceding the Code of Judicial Ethics, that the code has been adopted by the Supreme Court pursuant to article VI, section 18(m) of the California Constitution.

Finally, publishers would be advised to place the code and supplementary materials in their published volumes relating to the Supreme Court before the materials on the local rules and internal operating procedures of the Courts of Appeal. Doing so will place the code in a location that may be found more easily by interested judges, lawyers, and the public.

**Item B      Court Facilities Planning: Allocation of Fiscal Year 2007–2008  
Funding for the Second Group of 50 (Assem. Bill 159) New Trial Court  
Judgeships**

AOC staff recommended approval of the allocation of one-time and ongoing annual facilities funding in the FY 2007–2008 Budget Act for 47 of the 50 Assembly Bill 159 (Jones) new judgeships. All courts received an equal distribution of funds per judgeship for facility needs, except for 5 courts which received lower allocations based on their estimated project costs. These allocations were indicated in columns A, B, and C of the attachment to the report. The council needed to act on this proposal because it was an allocation of appropriated funds for FY 2007–2008.

***Council action***

The Judicial Council approved the allocation of one-time and ongoing annual facilities funding in the 2007 Budget Act for 47 of the 50 new judgeships authorized by AB 159.

**Item C      Collaborative Justice Project: Grant Funding Allocations for Fiscal  
Year 2007–2008**

The Collaborative Justice Courts Advisory Committee requested authorization to distribute the full allocation, set at \$1,174,478, in California Collaborative and Drug Court Project funds to local jurisdictions in the form of grants distributed through the Collaborative Justice Courts Project. The Budget Act for Fiscal Year 2007–2008 provided for this allocation of \$1,174,478 to California collaborative and drug court projects.

***Council action***

The Judicial Council, effective October 26, 2007, approved the committee's recommended allocation of fiscal year 2007–2008 Collaborative Justice Project Substance Abuse Focus Grant funds.

**Item J      Statutory Appointment Under Assembly Bill 900**

Recently enacted Assembly Bill 900, the Public Safety and Offender Rehabilitation Services Act of 2007, created a three-member panel composed of the State Auditor, the Inspector General, and an appointee of the Judicial Council. The Executive and Planning Committee recommended that the Judicial Council, effective October 26, 2007, appoint Mr. William C. Vickrey, the Administrative Director of the Courts, to the three-member panel created by Assembly Bill 900.

***Council action***

The Judicial Council, effective October 26, 2007, appointed William C. Vickrey, the Administrative Director of the Courts, to the three-member panel created by Assembly Bill 900.

**DISCUSSION AGENDA (ITEMS D–I)**

**Item D      Probate Conservatorship Task Force Final Report**

Hon. Roger W. Boren, Chair, Probate Conservatorship Task Force, and Ms. Christine Patton, Bay Area/Northern Coastal Regional Office, presented this item.

This report presented the recommendations of the Probate Conservatorship Task Force that was created by the Chief Justice in January 2006, to review the management of probate conservatorship cases in the state trial courts. After an 18-month review of court practices, including taking of public testimony, researching other jurisdictions, interviewing users of the system, and soliciting comments to its draft report, the task force requested that the council accept its final report and direct further action on its recommendations.

***Council action***

The Judicial Council, effective immediately:

1. Received and accepted the final report from the Probate Conservatorship Task Force;
2. Directed the Administrative Director of the Courts to refer the task force recommendations to the appropriate advisory committee, Administrative Office of the Courts (AOC) division, or other entity for review and preparation of proposals to be considered through the normal judicial branch processes; and



3. Directed the Administrative Director of the Courts to report progress to the council on the implementation of recommendations by December 2008.

**Item E      Probate: Education Requirements for Judicial Officers Assigned to Hear Probate Proceedings; Qualifications and Education Requirements for Probate Court Staff Attorneys, Examiners, and Investigators; and Qualifications and Education Requirements for Counsel Appointed in Conservatorships and Guardianships (amend Cal. Rules of Court, rule 10.462; renumber rule 10.463; amend and renumber rules 10.464 and 10.471; and adopt rules 7.1101, 10.468, 10.478, 10.776, and 10.777)**

Hon. Don Edward Green, Chair, Probate and Mental Health Advisory Committee, and Mr. Douglas C. Miller, Office of the General Counsel, presented this item.

The Probate and Mental Health Advisory Committee recommended that the council, effective January 1, 2008, adopt new rules of court to (1) establish initial and continuing education requirements for judicial officers assigned to hear proceedings under the Probate Code; (2) establish qualifications and education requirements for court staff investigators, examiners, and probate attorneys; and (3) establish qualifications and continuing education requirements that counsel must meet to be appointed by the court to represent minors, conservatees, and proposed conservatees in probate guardianship and conservatorship matters. These rules implemented the Omnibus Conservatorship and Guardianship Reform Act of 2006.

The report made the following proposed recommendations, slated to become effective January 1, 2008. The Judicial Council did not approve these proposals.

1. Adopt rule 10.468 of the California Rules of Court to prescribe initial and continuing education concerning conservatorships and guardianships to be required of judicial officers assigned to hear probate proceedings;
2. Adopt rules 10.478, 10.776, and 10.777 to establish and prescribe initial and continuing education to be required of probate court investigators, probate staff attorneys, and probate examiners; and the qualifications necessary to serve in these probate court staff positions;
3. Adopt rule 7.1101 to establish qualifications and continuing education to be required of counsel appointed by the court to represent conservatees and proposed conservatees in probate conservatorship proceedings and minors in probate guardianship matters; and
4. Amend rule 10.462, renumber rule 10.463, and amend and renumber rules 10.464 and 10.471 to facilitate the addition of the new rules concerning judicial officer and court staff education noted above

***Council action***

The Judicial Council directed AOC staff to return these rules to the Probate and Mental Health Advisory Committee and requested that the committee confer with the Trial Court Presiding Judges Advisory Committee and the Governing Committee of the Center for Judicial Education and Research (CJER) and make recommendations that also accommodate the legitimate needs of the smaller courts, particularly in the areas of judicial education and court-appointed counsel. The council also directed the committee to report back to the council at its next meeting regarding progress on these issues.

**Item F      DRAFT Pilot Program and Court-Appointed Counsel**

Mr. Lee Morhar and Ms. Leah Wilson, both of the Center for Families, Children & the Courts, presented this item.

The AOC recommended that the council receive the report on court-appointed counsel and the DRAFT Pilot Program and adopt recommendations related to DRAFT expansion, adoption of court-appointed counsel caseload and compensation standards, and court-appointed counsel funding reform.

***Council action***

The Judicial Council, effective immediately:

1. Adopted court-appointed counsel caseload standards;
2. Directed that, subsequent to review by the Trial Court Budget Working Group (TCBWG) and Presiding Judges and Court Executives Advisory Committees, staff report to the Judicial Council regarding the statewide impact of implementation of the compensation standards that the DRAFT program has deduced from the 10 participating counties;
3. Expanded the DRAFT pilot program to include up to 10 additional court systems, beginning July 1, 2008;
4. Directed staff to identify the funding needs of court systems statewide based upon those caseload and compensation standards; and
5. Directed staff to work with the TCBWG to develop an allocation methodology, effective in FY 2008–2009, by which State Appropriations Limit (SAL) program funding and any other new court-appointed counsel funding will be allocated according to identified funding needs.

**Item G      Authorization for the AOC to Administer a Joint Powers Authority (JPA) Formed by Counties to Manage Risk Associated With Seismic-related Damage to Seismic Level V Trial Court Facilities**

Ms. Kim Davis, and Mr. James Mullen, both of the Office of Court Construction and Management, presented this item with the participation of Mr. Brad Heinz, Office of the General Counsel.

The AOC, in cooperation with the State-County SB10 Seismic Issues Working Group, recommended the Judicial Council and the counties jointly implement a new, statewide seismic risk management program that will provide the counties with an opportunity to manage collectively the significant seismic risks associated with the Level V facilities. This agenda item sought Judicial Council authorization for participation by the AOC in the implementation of this program, which involves forming a joint powers authority (JPA) to allow counties to accumulate funds, based on engineering and actuarial assumptions, for the purpose of funding the counties' financial obligations for seismic-related damage to Level V court facilities.

***Council action***

The Judicial Council took the following action:

1. Authorized the AOC to take a lead role in establishing a JPA that will comprise some or all of the counties transferring Level V facilities, for the purpose of establishing a multijurisdictional seismic risk pool and thereby facilitating transfers of Level V facilities.
2. Authorized the AOC to coordinate with counties that wish to participate in the JPA to (a) develop a governance model, (b) refine the JPA's mission, and (c) document the foregoing in a binding agreement establishing the Earthquake Recovery Indemnity Authority (ERIA) as the JPA described in this report.
3. Authorized the AOC, either directly or through a nonprofit corporation established by the AOC, to provide administrative support services to the ERIA in accordance with the JPA Agreement by establishing an effective program to manage participating counties' legal and financial risks associated with seismic-related damage to Level V facilities, including establishing the dollar amount of contributions required of each participating county, and outsourcing any of the AOC's administrative tasks in the best interests of the AOC.
4. Delegated to the Administrative Director of the Courts, or his delegate, the Judicial Council's authority pursuant to Government Code section 70324(a)(4) to approved methods to address the seismic issues so that the state does not have a financial burden greater than it would have had if Level V facilities that are transferred instead had an acceptable seismic rating of Level IV, and to the extent that doing so is in the best interests of the State of California and the judicial branch; and to authorize the Administrative Director of the Courts, or his delegate, to perform other acts consistent with, or in furtherance of, the authority conferred by the Judicial Council pursuant to these recommendations 1-4.

## **Item H      Report and Recommendations on Phoenix System**

Mr. William C. Vickrey, Mr. Ronald G. Overholt, Administrative Office of the Courts' Executive Office, and Ms. Jody Patel, Northern/Central Regional Office, presented this item with the participation of Mr. Curt Soderlund, Northern/Central Regional Office.

### ***Council action***

The Judicial Council, effective October 26, 2007:

1. Directed the AOC to report on the completed deployment of the Phoenix Financial System to support the fiscal operations of the trial courts by the previously established scheduled date of July 2008; and
2. Directed the AOC to maintain as a priority the following:
  - Seeking adequate resources to complete the implementation and support/maintenance of the Phoenix Human Resources System statewide to all 58 trial courts by the conclusion of fiscal year 2012–2013; and
  - Seeking adequate resources to enable the upgrade of the SAP software to the most appropriate current version with increased functionality.

## **Item I      Recommendations on the Conversion of Subordinate Judicial Officer Positions per Assembly Bill 159**

Ms. Donna S. Hershkowitz, Office of Governmental Affairs, and Mr. Dag MacLeod, Executive Office Programs, presented this item.

Assembly Bill 159 provides for the annual conversion of a maximum of 16 subordinate judicial officer (SJO) positions to superior court judgeships beginning in fiscal year 2007–2008. In order to restore the proper balance between judgeships and SJOs, and to minimize the amount of time that SJO positions eligible for conversion remain vacant, the AOC recommended a list of 7 vacant SJO positions for conversion. Because vacancies do not exist at this time to convert the remaining 9 positions, the AOC will return to the council to seek approval for additional positions to be converted within fiscal year 2007–2008.

### ***Council action***

The Judicial Council approved the conversion to judgeships of seven SJO positions that trial courts have confirmed are either presently vacant or will become vacant by June 30, 2008. The council directed staff to report back to the council no later than February 2008, with the number of courts that expect vacancies, and to present a recommended prioritization methodology for the nine remaining SJO positions eligible for conversion in fiscal year 2007–2008.

### **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 12:35 p.m.

Respectfully submitted,



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