

**JUDICIAL COUNCIL MEETING**  
**Minutes of October 21, 2003, Meeting**

The Judicial Council of California business meeting began at 8:45 a.m. on Tuesday, October 21, 2003, at the Administrative Office of the Courts (AOC) in San Francisco, California, on the call of Chief Justice Ronald M. George, chair.

**Judicial Council members present:** Chief Justice Ronald M. George; Associate Justices Marvin R. Baxter, Norman L. Epstein, Richard D. Huffman, and Laurence Donald Kay; Judges Eric L. Du Temple, Michael T. Garcia, Jack Komar, William A. MacLaughlin, Heather D. Morse, William J. Murray, Jr., Michael Nash, Richard Strauss, and Barbara Ann Zúñiga; Mr. Rex Heinke, Mr. David J. Pasternak, Ms. Ann Miller Ravel, Mr. William C. Vickrey, and Mr. Thomas J. Warwick, Jr.; **advisory members:** Judges Frederick Paul Horn and Gregory C. O'Brien, Jr.; Commissioner Patricia H. Wong; Ms. Tressa S. Kentner, Ms. Susan Null, and Mr. Alan Slater.

**Absent:** Senator Martha M. Escutia, Assembly Member Ellen M. Corbett, and Judge William C. Harrison.

**Others present included:** Associate Justice Joyce L. Kennard; Judges Steven A. Brick, Daniel J. Didier, Robert Byron Hutson, Ronald P. Kreber, Wendy Lindley, Peter J. Polos, Eric C. Taylor, and Arthur E. Wallace; Ms. Catalina Caballero, Ms. Beth Jay, Mr. Curtis Karnow, Mr. Maro Morohoshi, and Mr. Anthony Thompson; **staff:** Ms. Tamara Abrams, Ms. Linda Ashcraft, Mr. Peter Belton, Mr. Michael Bergeisen, Mr. Dennis Blanchard, Mr. James Carroll, Ms. Tina Carroll, Ms. Roma Cheadle, Ms. Donna Clay-Conti, Ms. Charlene Depner, Mr. Mark Dusman, Ms. Audrey Evje, Mr. Michael Fischer, Mr. Bob Fleshman, Ms. Sheila Gonzalez, Ms. Janet Grove, Ms. Pat Haggerty, Ms. Charlene Hammitt, Ms. Fran Haselsteiner, Ms. Lynn Holton, Ms. Susan Hough, Ms. Kate Howard, Mr. Mark Jacobson, Ms. Melissa Johnson, Mr. John Judnick, Mr. Kenneth L. Kann, Mr. Shawn Landry, Mr. Ray LeBov, Ms. Lynne Mayo, Ms. Carolyn McGovern, Mr. Douglas Miller, Mr. Frederick Miller, Ms. Vicki Muzny, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Mr. Daniel Pone, Ms. Romunda Price, Mr. Michael Roddy, Ms. Marlene Smith, Ms. Sonya Smith, Mr. Corby Sturges, Ms. Pat Sweeten, Mr. Courtney Tucker, Mr. Jim Vesper, Mr. Joshua Weinstein, and Ms. Pat Yerian; **media representatives:** Mr. James S. Adams, *Court Management Observer*; Mr. Jeff Chorney, *The Recorder*; Ms. Karen Coleman and Ms. Donna Domino, *San Francisco Daily Journal*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated October 21, 2003, that was sent to members in advance of the meeting.)

## **Public Comment Related to Trial Court Budget Issues**

No public comments were heard regarding trial court budget issues.

## **Approval of Minutes of August 29, 2003**

The council approved the minutes of its August 29, 2003, meeting.

## **Judicial Council Committee Presentations**

### *Executive and Planning Committee*

Associate Justice Richard D. Huffman, chair, reported on the committee's activities since the August Judicial Council meeting. He reported that since the last meeting the Executive and Planning Committee had spent a substantial amount of time on the Judicial Council Operational Plan, set the agenda for the October council meeting, and taken action on some other matters as well.

On September 29, the committee approved disbursement of \$1 million in grant funds for California drug court projects in 2003–2004. The funds are distributed in accordance with a formula based on the number of judicial positions in the eligible courts.

The committee also approved the three judicial council site visits for this fiscal year: Stanislaus and Merced Counties, November 13 and 14; Colusa and Butte Counties, February 18 and 19; and Modoc, Lassen, and Plumas Counties, May 18, 19, and 20. Justice Huffman encouraged council members to participate in the site visits, which are a continuation of the outreach efforts of the Chief Justice and the Judicial Council.

The committee also made recommendations to the Chief Justice on 14 appointments to the Advisory Committee on Civil Jury Instructions. The recommended appointees were members of the former civil subcommittee of the Task Force on Jury Instructions. The Executive and Planning Committee sent out a public solicitation for nominations for the remaining five positions on the Advisory Committee on Civil Jury Instructions.

On October 9, a subcommittee of the Executive and Planning Committee met in San Francisco to review drafts of the operational plan. The full committee met in San Francisco and made further revisions to the operational plan on the morning of October 20.

To complete the agenda setting for the council business meeting, the committee met by conference call on October 15 to review the report on trial court delay reduction for completeness.

### *Policy Coordination and Liaison Committee*

Associate Justice Marvin R. Baxter, chair, reported on the committee's activities since the August Judicial Council meeting. The committee held a meeting on October 20 that included an orientation session for the newly appointed members: Justice Laurence Donald Kay, who is the committee's new vice-chair; Judge William A. MacLaughlin from the Superior Court of Los Angeles County; and Judge William J. Murray, Jr., from the Superior Court of San Joaquin County.

At that meeting the policy committee also reviewed proposals for 2004 Judicial Council-sponsored legislation. The committee's recommendations will be presented to the full council in December. The committee discussed with Administrative Office of the Courts staff Kate Howard and Ray LeBov that the policy committee and staff at the Office of Governmental Affairs will circulate letters to the advisory committees, perhaps in January, encouraging them to place on the agenda possible Judicial Council-sponsored legislation for the following year. The letters will encourage the advisory committees to focus on areas that would benefit from council-sponsored legislation and enable the committees to contribute to the council's legislative process.

The Policy Coordination and Liaison Committee's recommendations for Judicial Council-sponsored legislation in 2004 will be presented to the full council in December. The Legislature has adjourned for this year and will reconvene in January for the second year of the 2003-2004 session.

During the course of the year, the Policy Coordination and Liaison Committee reviewed more than 40 bills, and staff of the Office of Governmental Affairs achieved the desired outcomes on virtually all of them. Seven Judicial Council-sponsored bills passed the Legislature, and the Governor signed all 7 bills. The Office of Governmental Affairs is preparing the *Annual Court News Legislative Summary*, which highlights bills of interest to the courts and the judiciary, to be published in December.

As reported in the past, the council will hold meetings in the Chief Justice's chambers with other organizations to focus on areas of mutual interest and encourage support for legislation in which the judiciary has a particular interest.

Justice Baxter reminded council members that next year the council will host the 10th annual Judicial Legislative Executive Forum at the state Capitol. This is an informational event for legislators, the Governor, and other executive branch officials. As in the past, the forum will take place in conjunction with the Chief Justice's State of the Judiciary address to the Legislature. The date will be announced as soon as it is finalized.

### *Rules and Projects Committee*

Associate Justice Norman L. Epstein, chair, reported on the committee's activities since the August Judicial Council meeting. The committee met four times in that time period.

Judge Gail A. Andler, who was then chair, led the first meeting. At that meeting the committee dealt with everything that could be dealt with at the time. The agenda reflects the work of that committee as well as the advisory committees.

The recently appointed Rules and Projects Committee (RUPRO) has met three times, twice by telephone and once in person. At those meetings the committee took action on several items that are on the current council agenda.

The committee recommended two circulating orders for the council's approval. One had to do with contractual indemnification and a technical adjustment allowing the Office of the General Counsel to have an appropriate indemnification clause in standard contracts. The other had to do with security working groups and carries out a legislative mandate.

The committee also reviewed a proposed new rule regarding public access to trial courts. The rule is being circulated for comment and should be before the council at its December meeting.

At its two teleconference meetings, the committee discussed the case management recommendations that came from the blue ribbon panel chaired by Justice Aldrich and were revised by the Civil and Small Claims Advisory Committee. RUPRO made some relatively minor technical changes, and that matter is before the council for action today.

The committee anticipates several meetings before the next council meeting. It will consider, as the council did a year or so ago at an issues meeting, whether the Standards of Judicial Administration should continue to exist as a separate document, be folded into other documents, or be changed in some other way.

The committee thought it would be better to look at this matter deliberately and systemically than to have it simply occur one way or the other without that sort of review. Whether to make such a significant change is a policy decision. The committee will be pleased to hear from any member of the council about his or her view on this.

Justice Epstein thanked Administrative Office of the Courts staffs to both the Policy Coordination and Liaison Committee—on which he formerly served as vice-chair—and RUPRO for their first-rate support of the committees.

### **Resolution Achieving Permanency for Children in California: A Resolution for the Courts (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt a resolution that the month of November 2003 is Court Adoption and Permanency Month.

*Council action:*

The Judicial Council approved and adopted a resolution proclaiming the month of November 2003 to be Court Adoption and Permanency Month.

## CONSENT AGENDA

### ITEM A RULES, FORMS, AND STANDARDS

#### *Appellate*

**Item A1 Appellate Procedure: Service of Appellate Papers on the Attorney General and Other Public Officers (adopt Cal. Rules of Court, rule 44.5; amend rules 14(b), 15(e), 28(f), and 56(b) and (k); revise form APP-001) (Action Required)**

To avoid having to update multiple rules each time a new statute requiring service on a public official is adopted, the Appellate Advisory Committee proposes deleting provisions in several rules that refer to specific statutory service requirements and adopting new rule 44.5, which would specify the procedures that generally must be followed when service on the Attorney General or another public officer is required by a statute or by rule. To alert both appellants and appellate court clerks if special service requirements apply in a case, the committee also recommends that Judicial Council form APP-001, *Civil Case Information Statement*, be revised to include check boxes for the statutory provisions that require service of briefs or petitions on the Attorney General or another public officer.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Adopted new rule 44.5 to specify the procedures that must be followed when service on the Attorney General or another public officer is required by a statute or by rule;
2. Amended rules 14(b), 15(e), 28(c), and 56(b) and (k) to delete specific provisions relating to service on the Attorney General and to insert appropriate cross-references to new rule 44.5; and
3. Revised form APP-001 to include check boxes for all the statutory provisions that require service of briefs or petitions on the Attorney General or another public officer.

**Item A2 Appellate Procedure: Permit Parties to File Replies to Answers to Petitions for Review Even If Those Answers Do Not Raise New Issues (amend Cal. Rules of Court, rules 28(a) and 28.1(d)) (Action Required)**

The Appellate Advisory Committee recommends that rules 28 and 28.1 of the California Rules of Court be amended to reflect the California Supreme Court's current practice of

allowing replies to answers to petitions for review to be filed regardless of whether the answers raise new issues.

*Council action:*

The Judicial Council, effective January 1, 2004:

Amended rules 28(a) and 28.1(d) to permit parties to file replies to answers to petitions for review even if those answers do not raise new issues.

**Item A3 Appellate Procedure: Making Filing of an Answer to a Petition for Rehearing in the Court of Appeal Discretionary With the Court (amend Cal. Rules of Court, rules 25(b) and 29.5) (Action Required)**

The Appellate Advisory Committee proposes that rule 25(b) of the California Rules of Court be amended to eliminate the automatic right to file an answer to a petition for rehearing in the Court of Appeal and to provide that answers be filed only when the court requests them. This amendment is intended to help litigants focus their resources on filing answers in cases in which the Court of Appeal concludes that such an answer would be helpful.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 25 to eliminate the automatic right to file an answer to a petition for rehearing in the Court of Appeal and instead provide that an answer may not be filed unless it is requested by the Court of Appeal; and
2. Amended rule 29.5 to clarify that the provisions of rule 25 concerning answers to petitions for rehearing do not apply in the Supreme Court.

**Item A4 Appellate Procedure: Require Consecutive Pagination of Supporting Documents to Habeas Corpus Petitions Filed by Attorneys (amend Cal. Rules of Court, rules 56(i) and 56.5) (Action Required)**

The Appellate Advisory Committee proposes that rules 56 and 56.5 be amended to require that when a petition for a writ of habeas corpus is filed by an attorney, supporting documents accompanying that petition must be consecutively paginated.

*Council action:*

The Judicial Council, effective January 1, 2004:

Amended rules 56(i) and 56.5 of the California Rules of Court to clarify that supporting documents to habeas corpus petitions filed by attorneys must be consecutively paginated.

**Item A5 Appellate Procedure: Proposed New Appellate Forms (approve forms APP-001, APP-002, APP-003, APP-005, APP-006, and APP-007, and renumber current form APP-001) (Action Required)**

The Appellate Advisory Committee proposes a Judicial Council–approved information sheet about the civil appellate process and new, optional forms that litigants can use to complete several of the common steps in appeals of unlimited civil cases. These forms are intended to help unrepresented litigants, as well as attorneys, unfamiliar with appellate procedure to understand the basic procedures followed in appealing an unlimited civil case and in preparing and filing appropriate papers in these appeals.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Approved the following new forms for optional use:  
APP-001, *Information on Appeal Procedures for Unlimited Civil Cases*,  
APP-002, *Notice of Appeal/Cross-Appeal (Unlimited Civil Case)*,  
APP-003, *Notice Designating Record on Appeal (Unlimited Civil Case)*,  
APP-005, *Abandonment of Appeal (Unlimited Civil Case)*,  
APP-006, *Application for Extension of Time to File Brief (Civil Case)*, and  
APP-007 *Request for Dismissal of Appeal (Civil Case)*; and
2. Renumbered current form APP-001, *Civil Case Information Statement*, as APP-004.

**Item A6 Appellate Procedure: Clarify Time Frame for Ordering Review on Supreme Court’s Own Motion (amend Cal. Rules of Court, rule 28.2(d)) (Action Required)**

The Appellate Advisory Committee recommends that the Judicial Council amend rule 28.2(d) to clarify that when the Supreme Court decides to deny a petition for review but nevertheless to order review on its own motion, it may so order within the time period in which it has jurisdiction to grant the petition.

*Council action:*

The Judicial Council, effective January 1, 2004:

Amended rule 28.2(d) to clarify that when the Supreme Court decides to deny a petition for review but nevertheless to order review on its own motion, it may so order within the time period in which it has jurisdiction to grant the petition.

**Item A7 Appellate Procedure: Create New Petition for Review to Exhaust State Remedies (adopt Cal. Rules of Court, rule 33.3; amend rules 28.1 and 44) (Action Required)**

In response to proposals by practitioners representing indigent defendants in criminal appeals and at the request of the Supreme Court, the Appellate Advisory Committee

recommends adoption of new rule 33.3 giving criminal defendants, after a decision by the Court of Appeal, the option of filing an abbreviated petition for review in the Supreme Court for the sole purpose of exhausting state remedies before seeking federal habeas corpus review.

*Council action:*

The Judicial Council, effective January 1, 2004:

Adopted new rule 33.3 and amended rules 28.1 and 44 of the California Rules of Court to give defendants in criminal appeals, after a decision by the court of Appeal, the option of filing an abbreviated petition for review in the Supreme Court for the purpose of exhausting state remedies before seeking federal habeas corpus review.

*Civil and Small Claims*

**Item A8 Alternative Dispute Resolution: Rules Relating to the Judicial Arbitration Program (amend Cal. Rules of Court, rules 225, 1580.3, 1603–1605, 1606, and 1612–1618; renumber and amend rules 1600–1600.1, 1601, and 1607–1611; and repeal rules 1600.5, 1602, and 1605.5) (Action Required)**

The Civil and Small Claims Advisory Committee recommends amending the rules relating to the judicial arbitration program to (1) eliminate outdated references and language; (2) reflect current case management practices; (3) reflect pending amendments to the judicial arbitration statutes that are likely to be adopted effective January 1, 2004; and (4) make the rules easier to understand.

The committee also recommends: (1) amending rule 225 to incorporate language similar to that in existing rule 1618, making a party who fails to give notice of settlement at least two days before a scheduled alternative dispute resolution (ADR) hearing or session responsible for paying the compensation of the ADR neutral; and (2) amending rule 1580.3 to replace the arbitration administrative committee required in specified courts by existing rule 1603 with an ADR committee that has broader membership and responsibilities.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 225 to incorporate language similar to that in existing rule 1618 making a party who fails to give notice of settlement at least two days before a scheduled alternative dispute resolution (ADR) hearing or session responsible for paying the compensation of the ADR neutral;
2. Amended rule 1580.3 to replace the arbitration administrative committee required in specified courts by existing rule 1603 with an alternative dispute resolution committee that has broader membership and responsibilities; and



3. Amended the rules relating to the judicial arbitration program (by amending rules 1603–1605, 1606, and 1612–1618; renumbering and amending rules 1600–1600.1, 1601, and 1607–1611; and repealing rules 1600.5, 1602, and 1605.5) to (a) eliminate outdated references and language; (b) reflect current case management practices; (c) reflect pending amendments to the judicial arbitration statutes that are likely to be adopted effective January 1, 2004; and (d) make the rules easier to understand.

**Item A9 Alternative Dispute Resolution: Forms Related to Attorney-Client Fee Arbitration and Contractual Arbitration (revise form ADR-103; revise and renumber form ADR-103A as form ADR-105; approve forms ADR-104 and ADR-106) (Action Required)**

To make it easier for litigants to request appropriate relief after attorney-client fee arbitrations and contractual arbitrations, the Civil and Small Claims Advisory Committee recommends that the Judicial Council revise two existing forms and approve two new forms, as follows: (1) revise form ADR-103 and retitle it *Petition to Confirm, Correct, or Vacate Attorney-Client Fee Arbitration Award*; (2) approve form ADR-104, *Request for Trial After Attorney-Client Fee Arbitration*; (3) revise form ADR-103A, *Information Regarding Rights After Attorney-Client Fee Arbitration*, and renumber it as form ADR-105; and (4) approve form ADR-106, *Petition to Confirm, Correct, or Vacate Contractual Arbitration Award*.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Retitled form ADR-103 as *Petition to Confirm, Correct, or Vacate Attorney-Client Fee Arbitration Award* and revised it to remove the allegations for requesting a trial after a nonbinding arbitration and to add other allegations pertinent to a request to confirm, correct, or vacate an award;
2. Approved form ADR-104, *Rejection of Award and Request for Trial After Attorney-Client Fee Arbitration*, to replace and supplement the allegations pertinent to a request for trial after a nonbinding arbitration which are currently contained in form ADR-103;
3. Renumbered form ADR-103A, *Information Regarding Rights After Attorney-Client Fee Arbitration*, as form ADR-105 and revised it to reflect the revisions to form ADR-103 and the approval of form ADR-104; and
4. Approved form ADR-106, *Petition to Confirm, Correct, or Vacate Contractual Arbitration Award*, for use following arbitrations that do not involve attorney-client fee disputes.

**Item A10 Sanctions for Violations of Rules of Court (amend Cal. Rules of Court, rule 227) (Action Required)**

Rule 227 provides sanctions for violations of the California Rules of Court. It is not clear whether the rule authorizes sanctions not just for violations of the rules in Title Two but also for violations of all the rules relating to general civil cases and other specified types of civil cases in the rules of court. And it is not clear whether insurers and other individuals or entities whose consent is necessary for the disposition of a case are covered by the rule. The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend rule 227 to clarify its scope and to modify the definition of “person” so that it is clear that the rule applies to insurers and others whose consent is necessary for the disposition of a case.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Amended rule 227 to clarify its scope and to modify the definition of “person” so that it is clear that the rule applies to insurers and others whose consent is necessary for the disposition of a case.

**Item A11 Memoranda of Points and Authorities; and Motions, Applications, and Petitions Not Requiring Memoranda (amend Cal. Rules of Court, rule 313; adopt rule 314) (Action Required)**

Rule 313 on memoranda of points and authorities should be updated. Certain applications, motions, and petitions that are filed with the courts do not need memoranda in support. The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) amend rule 313 of the California Rules of Court to improve its style and to refer to new rule 314; and (2) adopt rule 314, which specifies the civil applications, motions, and petitions that do not require a supporting memorandum. A copy of rule 313 is attached, with a corrected reference to rule 314 rather than rule 214.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 313 of the California Rules of Court to improve its style and to refer to new rule 314; and
2. Adopted rule 314, which specifies applications, motions, and petitions filed on Judicial Council forms in civil cases that do not require a supporting memorandum.

**Item A12 Receivership Rules (adopt Cal. Rules of Court, rule 1902.5; amend rule 1908) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) adopt rule 1902.5 of the California Rules of Court to provide that an applicant for the

appointment of a receiver must propose, and state the reasons for, the specific amount of the undertaking required by statute; and (2) amend rule 1908 to add that when the receiver files a motion or a stipulation for final account and report, the motion or stipulation must include a request for discharge, a request for exoneration of the receiver's surety, and a request for instructions.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Adopted rule 1902.5 of the California Rules of Court to provide that an applicant for the appointment of a receiver must propose, and state the reasons for, the specific amount of the undertaking required by statute; and
2. Amended rule 1908 of the California Rules of Court to add that when the receiver files a motion or a stipulation for final account and report, the motion or stipulation must include a request for discharge and a request for exoneration of the receiver's surety.

**Item A13 Notice of Stay and Notice of Settlement (adopt Cal. Rules of Court, rule 224; amend rule 225; adopt forms CM-180 and CM-200) (Action Required)**

Rule 225 of the California Rules of Court presently combines notice requirements regarding (1) notice of stays and (2) notice of settlements. This combination is confusing. The two distinct types of notice should be covered by separate rules. While there are some local court forms relating to notices of stays or settlements, no Judicial Council forms currently exist for these purposes.

The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) adopt rule 224 of the California Rules of Court on notice of stays, (2) amend rule 225 on notice of settlement to eliminate the portions on stays, (3) adopt *Notice of Stay of Proceedings* (form CM-180) to implement the notice of stay requirements of rule 224, and (4) adopt *Notice of Settlement* (form CM-200) to implement the notice of settlement requirements of amended rule 225.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Adopted rule 224 of the California Rules of Court on notice of stays;
2. Amended rule 225 on notice of settlement to eliminate the portions on stays;
3. Adopted *Notice of Stay of Proceedings* (form CM-180) to implement the notice of stay requirements of rule 224; and
4. Adopted *Notice of Settlement* (form CM-200) to implement the notice of settlement requirements of amended rule 225.

**Item A14 *Proof of Service (Summons)* (revise form 982(a)(23) and renumber it as form POS-010; amend Cal. Rules of Court, rule 982.9) (Action Required)**

*Proof of Service (Summons)* (form 982(a)(23)) was last revised effective January 1, 1987. It does not conform to the current format of Judicial Council forms. It could be improved in several respects and should be modified to reflect current legislation.

Rule 982.9 of the California Rules of Court on typewritten proof of service forms was adopted effective January 1, 1985, to authorize the filing of proofs of service of summonses prepared by typewriter or word processor. It is outdated.

The Civil and Small Claims Advisory Committee recommends that the Judicial Council (1) revise *Proof of Service (Summons)* (form 982(a)(23)) and renumber it as form POS-010; and (2) amend rule 982.9 of the California Rules of Court to bring it up to date.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Revised, renamed, and renumbered *Proof of Service (Summons)* (form 982(a)(23)) as *Proof of Service of Summons* (form POS-010) to conform to recent legislation, make technical changes, and improve the form; and
2. Amended rule 982.9 of the California Rules of Court to be consistent with the revised form, current practice, and contemporary technology.

**Item A15 *Petition and Declaration Regarding Unresolved Claims and Deposit of Undistributed Surplus Proceeds of Trustee's Sale* (revise form MC-095) (Action Required)**

*Petition and Declaration Regarding Unresolved Claims and Notice of Deposit of Undistributed Surplus Proceeds of Trustee's Sale* (form MC-095) was adopted in 2001 to implement Civil Code section 2924j(h). The accounting method on the form is somewhat confusing. As a result, the foreclosure costs recoverable under Civil Code section 2924k(a)(1) may be incorrectly recovered twice under item 16. The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise form MC-095 to eliminate the possibility of an erroneous double deduction of recoverable expenses.

*Council action:*

The Judicial Council, effective January 1, 2004:

Revised form MC-095 to eliminate the possibility of an erroneous double deduction of recoverable expenses.

**Item A16 *Ex Parte Application for Extension of Time to Serve Pleading and Orders* (approve form CM-020) (Action Required)**

The California Rules of Court, which prescribe the times by which pleadings must be served, allow parties to apply for an extension of time for the service of pleadings. (Cal. Rules of Court, rule 201.7)(e.) Some local court forms are available for litigants to use to request an extension of time, but there is no statewide Judicial Council form available for this purpose. The Civil and Small Claims Advisory Committee recommends that the Judicial Council approve *Ex Parte Application for Extension of Time to Serve Pleading and Orders* (form CM-020).

*Council action:*

The Judicial Council, effective January 1, 2004:

Approved the new optional *Ex Parte Application for Extension of Time to Serve Pleading and Orders* (form CM-020) in order to make a Judicial Council form available for this purpose.

**Item A17 *Civil Summons Forms: Miscellaneous Revisions and One New Form* (revise forms 982(a)(9), 982(a)(10), and 982(a)(11) and renumber as SUM-100, SUM-120, and SUM-130; adopt new form SUM-140) (Action Required)**

The current civil summons forms are out of date. The forms call for “typewritten” responses, but a recent rule change allows handwritten responses. The forms contain misleading information concerning whom to contact for legal assistance in preparing a response, and they do not advise about the availability of court forms. The forms are not consistent in the information they provide. A new summons form is needed to provide notice of the 10-day response time in a storage lien enforcement action, to help the public and the courts process these actions.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Revised three civil summons forms (forms 982(a)(9), 982(a)(10), and 982(a)(11)); renumbered them as SUM-100, SUM-120, and SUM-130; and adopted a new *Summons—Storage Lien Enforcement* form (form SUM-140) to provide consistent information on all summons forms as follows:
  - a. Replace the reference to “legal aid office” with “nonprofit legal services program” and direct the person served to the California Legal Services Web site and the California Courts Online Self-Help Center to locate legal assistance from a nonprofit legal services program or attorney referral service;
  - b. Advise that a court form may be available to prepare the response and that court forms can be found at the California Courts Online Self-Help Center, county law library, or courthouse;

- c. Advise that a fee waiver may be available;
- d. Substitute “written” for “typewritten,” consistent with new rule 201.4 of the California Rules of Court, effective January 1, 2003; and
- e. Delete the proof of service on the reverse of the summons forms and add an instruction on the face of the forms that *Proof of Service of Summons* (form POS-010) (see Item 14 on this Judicial Council agenda) should be used for proof of service of this summons.

**Item A18 Small Claims Hearings: New Optional Request and Order to Postpone (approve forms SC-110 and SC-111) (Action Required)**

Judicial Council–sponsored legislation that took effect January 1, 2003, requires that a good cause request to postpone a small claims hearing be filed at least 10 days before the hearing date unless the requesting party gives the court good cause for filing late. (Code Civ. Proc., § 116.570.) There currently is no form to assist small claims parties in making the request or to foster uniform application of small claims postponement proceedings in all courts. The Civil and Small Claims Advisory Committee recommends that the Judicial Council approve forms SC-110 and SC-111 to help with the process of requesting postponements.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Approved the *Request to Postpone Small Claims Hearing* (form SC-110) for optional use, and
2. Approved the *Order on Request to Postpone Small Claims Hearing* (form SC-111) for optional use.

**Item A19 Small Claims: Optional Form to Amend Party Name Before Hearing (approve form SC-114) (Action Required)**

Code of Civil Procedure section 116.560 authorizes a small claims plaintiff to amend a claim to include the correct legal name of the defendant. However, procedures for amending the claim currently vary from small claims court to court, including small claims courts within the same county. The Civil and Small Claims Advisory Committee recommends that the Judicial Council approve form SC-114 to help provide a uniform procedure for amending a party’s name.

*Council action:*

The Judicial Council, effective January 1, 2004:

Approved the *Request to Amend Party Name Before Hearing (Small Claims)* (form SC-114) for optional use to provide a method for amending a party’s name after the claim has been served and before the hearing.

**Item A20 Small Claims: Discovery of Judgment Debtor's Assets (revise form SC-133) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the *Judgment Debtor's Statement of Assets (Small Claims)* (form SC-133) to clarify that it is a mandatory form and that the judgment can be executed immediately but if the judgment is not paid, then form SC-133 is due within 30 days after the clerk mails notice of the judgment.

*Council action:*

The Judicial Council, effective January 1, 2004:

Revised the *Judgment Debtor's Statement of Assets (Small Claims)* (form SC-133) to (1) identify it as a mandatory form; (2) clarify that the judgment can be executed immediately but if the judgment is not paid, then form SC-133 is due within 30 days after the clerk mails notice of the judgment; and (3) add a column for listing vehicle identification and license numbers for each vehicle listed.

*Criminal Law*

**Item A21 Habeas Corpus: Procedure in the Superior Courts (amend rule 4.551; approve form CR-175) (Action Required)**

Under current rule 4.551, if a superior court has not ruled on a petition for writ of habeas corpus within 30 days of filing, the petition is automatically deemed granted, resulting in the issuance of an order to show cause and invoking several procedural requirements. The Criminal Law Advisory Committee proposes replacing the automatic granting of habeas petitions with a new procedure for petitioners to notify superior courts that there has not been a timely ruling, as well as increasing from 30 days to 60 days the time period within which a superior court must rule on a habeas corpus petition. Finally, an advisory committee comment would be added, clarifying the authority for appointing counsel.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 4.551 to provide habeas corpus petitioners with a vehicle to notify the superior court that there has not been a timely ruling on the petition; and
2. Approved form CR-175, *Notice and Request for Ruling*, to provide a form for the habeas corpus petitioner to make the notification under amended rule 4.551.

**Item A22 Capital Trials: Appointment of Counsel and Judicial Education (adopt forms CR-190 and CR-191; adopt Cal. Stds. Jud. Admin., § 25.4; and amend Cal. Rule of Court, rule 4.117) (Action Required)**

The Judicial Council recently adopted rules of court setting forth minimum standards for appointed counsel defending capital cases. The Criminal Law Advisory Committee recommends the adoption of forms to standardize the method of determining counsel's expertise and amending rule 4.117 of the California Rules of Court to implement use of the forms. The proposed standard of judicial administration would establish suggested training for judges hearing capital cases. A corrected copy of form CR-191 is attached, with the correct title *Declaration of Counsel for Appointment in Capital Cases* rather than the incorrect title *Order Appointing Counsel In Capital Cases*.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Adopted form CR-190, *Order Appointing Counsel in Capital Case*, and form CR-191, *Declaration of Counsel for Appointment in Capital Case*, and amended rule 4.117 of the California Rules of Court to assist the courts in appointing counsel in capital cases; and
2. Adopted section 25.4 of the California Standards of Judicial Administration to set forth recommended training for judges handling capital cases.

**Item A23 Form Interrogatories for Collecting Unpaid Victim Restitution in Criminal Cases (adopt form CR-200, *Form Interrogatories—Crime Victim Restitution*) (Action Required)**

These form interrogatories, which would assist crime victims in collecting unpaid restitution, are required by Code of Civil Procedure section 2033.5(d).

*Council action:*

The Judicial Council, effective January 1, 2004:

Adopted form CR-200, *Form Interrogatories—Crime Victim Restitution*, to assist crime victims in collecting restitution.

*Family and Juvenile Law*

**Item A24 Child Support: Implementation of New and Revised Governmental Forms by Local Child Support Agencies (adopt Cal. Rules of Court, rule 5.311) (Action Required)**

The Department of Child Support Services (DCSS) has encountered long delays in implementing new or revised Judicial Council forms. Because of the complexity of its computer systems, DCSS cannot reprogram those systems to complete the new or revised



forms in the month between the forms' availability and their effective date. This has resulted in extended periods during which DCSS and local child support agencies are unable to use the forms then in effect.

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt rule 5.311 of the California Rules of Court to create a framework for an extended implementation period for new and revised Judicial Council governmental child support forms used by local child support agencies.

*Council action:*

The Judicial Council, effective January 1, 2004:

Adopted rule 5.311 of the California Rules of Court to create a framework for implementation of new and revised governmental child support forms by local child support agencies.

**Item A25 Child Support: Stipulation and Waiver of Unassigned Child Support Arrearage (approve form FL-626) (Action Required)**

Some courts and local Department of Child Support Services offices have created local stipulation forms by which parents waive unassigned child support arrears. The creation of a Judicial Council form will give courts a uniform stipulation with all of the necessary disclosure provisions that ensure that a party knowingly, willingly, and intelligently waives any past-due child and spousal support arrears. The form will improve the administration of governmental child support cases within the court system.

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve form FL-626, *Stipulation and Order Waiving Unassigned Arrears (Governmental)* to inform parents of the consequences of waiving child support arrearages.

*Council action:*

The Judicial Council, effective January 1, 2004:

Approved form FL-626, *Stipulation and Order Waiving Unassigned Arrears (Governmental)*, to inform parents of the consequences of making a knowing waiver of child support arrearages.

**Item A26 Juvenile Dependency Mediation Program Requirements (adopt Cal. Rules of Court, rule 1405.5; repeal Cal. Stds. Jud. Admin., § 24.6) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt rule 1405.5 of the California Rules of Court to mandate rules of practice and administration for court-connected dependency mediation programs, and repeal section

24.6 of the California Standards of Judicial Administration. The existing standards have improved the quality of dependency mediation practice. They should be mandated to ensure uniform delivery of this high quality of service across the state.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Adopted rule 1405.5 of the California Rules of Court to mandate rules of practice and administration for court-connected dependency mediation programs; and
2. Repealed section 24.6 of the California Standards of Judicial Administration.

**Item A27            Juvenile Law: Restraining Orders (amend Cal. Rules of Court, rule 1429.5; revise form JV-245) (Action Required)**

Assembly Bill 3028 was chaptered on September 27, 2002. The bill amended Welfare and Institutions Code section 213.5 to permit a court to reissue a temporary protective order in a juvenile case, on its own motion or by affidavit of the party seeking the order, when it was not possible to achieve notice within the statutory limits. The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend rule 1429.5 to conform it to Welfare and Institutions Code section 213.5 and revise form JV-245 to make it a standalone form rather than an attachment to the dependency or wardship petition.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 1429.5 to specify the procedure for the reissuance of a temporary restraining order; and
2. Revised form JV-245 to clarify its use in a request for issuance of a restraining order.

**Item A28    Victim Restitution Form and Instructions (revise form CR-110/JV-790; approve forms CR-112/JV-792 and CR-117) (Action Required)**

Form CR-110/JV-790, *Order for Restitution and Abstract of Judgment*, is used in criminal and juvenile delinquency cases. The form serves both as a restitution order and as an abstract of judgment for enforcing the restitution order as a civil judgment. The dual function is designed to assist crime victims in recovering financial losses. However, that recovery process may not be readily understandable to many victims. To aid crime victims, the Family and Juvenile Law Advisory Committee and Criminal Law Advisory Committee recommend revising the form to clarify the restitution process and improve its legal accuracy. Additionally, two instruction forms (form CR-112/JV-692 and form CR-117) to assist victims in obtaining and filing the restitution order and abstract of judgment are proposed for approval.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Revised form CR-110/JV-790, *Order for Restitution and Abstract of Judgment*, to promote accurate computation of the restitution award, allow multiple individuals to sign the application, specify whether a stay has been entered, and clarify that wardship is not a prerequisite to requiring an offender to provide restitution;
2. Approved form CR-112/JC-792, *Instructions: Order for Restitution and Abstract of Judgment*, to provide victims with an easy-to-understand instruction sheet to assist them in getting a restitution order and applying for an abstract of judgment using form CR-110/JV-790; and
3. Approved form CR-117, *Instructions: Defendant's Statement of Assets*, to provide the defendant and the victim in criminal proceedings with an easily understandable explanation of how to fill out and read form CR-115, *Defendant's Statement of Assets*.

**Item A29 *Emergency Protective Order* (revise form 1295.90 and renumber it as form EPO-001) (Action Required)**

*Emergency Protective Order*, a form that is used by law enforcement to secure immediate court orders to protect adults and children at risk of abuse or other harm, needs to be revised. This Judicial Council form does not reflect current state law relating to the ownership and possession of firearms by restrained persons. The Civil and Small Claims, Criminal Law, and Family and Juvenile Law Advisory Committees recommend that the Judicial Council revise the *Emergency Protective Order* (form 1295.90) to conform to current law and clarify certain items on the form, and renumber it as form EPO-001.

*Council action:*

The Judicial Council, effective January 1, 2004:

Revised the *Emergency Protective Order* to conform to current law and renumbered it as form EPO-001.

**Item A30 *Domestic Violence and Civil Harassment Orders: Allocation of Service of Process Fees* (adopt form CH-101/DV-290) (Action Required)**

Assembly Bill 2030, effective January 1, 2003, authorizes the sheriff or marshal to serve, without charge to the petitioner, Domestic Violence Prevention Act restraining orders and civil harassment orders relating to stalking or sexual assault. AB 2030 requires the Judicial Council to establish a policy that allows the sheriff or marshal to bill the courts for the cost of serving such orders. The legislation also requires the Judicial Council to develop forms for litigants' use in seeking free service of process by the sheriff or marshal. The Family and Juvenile Law Advisory Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council adopt form CH-101/DV-290, *Request and Order for Free Service of Restraining Order*, to comply with the new legislation.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Adopted form CH-101/DV-290, *Request and Order for Free Service of Restraining Order*.

**Item A31 Domestic Violence Prevention Act Forms (approve forms DV-260 and DV-720; revise forms DV-100, DV-105, DV-110, DV-130, DV-520, and DV-550) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve forms DV-260 and DV-720 and revise six existing forms to assist individuals in renewing domestic violence restraining orders, add to the information entered into the California Law Enforcement Telecommunications System (CLETS), and clarify a variety of issues. The new and revised forms will clarify the procedure for renewing a restraining order, assist in the entry of information into the Statewide Domestic Violence Restraining Order System accessed through CLETS, and improve the courts' ability to make effective orders.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Approved forms DV-260 and DV-720 and revised forms DV-100, DV-105, DV-110, DV-130, DV-520, and DV-550 to assist individuals in renewing domestic violence restraining orders, add to the information entered into the California Law Enforcement Telecommunications System (CLETS), and clarify a variety of issues.

**Item A32 Adoption Rules and Forms (amend Cal. Rules of Court, rule 1464; revise forms ADOPT-200, ADOPT-210, and ADOPT-215) (Action Required)**

Shortly after the council's plain-language adoption forms took effect on January 1, 2003, many people, including judicial research attorneys, adoption practitioners, court clerks, and representatives of the California Department of Social Services, contacted the Administrative Office of the Courts (AOC) to suggest revisions. In addition, AOC staff identified several items on the forms that required revision. The Family and Juvenile Law Advisory Committee proposes amending rule 1464 of the California Rules of Court and revising three Judicial Council adoption forms to help petitioners, practitioners, and court and agency staff facilitate the adoption process.

*Council action:*

The Judicial Council, effective January 1, 2004:  
1. Amended rule 1464 of the California Rules of Court to require court clerks to provide a copy of completed form ADOPT-200 and a copy of any adoptive placement agreement or agency joinder filed in an adoption case to the California Department of

- Social Services (CDSS) and to clarify its language; and
2. Revised Judicial Council forms ADOPT-200, *Adoption Request*; ADOPT-210, *Adoption Agreement*; and ADOPT-215, *Adoption Order*, to clarify their legal and procedural requirements and make them easier to use for everyone involved in the adoption process.

**Item A33 Juvenile Law: Miscellaneous Rules and Forms (amend Cal. Rules of Court, rules 1425 and 1426; revise forms JV-450, JV-500, JV-501, JV-600, and 982(a)(27); revise form FJ-200 and renumber it as FL-935) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend two California Rules of Court and revise several Judicial Council forms to implement statutory requirements, promote effective coordination of proceedings, clarify the rules and forms, and correct typographical and technical errors.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 1425 of the California Rules of Court to clarify that a court transferring a dependency or delinquency case may send certified copies of the transfer order and the case file, not true originals, to the court that is receiving the case and that the residence of the person entitled to physical (not legal) custody is the child's residence;
2. Amended rule 1426 to require the receiving court to notify the transferring court of receipt of the order and case file;
3. Revised Judicial Council forms JV-500, *Paternity Inquiry—Juvenile*, and JV-501, *Paternity—Finding and Judgment*, to eliminate references to presumed fathers;
4. Added a clerk's certificate of authenticity to form JV-450, *Order for Prisoner's Appearance at Hearing Affecting Prisoner's Parental Rights and Waiver of Appearance*, to facilitate cooperation between the court and the prison officials involved in transferring a prisoner to court for a hearing affecting his or her parental rights;
5. Revised form JV-600, *Juvenile Wardship Petition*, to solicit information about the child's paternity and Indian heritage;
6. Revised form FJ-200, *Application and Order for Appointment of Guardian ad Litem of Minor—Family Law/Juvenile*, to eliminate a conflict with section 326.5 of the Welfare and Institutions Code, renumber it as form FL-935, and rename it *Application and Order for Appointment of Guardian ad Litem of Minor—Family Law*; and
7. Revised form 982(a)(27), *Application and Order for Appointment of Guardian ad Litem—Civil*, to correct the cross-reference to revised and renumbered form FL-935.

**Item A34 Family Law: Financial Declarations (revise forms FL-150 and FL-155)  
(Action Required)**

The Family and Juvenile Law Advisory Committee recommends revising the *Income and Expense Declaration* (form FL-150) and *Financial Statement (Simplified)* (form FL-155) to eliminate unnecessary information and to add information required for child support calculations, including background for ability-to-earn determinations. The *Financial Statement* would be made usable in more situations, including cases where a litigant has interest income or the court wishes to have information about the litigant's expenses.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Revised forms FL-150 and FL-155.

**Item A35 Family Law: Miscellaneous Forms (approve forms FL-117, FL-144, and FL-345; revise forms FL-115, FL-180, FL-250, FL-260, FL-270, and FL-344) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends the approval of three new optional family law forms: a notice of acknowledgment and receipt for family law, a property attachment for family law judgments, and a waiver of a final declaration of disclosure. These new forms and the proposed revisions to six existing family law forms are designed to assist self-represented litigants with the paperwork for a divorce and to enable parents who have adopted a child but are not married, including same-sex couples, to obtain custody and support orders upon separation.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Approved forms FL-117, FL-144, and FL-345; and
2. Revised forms FL-115, FL-180, FL-250, FL-260, FL-270, and FL-344.

**Item A36 Family Law: Motion to Quash and Application for Court Order (adopt Cal. Rules of Court, rule 5.121; amend rules 5.118 and 5.120) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends amending rules 5.118 and 5.120 and adopting new rule 5.121 to clarify the procedures relating to a motion to quash, clarify that the court may grant or deny relief sought on a motion solely on the basis of the application and responses, and correct certain technical errors.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Adopted rule 5.121 and amended rules 5.118 and 5.120.

**Item A37 Family Law: Child Custody and Visitation Orders (revise forms FL-311 and FL-341; approve forms FL-341(C), FL-341(D), FL-341(E), and FL-355) (Action Required)**

The Family and Juvenile Law Advisory Committee is proposing attachments to current custody and visitation forms (1) to allow litigants to set out a parenting schedule for holidays and (2) for judicial officers to specify the scope of joint legal custody and incorporate common provisions regarding physical custody. Also included is a standard stipulation form for parents to use to incorporate an agreement that they or family court services have drafted.

*Council action:*

The Judicial Council, effective January 1, 2004:

Revised forms FL-311 and FL-341 and approved forms FL-341(C), FL-341(D), FL-341(E), and FL-355.

**Item A38 Juvenile Law: De Facto Parent Status (adopt forms JV-295, JV-296, JV-297, and JV-298; approve form JV-299) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends adopting forms JV-295, *De Facto Parent Request*; JV-296, *De Facto Parent Statement*; JV-297, *De Facto Parent Order*; and JV-298, *Order Ending De Facto Parent Status*, to provide a statewide uniform procedure or practice for individuals to request de facto parent status. Many individuals who request the status are not represented by counsel. The lack of a standardized process results in inefficiencies when judicial officers cannot readily ascertain the information needed to determine the appropriateness of granting the request. The committee also proposes approving form JV-299, *De Facto Parent Pamphlet*, which will provide potential de facto parents with basic information. All the proposed forms use a plain English format intended to assist self-represented persons.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Adopted forms JV-295, *De Facto Parent Request*; JV-296, *De Facto Parent Statement*; JV-297, *De Facto Parent Order*; and JV-298, *Order Ending De Facto Parent Status*; and
2. Approved form JV-299, *De Facto Parent Pamphlet*.

**Item A39 Juvenile Law: Appellate Counsel Access to Court Records and Procedure for Distributing Juvenile Appellate Briefs (amend Cal. Rules of Court, rules 1423 and 39.1) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends amending rules 1423 and 39.1 to clarify that appellate counsel appointed to represent parties in juvenile appeals are included within the definition of “counsel who may inspect the juvenile case files” in both the underlying juvenile case and related appeals. The proposal to amend rule 39.1 clarifies the procedure for distribution of appellate briefs in juvenile cases and makes several technical changes in accordance with the standards for writing rules of court.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 1423 to clarify that appellate counsel are within the definition of counsel who can inspect the juvenile court files of their clients; and
2. Amended rule 39.1 to clarify the number of copies of appellate briefs that counties must provide to appellate practitioners and to the appellate project, and to make a technical change in accordance with Administrative Office of the Courts style for writing rules of court.

**Item A40 Family and Juvenile Law: Technical Changes to Rules and Forms (renumber Cal. Rules of Court, rules 5.170 and 5.171; amend rules 5.220 and 5.230; revise forms FL-170, FL-651, and JV-635) (Action Required)**

The Family and Juvenile Law Advisory Committee, court personnel, members of the public, and Administrative Office of the Courts staff have identified non-controversial, technical errors and omissions that must be corrected in rules and forms. Staff recommends that the Judicial Council renumber two rules of court, amend two other rules of court, and revise three forms to correct these errors.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Renumbered rules 5.170 and 5.171 as 5.70 and 5.71 to move them to the appropriate chapter of the family law rules;
2. Amended rule 5.220 to correct typographical errors;
3. Amended rule 5.230 to implement the council’s prior decision to eliminate the rule’s requirement of initial in-person classroom instruction for child custody evaluators and investigators;
4. Revised form FL-170 to correct its reference to form FL-141;
5. Revised form FL-651 to provide space for a receiving court to stamp the form and made other technical corrections; and
6. Revised form JV-635 to correct the reference to the governing statute.



*Judicial Administration*

**Item A41 Acceptance of Gifts (amend rule 989.7 and renumber it as rule 6.102)  
(Action Required)**

Under existing rule 989.7 of the California Rules of Court, only the Chief Justice or his designee is authorized to accept gifts to the judicial branch or an individual court. The Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee recommend amending rule 989.7 to give the Administrative Director of the Courts the authority to accept gifts and delegate this authority to executive officers, administrators, and the director of the Finance Division of the AOC.

*Council action:*

The Judicial Council, effective January 1, 2004:

Amended rule 989.7 of the California Rules of Court to give the Administrative Director of the Courts the authority to accept gifts and delegate authority to accept gifts to executive officers, administrators, and the director of the Finance Division of the AOC.

**Item A42 Court Executives Advisory Committee and Conference of Court Executives (amend Cal. Rules of Court, rules 6.31, 6.48, and 6.49)  
(Action Required)**

The Court Executives Advisory Committee recommends that the Judicial Council amend rules 6.31, 6.48, and 6.49 of the California Rules of Court as they relate to the selection, governance, and membership of the Court Executives Advisory Committee and the Conference of Court Executives. These rules need to be updated to be consistent with the governance and appointment of other Judicial Council advisory committees, and to add to the committee's membership administrators from other sections of the judicial branch to contribute to discussions and projects affecting court administration.

*Council action:*

The Judicial Council, effective January 1, 2004:

Amended rules 6.31, 6.48, and 6.49 as they relate to the selection, governance, and membership of the Court Executives Advisory Committee and the Conference of Court Executives.

**Item A43 Ethics Training for Judicial Council Members and Judicial Branch Employees (adopt Cal. Rules of Court, rule 6.301) (Action Required)**

The Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee recommend the adoption of rule 6.301 to mandate that Judicial Council members and judicial branch employees, including trial court employees, who

are required to file statements of economic interests take an ethics orientation course within six months of assuming their positions and every two years thereafter. This proposed requirement parallels the one now contained in Government Code section 11146 for officers and employees of “state agencies.”

*Council action:*

The Judicial Council, effective January 1, 2004:  
Adopted rule 6.301 of the California Rules of Court.

**Item A44 Examination of Prospective Jurors and Juror Questionnaire (amend Cal. Stds. Jud. Admin., §§ 8 and 8.5; revise form MC-001) (Action Required)**

The Access and Fairness Advisory Committee recommends amending sections 8 and 8.5 of the Standards of Judicial Administration and revising form MC-001, *Juror Questionnaire for Civil Cases*, to address the issues of domestic partnership and sexual orientation as they relate to the voir dire of prospective jurors in civil and criminal cases. The proposed amendments yield information that will assist judicial officers and attorneys in determining whether a juror can be fair and impartial.

AOC staff recommends approval of both the proposed amendments to the standards and the revisions to form MC-001, *Juror Questionnaire for Civil Cases*. (A copy of the revised form MC-001, inadvertently omitted from the council binder materials, is attached to these minutes.)

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended sections 8 and 8.5 of the California Standards of Judicial Administration; and
2. Revised form MC-001, *Juror Questionnaire for Civil Cases* to improve the voir dire process and to address issues of domestic partnership and sexual orientation that may arise during voir dire.

*Probate and Mental Health*

**Item A45 Probate Rules on Accounts and Petitions for Distribution in Decedents’ Estates (adopt rules 7.551, 7.651, and 7.652) (Action Required)**

The Probate and Mental Health Advisory Committee recommends adopting three new rules in Title 7 of the California Rules of Court concerning decedents’ estate proceedings. One rule would require the filing of a tax clearance certificate from the Franchise Tax Board before the court could approve a final account or report in large estates that have nonresident beneficiaries eligible to receive substantial portions. Two other rules would

prescribe the way certain property to be distributed must be described in petitions for preliminary or final distribution.

*Council action:*

The Judicial Council, effective January 1, 2004:

Adopted rules 7.551, 7.651, and 7.652 of the California Rules of Court to prescribe the duties of all personal representatives of decedents' estates concerning petitions for distribution, and certain specific responsibilities of personal representatives of large estates with nonresident beneficiaries concerning California income taxes.

**Item A46 Probate Rules Concerning the Guardianship Status Report and Terminations of Guardianships and Conservatorships (adopt Cal. Rules of Court, rules 7.1003–7.1007, and 7.1052–7.1054) (Action Required)**

The Probate and Mental Health Advisory Committee recommends adoption of eight new rules concerning probate guardianships and conservatorships in title 7 of the California Rules of Court. One rule would prescribe duties of the clerk concerning Judicial Council form GC-251, *Confidential Guardianship Status Report*. Seven rules would prescribe certain duties of outgoing guardians or conservators when they have been replaced or when their service has been completed because the proceedings have terminated.

*Council action:*

The Judicial Council, effective January 1, 2004:

Adopted rules 7.1003–7.1007 and 7.1052–7.1054 in title 7 of the California Rules of Court, which

- a. Clarified the responsibilities of court clerks under Probate Code section 1513.2 concerning the Confidential Guardianship Status Report;
- b. Increased statewide uniformity of practice in probate guardianship and conservatorship practice; and
- c. Increased protection for wards and conservatees at critical stages of guardianship and conservatorship proceedings.

**Item A47 Probate Forms: *Capacity Declaration—Conservatorship and Dementia Attachment to Capacity Declaration—Conservatorship* (revise form GC-335; adopt form GC-335A) (Action Required)**

The Probate and Mental Health Advisory Committee recommends revisions to Judicial Council form GC-335, *Capacity Declaration—Conservatorship*, and the adoption of new form GC-335A, *Dementia Attachment to Capacity Declaration—Conservatorship*, to conform to statutory requirements; enhance protection of conservatees by reducing inappropriate or unnecessary applications by conservators for powers to place conservatees in restricted and secure facilities or to consent to the administration of dementia medications; and make the forms easier to use, sign, and file.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Revised form GC-335, which:
  - a. Permitted filing of page 1 only when the form is used solely to excuse a proposed conservatee's absence from the hearing on the appointment of a conservator;
  - b. Revised item 6B(1) on page 2 to provide for separate assessments of a (proposed) conservatee's short-term, long-term, and immediate-recall memory;
  - c. Provided a place for the initials of an authorized medical expert declarant below item 7 at page 3 of the form, to confirm the declarant's conclusion that the (proposed) conservatee lacks the capacity to give informed consent to any form of medical treatment; and
  - d. Removed the material concerning dementia powers in item 8 on page 3.
2. Adopted form 335A, *Dementia Attachment of Capacity Declaration—Conservatorship*—which includes the material concerning dementia powers removed from item 8 of form GC-335, redesignated as item 9, and which:
  - a. Replaced the description of authorized placements of patients suffering from dementia in former item 8a with the phrase “secured-perimeter residential care facility for the elderly” in the instructions for item 9a, and thereafter with a description as “restricted and secure” or as placement in a “locked or secured-perimeter facility” in item 9a;
  - b. Required the medical expert declarant to provide detailed information on the (proposed) conservatee's condition and the reasons for his or her placement in a restricted and secure facility or the administration of psychotropic medication; and
  - c. Required the medical expert declarant to specifically identify the deficits in the (proposed) conservatee's mental functions that impair his or her ability to appreciate or understand the consequences of giving or withholding consent to placement in a restricted and secure environment of administration of psychotropic medications for the treatment of dementia.

**Item A48 Miscellaneous Forms: *Petition to Establish Record of Death and Declaration in Support of Petition to Establish Record of Death* (approve forms MC-360 and MC-360A) (Action Required)**

The Probate and Mental Health Advisory Committee recommends approval of new forms for a petition and a supporting declaration to establish a record of death in the court proceeding authorized by Health and Safety Code sections 103450–103490. The advisory committee recommends that these forms be approved for optional use until Judicial Council forms are developed to establish records of births and marriages under the Health and Safety Code provisions.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Approved forms MC-360, *Petition to Establish Record of Death*, and MC-360A, *Declaration in Support of Petition to Establish Record of Death* for optional use, in order to promote statewide uniformity of practice in the proceeding to establish a record of death under Health and Safety Code sections 103450–103490.

**Item A49 Probate Form: *Consent of Guardian, Nomination, and Waiver of Notice* (revise form GC-211) (Action Required)**

The Probate and Mental Health Advisory Committee recommends that the Judicial Council revise form GC-211, *Consent of Guardian, Nomination, and Waiver of Notice*, to provide greater actual notice of the consequences of consenting to the appointment of a guardian for a minor and waiving notice of the hearing on the petition for appointment of that guardian.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Revised form GC-211, which:

1. Moved the Notice text box at the bottom of the form to a more prominent position, immediately above the place where persons waiving notice of hearing and consenting to the appointment of a guardian must sign their names;
2. Clarified and simplified the text in the Notice text box;
3. Revised the text of item 4 to clarify that waiver of notice of the hearing on a petition for appointment of guardian includes waiver of notice of any request for independent powers contained in that petition and waiver of the right to receive a copy of that petition; and
4. Changed the title of the “Consent and Waiver of Notice” portion of the form to provide greater actual notice that the person who signs that part of the form is consenting to the appointment of a guardian.

**Item A50 Probate Rule on Notice to Persons Represented by a Guardian or Conservator (amend Cal. Rules of Court, rule 7.51(c)) (Action Required)**

The Probate and Mental Health Advisory Committee recommends revising the rule prescribing service of notices in probate proceedings on persons represented by a guardian or conservator.

*Council action:*

The Judicial Council, effective January 1, 2004:  
Amended rule 7.51(c) to conform to Probate Code section 1210.

**Item A51 Probate Form: *Petition and Order for Appointment of Guardian Ad Litem In a Probate Proceeding* (revise form DE-350/GC-100; adopt form DE-351/GC-101) (Action Required)**

The Probate and Mental Health Advisory Committee recommends revising the form used to request the appointment of a guardian ad litem in probate proceedings by (1) deleting the order portions and placing them in a separate new form; (2) adding a statement advising the form's users that appointment of a guardian ad litem is not the same as appointment of a guardian of the person and estate of a minor; and (3) changing a cross-reference to another form, reflecting a revision of that form.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Revised form DE-350/GC-100, which:
  - a. Corrected a cross-reference to a family and juvenile law form in the text box at the top of page 1 of the form, to reflect the pending proposal to change the referenced form's designator prefix and number from FJ-200 to FL-935;
  - b. Added the following sentence at the end of the text in the text box at the top of page 1 of the revised portion, "A guardian ad litem is NOT the same as the guardian of the person or the estate";
  - c. Removed the order portion of the existing form at the bottom of page 2;
  - d. Changed the title of the form to *Petition for Appointment of Guardian ad Litem—Probate*; and
  - e. Made other clarifying changes.
2. Adopted for mandatory use in probate proceedings a separate guardian ad litem appointment order, designated as form DE-351/GC-101, *Order Appointing Guardian ad Litem—Probate*.

*Traffic*

**Item A52 Traffic: Notice to Appear Forms (adopt Cal. Rules of Court, rule 4.103; revoke form TR-110; revise forms TR-100, TR-106, TR-108, TR-115, TR-120, and TR-130; revise form instructions, *Notice to Appear and Related Forms*) (Action Required)**

The Traffic Advisory Committee recommends that the Judicial Council adopt rule 4.103 and revise the notice to appear forms and form instructions in order to promote statewide uniformity and efficient processing of notice to appear citation forms. For certain offenses, the notice to appear may serve as a complaint if it is on a form approved by the council. The new rule will eliminate the previous requirement that law enforcement agencies submit their notice to appear forms to the council for individual review and approval. Instead, agencies will be required to use the council's forms and to follow the guidelines contained in the instruction manual for the notice to serve as a complaint. The

forms include portions that are standardized and portions that may be customized to fit local needs.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Adopted rule 4.103 of the California Rules of Court [Notice to appear forms];
2. Revoked form TR-110, *Traffic Notice to Appear*;
3. Revised form TR-100, *Notice of Correction and Proof of Service*;
4. Revised form TR-106, *Continuation of Notice to Appear*;
5. Revised form TR-108, *Continuation of Citation*;
6. Revised form TR-115, *Automated Traffic Enforcement System Notice to Appear*;
7. Revised form TR-120, *Nontraffic Notice to Appear*;
8. Revised form TR-130, *Traffic/Nontraffic Notice to Appear*;
9. Revised form instructions, *Notice to Appear and Related Forms*; and
10. Allowed agencies a one-year period after the effective date to implement the revised forms.

**Item A53 Traffic: Instructions on Appeal for Infractions (revise form TR-150)  
(Action Required)**

The Traffic Advisory Committee recommends that the Judicial Council revise form TR-150, *Instructions on Appeal Procedures for Infractions*, to clarify the procedures that apply to appeals for traffic infractions. Revision of form TR-150 will avoid confusion between requirements for the filing of particular documents on appeals, which is mandatory, and the use of Judicial Council forms to file such documents, which is discretionary.

*Council action:*

The Judicial Council, effective January 1, 2004:

Revised form TR-150 to clarify the procedures that apply to appeals for traffic infractions.

**Item B Approval of Trial Court Travel Expense Reimbursement Policy and Procedures (Action Required)**

Government Code 69505 requires the Administrative Director of the Courts to annually recommend trial court travel expense policies and procedures to the Judicial Council for approval.

*Council action:*

The Judicial Council, effective December 1, 2003:

- Adopted the policies, schedules, and procedures for trial court business-related travel expenses contained in the *Trial Court Financial Policies and Procedures Manual*

under policy section AOC FIN 8.03, Employee Travel Expense Reimbursement; (Travel rates referred to in paragraph 6.3.2.2 of AOC FIN 8.03 are detailed on the Serranus Web site.)

- Affirmed that these policies do not change any terms of a memorandum of understanding or agreement by and between a recognized employee organization and a trial court entered into before December 1, 2003. It is recommended that, upon expiration of the memorandum of understanding or agreement by and between a recognized employee organization and a trial court, entered into before December 1, 2003, the policies mentioned above apply.
- Affirmed that, except as noted in the preceding bullet, trial courts that now process their travel expense claims through their county will now be required to follow this reimbursement policy regardless of the rates that the counties may allow.

## DISCUSSION AGENDA

### ITEM C RULES, FORMS, AND STANDARDS

#### **Item C1 Revision of Appellate Rules: Third Installment—Rules 30–36.3 (repeal Cal. Rules of Court, rules 30–36, 37–38, and 39.50–39.57; adopt revised rules 30–36 and 36.3 and related Advisory Committee Comments; amend rules 36.1 and 36.2) (Action Required)**

Associate Justice Joyce L. Kennard presented this item.

This is the third installment of a multiyear project to revise the appellate rules of the California Rules of Court. It addresses the rules governing the hearing and decision of appeals in noncapital criminal cases and appeals from judgments of death. The revision is necessary because many provisions of the existing rules have become unduly complex, difficult to understand, or inconsistent with current law and practice. The revision undertakes to cure these deficiencies by simplifying the wording of the rules and restructuring them to clarify their meanings and facilitate their use. Most of the changes are stylistic only, but selected substantive changes are necessary to fill unintended gaps and conform older rules to current law.

To accomplish these goals the Appellate Advisory Committee asks the council to repeal existing rules 30–36, 37–38, and 39.50–39.57 of the California Rules of Court; adopt revised rules 30–36 and 36.3 and related Advisory Committee Comments; and amend rules 36.1 and 36.2.

#### *Council action:*

The Judicial Council, effective January 1, 2004:

1. Repealed rules 30–36, 37–38, and 39.5–39.57 of the California Rules of Court;



2. Adopted revised rules 30–36 and 36.3 and related Advisory Committee Comments; and
3. Amended rules 36.1 and 36.2.

**Item C2 Sealed Records Rules (amend Cal. Rules of Court, rules 12.5, 243.1, and 243.2) (Action Required)**

Mr. Curtis Karnow presented this item.

The first statewide rules on the filing of records under seal (Cal. Rules of Court, rules 12.5, 56, and 243.2–243.4) were adopted by the Judicial Council effective January 1, 2001. These rules have been of substantial assistance in providing guidance for the trial and appellate courts on the proper standard for sealing records under *NBC Subsidiary (KNBC), Inc. v. Superior Court* (1999) 20 Cal.4th 1178. The rules also provide procedures for handling records to be filed under seal. But based on the experience with these rules, they would benefit from the addition of some particular provisions. Specifically, three Judicial Council advisory committees recommend amending rules 12.5, 243.1, and 243.2 to: (1) clarify the standard to be considered for unsealing records in the trial and appellate courts, (2) specify that express factual findings are required to seal records, and (3) provide a party whose asserted confidential documents were obtained through discovery with notice and opportunity to request a sealing order in the trial court when another party intends to use the documents for adjudication but does not intend to request that they be sealed. Some other amendments should be made to the rules based on suggestions from the public.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 12.5 of the California Rules of Court on sealing and unsealing records on appeal;
2. Amended rule 243.1 on the findings required to seal records; and
3. Amended rule 243.2 on the procedures for sealing and unsealing records in the trial courts.

**Item C3 Civil Harassment (revise forms CH-100, CH-120, and CH-140) (Action Required)**

Mr. Patrick O’Donnell presented this item.

The civil harassment forms adopted by the Judicial Council need to be revised to conform to recent legislation, including Assembly Bill 2030 and Senate Bill 226. Certain changes in style and format should also be made to improve and clarify the forms. The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise

(1) *Petition for Injunction Prohibiting Civil Harassment* (form CH-100); (2) *Order to Show Cause (Civil Harassment) and Temporary Restraining Order* (form CH-120), and (3) *Order After Hearing on Petition for Injunction Prohibiting Civil Harassment* (form CH-140).

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Revised *Petition for Injunction Prohibiting Civil Harassment* (form CH-100);
2. Revised *Order to Show Cause (Civil Harassment) and Temporary Restraining Order* (form CH-120); and
3. Revised *Order After Hearing on Petition for Injunction Prohibiting Civil Harassment* (form CH-140).

**Item C4 Trial Setting, Continuances, and Case Disposition Time Standards: Recommendations to Improve the Fair and Efficient Administration of Civil Cases (adopt Cal. Rules of Court, rules 204 and 375.1; amend rules 208, 209, 212, and 375; amend Cal. Stds. Jud. Admin., §§ 2 and 2.1; repeal §§ 2.3, 2.4, and 9) (Action Required)**

Judge Arthur E. Wallace presented this item.

The Blue Ribbon Panel of Experts on the Fair and Efficient Administration of Civil Cases submitted its report to the Judicial Council at its July 16, 2003, meeting, with recommendations regarding setting cases for trial, continuing trial dates, and modifying civil case time disposition standards. The Civil and Small Claims Advisory Committee has reviewed the proposals and makes its recommendations with regard to each of the proposals. The committee recommends that the Judicial Council adopt the committee's recommended amendments to the California Rules of Court.

*Council action:*

The Judicial Council, effective January 1, 2004:

1. Amended rule 212 of the California Rules of Court to include explicit criteria for setting civil cases for trial;
2. Amended rule 375 of the California Rules of Court, adopted rule 375.1, and repealed section 9 of the California Standards of Judicial Administration to provide a clear and practical good cause standard for granting continuances of trial dates; and
3. Adopted rule 204 of the California Rules of Court, amended rules 208 and 209, amended sections 2 and 2.1 of the California Standards of Judicial Administration, and repealed sections 2.3 and 2.4 to improve the rules on trial delay reduction and modify the goals for case disposition times of certain civil cases to make these goals more realistic and practical.

**Item C5 Juvenile Law: Responsibilities of Attorneys for Children in Delinquency Proceedings (adopt Cal. Rules of Court, rule 1479) (Action Required)**

Ms. Audrey Evje of the Center for Families, Children & the Courts presented this item.

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt rule 1479 to further the juvenile court’s statutory purpose of public protection, rehabilitation, and redressability by articulating with greater specificity the responsibilities of attorneys for youth in delinquency proceedings. Attorneys representing youth in delinquency proceedings typically perform their duties in a fashion similar to criminal defense attorneys and do not participate in postdispositional proceedings. While some juvenile delinquency attorneys currently take on the role of advocating for their client’s broader interests, they are the exception rather than the rule.

*Council action:*  
Several council members had questions about the implementation of this proposed rule. They sought additional information about the legal authority of the council to enforce the rule and the cost to counties of implementing the rule. The council directed staff to look into these matters further and deferred further discussion of this item until the December 5, 2003 business meeting. Council members were directed to forward their questions and concerns to AOC staff by the end of the week.

**Item C6 Juvenile Law: Educational Representation (amend Cal. Rules of Court, rules 1456, 1460, 1461, 1493, 1496, and 1499; revise forms JV-535 and JV-536; amend Cal. Stds. Jud. Admin., § 24) (Action Required)**

Mr. Corby Sturges presented this item.

In 2002, California law governing the appointment of an educational representative for a child changed significantly with the enactment of Assembly Bill 886 and Senate Bill 1677. The Family and Juvenile Law Advisory Committee proposes amending rules 1456, 1460, 1461, 1493, 1496, and 1499 of the California Rules of Court; revising Judicial Council forms JV-535, *Order Limiting Parents’ Right to Make Educational Decisions for the Child and Recommendation for Surrogate Parent Appointment—Juvenile*, and JV-536, *Local Educational Agency Response to JV-535—Appointment of Surrogate Parent*, and amending section 24 of the California Standards of Judicial Administration to implement these statutory changes.

*Council action:*  
The Judicial Council, effective January 1, 2004:  
1. Amended rules 1456, 1460, 1461, 1493, and 1496 of the of the California Rules of Court to implement the statutory mandate that the juvenile court consider at the

- disposition hearing and every review hearing in a juvenile delinquency or dependency case whether to limit a parent's or guardian's right to make educational decisions for his or her child and to clarify the language of the rules;
2. Amended rule 1499 of the of the California Rules of Court to establish a procedure for the juvenile court to limit a parent's or guardian's right to make educational decisions for his or her child and to appoint an educational representative to make those decisions for the child;
  3. Revised Judicial Council forms JV-535, *Order Limiting Parent's Right to Make Educational Decisions for the Child and Recommendation for Surrogate Parent Appointment—Juvenile*, and JV-536, *Local Educational Agency Response to JV-535—Appointment of Surrogate Parent*, and rename form JV-535 as *Order Limiting Parent's Right to Make Educational Decisions for the Child and Appointing Responsible Adult as Educational Representative—Juvenile* to reflect the updated legal requirements and the procedure set forth in amended rule 1499; and
  4. Amended section 24 of the California Standards of Judicial administration to make it consistent with the requirements of the Welfare and Institutions Code and the rules of court.

**Item C7    Limitations on Intrabranh Contracting and on Contracting With Former Employees (adopt Cal. Rules of Court, rules 6.103 and 6.104) (Action Required)**

Mr. Mark Jacobson presented this item.

Proposed rule 6.103 would prohibit judicial branch employees from contracting with other judicial branch entities to provide goods or services. Proposed rule 6.104 would prohibit any court or the AOC from contracting with certain former employees in policymaking positions for one or two years after the employee leaves, depending on whether the employee was involved in the process of making the contract while an employee. These rules are necessary to prevent self-dealing and favoritism and the public perception thereof in the awarding of contracts within the judicial branch. There are statutes that address these matters for other branches of state government, but these statutes are not applicable to the judicial branch.

*Council action:*

The Judicial Council, effective January 1, 2004:

Adopted rules 6.103 and 6.104 of the of the California Rules of Court, which:

- a. Prohibited intrabranh contracting by judicial branch employees; and
- b. Prohibited judicial branch entities from contracting with former employees for one year after the employee leaves employment if the employee was in a policymaking position in the same general subject area as the proposed contract, or for two years if the employee was involved in the process of making the contract while an employee.

**Item C8 Public Access to Trial Court Budget Information and Processes (amend Cal. Rules of Court, rules 6.5, 6.6, 6.45, and 6.702) (Action Required)**

Mr. Michael Fischer presented this item.

Staff recommends amending the California Rules of Court to increase public and employee representative access to trial court budget information and processes, provide for information sessions on trial court budgets for the general public and designated employee representatives, and reorganize the existing and new provisions to make them more accessible. These amendments would codify changes in policy that were previously approved by the council.

*Council action:*

The Judicial Council, effective January 1, 2004:

Amended rules 6.5, 6.6, 6.45, and 6.702 of the of the California Rules of Court, which:

- a. Added information specifying the normal schedule of budget meetings. Meetings include a budget priority meeting, a meeting to approve the proposed budget, and a budget allocation meeting (rule 6.5(d)).
- b. Specified the materials presented at the council’s budget approval meeting (rule 6.5(g)(2)(C)).
- c. Required the Judicial Branch Budget Advisory Committee to seek input from the public, including designated trial court employee representatives, on budget priorities before it makes recommendations to the Judicial Council (rule 6.45(d)(1)(C)).
- d. Required the Administrative Office of the courts to provide informational sessions on trial court budgets for the general public and designated employee representatives on such subjects as:
  - Description and timing of the budget development process,
  - Availability of budget information, and
  - Authority of trial court to reallocate funds (rule 6.702(1)).
- e. Moved provisions of rule 6.702(h) concerning Judicial Council budget meetings to the general rules on Judicial Council meetings (rules 6.5 and 6.6) in order to make the provisions more accessible.

**Circulating and Appointment Orders Approved**

**Circulating Order—CO-03-05: Adopting Rule 6.203 (Contractual Indemnification of Judicial Branch Entities—New Claims and Litigation Management Rule**

**Circulating Order—CO-03-06: Amend California Rules of Court, rule 6.170 and renumber it as rule 6.171 and adopt a new rule 6.170 (Court Security Working Groups)**

## **Appointment Orders**

For information only; no action necessary.

There being no further business, the meeting was adjourned at 11:10 a.m.

Respectfully submitted,

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William C. Vickrey  
Secretary

Attachments