



RULES COMMITTEE

MINUTES OF OPEN VIDEOCONFERENCE MEETING

Tuesday, August 22, 2023

12:10 p.m.- 1:40 p.m. and 4:30 – 6:00 p.m.

Rules Committee Members Present:	Hon. Carin Fujisaki, Hon Samuel Feng, Hon. Kimberly Merrifield, Hon. Glenn Mondo, and Hon. David Rosenberg.
Rules Committee Members Absent:	Hon. Kevin C. Brazile, Ms. Rachel W. Hill, Mr. Shawn Landry, and Mr. Maxwell Pritt.
Rules Committee Staff Present:	Ms. Anne M. Ronan and Ms. Benita Downs
Advisory Bodies Staff Present	Heather Anderson, James Barolo Kerry Doyle, Sarah Fleischer-Ihn, Ann Gilmour, Diana Glick, Jenny Grantz, Kendal Hannon, John Henzl, Frances Ho, Jason Mayo, Kara Portnow, Daniel Richardson, Leah Rose-Goodwin, Jamie Schechter, Gabrielle Selden, Marymichael Smrdeli, and Corby Sturges
Other JC Staff Present	Audrey Fancy, Michael Giden, Anna Maves, Christy Simons, Gregory Tanaka, Hisham Qutob, and Charina Zalzos.

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:10 p.m., and Ms. Downs took roll call.

Approval of Minutes

The committee reviewed and approved the minutes of the March 29, April 5, April 13, June 2, June 29, July 31, and August 11, Rules Committee meetings with the following noted corrections:

- August 11, the minutes were not noted on the agenda provided to staff but were included in the binder.
- March 29, the title “Appellate Advisory Committee” was missing the letter “d” in word “advisory”.
- April 5, Anne’s sticky notes were removed from language in Item 11.

DISCUSSION AND ACTION ITEMS (ITEMS 01 – 34)

JUDICIAL BRANCH ADMINISTRATION

Item 01

Trial Courts: Exceptional Criminal Case Reporting

The committee reviewed a recommendation from the Court Executives Advisory Committee that the Judicial Council amend the standard of judicial administration that provides guidance on trial court case disposition time goals to repeal a subdivision that advises trial courts to report exceptional criminal case aging. This subdivision is confusing because there is no definition of exceptional criminal cases nor any specific time standards associated with these cases. Eliminating this subdivision is intended to clarify required data reporting.

Action: The committee unanimously approved the Court Executive Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

APPELLATE

Item 02

Appellate Procedure: Time for Electing and Filing an Appendix

The committee reviewed a recommendation from the Appellate Advisory Committee to amend two rules of court regarding appendixes to allow appellants to file an appendix before filing an opening brief and to allow respondents to elect an appendix when their other record designations are due. These amendments were intended to assist courts and litigants by permitting earlier filing of an appendix and to provide respondents the opportunity to elect an appendix after receiving notice that the appellant has designated a clerk's transcript. The committee also recommended revising four forms to reflect the rule changes and revoking two forms that would no longer be necessary.

Action: The committee unanimously approved the Appellate Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 03

Appellate Procedure: Attachment of Trial Court's Order to Petition for Review of Summary Denial of Writ Petition

The committee reviewed a recommendation from the Appellate Advisory Committee to amend the rule of court governing petitions for review in the Supreme Court to provide for attachment of the entire trial court order when the petitioner seeks review of a Court of Appeal summary denial of a writ petition. This change would facilitate review on the merits and streamline procedures. When the Court

of Appeal summarily denies a writ petition, the underlying trial court order is necessary to identify the issues in dispute. Under the current rule, however, a petitioner cannot attach a trial court order that exceeds 10 pages to a petition for review without first requesting and obtaining the permission of the Chief Justice.

Action: The committee unanimously approved the Appellate Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 04

Appellate Procedure: Forms for Extension of Time

The committee reviewed a recommendation from Appellate Advisory Committee for revising the forms used to request an extension of time to file a brief in the Court of Appeal and the appellate division of the superior court to ensure that courts receive sufficient information to determine whether good cause exists for an extension. The forms revisions would (1) add an item on the civil forms to indicate that the case is entitled to, or has been granted, calendar preference or priority; and (2) revise the item where the applicant explains why good cause exists for an extension to direct the applicant to address the relevant factors a court will use in ruling on the motion. Additionally, minor additions or corrections were recommended to each form.

Action: The committee unanimously approved the Appellate Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 05

Appellate Procedure: Notice of Appeal Forms

The committee reviewed a recommendation from the Appellate Advisory Committee for revising Notice of Appeal/Cross-Appeal(Unlimited Civil Case) (form APP-002) and Notice of Appeal/Cross-Appeal (Limited Civil Case)(form APP-102) to (1) include an item by which an attorney can join the appeal to challenge an order directing payment of sanctions by the attorney; (2) add an optional item by which the appellant can attach a copy of the judgment or order being appealed; and (3) on form APP-002, reorganize item 1 to ensure that the item requesting the date of the judgment or order being appealed was entered is not overlooked.

Action: The committee unanimously approved the Appellate Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

CIVIL**Item 06****Rules and Forms: Opportunities for Settlement Before Trial in Unlawful Detainer Cases**

The committee reviewed a recommendation from the Civil and Small Claims Advisory Committee to adopt a new rule of court and a new form for optional use in unlawful detainer cases to promote settlement opportunities using alternative dispute resolution processes. The new rule states a policy favoring at least one opportunity for participation in some form of pretrial dispute resolution and would allow a court to shorten the existing deadline for submitting a mandatory settlement conference statement. The new form allows parties to submit to the court a settlement agreement and ask for either an order without judgment or a stipulated judgment. The new rule and optional form are intended to increase settlement opportunities in eviction cases and to promote consistency throughout the state.

Action: The committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 07**Civil Practice and Procedure: Form Revisions to Implement Senate Bill 1200**

The committee reviewed a recommendation from the Civil and Small Claims Advisory Committee for revising ten Judicial Council forms, and revocation of one form, to implement statutory changes made by Senate Bill 1200 (Stats. 2022, ch. 883), enacted September 30, 2022. SB 1200 limits the ability of a judgment creditor to renew or bring an action on a money judgment and lowers the applicable rate of postjudgment interest where the judgment and unsatisfied principal amount of the judgment meet certain criteria. The recommended revisions to the forms implemented the statutory changes.

Action: The committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 08**Unlawful Detainer: Forms to Reflect Existing Law and Implement Senate Bill 1017 and Assembly Bill 1726**

The committee reviewed a recommendation from the Civil and Small Claims Advisory Committee for the approval of one and revision of five unlawful detainer forms. These new and revised forms (1) implement the new law creating a new procedure for partial evictions, (2) implement the new law providing additional time for certain defendants to respond to a summons for unlawful detainer, and (3) updates the forms to reflect current law regarding COVID-19 rental protections.

Action: The committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

CENTER FOR JUDICIAL EDUCATION AND RESEARCH

Item 09

Judicial Branch Education: Delivery Methods Defined

The committee reviewed a recommendation from the Center for Judicial Education and Research Advisory Committee to amend rule 10.493 of the California Rules of Court to provide extended definitions to terms used in a slate of education rule amendments adopted by the Judicial Council effective January 1, 2023. This proposal was based on public comments received in 2022 on that slate of amendments.

Action: The committee unanimously approved the Center for Judicial Education and Research Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

CRIMINAL JURY INSTRUCTIONS (1)

Item 10

Criminal Jury Instructions: Revisions and Additions

The committee reviewed a recommendation from the Advisory Committee on Criminal Jury Instructions to approve for publication the revised criminal jury instructions prepared by the committee under rule 2.1050 of the California Rules of Court. The proposed changes will keep the instructions current with statutory and case authority. Once approved, the revised instructions will be published in the 2023 supplement of Judicial Council of California Criminal Jury Instructions (CALCRIM).

Action: The committee unanimously approved the Advisory Committee on Criminal Jury Instructions recommendation, which is to go to the Judicial Council for action at the September council meeting.

CRIMINAL LAW

Item 11

Criminal Procedure: Appointment of Trial Counsel in Capital Cases

The committee reviewed a recommendation from the Criminal Law Advisory Committee to amend the rule governing qualifications for appointed trial counsel in capital cases. The amendment would clarify that the requirement for appointment of qualified counsel applies in all capital cases unless the district attorney affirmatively states on the record that the death penalty will not be sought.

Action: The committee unanimously approved the Criminal Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 12

Criminal Law: Circumstances in Aggravation

The committee reviewed a recommendation from the Criminal Law Advisory Committee for revisions to the optional Judicial Council felony plea form to reflect statutory changes regarding the right to trial on aggravating circumstances in order to justify imposition of the upper term of a criminal offense or enhancement, and to improve consistency throughout the form.

Action: The committee unanimously approved the Criminal Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 13

Criminal Procedure: Petition for Resentencing Based on Health Conditions due to Military Service

The committee reviewed a recommendation from the Criminal Law Advisory Committee to revise the optional Judicial Council petition for resentencing based on health conditions due to military service to reflect statutory changes expanding eligibility for relief and clarifying that relief is available for health conditions discovered after sentencing.

Action: The committee unanimously approved the Criminal Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

Item 14**Criminal Procedure: Record Cleaning Forms**

The committee reviewed a recommendation from the Criminal Law Advisory Committee to revise optional criminal forms used to petition for dismissals and reductions of convictions and request sealing of arrest records. The proposed revisions reflected recent statutory changes that allow for automatic record relief, expand who is eligible for relief, and clarify the effect of relief granted.

Action: The committee unanimously approved the Criminal Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting.

FAMILY AND JUVENILE LAW**Item 15****Child Custody and Visitation Orders Involving Gender-Affirming Health Care**

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee to amend one rule of court, effective January 1, 2024, to implement Senate Bill 107 (Stats. 2022, ch. 810). Senate Bill 107 amends Family Code sections 3421 and 3424 and enacts a new public policy in Family Code section 3453.5 that supports a parent's ability to seek gender-affirming health care or gender affirming mental health care for a child in the state of California without penalty. The amendments to the rule would provide procedures for situations in which a parent seeks emergency child custody or visitation orders in family court because the laws of another state prohibit that parent from providing gender-affirming health care or gender-affirming mental health care for their child.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 16**Family Law: Summary Dissolution Forms**

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee for revising two family law summary dissolution forms, which are mandated by Family Code section 2400, to reflect an increase in the California Consumer Price Index. The committee also recommended additional changes to the forms to respond to issues raised by court professionals that will help joint petitioners more accurately complete and file the forms needed to request a summary dissolution.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 17

Family and Juvenile Law Implementation of Assembly Bill 2495

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee to amend one rule of the California Rules of Court and revise five forms to conform with recent statutory changes enacted by Assembly Bill 2495 (Patterson; Stats. 2022, ch. 159) regarding various topics related to adoptions, including when to display a child's preadoption name on the adoption request and order forms, procedures for filing a post adoption contact order, and venue for adoption requests. The committee also recommended technical changes to the forms to correct errors and respond to partner and stakeholder feedback.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 18

Juvenile Law: Psychiatric Residential Treatment Facility Voluntary Admission

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee for adoption of one rule of court and six forms to conform to recent statutory changes enacted by Assembly Bill 2317 (Ramos; Stats. 2022, ch. 589) regarding court oversight of the voluntary admission of a child, nonminor, or nonminor dependent to a psychiatric residential treatment facility.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 19

Juvenile Dependency Law: Counsel Collections Program Guidelines

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee for amending Guidelines for the Juvenile Dependency Counsel Collections Program (Guidelines), Appendix F of the California Rules of Court, which addresses reimbursement to the court for the cost of appointed counsel in dependency matters, including setting an income level below which responsible persons are presumed unable to pay for this cost. The income level is based on the statute that addresses eligibility for a fee waiver, which was recently amended to increase the threshold income for a fee waiver from 125 percent of the federal poverty guidelines to 200 percent. Amending the Guidelines would maintain consistency with this statute.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 20

Child Support: Amendments to Family Code Section 4007.5

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee proposing revisions to several forms in order to provide court users and the public with updated information regarding relief available to incarcerated or involuntarily institutionalized child support obligors. The proposed revisions were necessary to reflect recent amendments made to Family Code section 4007.5.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 21

Juvenile Law: Family Finding & Engagement

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee for amending four rules to conform to recent statutory changes clarifying the due diligence that must be used by a social services agency or probation department in performing its family finding obligation when a child is removed from the home. Senate Bill 384 (Stats. 2022, ch. 811) expands the obligation of the placing agency to engage in family finding in dependency and delinquency cases. In addition to the existing duty to ask the child in an age-appropriate manner about parents and adult relatives, due diligence now also requires a social worker or probation officer to use a computer-based search engine to identify relatives and kin to provide family support and possible placement for the child. In the case of an Indian child, the legislation clarifies that the placing agency must contact the child's tribe to help identify relatives and kin. The committee also recommended revising one form to include an item setting forth the court's findings as to whether the probation department exercised due diligence in family finding as required by provisions in Family Code section 7950.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

PROBATE AND MENTAL HEALTH

Item 22

Jointly with the Civil and Small Claims Advisory Committee and Family and Juvenile Law Advisory Committee

Civil Practice and Procedure: Appointment of Guardian ad Litem

The committee reviewed a joint recommendation from the Civil and Small Claims Advisory Committee, the Family and Juvenile Law Advisory Committee, and the Probate and Mental Health Advisory Committee proposing adopting one form, revising two forms, revising and renumbering one form, and revoking one form to reflect a change in the law and to clarify and modernize the existing forms. The mandatory forms in the proposal are used to apply for and order the appointment of a guardian ad litem in a civil action or proceeding, including a family law proceeding, and in a proceeding under the Probate Code.

Action: The committee unanimously approved the joint recommendation from the Civil and Small Claims, Family and Juvenile Law, and Probate and Mental Health Advisory Committees', which is to go to the Judicial Council for action at the September council meeting.

Item 23

Probate Conservatorship: Less Restrictive Alternatives

The committee reviewed a recommendation from the Probate and Mental Health Advisory Committee for amending three rules of court and revising one form in response to recent legislative changes to conservatorship law. The rule amendments implement legislation that requires education on alternatives to conservatorship for judicial officers assigned to probate, probate staff attorneys, probate examiners, court investigators, and counsel appointed in probate conservatorship proceedings. Revisions to the form implement legislation that requires supplemental information provided to the court by the petitioner or proposed conservator to specify clearly and discuss in detail the less restrictive alternatives to a conservatorship that were considered or tried before the filing of the petition. Additional revisions to the form would identify the person completing the form, divide the information to be provided about the reasons for conservatorship into more specific categories, and solicit information about the proposed conservatee's knowledge and opinion of the conservatorship.

Action: The committee unanimously approved the Probate and Mental Health Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 24

Jointly with the Criminal Law Advisory Committee

Trial Courts: Reports of Determinations Affecting Voting Rights (AB 2841)

The committee reviewed a joint recommendation from the Probate and Mental Health Advisory Committee and the Criminal Law Advisory Committee for amending one rule of court and revising two forms to implement Assembly Bill 2841, which requires the trial courts to report to the Secretary of State judicial determinations under Elections Code sections 2208–2211 disqualifying a person from voting or restoring a person’s right to register to vote. The legislation expressly required the Judicial Council to adopt rules and forms, including a mandatory form for the courts to use to furnish the required reports.

Action: The committee unanimously approved the joint recommendation from the Probate and Mental Health and Criminal Law Advisory Committees, which is to go to the Judicial Council for action at the September council meeting

Item 25

Probate Conservatorship and Guardianship: Eligibility for County Payment of Cost of Appointed Counsel

The committee reviewed a recommendation from the Probate and Mental Health Advisory Committee for amending the Guidelines for Determining Financial Eligibility for County Payment of the Cost of Counsel Appointed by the Court in Proceedings Under the Guardianship-Conservatorship Law (Guidelines), Appendix E of the California Rules of Court, to update the criteria for establishing presumptive eligibility for county payment of the cost of court-appointed counsel and to make a minor technical revision. The recommendation maintained the Judicial Council’s policy of basing the criteria for presumptive eligibility for county payment on the conditions for granting an initial court fee waiver under Government Code section 68632(a)–(c) by adjusting the criteria in the Guidelines to conform to recent amendments to that statute.

Action: The committee unanimously approved the Probate and Mental Health Advisory Committee’s recommendation, which is to go to the Judicial Council for action at the September council meeting

PROTECTIVE ORDER

Item 26

Jointly with the Civil and Small Claims Advisory

Protective Orders: Updated Law Enforcement Information Form and New Request Forms for Continuances

The committee reviewed a joint recommendation from the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee for revising form CLETS-001 to make needed updates and adopting new forms to be used when a request to renew has been filed in a protective order proceeding, and the court or a party wishes to continue a hearing.

Action: The committee unanimously approved the joint recommendation from the Civil and Small Claims and Family and Juvenile Law Advisory Committees', which is to go to the Judicial Council for action at the September council meeting

Item 27

Protective Orders: Revisions to Gun Violence Restraining Order Forms

The committee reviewed a recommendation from the Civil and Small Claims Advisory Committee for the adoption and revision of numerous gun violence restraining order forms. These new and revised forms implement Assembly Bill 2870 (Stats. 2022, ch. 974) permitting additional categories of individuals to petition for gun violence restraining orders. The proposed forms also bring the language describing firearm parts on gun violence restraining order forms in line with other protective order forms, include new forms that can be used to request continuance of a hearing to renew a gun violence protective order, and clarify that no additional service is required for enforcement if the respondent attends the hearing where the order was issued, whether attending in person or remotely.

Action: The committee unanimously approved the Civil and Small Claims Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 28

Domestic Violence: Form Changes to Implement New Laws

The committee reviewed a recommendation from the Family and Juvenile Law Advisory Committee for revising 14 domestic violence restraining order forms to implement Assembly Bill 2369, Senate Bill 935, and Assembly Bill 1621. The committee also recommended adopting 2 new forms that would be used to continue a hearing on a request to renew a restraining order.

Action: The committee unanimously approved the Family and Juvenile Law Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 29

Jointly with the Civil and Small Claims Advisory Committee

Protective Orders: Service Requirements after Remote Appearances

The committee reviewed a joint recommendation from the Civil and Small Claims Advisory Committee and the Family and Juvenile Law Advisory Committee for adopting two California Rules of Court and revising 10 notice and order forms to clarify the service requirements for respondents who appear remotely in protective order proceedings. The committees made this recommendation because the statutory authority governing service of protective orders after hearing does not indicate the type of service required if the respondent appears remotely at the hearing.

Action: The committee unanimously approved the joint recommendation from the Civil and Small Claims and Family and Juvenile Law Advisory Committees', which is to go to the Judicial Council for action at the September council meeting

Item 30 (Pulled from the agenda)

TRAFFIC

Item 31

Traffic and Criminal Law: Notice to Appear Forms

The committee reviewed a recommendation from the Traffic Advisory Committee for amending a rule of court, revising the notice to appear form (commonly known as a "citation" or "traffic ticket") and revoking two redundant versions, revising the notice to correct violation, and revising the related instructions form. These changes were recommended to reflect recent statutory changes, improve litigants' understanding of the citation, and avoid redundant form requirements.

Action: The committee unanimously approved the Traffic Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

Item 32

Rules and Forms: Miscellaneous Technical Changes to Traffic Rules and Forms–

The committee reviewed a recommendation from the Traffic Advisory Committee for amending one rule of court and revising five traffic forms to incorporate changes resulting from legislation and correct a statutory reference. These changes were technical, minor, and noncontroversial. The

committee recommended making the necessary corrections to conform to statutes and avoid causing confusion for court users, clerks, and judicial officers.

Action: The committee unanimously approved the Traffic Advisory Committee's recommendation, which is to go to the Judicial Council for action at the September council meeting

TRIBAL COURT

Item 33

Indian Child Welfare Act (ICWA): Discretionary Tribal Participation (

The committee reviewed a joint recommendation from the Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee for amending two rules of court and approving a form to clarify the process and set standards consistent with California statutes for the court's exercise of discretion to permit the participation of a tribe in juvenile cases involving a child affiliated with the tribe, even when there is no express statutory right to participate or intervene under ICWA and Welfare and Institutions Code section 224.4.

Action: The committee unanimously approved the joint recommendation from Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee, which is to go to the Judicial Council for action at the September council meeting.

MISCHELLANEOUS

Item 34

Rules and Forms: Miscellaneous Technical Amendment

The committee reviewed a recommendation from Judicial Council staff to correct errors identified in particular rules and forms resulting from input errors, and minor changes needed to conform to changes in law or previous council actions. These changes are technical in nature and necessary to avoid causing confusion for court users, clerks, and judicial officers.

Action: The committee unanimously approved the Judicial Council staff's recommendation, which is to go to the Judicial Council for action at the September council meeting

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 5:05 p.m.

Approved by the committee on February 7, 2024.