

**JUDICIAL COUNCIL MEETING**  
**Renaissance Hollywood Hotel**  
**Los Angeles, California**  
**December 5, 2003**  
**10:15 a.m.–12:35 p.m.**

**AGENDA**

10:15–10:30 a.m. **Public Comment Related to Trial Court Budget Issues\***  
[Subject to requests]

\*If no public comment, agenda items may be advanced.

10:30–10:35 a.m. **Approval of Minutes of October 21, 2003**  
[Minutes Tab]

10:35–10:55 a.m. **Judicial Council Committee Presentations**  
Executive and Planning Committee  
Hon. Richard D. Huffman, Chair  
Policy Coordination and Liaison Committee  
Hon. Laurence Donald Kay, Vice-Chair  
Rules and Projects Committee  
Hon. Norman L. Epstein, Chair  
[Council Committee Reports Tab]

**Consent Agenda (Tabs 1A–E, 2–10)**

*(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 1 JUDICIAL COUNCIL–SPONSORED LEGISLATION**

**Item A Service and Filing of Motion Papers and Discovery Cutoff Dates (Code Civ. Proc., §§ 1005, 2024, and 2034) (Action Required)**

Staff: Mr. Daniel Pone, Office of Governmental Affairs

The Policy Coordination and Liaison Committee recommends sponsoring legislation to amend sections 1005, 2024, and 2034 of the Code of Civil Procedure to clarify the proper dates for service and filing of law and motion papers.

**Item B**                    **Small Claims: Standing of Emancipated Minors (Code Civ. Proc., § 116.410) (Action Required)**

Staff: Mr. Daniel Pone, Office of Governmental Affairs

The Policy Coordination and Liaison Committee recommends sponsoring legislation to clarify that a legally emancipated minor may be a party to a small claims action, to be consistent with the Family Code.

**Item C**                    **Filing Fees: Notice of Return for Nonpayment of Check (Code Civ. Proc., § 411.20) (Action Required)**

Staff: Mr. Daniel Pone, Office of Governmental Affairs

The Policy Coordination and Liaison Committee recommends sponsoring legislation to amend section 411.20 of the Code of Civil Procedure to clarify that the party in an action or a proposed action shall be given notice if a check tendered for payment of a filing fee is returned for non-payment.

**Item D**                    **Appellate Filing Fees: Eliminate Fees in Lanterman-Petris-Short Act Proceedings (Gov. Code, §§ 68926 and 68927) (Action Required)**

Staff: Mr. Daniel Pone, Office of Governmental Affairs

The Policy Coordination and Liaison Committee recommends sponsoring legislation to amend Government Code sections 68926 and 68927 to (1) eliminate appellate filing fees in LPS proceedings both in the Courts of Appeal and in the California Supreme Court, and (2) clarify that the exemptions from filing fees for juvenile cases and freedom-from-parental-custody-or-control cases that now apply in the Courts of Appeal under section 68926 also apply in petitions for review in the California Supreme Court.

**Item E**                    **Subordinate Judicial Officers: Postretirement Compensation (Gov. Code, §§ 71622, 72190, and 72407) (Action Required)**

Staff: Ms. Kate Howard, Office of Governmental Affairs

The Policy Coordination and Liaison Committee recommends that the Judicial Council co-sponsor this legislation to allow retired subordinate judicial officers (SJOs) to serve on assignment subject to the applicable limits of the SJO's retirement plan, at a rate of pay not to exceed 85 percent of a retired judge's compensation while serving on assignment.

This proposal will improve court administration by giving the courts flexibility to use the services of experienced and well-qualified retired SJOs to meet short-term SJO needs of the court. The proposal is consistent with postretirement service options that are available to analogous county employees.

**Item 2**

**Jury Instructions: Format for Proposed Instructions (amend Cal. Rules of Court, rule 229) (Action Required)**

Staff: Ms. Lyn Hinegardner, Office of the General Counsel

Rule 229 on the format of jury instructions should be updated. The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2004, amend rule 229 of the California Rules of Court to clarify and specify the format for proposed jury instructions in more detail, to preempt any local forms or rules on the format of proposed jury instructions, and to delete the requirement that a judge endorse on refused instructions the reason for refusal.

**Item 3**

**Probate: Mandatory Adjustments to the Graduated Filing Fee in Probate Filings (amend Cal. Rules of Court, rule 7.550 and adopt rule 7.552) (Action Required)**

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

The Probate and Mental Health Advisory Committee recommends amendment of rule 7.550 and adoption of rule 7.552 in title 7 of the California Rules of Court. Government Code section 26827 requires payment of a graduated filing fee to commence a decedent's estate proceeding, based on the estimated value of the estate. The statute requires an adjustment in the filing fee based on a comparison of the actual and estimated values of the estate when the final account is filed, after the estate's actual value has been determined. Proposed rule 7.552 would prescribe how this adjustment is to be made.

Rule 7.550 concerns the showing that must be made in a report by the personal representative of a decedent's estate when a complete accounting has been waived. This rule would be amended to require the information necessary to make the filing fee adjustment described above, even when the final account has been waived.

**Item 4**                    **Probate: Reimbursement of Graduated Filing Fee Paid by Unsuccessful Petitioner (adopt Cal. Rules of Court, rule 7.151) (Action Required)**

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

The Probate and Mental Health Advisory Committee recommends adoption of rule 7.151 in title 7 of the California Rules of Court. Recent legislation amending the statute that imposes a graduated filing fee on decedents' estates requires the personal representative of a decedent's estate to reimburse another party in the proceeding for a portion of the graduated filing fee paid by the other party under certain circumstances. The Legislature directed the Judicial Council to prescribe by rule the manner in which this reimbursement is to be made. Proposed rule 7.151 is a response to this directive.

**Item 5**                    **Fees for Court Reporting Services (amend Cal. Rules of Court, rule 892) (Action Required)**

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

Existing rule 892 is authorized by Government Code section 68086, which was recently amended to provide that fees collected pursuant to that statute are only to be used to pay the cost for services of an official court reporter. Rule 892 should be amended to conform to the statute.

**Item 6**                    **Termination of Requirements to Collect and Forward Reference Orders and Reports (repeal Cal. Rules of Court, rules 244.1(h) and 244.2(i)) (Action Required)**

Staff: Mr. Alan Wiener, Southern Regional Office

The Judicial Council adopted rules 244.1(h) and 244.2(i) of the California Rules of Court requiring that courts collect and forward orders and reports concerning references to the Administrative Office of the Courts, to carry out a study mandated by Code of Civil Procedure sections 638(c), 639(e), and 640.5. The statutory requirements that the council collect information concerning references will expire on January 1, 2004. Staff are recommending that the Judicial Council repeal the reporting requirements of rules 244.1(h) and 244.2(i), effective on the same date, to eliminate an unnecessary future administrative burden on courts of collecting and forwarding this information.

**Item 7                      Conflict of Interest Code for the Administrative Office of the Courts (Action Required)**

Staff: Mr. Mark Jacobson, Office of the General Counsel

AOC staff recommends that the Judicial Council adopt an amended conflict of interest code for the Administrative Office of the Courts that will reflect the addition of new job classifications over the past year.

**Item 8                      Family Law: Technical Revision to Judgment Form (revise form FL-180) (Action Required)**

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

The council adopted a revision to form FL-180, *Judgment*, at its October 21, 2003, meeting. Because of a typographical error, the revised form deleted a line permitting the court to order custody and visitation as set forth in an attached marital settlement agreement, stipulation for judgment, or other written agreement. This text was present on previously adopted versions of form FL-180 and should not have been removed in the most recent revision. Staff recommends that the council adopt a revised form to correct this omission and clarify that the court may order custody as set forth in an attached agreement.

**Item 9                      Model Jury Summons Pilot Study (Action Required)**

Staff: Mr. John A. Larson, Executive Office Programs Division

Over the past year the Administrative Office of the Courts, in conjunction with Polaris Research and Development, Inc., has conducted a test of the new model jury summons developed by the Task Force on Jury System Improvements. The test included focus group review of the proposed model summons, development of the summons in the four test jurisdictions, (Alameda, Shasta, San Diego, and Ventura Counties), implementing the summonses in the test jurisdictions, and evaluating outcomes. As the report details, the new format achieved substantially greater benchmarks over the existing summonses in the four test jurisdictions. Staff recommends that the council encourage courts to implement the voluntary model summons. (See sample jury summons in front pocket of binder.)

**Item 10**

**Judicial Council Appointee to California Council for Interstate Adult Offender Supervision (Action Required)**

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

The California Council for Interstate Adult Offender Supervision was created in 2001 by Senate Bill 2023 (Stats. 2000, ch. 658). Under Senate Bill 2023, the Judicial Council is to appoint one superior court judge to serve on the state council. (Pen. Code, § 11181(c).) In March 2002, the Judicial Council appointed Judge Richard B. Iglehart to serve as the judicial representative on the state council. Judge Iglehart has recently passed away. Thus, it is recommended that the Judicial Council, effective December 5, 2003, appoint Judge. J. Richard Couzens, of the Superior Court of California, County of Placer, to the California Council for Interstate Adult Offender Supervision.

**Discussion Agenda (Tabs 11–16)**

**Item 11**

10:55–11:05 a.m.

**Judicial Council Distinguished Service Awards for 2003 (Action Required)**

The chairs of the council's internal committees recommend approval of the winners of the 2003 Distinguished Service Awards for significant and positive contributions to court administration in California.

*Presentation (5 minutes)*

Speaker: Hon. Richard D. Huffman  
Chair, Executive and Planning Committee  
Court of Appeal, Fourth Appellate District

*Discussion/Council Action (5 minutes)*

**Item 12**  
11:05–11:15 a.m.

**Ralph N. Kleps Awards for 2003 (Action Required)**

The Ralph N. Kleps Award Committee recommends approval of the winners of the 2003 Ralph N. Kleps Awards to recognize and honor the innovative contributions made by individual courts in California to the administration of justice.

*Presentation (5 minutes)*

Speakers: Hon. Ronald B. Robie  
Court of Appeal, Third Appellate District  
Mr. Michael D. Planet  
Executive Officer, Superior Court of Ventura County

*Discussion/Council Action (5 minutes)*

**Item 13**  
11:15–11:25 a.m.

**Juvenile Court: Children With Dual Status (Action Required)**

The Policy Coordination and Liaison Committee and the Family and Juvenile Law Advisory Committee recommend sponsoring Assembly Bill 129, which sets forth the Legislature’s intent to enact provisions authorizing a county to create a dual-status protocol for children in juvenile court, allowing them to receive services as a dependent and a ward.

*Presentation (5 minutes)*

Speakers: Ms. Tracy Kenny, Office of Governmental Affairs  
Ms. Audrey Evje  
Center for Families, Children & the Courts

*Discussion/Council Action (5 minutes)*

**Item 14**  
11:25–11:55 a.m.

**Public Access to Trial Court Budget Information and Processes (adopt Cal. Rules of Court, rule 6.620) (Action Required)**

Senate Bill 144 (Stats. 2003, ch. 367, Escutia) added section 68511.6 to the Government Code to require the Judicial Council to adopt rules providing for notice to the public and for public input to decisions concerning administrative and financial functions of a trial court, and requiring trial courts to give notice to the public of other appropriate decisions concerning the administrative and financial functions of the trial courts. Staff is recommending that the council adopt rule 6.620 to require trial courts to solicit input from the public before taking action on certain administrative and financial issues and to inform the public of action taken on other administrative and financial issues.

*Presentation (10 minutes)*

Speakers: Mr. Ray LeBov, Office of Governmental Affairs  
Mr. Michael Fischer, Office of the General Counsel

*Discussion/Council Action (20 minutes)*

**Item 15**  
11:55–12:15 a.m.

**Trial Court Improvement Fund and Judicial Administration Efficiency and Modernization Fund: Amended Guidelines (Action Required)**

AOC staff recommends that the council approve the updated guidelines and delegate approval or amendment of allocations that comply with the approved guidelines.

*Presentation (10 minutes)*

Speakers: Mr. Ronald G. Overholt, Executive Office  
Ms. Christine M. Hansen, Finance Division

*Discussion/Council Action (10 minutes)*

**Item 16**  
12:15–12:35 a.m.

**Judicial Council Operational Plan for Fiscal Years 2003–2004 Through 2005–2006: Scheduled Three-Year Revision of Plan (Action Required)**

The council's inaugural operational plan, adopted in August 2000 on a three-year cycle, is currently due for revision. The revised operational plan submitted herewith represents a concerted effort by the council and many other judicial branch stakeholders to realign branch high-priority objectives and desired outcomes with



California's changing demographics and fiscal environments. The proposed operational plan, which will be evaluated annually, is presented for the council's approval. AOC staff will present specific proposals for implementation and evaluation at the council's issues meeting in December 2003.

*Presentation (10 minutes)*

Speaker: Mr. William C. Vickrey  
Administrative Director of the Courts

*Discussion/Council Action (10 minutes)*

**Circulating Orders Approved Since Last Business Meeting**

[There were no circulating orders since the last meeting.]

**Judicial Council Appointment Orders Since Last Business Meeting**

[Appointment Orders Tab]