

JUDICIAL COUNCIL BUSINESS MEETING
Administrative Office of the Courts
San Francisco, California
Open to the Public
October 15, 2004
8:30 a.m.–12:15 p.m.

AGENDA

- 8:30–8:40 a.m. **Swearing In of New Council Members**
The Chief Justice will administer the oath of office to new council members.
- 8:40–8:55 a.m. **Public Comment Related to Trial Court Budget Issues***
 [Subject to Requests]
*This time is reserved for public comment on discussion agenda items relating to trial court budgets. *As of the publication date, the discussion agenda contains no such items.*
- 8:55–9:00 a.m. **Approval of Minutes of August 27, 2004**
 [Minutes Tab]
- 9:00–9:20 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
 Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
 Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
 Hon. Laurence D. Kay, Chair
 [Council Committee Reports Tab]
- 9:20–9:30 a.m. **Administrative Director of the Courts Report/Announcements**
- Resolution** **Achieving Permanency for Children in California:**
9:30–9:45 a.m. **A Resolution for the Courts (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council declare November “Court Adoption and Permanency Month.” The month of November was selected for the state’s observance to coincide with National Adoption Month, a time when government agencies and private nonprofit organizations

highlight innovative efforts to expedite adoption and permanency and to raise awareness of the need for safe and permanent homes for children waiting to be adopted.

Presentation (15 minutes)

Speakers: Ms. Diane Nunn, Center for Families Children & the Courts

Consent Agenda (Tabs A1, A3–A37, B–C)

(If you wish to request that any item be moved from the Consent Agenda to the Discussion Agenda, please notify Dennis Blanchard at 415-865-7455 at least 48 hours before the meeting.)

ITEM A RULES, FORMS, AND STANDARDS

Appellate
Item A1

Appellate Procedure: Designation and Preparation of the Record (amend Cal. Rules of Court, rules 4, 5, and 5.1 (Action Required))

Staff: Ms. Heather Anderson, Office of the General Counsel

In order to help clerks identify the appeal for which a record designation is filed, the Appellate Advisory Committee recommends that rules 4, 5, and 5.1 be amended to require that the party designating the record provide the date on which the notice of appeal was filed. The committee also recommends that rule 5.1 be amended to establish a new procedure that a party preparing an appendix could use to request an exhibit from another party.

Item A2

Telephone Appearances (amend Cal. Rules of Court, rules 212 and 298) (Action Required)

This item was moved to the end of the Discussion Agenda.

Civil and Small Claims

Item A3

Notice and Acknowledgment of Receipt (revise and rename form 982(a)(4) and renumber it as form POS-015) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that the *Notice of Acknowledgement and Receipt* form be revised to delete obsolete references to family law documents. The references to these documents are no longer accurate because the names of the documents have been changed, and the references are necessary because the new *Notice and Acknowledgement of Receipt* form is not available for use in family law cases. This form would be designated “Civil” to distinguish it from the new family law forms. Some stylistic changes would be made to improve this form which has not been revised since 1975.

Item A4

Proofs of Service (approve forms POS-020, POS-020(D), POS-020(P), POS-030, POS-030(D), POS-030(P), POS-040, POS-040(D), and POS-040(P)) (Action Required)

Staff: Mr. Patrick O’Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that three new forms for proof of service of documents in civil cases be approved for optional use. One form would be used to show service by personal delivery; the second would be used to show service by mail; and the third would be a multi-purpose form to show service by a variety of means. Attachments to show service on multiple parties and service of multiple documents would also be approved. These proof of service forms should be particularly helpful for self-represented litigants in civil cases.

Item A5

Elder and Dependent Adult Abuse Prevention (revise forms EA-100, EA-110, EA-120, EA-130, EA-140, EA-141, and EA-150) (Action Required)

Staff: Mr. Patrick O’Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that seven forms used in cases involving abuse of elders or dependent adults be revised. Based on public comments, improvements would be made to the forms. For instance, the petition would identify the statutory time for service as well as provide a space for requesting an alternative, shortened time; the order to show cause would include a notice concerning the availability of assisted listening devices; and the instructions form would be updated. These revisions should make the forms more effective.

Item A6

Workplace Violence (revise forms WV-100, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that seven forms used in cases involving workplace violence be revised. Based on public comments, improvements would be made to the forms. For instance, the petition would more clearly identify related actions; the order to show cause would include a notice concerning the availability of assisted listening devices; and the order to show cause and order after hearing would be made mandatory. These revisions should make the forms more effective.

Item A7

Elder Abuse and Workplace Violence: Proof of Sale or Turning In of Firearms (revise and renumber form CH-145/EA-145/WV-145) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that the traditional-style form for proof of sale of firearms or turning in of firearms be revised to apply only to cases involving elder or dependent adult abuse or workplace violence. A new plain-language form for this purpose for use in civil harassment cases would be approved separately, as part of the set of plain-language civil harassment prevention forms. As a result, there would be two forms for proof of firearms relinquishment. Each would be formatted specifically for the set of forms that it assists in implementing.

Item A8

Exemptions from the Enforcement of Judgments (revise form EJ-155) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that the form containing the list of exemptions from enforcement of judgments be revised to eliminate technical defects. For instance, a statutory exemption that has been repealed would be removed from the list; some repetitive information would be eliminated; and minor typographic errors would be corrected.

Item A9

Civil Harassment Forms: Plain-Language Versions (revise forms CH-100, CH-101/DV-290, CH-110, CH-120, CH-125, CH-130, CH-131, CH-140, CH-145, and CH-150; adopt forms CH-135 and CH-151) (Action Required)

Staff: Mr. Patrick O'Donnell, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends that 10 forms used in cases involving civil harassment be revised and 2 new forms providing information for litigants in these cases be adopted. All the forms would be in the plain-language format that already has been implemented for forms used in domestic violence cases. The new format should make the civil harassment forms easier for litigants to understand and use; hence, the forms should improve access to the courts, particularly for self-represented litigants.

Item A10

Small Claims Plain-Language Claim Forms (revise form SC-100, adopt form SC-100A; repeal form SC-160) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends revising the mandatory small claims claim form in a plain-language format to replace the current form; adopting a new plain-language attachment form for listing additional parties, to replace an existing form; and repealing the existing attachment form. Small claims forms drafted in plain English are easier for laypersons to understand and complete, and they promote the Judicial Council objective of greater access to the courts.

Item A11

Small Claims: Proof of Service (Small Claims) and Attachment to Form SC-104: Proof of Mailing After Substituted Service (Small Claims) (revise form SC-104; approve form SC-104A) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends revising the small claims proof of service form by reorganizing the substituted service methods to match the recently revised general civil proof of summons forms (including a recent legislative change concerning substituted service on a person apparently in charge at a private post office box if the party's physical address is unknown) and by making technical changes. The committee also recommends approving a new optional small claims attachment form for proof of mailing after substituted service when someone other than the person who served the documents by substituted service did the mailing.

Item A12

Small Claims Rules on Appeal (amend Cal. Rules of Court, rules 151-156) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends amending the small claims rules on appeal to reflect the small claims de novo appeal procedure in a postunification court system and to make other technical and clarifying amendments.

Item A13

Default Judgment (amend Cal. Rules of Court, rule 388; revise form 982(a)(6)) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends amending rule 388, governing default judgments, to allow the use of the recently revised form *Declaration for Default Judgment by Court* instead of personal testimony when a party seeks a default judgment on declarations in an unlawful detainer case. The committee also recommends revising form 982(a)(6), *Request for Entry of Default*, to state that the memorandum of costs must be completed if a "money" judgment is requested and to reflect recent federal legislation renaming an act Servicemembers Civil Relief Act.

Item A14

Unlawful Detainer Complaint (revise and renumber form 982.1(90)) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends revising the unlawful detainer complaint form to add new information and attachments that must be provided by the plaintiff and an optional “60-day notice to quit” box. These changes would conform to recent legislative amendments. The committee also recommends renumbering the form to UD-100 to conform to current the policy of identifying forms by subject-matter designators.

Item A15

Unlawful Detainer Request to Set Case for Trial (adopt form UD-150) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends adopting a new mandatory form to set an unlawful detainer case for trial to conform to California statutory requirements, establish whether the case is entitled to preference in setting the trial, and establish a uniform state form.

Item A16

Unlawful Detainer: Obsolete Pilot Project Pleading Forms (revoke forms 982.1(90S) and 982.1(95S); amend Cal. Rules of Court, rule 201.2) (Action Required)

Staff: Ms. Cara Vonk, Office of the General Counsel

The Civil and Small Claims Advisory Committee recommends revoking two obsolete unlawful detainer forms and deleting a rule’s reference to one of the obsolete forms.

Criminal Law

Item A17

Sexually Violent Predator Cases: Standardized Commitment Forms (approve forms MC-280 and MC-281) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

The Criminal Law Advisory Committee recommends approving two new forms to provide uniform orders for commitment in sexually violent predator cases. Under Welfare and Institutions Code section 6600 et seq., sexually violent predators may be committed to the Department of Mental Health for an initial two-year period and subsequent two-year extended commitments. The Department of Mental Health suggested standardized commitment forms, because current commitment orders vary significantly and may not include all the necessary information.

Item A18

Criminal Sentencing: New Restitution Collection Forms (approve forms CR-118 and CR-119) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

The Criminal Law Advisory Committee recommends approving two new forms that would provide statewide consistency concerning the entry of income deduction orders for collection of restitution. Legislation designed to increase restitution collection requires courts to enter and stay income deduction orders and to provide the defendant with certain notices regarding the income deduction order. (Pen. Code, § 1202.42(a).) Courts have suggested that it would be helpful if there were statewide optional forms for the courts to use to enter these income deduction orders. These optional forms would assist courts in complying with the statutory requirement regarding income deduction orders.

Item A19

Criminal Procedure: Rule Governing Readiness Conferences (amend Cal. Rules of Court, rule 4.112) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

The Criminal Law Advisory Committee recommends amending rule 4.112 to remove the mandatory readiness conference requirement. The rule currently requires courts to hold readiness conferences in criminal cases 1 to 14 days prior to the date set for trial. Some courts, however, find that their readiness conferences are counterproductive since they do not result in enough settled cases to be effective. The proposed amendment would make readiness conferences discretionary.

Item A20

Criminal Procedure: New Form for Person Convicted of Crime to Petition for Expungement (approve form CR-180) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

The Criminal Law Advisory Committee recommends approving a form by which defendants may petition courts to remove criminal convictions from their records. The Penal Code provides procedures for defendants who have satisfactorily completed probation to follow in petitioning the court to have the convictions removed from their records. If the court grants the petition, the guilty plea will be withdrawn or the finding of guilt will be set aside, a plea of not guilty will be entered, and the case will be dismissed. Petitioning the court to set aside the conviction can be confusing, and hiring an attorney to do so can be costly. This optional form has a simple check-box format to alleviate those burdens.

Item A21

Criminal Procedure: New Form for Identity Theft Victims, Petition for Certificate of Identity Theft (approve form CR-151) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

The Criminal Law Advisory Committee recommends approving a form to assist identity theft victims in obtaining a judicial finding of identity theft under the Penal Code. Currently, identity theft victims may petition the court for a certificate of identity theft. However, according to the California Department of Consumer Affairs, Office of Privacy Protection (OPP), very few certificates have been requested because the procedure is unclear and difficult. Thus, OPP requested that the Judicial Council develop forms for identity theft victims to use in petitioning for a certificate of identity theft under Penal Code section 530.6. The proposed petition is an optional form that an identity theft victim could use to provide the court with information about the criminal case with which the victim's name was erroneously associated.

Family and Juvenile Law

Item A22

Juvenile Law: Maintaining Children's Important Relationships (amend Cal. Rules of Court, rules 1410, 1412, 1460–1463, and 1466; revise form JV-365) (Action Required)

Staff: Ms. Mara Bernstein, Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends revising seven juvenile dependency rules and one form to include new requirements for maintaining children's relationships with significant individuals in their lives. These revisions conform the rules and form to statutory changes that went into effect January 1, 2004. This proposal also includes minor technical changes to conform the rules to other existing laws.

Item A23

Indian Child Welfare Act (amend Cal. Rules of Court, rule 1439; adopt forms JV-130, JV-135, and ADOPT-226; and revise form ADOPT-225) (Action Required)

Staff: Mr. Christopher N. Wu, Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee proposes amending rule 1439, revising form ADOPT-225, and adopting forms JV-130, JV-135, and ADOPT-226. These changes will clarify when and how notice should be given under the federal Indian Child Welfare Act (ICWA) in juvenile dependency, delinquency, status offense, and adoption cases. ICWA requires courts and agencies to follow specific procedures to notify Indian tribes and the Bureau of Indian Affairs when a child may be an Indian child subject to ICWA. Numerous California appellate cases have resulted in reversals of juvenile court orders due to defective notice under ICWA. In addition, Senate Bill 947 (Ducheny; Stats. 2003, ch. 469), effective January 1, 2004, requires that notice of voluntary adoption proceedings be given to any Indian tribe of which the prospective adoptive child is a member or in which the child may be eligible for membership.

Item A24

Juvenile Law: Appeal of Placement Orders After Termination of Parental Rights (Welf. & Inst. Code, § 366.28) (adopt Cal. Rules of Court, rules 38.2 and 38.3) (Action Required)

Staff: Ms. Eryn Shomer, Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends adopting rules 38.2 and 38.3 to create a writ process for appeals from placement orders in dependency cases that are issued after the parental rights have been terminated.

Implementation of this writ process is required by Senate Bill 59 (Escutia; Stats. 2003, ch. 247), which added section 366.28 to the Welfare and Institutions Code. Proposed rules 38.2 and 38.3 were drafted to set forth a substantive writ process with the same timing and filing requirements as rule 38 (formerly rule 39.1B).

Item A25

Juvenile Law: Psychotropic Medication Forms (revise Judicial Council form JV-220 and JV-220A) (Action Required)

Staff: Ms. Jennifer Walter, Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends revising the forms to assist the court in making a timely decision regarding the administration of psychotropic medication for a dependent child who has been removed from a parent's physical custody and to make the forms easier to read, understand, and complete.

Item A26

Court Appointed Special Advocates: Program Guidelines (amend Cal. Rules of Court, rule 1424) (Action Required)

Staff: Ms. Stephanie Leonard, Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends revising rule 1424 of the California Rules of Court in order to clarify state requirements for California Court Appointed Special Advocate (CASA) programs. Currently rule 1424 contains both state-mandated requirements and general recommendations for the operation of CASA programs. The inclusion of recommendations in the rule causes confusion for CASA programs. Moving the recommendations out of the rule and clarifying the state requirements will help CASA programs meet their obligations and plan their operations.

Item A27

Juvenile Law: Miscellaneous Rules (amend Cal. Rules of Court, rules 37.2, 1438, 1449, and 1450) (Action Required)

Staff: Ms. Theresa Owens, Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee has grouped several juvenile-related issues into one proposal. In response to court executives' requests for clarification, the committee proposes amending rule 37.2 (formerly rule 39) to specify that the court that made the order being appealed must pay all allowable costs for the preparation of the clerk's and reporter's transcripts in juvenile dependency cases in which an appeal has been filed after a case has been transferred to another county pursuant to California Rules of Court, rule 1425.

The committee also proposes amending rules 1438, 1449, and 1450 of the California Rules of Court to implement legislative mandates from the 2003–2004 session.

Item A28

Child Support: Miscellaneous Technical Changes Relating to the Child Support Case Registry (revise forms FL-191, FL-630, FL-632, and FL-692) (Action Required)

Staff: Mr. Michael L. Wright, Center for Families, Children & the Courts

The Family and Juvenile Law Advisory Committee recommends revising forms relating to the child support case registry. The California Department of Child Support Services (CDCSS) is in the process of rolling out the federally mandated state disbursement unit that is to be effective no later than September 30, 2005. CDCSS has requested that additional information be included on the Judicial Council forms for the child support case registry. The information on these forms will be used to facilitate the settling of individual support accounts in the state disbursement unit. This additional information must be gathered and incorporated into a database as soon as possible to meet the implementation deadline.

Judicial Administration

Item A29

Trial Courts: Workers' Compensation Program (adopt Cal. Rules of Court, rule 6.302) (Action Required)

Staff: Mr. Yonkel Goldstein, Office of the General Counsel

Staff recommends adopting this rule directing the Administrative Office of the Courts (AOC) to establish a workers' compensation program for trial courts and to provide guidance to ensure that the coverage meets legal requirements

and is cost-efficient. The proposed rule reflects the current practice of allowing trial courts to participate in either the ongoing AOC-sponsored program or a separate workers' compensation program selected by the court and approved by the AOC. Adoption of a new rule is necessary to comply with the mandate of Government Code section 71623.5 (Trial Court Employment Protection and Governance Act).

Item A30

Information Access Disputes: Writ Petition (Gov. Code, § 71675) (adopt Cal. Rules of Court, rule 6.710) (Action Required)

Staff: Mr. Scott Gardner, Office of the General Counsel

AOC staff recommends that the council adopt a rule establishing a writ petition and hearing procedure for alleged violations of rule 6.702, to address claims by a requesting party that the trial courts or the AOC failed to properly maintain or provide access to budget and management information. The proposed rule would establish a procedure for the Chief Justice to appoint a panel consisting of one justice from each district of the Court of Appeal and assign one justice from the panel to hear petitions. The proposed rule is necessary to conform with the requirements of Government Code section 71675.

Item A31

Selection and Term of Presiding Judge (amend Cal. Rules of Court, rule 6.602) (Action Required)

Staff: Mr. Joshua Weinstein, Office of the General Counsel

The Trial Court Presiding Judges Advisory Committee recommends changes to the current rule to clarify the length of an additional term for presiding judges, encourage courts to provide training for assistant presiding judges, and delete mandatory secret ballots for the election of presiding judges (with a notation that court may continue secret balloting through established internal local rules or policies). These changes will encourage presiding judges to serve an additional term in order to maintain continuity in policy initiatives and provide for orderly succession from assistant presiding judge to presiding judge.

Miscellaneous

Item A32

Juror Motion to Set Aside Sanctions Imposed by Default (adopt Cal. Rules of Court, rule 862; and approve form MC-070) (Action Required)

Staff: Ms. Susan Goins, Office of the General Counsel

The Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, on behalf of those advisory committees, recommends adopting a rule to establish a procedure by which a prospective juror may bring a motion to set aside sanctions, and approval of a form to allow a prospective juror to bring such a motion. Code of Civil Procedure section 209 was recently amended to permit a court to impose “reasonable monetary sanctions” on a prospective juror who fails to respond to two summonses and to a failure-to-appear notice. The amended statute requires the Judicial Council to adopt a rule containing procedures for a prospective juror against whom a sanction has been imposed by default to move to set aside the default.

Item A33

Miscellaneous Technical Amendments to the California Rules of Court, the Appendixes of the California Rules of Court, and Judicial Council Forms (amend Cal. Rules of Court, rules 31 and 5.500; amend Ethics Standards for Neutral Arbitrators in Contractual Arbitration, standard 7; amend Cal. Stds. of Jud. Admin., § 20.6; revise forms CM-110, CR-110/JV-790, EJ-100, FL-620, FL-640, WV-131, and WV-132; revise form 2009 and renumber as form MC-005) (Action Required)

Staff: Mr. Kenneth Kann, Office of the General Counsel

Advisory committee members, court personnel, members of the public, and AOC staff have identified technical inaccuracies in rules, standards, and forms resulting from prior rule amendments, renumbering, and inadvertent omissions. Staff recommends approving non-controversial correction of these errors.

Probate and Mental Health

Item A34

Probate: Petition for Probate (revise form DE-111) (Action Required)

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends revising the Judicial Council form that must be filed to commence a decedent's estate proceeding. The revision would clarify an instruction to petitioners concerning the estimated graduating filing fee; solicit additional information, required by existing law, concerning the assets of the estate; and improve the form's overall clarity and ease of use by petitioners, court staff, and judicial officers.

Item A35

Probate: *Petition to Approve Compromise of Claim, and Order Approving Compromise of Claim* (revise forms MC-350 and MC-351) (Action Required)

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends revising the form petition for court approval and the order approving the compromise of a claim or action involving a minor or disabled adult. These forms would be revised to (1) apply to court approval of a proposed disposition of the proceeds of a judgment, (2) specify the alternatives available under the law for disposition of the net proceeds of a judgment or settlement, (3) refer to adults who are subject to the court approval requirement as "persons with disabilities" instead of "incompetent persons," and (4) clarify required information about expenses to be deducted from the proceeds of a judgment or settlement. These changes are prompted or required by legislation that takes effect on January 1, 2005.

Item A36

Probate: *Spousal Property Petition and Spousal Property Order* (revise forms DE-221 and DE-226) (Action Required)

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends revising the petition and order that are filed by a surviving spouse of a decedent to confirm the survivor's interest in marital property or to transfer the decedent's property to the survivor without administration. The revised forms would refer to deceased and surviving registered domestic partners in addition to deceased and surviving married persons, and provide for confirmation or transfer of domestic partnership property or the property of a deceased domestic partner. This revision is required by legislation, effective

January 1, 2005, that will enable surviving registered domestic partners to confirm or transfer property of the partnership or the deceased partner without administration.

Item A37

Trusts Funded by Court Order (adopt Cal. Rules of Court, rule 7.903 and section 40 of the Standards of Jud. Admin.) (Action Required)

Staff: Mr. Douglas Miller, Office of the General Counsel

The Probate and Mental Health Advisory Committee recommends adopting a rule concerning certain express trusts that are created or funded by court orders in probate or civil departments of the court, and a standard of judicial administration that would make recommendations concerning certain court-funded trusts in proceedings heard in civil departments of the court. The proposed rule would define the trusts subject to the rule, prescribe the contents of instruments that implement these trusts, and require that such trusts be subject to the continuing jurisdiction of the court. The proposed standard of judicial administration would recommend that courts (1) provide for probate department determination of trust issues in civil actions involving minors or disabled adults where trusts will receive the proceeds of settlements or judgments or (2) provide for the training of judicial officers who hear these actions on substantive and technical issues involving trusts.

The rule would create greater statewide uniformity in court supervision of court-funded trusts. If implemented by courts, the standard would improve court administration by applying the experience and expertise of probate departments or judicial officers in handling trusts to certain civil actions that involve trusts, or by increasing the expertise of civil department judicial officers in trust issues.

Item B

Equal Access Fund: Distribution of Funds for IOLTA-Formula Grants (Action Required)

Staff: Ms. Bonnie Hough, Center for Families, Children & the Courts

The State Bar Legal Services Trust Fund Commission has submitted a report on the distribution of Equal Access Fund grants. In that report, the commission requests that the Judicial Council approve distribution of \$8,550,000 according to the

statutory formula set out in the State Budget and reports that it has complied with the guidelines set forth for the distribution of those funds. The Budget Act authorizing the Equal Access Fund provides that the Judicial Council must approve the commission's recommendations if the Judicial Council determines that the awards comply with statutory and other relevant guidelines.

Item C

Drug Court Project Grants Under the 2004–2005 Budget Act (Action Required)

Staff: Ms. Nancy Taylor, Executive Office Programs Division

The Collaborative Justice Courts Advisory Committee requests authorization to allocate \$1 million in California Drug Court Project funds to local jurisdictions in the form of mini-grants distributed through the Collaborative Justice Courts Project. The 2004–2005 Budget Act provides for this allocation of \$1 million to California drug court projects.

Discussion Agenda (Tabs D1–D9)

ITEM D

RULES, FORMS, AND STANDARDS

Civil and Small Claims Advisory Committee

Item D1

9:45–9:55 a.m.

Rules for Coordination of Complex Civil Actions (amend Cal. Rules of Court, rules 1501–1529 and 1540–1550; and adopt new rules 1530–1532) (Action Required)

The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend and adopt rules for coordination of complex actions. The proposed amendments address the objectives of (1) reducing the time required for assignment of a coordination trial judge and each interim step in the process, (2) providing for fair and efficient handling of coordination petitions and add-on cases, and (3) addressing the common misperception that cases are usually coordinated in the location requested by the petitioner even when it is not the most appropriate site. In addition, some of the rules require changes to make them consistent with the language of the statutes governing coordination. Finally, the rules should be amended to update and clarify their language and make their format consistent with more recently adopted rules.

Presentation (5 minutes)

Speaker: Ms. Susan Goins, Office of the General Counsel

Discussion/Council Action (5 minutes)

Item D2

9:55–10:10 a.m.

Drop Box Deposits for Filing (adopt Cal. Rules of Court, rule 201.6) (Action Required)

The Civil and Small Claims Advisory Committee recommends adopting a new rule regarding drop box use. There is currently no uniform statewide rule of court authorizing or requiring a court to use a drop box to accept papers for filing. No rule or statute prohibits the use of drop boxes, however, and at least several trial courts currently maintain drop boxes. The Judicial Council has adopted Operating Guidelines and Directives for Budget Management in the Judicial Branch, which includes a directive requiring trial courts to provide drop boxes during the periods of shortened hours. This rule would implement the council directive.

Presentation (5 minutes)

Speaker: Ms. Susan Goins, Office of the General Counsel

Discussion/Council Action (10 minutes)

10:10–10:25 a.m.

BREAK

Court Technology Advisory Committee

Item D3

10:25–10:55 a.m.

Electronic Court Records: Remote Public Access in Extraordinary Criminal Cases (amend Cal. Rules of Court, rule 2073) (Action Required)

The Court Technology Advisory Committee recommends amending rule 2073 to allow remote public access to electronic trial court records in extraordinary criminal cases. As an exception to the general rule permitting access to electronic trial court records in criminal cases only at the courthouse, the rule provides that a court may allow remote electronic access to specified court records in a criminal case on an individualized finding that, because of an extraordinary level of press and public interest in a case, the court should be allowed to meet the demands for information while continuing to respect the privacy rights and interests of parties, victims, and witnesses.

The rule would improve court administration by easing demands on court staff while taking advantage of existing technology.

Presentation (10 minutes)

Speakers: Hon. Terence L. Bruiniers, Superior Court of Contra Costa County
Ms. Pat Yerian, Information Services Division

Discussion/Council Action (20 minutes)

Family and Juvenile Law

Item D4

10:55–11:05 a.m.

Family and Juvenile Law: Mediator and Evaluator Education, Training, and Experience Requirements (amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5) (Action Required)

The Family and Juvenile Law Advisory Committee recommends amending rules 5.210, 5.230, and 1405.5 concerning education, training and experience standards for mediators and evaluators in family and juvenile law proceedings. These amendments clarify certain legal and procedural requirements, provide additional flexibility for compliance, and promote consistency among other California Rules of Court involving education, training, and experience standards for court professionals working with families and children.

Presentation (5 minutes)

Speakers: Ms. Diane Nunn, Center for Families, Children & the Courts
Ms. Karen Thorson, Center for Judicial Education and Research
Mr. Lee Morhar, Center for Families, Children & the Courts

Discussion/Council Action (5 minutes)

Item D5

11:05–11:15 a.m.

Child Custody: Education, Training, and Experience Standards for Evaluators (amend Cal. Rules of Court, rule 5.225; adopt form FL-325; revise form FL-326) (Action Required)

The Family and Juvenile Law Advisory Committee recommends amending rule 5.225 of the California Rules of Court to clarify the education, training, and experience requirements applicable to court-appointed child custody evaluators and to diversify the permissible means of obtaining

training. The committee further recommends adopting form FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications*, and revising form FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications*, to clarify certification procedures and assist evaluators in establishing a record of compliance.

Presentation (5 minutes)

Speakers: Ms. Diane Nunn, Center for Families, Children & the Courts

Mr. Lee Morhar, Center for Families, Children & the Courts

Discussion/Council Action (5 minutes)

Item D6

11:15–11:25 a.m.

Family Law: Privacy Notices and Domestic Partnership Dissolution, Legal Separation and Annulment Procedures (adopt Cal. Rules of Court, rule 5.28; amend rule 5.102; adopt forms FL-103 and FL-123; approve form FL-316; revise forms FL-100, FL-110, FL-115, FL-117, FL-120, FL-142, FL-145, FL-150, FL-160, FL-165, FL-170, FL-180, FL-190, FL-310, FL-311, FL-341, FL-341(B), FL-341(C), FL-341(D), FL-341(E), FL-343, FL-344, FL-345, FL-435, and FL-450) (Action Required)

The Family and Juvenile Law Advisory Committee recommends adopting rules and forms to conform to statutory changes. Assembly Bill 205 (Stats. 2003, ch. 421), the California Domestic Partner Rights and Responsibilities Act of 2003, modified the procedures for terminating domestic partnerships. The proposed new and revised forms would be used by domestic partners to obtain a dissolution, a legal separation, or an annulment under the new statute.

Urgency legislation enacted on June 7, 2004, Assembly Bill 782 (Stats. 2004, ch. 45), requires the Judicial Council to add notices to family law forms that parties may redact their social security numbers from all written materials other than forms in their case to enforce child or spousal support. The legislation further requires the council to add a question on forms in which parties list their assets and debts regarding whether identifying information is available on those forms. The forms include these required changes. A new form is proposed to simplify the process of sealing forms covered under this statute.

Presentation (5 minutes)

Speaker: Ms. Bonnie Hough, Center for Families, Children & the Courts

Discussion/Council Action (5 minutes)

Jurors

Item D7

11:25–11:35 a.m.

Judicial Council Jury Instructions: Approve Publication of Revisions and Additions to Civil Instructions (Action Required)

The Advisory Committee on Civil Jury Instructions recommends approving the publication of revisions to the *Judicial Council Jury Instructions* that were first published in September 2003 and last amended in April 2004. Instructions would be added or revised based on new developments in the law and to improve clarity and accuracy.

Presentation (5 minutes)

Speakers: Hon. James D. Ward

Court of Appeal, Fourth Appellate District

Vice-Chair, Task Force on Jury Instructions

Ms. Lyn Hinegardner, Office of the General Counsel

Discussion/Council Action (5 minutes)

Item D8

11:35–11:45 a.m.

Trial Court Rules: Scheduling Accommodations for Jurors (adopt Cal. Rules of Court, rule 858) (Action Required)

The Court Executives Advisory Committee recommends adopting a rule to require that jury commissioners make scheduling accommodations for peace officers. The rule would also recommend that jury commissioners accommodate, where practicable, the schedules of all prospective jurors by granting a one-time deferral of jury service upon request. This rule implements a new statutory requirement to accommodate the jury service scheduling needs of certain peace officers and recommends flexibility for all jurors' scheduling needs as a matter of public policy.

Presentation (5 minutes)

Speaker: Ms. Susan Goins, Office of the General Counsel

Discussion/Council Action (5 minutes)

Judicial Administration

Item D9

11:45–11:55 a.m.

Advisory Committee Membership (amend Cal. Rules of Court, rule 6.31) (Action Required)

AOC Staff recommends amending rule 6.31 to clarify the authority of the Chief Justice to appoint judges with less than two years on the bench to shortened advisory committee terms. This change would facilitate the development of a program for new judges in which they would serve one-year terms on advisory committees.

Presentation (5 minutes)

Speakers: Ms. Sonya Smith, Executive Office Programs Division
Ms. Susan Goins, Office of the General Counsel

Discussion/Council Action (5 minutes)

Civil and Small Claims

Item A2

11:55 a.m.–

12:15 p.m.

Telephone Appearances (amend Cal. Rules of Court, rules 212 and 298) (Action Required)

Formerly on the Consent Agenda

The Civil and Small Claims Advisory Committee recommends that rules 212 and 298 be amended to facilitate the general use of telephone appearances at case management conferences. Currently, counsel and self-represented persons are required to appear in person at conferences, unless the court permits telephone appearances. The rules would be changed to allow them to appear by telephone, unless the court on a case-by-case basis determines that they must appear in person. Rule 298 would also be amended to require parties to appear in person at hearings on orders to show cause for the violation of a court order or a rule of court.

Presentation (5 minutes)

Speaker: Mr. Patrick O'Donnell, Office of the General Counsel

Discussion/Council Action (15 minutes)

No Circulating Orders have been approved since the last business meeting.

Judicial Council Appointment Orders Since Last Business Meeting

[Appointment Orders Tab]