

**JUDICIAL COUNCIL MEETING**  
**Minutes of the April 29, 2011, Meeting**  
**San Francisco, California**

Chief Justice Tani Cantil-Sakauye, Chair, called the meeting to order at 8:45 a.m. on Friday, April 29, 2011, at the Administrative Office of the Courts (AOC) in San Francisco.

**Judicial Council members present:** Chief Justice Tani Cantil-Sakauye; Justices Marvin R. Baxter, Richard D. Huffman, Harry E. Hull, Jr., and Douglas P. Miller; Judges Stephen H. Baker, James E. Herman, Ira R. Kaufman, Mary Ann O'Malley, Burt Pines, Winifred Younge Smith, Kenneth K. So, Sharon J. Waters, David S. Wesley, and Erica R. Yew; Senator Noreen Evans; Assembly Member Mike Feuer; Ms. Miriam Aroni Krinsky, Ms. Edith R. Matthai, Mr. Joel S. Miliband, Mr. James N. Penrod, and Mr. William C. Vickrey; advisory members: Judges Keith D. Davis, Kevin A. Enright, Terry B. Friedman, Teri L. Jackson, and Robert James Moss; Mr. Frederick K. Ohlrich,; Mr. Alan Carlson, Mr. Michael M. Roddy, and Ms. Kim Turner.

**Absent:** Commissioner Sue Alexander.

**Others present included:** Justices Armand Arabian (Ret.), Terence L. Bruiniers, Brad R. Hill, Charles S. Poochigian, Ronald B. Robie, and Laurie D. Zelon; Judges Robert L. Dondero, Amy Hoogasian, Suzanne N. Kingsbury, Kurt E. Kumli, Brian J. Lamb, Stephen V. Manley, Mary Carolyn Morgan, Patrick J. Morris (Ret.), Dennis M. Perluss, Frank Roesch and Zaven V. Sinanian; Court Executive Officer Hector Gonzalez, Jr.; Dr. Ruth Astle, Mr. David Balabanian, Ms. Sara Bedirian, Dr. Rita Cepeda, Mr. Rex L. Crandell, Prof. Phil Crawford, Mr. Marlin H. "Skip" Davies, Mr. Douglas Emerson, Dr. Patrick Gerster, Prof. Anahid Gharakhanian, Dr. Garo Ghazarian, Dr. Joaquin (Jay) Gonzalez III, Ms. Pat Hammermaster, Ms. Jeanine Hawk, Mr. Raffi K. Hovannisian, Ms. Beth Jay, Dr. Barbara Kavlier, Ms. Saskia Kim, Prof. Ann Lousin, Ms. Leandra Martin, Ms. Jill Matsueda, Mr. Ruben Melikyan, Mr. Edvin Minassian, Ms. Sonya Nersessian, Mr. Joseph Partansky, Ms. Florence Patten, Mr. Michael Timpanaro Perrotta, Mr. Eric S. Petersen, Mr. John Pirog, Ms. Katelyn Sandoval, Ms. Lindsey Scott-Florez, Ms. Cynthia Shallit, Mr. Tom Stallard, Mr. Paul Thorn, and Mr. Ken Torre; **AOC staff:** Mr. Peter Allen, Mr. Nick Barsetti, Ms. Deirdre Benedict, Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Nancy Carlisle, Mr. Philip Carrizosa, Mr. James Carroll, Mr. Arturo Castro, Ms. Roma Cheadle, Mr. Curtis L. Child, Ms. Margaret Cimino, Ms. Nicole Claro-Quinn, Ms. Shannon Clawson, Dr. Diane Cowdrey, Mr. Dexter Craig, Mr. Kurt Duecker, Mr. Mark W. Dusman, Mr. Edward Ellestad, Mr. Robert Emerson, Mr. Ekuike Falorca, Mr. Chad Finke, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Mr. Evan Garber, Ms. Kristin Greenaway, Mr. Clifford Ham, Ms. Sue Hansen, Ms. Lynn Holton, Ms. Bonnie Hough, Mr. Kenneth L. Kann, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Maria Kwan, Mr. Gavin Lane, Mr. John Larson, Ms. Althea Lowe-Thomas, Mr. Robert Lowney, Ms. Susan McMullan, Ms. Leslie Miessner, Mr. Frederick Miller, Mr. Mark A. Moore, Mr. Lee Morhar, Mr. Christopher Noice, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Kelly Quinn, Ms. Mary M. Roberts, Ms. Anne M. Ronan, Ms. Teresa Ruano, Mr. Robert

Schindewolf, Ms. Robin Seeley, Ms. Gabrielle Selden, Ms. Deborah Silva, Ms. Lucy Smallsreed, Mr. Curt Soderlund, Ms. Nancy E. Spero, Mr. James M. Vesper, Ms. Jennifer Walter, Mr. Don Will, and Mr. Lee Willoughby; and **media representatives:** Ms. Maria Dinzeo, *Courthouse News Service*; Mr. Jason Doiy, *The Recorder*; Ms. Emily Green, *San Francisco Daily Journal*; and Mr. Vic Lee and Mr. Dean C. Smith, KGO-TV (ABC San Francisco).

### **Public Comment**

No requests to address the council were received.

### **Approval of Minutes**

The minutes of the February 25, 2011, business meeting were approved.

### **Ratification of Establishment of Judicial Council CCMS Internal Committee**

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

The Judicial Council, effective April 29, 2011, voted to ratify the Chief Justice's establishment of the California Court Case Management System (CCMS) Internal Committee. The council also directed staff to draft a rule of court that sets forth the responsibilities of the committee, consistent with the rules of court for the council's other internal committees, and to submit the proposed rule to the council for discussion and action at a future meeting.

### **Judicial Council Committee Presentations**

#### ***Executive and Planning Committee***

Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met seven times since the February 25, 2011, Judicial Council meeting: by telephone conference call on March 23 and April 5 and by e-mail deliberation on March 17, and April 11, 12, 15, and 19.

#### ***Policy Coordination and Liaison Committee***

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met six times since the February 25, 2011, Judicial Council meeting: on March 7, 18, and 30 and April 6, 13, and 20.

#### ***Rules and Projects Committee***

Justice Douglas P. Miller, chair of the Rules and Projects Committee (RUPRO), reported that the committee had met three times since the February 25, 2011, Judicial Council meeting: by telephone on March 7 and 25 and by videoconference on April 15.

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

Chief Justice Tani Cantil-Sakauye gave her report on the highlights of her activities since the February 25, 2011, Judicial Council meeting.

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

Mr. William C. Vickrey distributed a report on the activities of the Administrative Office of the Courts and reported and highlighted several items.

### **Swearing-in of New Council Member**

Chief Justice Cantil-Sakauye administered the oath of office to new Judicial Council member Senator Noreen Evans.

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## **CONSENT AGENDA (ITEMS A1–A10, B–G)**

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### **ITEMS A1–A9            RULES, FORMS, AND STANDARDS**

#### *Appellate*

#### **Item A1    Trial and Appellate Procedure: Electronic Recordings Offered Into Evidence (amend Cal. Rules of Court, rules 2.1040 and 8.122)**

The Appellate Advisory Committee recommended amending the rule relating to electronic recordings offered into evidence in trial court proceedings to better ensure that, in the event of an appeal, there is an appropriate record of any recording offered into evidence or presented in the trial court proceedings. Currently, the California Rules of Court provide that, unless otherwise ordered by the trial judge, a party offering into evidence an electronic sound or sound-and-video recording must tender to the court a written transcript of the electronic recording. Among other things, the proposed amendments added a requirement that a transcript of electronic recordings of deposition or other prior testimony be provided in all cases unless the court reporter takes down the content of all portions of the electronic recording that are presented or offered into evidence. These amendments were intended to improve court administration by reducing delay and costs in appellate proceedings that arise when there is no written record of electronic recordings presented or offered into evidence in the trial court, while minimizing delay and costs in the trial court associated with preparing transcripts of these electronic recordings.

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

The Judicial Council, effective July 1, 2011:

1. Amended rule 2.1040 of the California Rules of Court, effective July 1, 2011, to:
  - a. Add a subdivision specifically addressing electronic recordings of deposition or other prior testimony that requires a transcript of such recordings to be provided in all cases unless the court reporter takes down the content of all portions of the electronic recording that are presented or offered into evidence;
  - b. With respect to other types of electronic recordings presented or offered into evidence:
    - i. Specify that transcripts need not be provided if either the proceeding is uncontested or the parties stipulate in writing or on the record that the sound

portion of a sound-and-video recording does not contain any words that are relevant to the issues in the case;

- ii. Clarify that the transcript can be prepared by the party presenting or offering the recording into evidence and need not be a certified transcript; and
  - iii. Provide that the court may permit a party to provide the transcript or the required duplicate of the electronic recording five days after the electronic recording is offered or presented or at the close of evidence, whichever is later.
- c. Eliminate the requirement that a transcript provided under this rule be included in the clerk's transcript in the event of an appeal, as the content of clerk's transcripts is already addressed in other rules; and
  - d. Add a new advisory committee comment explaining the purpose of rule 2.1040 and providing guidance about factors that may constitute good cause to waive the requirement for a transcript and the circumstances in which it may be beneficial to have a court reporter take down the content of an electronic recording.
2. Amended rule 8.122 of the California Rules of Court, effective July 1, 2011, to clarify that a portion of a deposition presented or offered into evidence under rule 2.1040 may be included in the clerk's transcript.

### *Civil and Small Claims*

#### **Item A2 Alternative Dispute Resolution (ADR): Mediator's Statement of Agreement or Nonagreement and Statistical Reports (adopt Cal. Rules of Court, rules 3.835 and 3.845; amend rule 3.895; repeal rule 3.897; and revise form ADR-100)**

The Civil and Small Claims Advisory Committee recommended that the Judicial Council revise the form that mediators are required to use to report the results of mediations conducted under the Civil Action Mediation Program (CAMP) and amend the California Rules of Court to, among other things, provide that mediators must use this form whenever they are required to report the status or result of the mediation of any general civil case to a superior court. These changes will promote uniformity and usefulness of mediator reports to courts in general civil cases and help ensure that the reports are consistent with California's mediation confidentiality statutes.

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

The Judicial Council, effective July 1, 2012:

1. Adopted rule 3.835 to provide that the rules in article 1, chapter 3, division 8, title 3 of the California Rules of Court apply to all court mediation programs for general civil cases unless otherwise specified;
2. Adopted rule 3.845, within article 1, to provide that if a mediator is required to submit a statement or report to the court concerning the status or result of a mediation of a

general civil case, the statement or report must be submitted on *Statement of Agreement or Nonagreement* (form ADR-100) and must be consistent with California's mediation confidentiality statutes;

3. Amended rule 3.895 to provide that if a CAMP mediation has not ended when the initial form ADR-100 is filed, the mediator must file a supplemental ADR-100 within 10 days after the mediation is concluded or by another date set by the court;
4. Repealed rule 3.897 to eliminate the requirement that courts submit quarterly reports about CAMP mediations to the Judicial Council; and
5. Revised form ADR-100 to:
  - Add a subitem for mediators to indicate that a mediation was not scheduled;
  - Delete the subitems asking mediators to indicate the reason a mediation did not take place;
  - Delete the subitems asking mediators to indicate the type of a partial agreement that was reached; and
  - Add subitems for mediators to provide the anticipated completion date and next mediation session date of a mediation that has not ended.

### ***Criminal***

#### **Item A3 Criminal Law: Misdemeanor Domestic Violence Plea Form (approve form CR-102)**

The Criminal Law Advisory Committee recommended that the Judicial Council approve an optional form to facilitate the taking of guilty or no contest pleas in misdemeanor domestic violence cases. The form was designed to promote standardized pleas in misdemeanor domestic violence cases statewide by including all necessary and common advisements, waivers, and consequences of the plea.

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

The Judicial Council, effective July 1, 2011, approved *Domestic Violence Plea Form With Waiver of Rights (Misdemeanor)* (form CR-102), an optional form to facilitate the taking of guilty or no contest pleas in misdemeanor domestic violence cases.

### ***Family and Juvenile Law***

#### **Item A4 Juvenile Law: Sibling Visitation (amend Cal. Rules of Court, rule 5.670; revise form JV-401)**

The Family and Juvenile Law Advisory Committee recommended amending the rule regarding visitation between the child and the child's sibling or siblings pending the jurisdiction hearing and revising the sibling visitation findings and orders form. The amended rule and revised form would conform with a recent change to state law required by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Pub.L. No. 110-351 (Oct. 7, 2008) 122 Stat. 3949, 3962).

**Council action**

The Judicial Council, effective July 1, 2011:

1. Amended rule 5.670 of the California Rules of Court to require the court to provide for sibling visitation unless the court finds by clear and convincing evidence that sibling interaction is contrary to the safety or well-being of either child; and
2. Revised optional form, *Visitation Attachment: Sibling* (form JV-401), to conform the findings and orders to those required by the amended rule.

**Item A5 Child Support: Form Revisions to Implement Changes to the Family Code and Improve Administration of Title IV-D Cases (revise forms FL-530, FL-615, FL-625, FL-630, FL-665, FL-676, FL-687, and FL-692; approve form FL-676-INFO)**

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council revise its governmental child support forms involving child support orders that are enforced by the local child support agencies to implement changes to the California Family Code made by Senate Bill 1355 (Wright; Stats. 2010, ch. 495). These statutory changes require (1) that every child support order and agreement made on or after July 1, 2011, that is enforced by a local child support agency include a provision regarding the effect of incarceration or involuntary institutionalization on child support orders and (2) that a means be provided to allow an obligor to petition the court for an adjustment of arrears after release from incarceration or involuntary institutionalization. The recommended revisions would also implement changes to 45 Code of Federal Regulations section 303.311 that require every child support order in the title IV-D program to provide for medical support, including a definition of the reasonable cost for medical insurance and an option for cash medical costs not covered by health insurance and for situations in which health insurance is unavailable. The proposed form changes would also increase cost efficiencies, increase uniformity between governmental child support forms, remove unnecessary provisions, and better administer the title IV-D child support program.

**Council action**

The Judicial Council, effective July 1, 2011, took the following actions to ensure compliance with the requirements of Senate Bill 1355 (Wright; Stats. 2010, ch. 495), 45 Code of Federal Regulations section 303.31, and Senate Bill 580 as well as to increase cost efficiencies and better administer the title IV-D child support program:

1. Revised form FL-530, *Judgment Regarding Parental Obligations (UIFSA)*;
2. Revised form FL-615, *Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment (Governmental)*;
3. Revised form FL-625, *Stipulation and Order (Governmental)*;
4. Revised form FL-630, *Judgment Regarding Parental Obligations (Governmental)*;
5. Revised form FL-665, *Findings and Recommendation of Commissioner (Governmental)*;

6. Revised form FL-676, *Request for Judicial Determination of Support Arrearages (Governmental)*;
7. Approved form FL-676-INFO, *Information Sheet for Request for Judicial Determination of Support Arrearages or Adjustment of Arrearages Due to Incarceration or Involuntary Institutionalization*;
8. Revised form FL-687, *Order After Hearing (Governmental)*; and
9. Revised form FL-692, *Minutes and Order or Judgment (Governmental)*.

**Item A6 Family and Juvenile Rules: Live Testimony at Hearings and Declarations (amend Cal. Rules of Court, rule 5.118 and adopt rule 5.119)**

Assembly Bill 939 (Assem. Com. on Judiciary; Stats. 2010, ch. 352) added section 217 to the Family Code, which requires that at hearings on requests for orders brought under the Family Code, courts must receive competent live testimony that is relevant and within the scope of the hearing unless the parties have stipulated otherwise, or a finding of good cause is made to refuse to receive the live testimony. Family Code section 217 requires the Judicial Council to adopt a statewide rule of court setting out factors a court must consider in making a finding of good cause to refuse to receive live testimony at hearings on requests for orders filed under the Family Code. Proposed rule 5.119 sets out factors that courts must consider in deciding to refuse live testimony. In addition to new rule 5.119, the proposal would amend rule 5.118(f) to comply with the new legislation.

***Council action***

The Judicial Council, effective July 1, 2011:

1. Adopted rule 5.119 of the California Rules of Court to set forth the factors a court must consider in making a finding of good cause to refuse live testimony at hearings and on requests for orders filed under the Family Code; and
2. Amended rule 5.118(f) to delete provisions that are inconsistent with Family Code section 217 and to set parameters on the length and format of declarations supporting and responding to requests for orders in family law.

***Probate***

**Item A7 Probate Conservatorships: Determining the Conservatee's Appropriate Level of Care (adopt form GC-355)**

Recent legislation required a newly appointed conservator to determine the appropriate level of care the conservatee will require, including an evaluation of the care received by the conservatee before the conservator's appointment. The determination must be prepared in writing and filed with the court soon after the conservator's appointment. The Probate and Mental Health Advisory Committee proposed a new Judicial Council form for the writing required by the law.

**Council action**

The Judicial Council, effective July 1, 2011, adopted *Determination of Conservatee's Appropriate Level of Care* (form GC-355). The form was proposed to help conservators satisfy the requirement of Probate Code section 2352.5, enacted in 2006 and amended in 2007, that a newly appointed conservator make and file a written determination of the appropriate level of care that his or her conservatee will require.

**Traffic**

**Item A8 Traffic: Procedures and Eligibility Criteria for Attending Traffic Violator School (amend Cal. Rules of Court, rule 4.104)**

The Traffic Advisory Committee recommended amending rule 4.104 of the California Rules of Court regarding procedures and eligibility criteria for attending traffic violator school. The amendments brought the rule into conformance with recent legislation that amends Vehicle Code sections 41501 and 42005 effective July 1, 2011.

**Council action**

The Judicial Council, effective July 1, 2011:

1. Removed references to pretrial diversion that are no longer applicable, effective July 1, 2011, when completion of traffic violator school will be reported to and recorded by DMV as a confidential conviction under sections 1803.5, 41501, and 42005;
2. Clarified the extent of judicial discretion to order a completion of traffic violator school under sections 41501 and 42005; and
3. Removed provisions for authority of bench officers to order completion of traffic violator school under section 41501 more than once in an 18-month period. Effective July 1, 2011, a confidential conviction for completion of traffic violator school is permitted under section 41501 only once every 18 months.

**Miscellaneous**

**Item A9 Rules and Forms: Miscellaneous Technical Changes (amend Cal. Rules of Court, rules 8.104 and 8.130; revise forms APP-001, AT-140, CR-110/JV-790, POS-040, POS-040(P), and SC-108)**

Various Judicial Council advisory committee members, court personnel, members of the public, and AOC staff identified errors in rules and forms resulting from inadvertent omissions, typographical errors, language inconsistencies, or changes in the rules naming and numbering systems, or legislative changes. It was therefore necessary to make technical changes to the rules and forms noted above.

**Council action**

The Judicial Council, effective July 1, 2011:



1. Amended rule 8.104(e) to correct an internal reference from subdivision “(e)” to subdivision “(d)”;
2. Amended the Advisory Committee Comment for rule 8.130(f)(4) to correct the citation to Code of Civil Procedure section 269(c), which is obsolete. The correct current citation is section 271(c);
3. Revised form APP-001, page 4, to include language from rule 8.212(c)(2) that adds the option of serving “one electronic copy or four paper copies” on the California Supreme Court;
4. Revised form AT-140, items 1 and 2a, to add a field for the names of plaintiff and defendant;
5. Revised form CR-110/JV-790 to (1) reflect recent legislation that increased the maximum administrative fee for the collection of restitution from 10 to 15 percent as provided in item 3e; (2) replace the obsolete citation to Penal Code section 1214(d) in the Notice to Victims section on page 2 with the correct citation, Penal Code section 1214(b); (3) replace the incorrect citation to Penal Code section 1202.4(l) in the Notice to County Recorder on the bottom of page 2 with the correct citation, Penal Code section 1202.4(i); (4) provide more space to enter the names of parents and co-offenders in items 1c and 1d; and (5) provide more space to enter the name of the victim in item 3a;
6. Revised forms POS-040 and POS-040(P) to (1) reflect new legislation (Sen. Bill 1274) on service by hyperlinks by changing “electronic notification” to “electronic service” and (2) make these forms consistent with other proof of service forms that have already been revised; and
7. Revised form SC-108, page 1, under “If you receive this form,” to correct “then fill out 6 and 9” to “then fill out 6 through 9.”

**Item B     Jury Instructions: Additions and Revisions to Criminal Jury Instructions  
              *Judicial Council of California Criminal Jury Instructions (CALCRIM)***

The Advisory Committee on Criminal Jury Instructions recommended approval of the proposed additions and revisions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*. These changes will keep *CALCRIM* current with statutory and case authority.

***Council action***

The Judicial Council, effective April 29, 2011, approved for publication under rule 2.1050 of the California Rules of Court the criminal jury instructions. The new and revised instructions will be published in the 2011 supplement of the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*.

**Item C     Child Support Commissioner and Family Law Facilitator Program: Midyear  
              Funding Reallocation for Fiscal Year 2010–2011**

The Family and Juvenile Law Advisory Committee recommended that the council approve the reallocation of funding for the child support commissioner and family law facilitator program for fiscal year 2010–2011. Under an established procedure described in the standard agreement with each superior court, the Judicial Council at midyear redistributes to courts that have a documented need for additional funds any unallocated funds and any available funds from courts that are projected not to spend their full grants. The courts were also being offered an option to use local court funds up to an approved amount to draw down federal matching funds.

**Council action**

The Judicial Council, effective April 29, 2011:

1. Approved the reallocation for funding of child support commissioners for fiscal year 2010– 2011, subject to the state Budget Act; and
2. Approved the reallocation for funding of family law facilitators for fiscal year 2010–2011, subject to the state Budget Act.

**Item D Amendments to the Conflict of Interest Code for the Habeas Corpus Resource Center**

After consultation with the AOC Office of the General Counsel, the Habeas Corpus Resource Center (HCRC) recommended that the Judicial Council approve amendments to the HCRC’s Conflict of Interest Code. As required by law, these amendments adjusted the code to conform to the HCRC’s current classification structure and operations. In accordance with Government Code sections 87303 and 87306, the council must review proposed amendments to the code and approve the code as amended or direct that it be further revised and resubmitted for approval.

**Council action**

The Judicial Council, effective April 29, 2011:

1. Added an employee classification and its required category of disclosure to the list of classifications whose incumbents should file a Statement of Economic Interest;
2. Mandated that employees required to file statements of economic interest file them directly with the assistant director of the HCRC, who will retain them as required by law; and
3. Changed the required disclosure category for members of the HCRC board of directors to Category 3, which mandates annual disclosure of “[i]nvestments, sources of income, and business positions in business entities that are the providers of equipment, supplies, and services of the type used by the Habeas Corpus Resource Center.”

**Item E Review of the Statewide Uniform Child Support Guideline: Legislative Report and Recommendations**

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council receive and accept the report entitled *Review of Statewide Uniform Child Support Guideline 2010* and direct staff to forward it to the Legislature.

The review of California's statewide uniform child support guideline is legislatively mandated. Family Code section 4054 states that any recommendations for revision to the guideline must be made to ensure that the guideline results in appropriate child support orders, to limit deviations from the guideline, or otherwise help ensure that the guideline is in compliance with federal law. The review provides a basis for the Legislature to periodically reassess California's child support guidelines and evaluate its impact on children and families.

**Council action**

The Judicial Council, effective April 29, 2011, received and accepted the report entitled *Review of Statewide Uniform Child Support Guideline 2010* and directed staff to forward it to the Legislature.

**Item F Criminal Fines and Fees: Judicial Council Establishment and Appointments to Court-Ordered Debt Task Force**

The Executive and Planning Committee recommended that, as required by Penal Code section 1463.02, the Judicial Council establish a 21-member task force to evaluate criminal and traffic-related court-ordered debts imposed against adult and juvenile offenders and to appoint the chair, cochair, four members, and one nonvoting advisory member to the task force, with the remaining 15 members to be appointed by other government entities as specified in the legislation.

**Council action**

The Judicial Council, effective April 29, 2011, established the Court-Ordered Debt Task Force and made the following appointments:

1. Judge Mary Ann O'Malley, Superior Court of Contra Costa County, Chair;
2. Judge David S. Wesley, Superior Court of Los Angeles County, Cochair;
3. Ms. Melissa Fowler-Bradley, Court Executive Officer, Superior Court of Shasta County, member;
4. Mr. David H. Yamasaki, Court Executive Officer, Superior Court of Santa Clara County, member;
5. Ms. Jody Patel, Regional Administrative Director, AOC Northern/Central Regional Office, member;
6. Mr. Curt Soderlund, Director, AOC Trial Court Administrative Services Division, member; and
7. Judge J. Richard Couzens (Ret.), Superior Court of Placer County, nonvoting advisory member.

**Item G Subordinate Judicial Officers: Extension of Authorization for Temporary SJOs in Superior Court of Riverside County Through June 30, 2012**

The Administrative Office of the Courts recommended that the Judicial Council extend, in accordance with Government Code section 71622(a), through June 30, 2012, the authorization of the three positions for subordinate judicial officers at the Superior Court of California, County of

Riverside. The court had and will pay for the cost of hiring retired commissioners for these positions. These positions commenced in 2007 following the creation of the Strike Force, at the request of the Chief Justice, for the purpose of reducing the criminal case backlog in the Riverside court. Without the extension of the authorization for these three positions, the delivery of justice in Riverside would be even more severely affected.

***Council action***

The Judicial Council, effective July 1, 2011, extended, in accordance with Government Code section 71622(a), through June 30, 2012, the authorization of three SJO positions at the Superior Court of California, County of Riverside.

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## **DISCUSSION AGENDA (ITEMS H–Q)**

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**Presentation: Court Facilities: Court Construction Updates (No Action Required. There are no materials for this item.)**

**Presenters:** Mr. Patrick J. Morris, Mayor, City of San Bernardino; Mr. Douglas Emerson, Member, Hollister City Council, former Mayor, City of Hollister, and member of Project Advisory Group; Mr. Marlin H. “Skip” Davies, Vice Mayor of the City of Woodland; Mr. Ronald G. Overholt, AOC Chief Deputy Director; and Mr. Eric S. Petersen, Hawkins Delafield & Wood LLP.

The Administrative Office of the Courts provided the council with information about several court construction projects around the state. The Judicial Council has set the long-term goal of providing safe, dignified, and fully functional facilities that accommodate the needs of all court users.

***Council action***

The Judicial Council took no action on this item.

**Item H California Court Case Management System: Status Update (No Action Required. There are no materials for this item.)**

**Presenters:** Justice Terence L. Bruiniers, Chair, CCMS Executive Committee; Mr. Ronald G. Overholt, AOC Chief Deputy Director; and Mr. Mark A. Moore, Executive Program Director, CCMS Program Management Office.

This was a status report on California’s Court Case Management system (CCMS) that updated the previous status report and demonstration presented at the February 25, 2011, Judicial Council meeting. The Judicial Council has directed the AOC to develop a single case management system to be deployed in all 58 superior courts and is the executive sponsor of CCMS. CCMS is managed by the CCMS Program Management Office. This report discussed the CCMS governance structure and current project activities: product development and testing, the AOC’s anticipated acceptance of the core product on April 30, 2011, and completion of the external components by the end of July 2011. It also presented the status of deployment planning

activities with early adopter courts and the AOC's activities undertaken in response to the Bureau of State Audits' recommendations.

**Council action**

The Judicial Council took no action on this item.

**Item I Court Facilities: Location of New Inyo County Courthouse**

Presenters: Hon. Brian J. Lamb, Presiding Judge of the Superior Court of Inyo County; Mr. Lee Willoughby, Director, AOC Office of Court Construction and Management (OCCM); Mr. Robert Emerson, Assistant Division Director, OCCM; and Ms. Kelly Quinn, Manager, OCCM.

Determining the location of the New Inyo County Courthouse was controversial as defined by the Judicial Council's *Site Selection and Acquisition Policy for Judicial Branch Facilities*. The Administrative Director of the Courts requested that the Judicial Council determine the location for the Inyo project in accordance with that policy. The AOC analyzed this matter in 2010, solicited public comment on that analysis, and recommended the location in the Bishop area because it improves access to justice for the majority of Inyo County residents.

**Council action**

The Judicial Council, effective April 29, 2011, determined that the New Inyo County Courthouse be located in the Bishop area and directed staff to proceed with selection and acquisition of a site in accordance with this determination.

**Item J Judicial Branch Education: Partnerships**

Presenters: Dr. Diane Cowdrey, Director, AOC Education Division/CJER; Ms. Christine Patton, Regional Administrative Director, AOC Bay Area Northern Coastal Region; Mr. Hector Gonzalez, Jr., Court Executive Officer, Superior Court of Mono County (graduate of the judicial administration certificate program at California State University, Sacramento); Ms. Florence Patten, Legal Process Clerk II, Superior Court of Santa Cruz County (will graduate in fall 2011 with AA in judicial administration from San Jose City College); and Mr. Paul Thorn, Court Operations Supervisor, Superior Court of Sacramento County (graduate of the public administration/judicial administration master's degree program at Golden Gate University).

The Administrative Office of the Courts (AOC) has participated as a partner in the development of several successful degree or certificate-bearing educational programs for current and prospective court employees. These education partnerships relate to the Judicial Council's Strategic Plan for 2006–2012, Goal III, Section A(3): "Attract, employ, and retain a judicial branch workforce that is highly qualified," and Goal V, Sections 3 and 4: "Create and maintain education-based partnerships between judicial branch entities and institutes of higher learning, nonprofits, and other professional organizations to maximize shared use of educational resources and to ensure branchwide access to comprehensive, relevant academic content" and "Increase access for judicial branch personnel to continuing education opportunities; enhance local courts' educational resources and environments." Similarly, the Operational Plan (2008–2011) states in Goal V: Education for Branchwide Professional Excellence, Objective 1b: "Collaboration and

partnerships with institutions of higher learning and with justice system partners, to leverage educational resources." In this report, four education partnerships will be highlighted. The AOC has provided subject-matter expertise, faculty, curricula, and funding toward the development of an associate of arts (AA) degree in judicial administration and certificates of achievement at San Jose City College; a graduate certificate in judicial administration at California State University, Sacramento; an executive master of public administration with a concentration in judicial administration at Golden Gate University and certification in court management and court executive programs at the Institute for Court Management of the National Center for State Courts.

***Council action***

The Judicial Council took no action on this item.

**Item K     **Judicial Branch Education: Evaluation of the Implementation of the Education Rules for the First Three-Year Period****

Presenters: Justice Ronald B. Robie, Chair, Governing Committee of the CJER; Judge Robert L. Dondero, Vice-Chair, Governing Committee of the CJER; Dr. Diane E. Cowdrey, Director, AOC Education Division/CJER; and Mr. James M. Vesper, Assistant Division Director, AOC Education Division/CJER.

The Governing Committee of the Center for Judicial Education and Research (CJER), as directed by the Judicial Council in October 2006, presented a report on its comprehensive evaluation of the implementation of the education rules (Cal. Rules of Court, rules 10.451–10.491) during the first three-year period (2007–2009) for the council to accept and receive. The report will assist the council in assessing the achievement of the council’s strategic goal of providing education and professional development to enhance the ability of all individuals serving in the judicial branch to achieve high standards of professionalism, ethics, and performance, which are necessary to serve the public and to enhance trust and confidence in the courts. The committee strongly felt that the education rules have substantially accomplished what they were intended to accomplish.

***Council action***

The Judicial Council, effective April 29, 2011, accepted and received the report of the Governing Committee of the CJER, as directed by the Judicial Council in October 2006, based on a comprehensive evaluation of the rules on judicial education for the first three-year period (2007–2009) “regarding the impact of the rules on the administration of justice, the level of participation, any changes in service to the public, and any recommendations from presiding judges and executive officers.”

**Item L     **Judicial Branch Education: Education Plan for 2010–2011 and 2011–2012****

Presenters: Justice Ronald B. Robie, Chair, Governing Committee of the CJER; Judge Robert L. Dondero, Vice-Chair, Governing Committee of the CJER; Dr. Diane E. Cowdrey, Director, AOC

Education Division/CJER; and Mr. James M. Vesper, Assistant Division Director, AOC Education Division/CJER.

The Governing Committee of the Center for Judicial Education and Research developed, at the request of the Executive and Planning Committee, a new model for planning and delivering judicial branch education that revised the roles and operational structures involved in this effort. This new model provided for greater oversight and involvement by the Governing Committee in approving a two-year education plan for the judicial branch.

***Council action***

The Judicial Council took no action on this item.

**Item M Civil Motions: Lodging of Copies of Authorities (amend Cal. Rules of Court, rule 3.1113)**

Presenters: Judge Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee; Judge Frank Roesch, Chair, Rules and Forms Subcommittee; and Ms. Anne M. Ronan, Attorney, AOC Office of the General Counsel.

The Civil and Small Claims Advisory Committee recommended that the Judicial Council amend California Rules of Court, rule 3.1113(i). That rule currently mandates that if any non-California authority or new California case not yet published in the Official Reports is cited in papers supporting or opposing a motion in a civil action, a copy of the authority must be provided to the court along with the papers that cite it. The proposed amendment would eliminate this mandate except when a judicial officer has directed parties to provide paper copies.

***Council action***

The Judicial Council, effective July 1, 2011, amended rule 3.1113(i) of the California Rules of Court to provide that parties must lodge paper copies of non-California authorities and California authorities not yet in the Official Reports only if directed to do so by a judge.

**Item N Telephone Appearances: Statewide Uniform Fees**

Please note: This item was deferred for action at a future Judicial Council meeting.

**Item O Task Force for Criminal Justice Collaboration on Mental Health Issues: Final Report**

Presenters: Justice Brad R. Hill, Chair, Task Force for Criminal Justice Collaboration on Mental Health Issues; Judge Suzanne N. Kingsbury, Presiding Judge of the Superior Court of El Dorado County (by phone); Judge Kurt E. Kumli, Superior Court of Santa Clara County; Judge Stephen V. Manley, Superior Court of Santa Clara County; and Judge Mary Carolyn Morgan (Ret.), Superior Court of San Francisco.

The Judicial Council's Task Force for Criminal Justice Collaboration on Mental Health Issues recommended that the Judicial Council receive its final report and recommendations and direct

the Administrative Director of the Courts to prepare an implementation plan. When approved, the recommendations will provide a framework for improving practices and procedures in cases involving both adult and juvenile offenders with mental illness to ensure the fair and expeditious administration of justice for offenders with mental illness and to promote improved access to treatment for litigants with mental illness both in the community and in the criminal justice system.

**Council action**

The Judicial Council, effective April 29, 2011:

1. Received the final report and recommendations of the Task Force for Criminal Justice Collaboration on Mental Health Issues;
2. Requested that the Chief Justice appoint an implementation working group no later than December 2011; and
3. Directed that the implementation working group develop a plan, no later than April 2012, that includes key milestones for implementing recommendations and identifies recommendations under Judicial Council purview as well as potential branch implementation activities.

**Item P Sargent Shriver Civil Counsel Act: Selection of Pilot Projects**

Presenters: Justice Laurie D. Zelon, Vice-Chair, Sargent Shriver Civil Counsel Act Implementation Committee; Ms. Bonnie Hough, Managing Attorney, Center for Families, Children & the Courts.

The Sargent Shriver Civil Counsel Act Implementation Committee recommended that the Judicial Council award \$9.5 million in grants to seven qualified legal service organizations and court partners for pilot projects to provide legal representation and improved court procedures for eligible low-income litigants in civil cases affecting basic human needs.

**Council action**

The Judicial Council, effective July 1, 2011, approved Sargent Shriver Civil Counsel Act grants in an amount not to exceed \$9.5 million for distribution to the following legal service agencies and superior courts for pilot projects to provide legal representation and improved court services to eligible low-income litigants:

**Bar Association of San Francisco Voluntary Legal Services Program**

**Superior Court of San Francisco County**

Child Custody Pilot Project \$350,000

**Greater Bakersfield Legal Assistance**

**Superior Court of Kern County**

Housing Pilot Project \$560,043

**Legal Aid Society of San Diego**

**Superior Court of San Diego County**



Housing Pilot Project	\$1,873,919
Child Custody Pilot Project	\$700,000
<b>Legal Aid Society of Santa Barbara County</b>	
<b>Superior Court of Santa Barbara County</b>	
Housing Pilot Project	\$465,439
Probate Guardianship Pilot Project	\$482,981
<b>Legal Services of Northern California</b>	
<b>Superior Court of Sacramento County</b>	
<b>Superior Court of Yolo County</b>	
Housing Pilot Project	\$1,408,077
<b>Los Angeles Center for Law and Justice</b>	
<b>Superior Court of Los Angeles County</b>	
Child Custody/Domestic Violence Project	\$850,000
<b>Neighborhood Legal Services of Los Angeles County</b>	
<b>Superior Court of Los Angeles County</b>	
Housing Pilot Project	\$2,809,601

**Item Q Ralph N. Kleps Awards: Recommendations for 2010–2011 Award Recipients**

Justice Ronald B. Robie, Chair, Ralph N. Kleps Award Committee, presented this item with the participation of Ms. Deirdre Benedict, Court Services Analyst, AOC Executive Office Programs Division.

The Kleps Award Committee recommended that the Judicial Council approve the 2010–2011 Ralph N. Kleps Award recipients to recognize and honor the innovative contributions to the administration of justice made by individual courts in California.

Recommendations were developed by the Kleps Award Committee—a 19-member panel comprising justices, judges, and court administrators—which carefully evaluates all applicants based on the award criteria, including improvements that reflect innovation, fulfillment of the intent of at least one goal of the judicial branch’s strategic plan, and transferability to other courts.

By adopting the Kleps Award Committee’s recommendations, the Judicial Council supported the sharing of effective management practices branchwide, affirmed these local court programs, and commended them to other courts in California as positive models for replication

**Council action**

The Judicial Council, effective April 29, 2011, approved the following courts and programs as recipients of the 2010–2011 Ralph N. Kleps Awards:

*Category 1 (courts with 2 to 10 authorized judicial positions (AJPs))*  
 No recommendations.

*Category 2 (courts with 11 to 39 AJP's)*

**Superior Court of California, County of Monterey, Automated Civil Grand Jury Program.** This court-developed, web-based application automates the entire civil grand jury recruitment and selection process. It enables the court to maintain summary demographic information for civil grand jurors and publishes this information on the court's public website, thereby fostering openness and transparency and meeting the requirement of rule 10.625 of the California Rules of Court. This integrated solution has also streamlined civil grand jury work processes for the jury commissioner's office, resulting in operational efficiencies and overall cost savings to the court.

*Category 3 (courts with 40-plus AJP's)*

**Superior Court of California, County of Contra Costa, Elder Court.** This court adjudicates cases involving harm to seniors, including physical, emotional, and financial abuse. One judge oversees the entire process, hearing all criminal and civil cases, including restraining order requests, small claims cases, and conservatorship cases.

Elder court brings together community partners with services that assist the elderly, giving them immediate access to support services, including volunteer senior peer counselors, a senior self-help clinic, mediation, and volunteer interpreters to assist before and after court.

**Superior Court of California, County of Orange, Electronic Legal File (ELF).** This easy-to-use electronic filing system integrates the court's case management systems with a document-viewing tool. ELF anticipates the needs of the users and displays information relevant to them in their roles as judicial officer, clerk, or research attorney. ELF allows users to instantly view department calendars and retrieve electronic documents from any case at the touch of a button. ELF enables judges and staff to work efficiently in a paperless environment: the court no longer maintains paper civil case files and has saved more than \$4 million in labor costs and time.

**Superior Court of California, County of Orange, County Combat Veterans Court.** The first program of its kind in California, this veteran's court is a dedicated criminal calendar offering therapeutic treatment instead of incarceration for combat veterans with substance abuse issues or diagnoses of posttraumatic stress disorder, traumatic brain injury, or other psychological problems attributable to their service. Participants receive intensive mental health and substance abuse treatment, appear before the judge often for progress reviews, and are frequently and randomly drug tested. Their program compliance is strictly overseen by their probation officers and Veterans Affairs case managers, and they are linked to a wide variety of supportive services.

**Superior Court of California, County of San Bernardino, *Automated Mail Payment Processing System*.** This system allows the court to centralize and automate the processing of thousands of payments received daily by mail. Work previously performed at 11 locations by 17 employees is now processed by a machine and 4 clerks at a central location, representing a 76.4 percent savings in personnel and facilities costs. In addition to significant cost savings for the court, the improved process enables the court to apply payments to customer accounts within one working day, directly benefiting the public.

*Category 4 (appellate courts)*

**Court of Appeal, Fifth Appellate District, *Electronic Writ Processing Program*.** This court-developed project is the first system in California to automate the distribution and disposition of cases in the appellate courts. The program allows Court of Appeal justices, research attorneys, and clerks to work collaboratively on the court's original proceedings, eliminating the need for paper files. Justices and writ staff have the ability to receive, review, and research cases; track case status; communicate with one another; and electronically cast their votes on these cases from any location. The project has improved caseload processing times and increased the number of dispositions per month. It saves judicial and staff time without compromising the integrity of the process.

*Category 5 (collaborative projects)*

**Court of Appeal, Fifth Appellate District and the Superior Court of California, Counties of Fresno and Stanislaus, *Transcript Assembly Program (TAP)*.** This the first program in California that automates the compilation and preparation of civil clerk transcripts. The transcripts are compiled and prepared via automation along with customizable indices and are electronically transmitted to the Court of Appeal.

The program significantly improves the business processes for these two levels of court by saving staff time, reducing paper use and storage costs, and eliminating shipping costs in forwarding transcripts to the reviewing court. It also gives the public electronic access to voluminous court records.

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## INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

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### **Government Code Section 68106: Implementation and Notice by Trial Courts of Closing Courtrooms or Clerks' Offices or Reducing Clerks' Office Hours (Report #2)**

In the 2010 judiciary budget trailer bill (Sen. Bill 857), the Legislature provided fee increases and fund transfers for the courts and also added a new section 68106 to the Government Code. The latter directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' office hours on days that are not judicial holidays, and (2) the council to post on its website and relay to the Legislature all such court notices. This is the second report providing information about the implementation of these notice

requirements. Since the first report, one more court, the Superior Court of Mendocino County, has given such notice, which it issued on January 21, 2011.

### **Circulating Orders Since the Last Business Meeting**

**CO-10-01, Approval of the October 29, 2010, Judicial Council Meeting Minutes**

**CO-11-01, Fee Waiver: Poverty Guidelines on Request to Waive Court Fees and Information Sheet on Waiver of Appellate Court Fees (Forms FW-001 and APP-015/FW-015-INFO)**

### **Appointment Orders Since the Last Business Meeting**

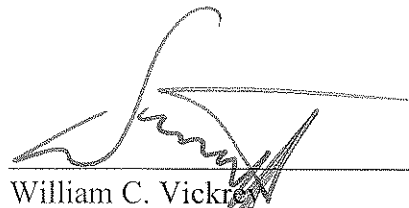
#### **In Memoriam**

Chief Justice Cantil-Sakauye closed the meeting with a moment of silence to remember recently deceased judicial colleagues and to honor them for their service to their courts and to the cause of justice. They are:

- Associate Justice Hugh A. Evans (Ret.), Court of Appeal, Third Appellate District
- Judge David J. Aisenson (Ret.), Superior Court of California, County of Los Angeles
- Judge Mason L. Fenton (Ret.), Superior Court of California, County of Orange
- Judge Rothwell B. Mason (Ret.), Superior Court of California, County of Sacramento
- Judge E. Warren McGuire (Ret.), Superior Court of California, County of Marin
- Judge Franklin B. Orfield (Ret.), Superior Court of California, County of San Diego
- Judge Donald Thorne (Ret.), Municipal Court of California, County of San Bernardino
- Judge Juaneita M. Veron (Ret.), Municipal Court of California, County of Los Angeles

There being no further public business, the meeting was adjourned at 3:05 p.m.

Respectfully submitted,



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