

JUDICIAL COUNCIL MEETING
Minutes of the March 12, 2009, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 3:05 p.m. on Thursday, March 12, 2009, at the Administrative Office of the Courts (AOC) in San Francisco.

Judicial Council members present: Chief Justice Ronald M. George; Justices Marvin R. Baxter and Brad R. Hill; Judges George J. Abdallah, Jr., Lee Smalley Edmon, Peter Paul Espinoza, Carolyn B. Kuhl, Thomas M. Maddock, Dennis E. Murray, Winifred Younge Smith, Sharon J. Waters, and James Michael Welch; Mr. Raymond G. Aragon, Mr. Joel S. Miliband, and Mr. William C. Vickrey; advisory members: Judges Kenneth K. So and Mary E. Wiss; Commissioner Lon F. Hurwitz; Mr. John Mendes, Mr. Michael D. Planet and Mr. Michael M. Roddy.

Absent: Justices Richard D. Huffman and Tani Cantil-Sakauye; Judges Terry B. Friedman, Senator Ellen M. Corbett; Assembly Member Mike Feuer; Mr. Anthony P. Capozzi, and Mr. James N. Penrod.

Others present: Judge Paul Lloyd Beeman; Executive Officer Brian Taylor; Mr. Philip Brozenick and Ms. Nancy Cross; **staff:** Judge Leonard P. Edwards (Ret.); Mr. Peter Allen, Ms. Heather Anderson, Mr. Nick Barsetti, Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Sheila Calabro, Ms. Nancy Carlisle, Mr. Curtis L. Child, Dr. Diane E. Cowdrey, Mr. Dexter Craig, Mr. Robert Emerson, Ms. Audrey Fancy, Mr. George Ferrick, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Mr. David Glass, Mr. Joe Glavin, Ms. Donna Hershkowitz, Mr. Burt Hirschfeld, Ms. Lynn Holton, Mr. Kenneth L. Kann, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Maria Kwan, Mr. Briggs Matheson, Ms. Angela McIsaac, Ms. Susan McMullan, Mr. Frederick G. Miller, Mr. Mark Moore, Mr. James Mullen, Mr. Stephen Nash, Ms. Christine Patton, Ms. Jody Patel (by phone), Ms. Susan Reeves, Mr. Christopher Rey, Ms. Mary M. Roberts, Mr. Curt Soderlund, Ms. Nancy E. Spero, Mr. Fred Stetson, Mr. Ernie Swickard, Ms. Marcia M. Taylor, Mr. Alan Wiener, Mr. Lee Willoughby, and Ms. Daisy Yee; and **media representative:** Ms. Amy Yarbrough, *San Francisco Daily Journal*.

Public Comment Related to Trial Court Budget Issues

Chief Justice George noted that no requests to address the council had been received.

Approval of Minutes

The minutes of the October 10, 2008, and October 23, 2008, business meetings were approved.

Judicial Council Committee Presentations

The minutes of the meetings of the Judicial Council's internal committees: the Executive and Planning Committee, the Rules and Projects Committee, and the Policy Coordination and Liaison Committee, can be found in the Committee Reports tab in the Judicial Council binders. The minutes are also linked to the Judicial Council Committee Presentation title on the business meeting agenda, which is posted on the California Courts Web site at www.courtinfo.ca.gov/jc/meetings.htm.

Executive and Planning Committee

Judge Peter Paul Espinoza, Vice-chair of the Executive and Planning Committee (E&P), reported that the committee had met five times since the December 9, 2008, Judicial Council meeting: by teleconference on January 20, 2009, and February 19, 2009; and via e-mail on December 20, 2008, February 2, 2009, and March 9, 2009.

Judge Espinoza reported that on January 20, the committee reviewed and approved the use of Judicial Administration Efficiency and Modernization Funds for alternative dispute resolution (ADR) projects, including ADR enhancements to the California Court Case Management System (CCMS). Acting on behalf of the council, the committee reviewed and approved revised operating guidelines and directives for budget management in the judicial branch (the approved *Operating Guidelines and Directives for Budget Management in the Judicial Branch* appear on the Judicial Council agenda, and in the council binders, under the title Information Only).

On February 2, 2009, via e-mail, the committee reviewed and approved a schedule for Judicial Council members to visit the Superior Courts of Sacramento, San Joaquin, Monterey, and Santa Clara Counties in May and June 2009. The committee also reviewed and confirmed the conversion of two subordinate judicial officer (SJO) positions in the Superior Court of Los Angeles County, thereby reaching the maximum 16 SJO positions eligible for conversion in FY 2008–2009. The committee further approved the request of three courts that 7 other SJO positions (5 in Los Angeles, 1 in San Diego, and 1 in San Francisco) be exempt from the conversion process since no additional positions can be converted this fiscal year.

On February 19, 2009, the committee reviewed reports and set the agenda for the March 12, 2009, Judicial Council business meeting, specifically approving that this meeting would begin at 3 p.m. The committee also reviewed and approved a report on jury sanctions for submission to the Legislature and recommended that the Judicial Council sponsor the legislative recommendations for modifications to Code of Civil Procedure section 209, as set forth in the report.

On March 9, 2009, the committee reviewed and approved the expansion of already authorized Trial Court Improvement Funds for self-represented litigants in mediation and settlement programs beyond small claims and limited civil cases, into harassment cases.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, Chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met three times by conference call and convened once by e-mail since the December 9, 2008, Judicial Council meeting.

The committee took positions on three pieces of legislation relating to local judicial benefits, court reporters, and criminal procedures. In addition, three pieces of legislation regarding the authority to assess costs for specific court-ordered probate investigations, escheat of unclaimed money deposited with the court, and jury sanctions were approved for council sponsorship.

Members of the PCLC Blue Ribbon Commission on Children in Foster Care Legislative Implementation advisory group met twice by conference call to consider three pieces of legislation regarding foster care for Judicial Council sponsorship.

The legislative deadline to introduce bills was February 27, 2009. The AOC Office of Governmental Affairs staff is reviewing more than 2,300 proposed bills. Justice Baxter stated that he would keep the council informed about progress on bills that are of interest to the judicial branch, including council-sponsored bills.

Justice Baxter also reported that on Tuesday, March 10, 2009, the Judicial Council hosted the 15th Annual Judicial Legislative Executive Forum at the State Capitol. As in the past, the forum coincided with Chief Justice George's State of the Judiciary address to the Legislature. The Bench-Bar Coalition's Day in Sacramento—when bench and bar leaders meet with legislators on issues of critical importance to the judicial branch, including budget, judgeships, foster care, and the Judges' Retirement System II—occurred the following day.

Rules and Projects Committee

Judge Dennis E. Murray, Chair, reported that the Rules and Projects Committee (RUPRO) had not met in person since the December 9, 2008, Judicial Council meeting.

Judge Murray reported that the committee had, however, convened three times via e-mail. First, the committee considered an amendment to the *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO) to make it consistent with both statute and federal poverty guidelines. Following E&P's review of the

proposed form, the form revision was approved by the Judicial Council in Circulating Order CO-09-01. Next, the committee recommended the approval of an information sheet that was later approved by E&P. Lastly, the committee approved for submission to the Judicial Council, California Rules of Court, rule 3.1015, related to deposition subpoenas in actions pending outside of California. The Legislature recently enacted a new law intended to replace a prior statute authorizing California deposition subpoenas in actions pending outside of the state. The new law takes effect on January 1, 2010. However, the bill inadvertently repealed the predecessor statute effective January 1, 2009, leaving a one-year gap in the law authorizing such subpoenas. Rule 3.1015 appears on today's consent agenda as Item 1.

Administrative Director's Report

Mr. Vickrey deferred his report regarding matters in which he had been involved since the last council meeting.

Chief Justice's Report

Chief Justice George reported on the activities in which he had been involved since the last Judicial Council meeting, December 9, 2008.

The Chief Justice met with the Governor and legislators regarding the judicial branch budget, had a liaison meeting with Justice Baxter and the representatives of the California State Sheriffs' Association, and another with representatives of the Commission on Judicial Performance.

Chief Justice George spoke publicly before the following organizations: the Barristers Club of Sacramento, the Blue Ribbon Commission on Children in Foster Care, the California Supreme Court Historical Society, the Civil Justice Institute, the California District Attorneys Association, and the Consumer Attorneys Association of Los Angeles. He also spoke at the dedication of the Richard E. Arnason Justice Center in Contra Costa County. He acknowledged the active involvement of Judicial Council member Judge Thomas M. Maddock in that project.

The Chief Justice also held his annual holiday gathering for the representatives of the legal and general press that cover the work of the California Supreme Court and the Judicial Council, at which he summarized the highlights of the last year and previewed some forthcoming judicial branch initiatives.

The Chief Justice attended a meeting in San Antonio, Texas, of the Standing Federal Rules Committee. U.S. Supreme Court Chief Justice Roberts had appointed Chief Justice George as the sole state judge. He also attended the Conference of Chief Justices, where he chaired a panel presentation on the impact of the budget

crises in the states on various state judiciaries. Only two states seem to have escaped the financial difficulties experienced by so many. North Dakota and Wyoming are both financially sound because of oil, gas, and coal industry revenue. The representatives from the beleaguered states and territories were interested to hear how we in California were coping and were in awe of the success in these circumstances of our \$5 billion courthouse construction revenue bond. They also were interested in our success in transferring the responsibility for courthouses from counties to the state, creating new judgeships, and proceeding with other judicial branch initiatives.

The Chief Justice reported that he performed the swearing-in of the State Bar's Commission on Judicial Nominees Evaluation. The Chief Justice also spoke to the Judicial Council's Commission for Impartial Courts, which soon will solicit public comment on draft recommendations.

The Chief Justice presented the annual California Lawyer Attorney of the Year Award to attorneys whose achievements have made a profound impact on the law. On March 10, 2009, he delivered his State of the Judiciary address to a joint session of the Legislature and spoke with legislators about what the branch has been doing to reduce costs and our proposals for further actions.

CONSENT AGENDA (Items 1–4)

Item 1 Civil Discovery: Deposition Subpoenas in Actions Pending Outside of California (adopt Cal. Rules of Court, rule 3.1015)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council adopt rule 3.1015 of the California Rules of Court, effective March 13, 2009. The Legislature recently enacted a new law intended to replace the prior statute authorizing deposition subpoenas in actions pending outside of the state (Code Civ. Proc., § 2029.010) with a more detailed law concerning how to obtain such subpoenas and, if necessary, how to resolve discovery disputes in such proceedings. The new statutory provisions do not become operative until January 1, 2010, but the bill inadvertently repealed the predecessor statute effective January 1, 2009, leaving a one-year gap in the law authorizing such subpoenas. The proposed rule was intended to fill this unintended gap in the law. It incorporated the language of the predecessor statute into the rules of court so that courts and litigators may continue to act under that rule until the new statute goes into effect.

Council action

The Judicial Council, effective March 13, 2009, adopted Cal. Rules of Court, rule 3.1015. The council also directed that the rule be circulated for public comment for 30 days to allow for comments and later amendment if needed.

Item 2 Revised Conflict of Interest Code for the Administrative Office of the Courts

As the reviewing body for judicial branch agencies, the Judicial Council annually reviews and approves proposed amendments to the Conflict of Interest Code of the Administrative Office of the Courts (AOC). This year's proposed amended code added and deleted designated positions.

Council action

The Judicial Council, effective March 12, 2009, adopted the proposed revision of the AOC Conflict of Interest Code, which adds various new job classifications and deletes classifications that no longer exist.

Item 3 Access to Visitation Grant Program: Approve Funding Allocations for Fiscal Year 2009–2010

The Family and Juvenile Law Advisory Committee recommended approval of funding allocation and distribution of approximately \$772,000 in federal Child Access and Visitation Grant funds for fiscal year 2009–2010 to continue programs listed in Attachment A of the report. The committee also recommended that if additional federal funds become available during this funding period, a separate request for proposals and grant application process be used to allocate those funds to new programs or programs not currently funded by this grant. The grant awards to the superior courts conform with the evaluation criteria stated in Family Code section 3204(b)(2) to approve as many funding proposals as possible while ensuring that each approved proposal will provide beneficial services and satisfy the overall goals of the program.

Council action

The Judicial Council, effective April 1, 2009:

1. Approved the funding allocation and distribution of approximately \$772,000 for fiscal year 2009–2010 to continuation programs.
2. Approved the Family and Juvenile Law Advisory Committee's recommendation that if additional federal funds become available during this funding period, a separate request for proposals and grant application process be used to allocate these funds to new programs or programs not currently funded by this grant.

Item 4 Child Support Commissioner and Family Law Facilitator Program: Midyear Funding Reallocation for Fiscal Year 2008–2009

The Judicial Council is required to annually allocate funding to courts for the child support commissioner and family law facilitator program. 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 also are 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 March 12, 2009:

1. Approved the reallocation for funding of child support commissioners for fiscal year 2008–2009, subject to the State Budget Act.
2. Approved the reallocation for funding family law facilitators for fiscal year 2008–2009, subject to the State Budget Act.

DISCUSSION AGENDA (Item 5)

Item 5 Mediation Week: Standing Resolution Recognizing the Benefits of Mediation and Court Mediation Programs

Hon. Paul Lloyd Beeman, Superior Court of Solano County; Hon. Lee Smalley Edmon, Superior Court of Los Angeles County; and Mr. Alan Wiener, Office of the General Counsel, presented this item.

The Administrative Office of the Courts recommended that the Judicial Council adopt a standing resolution recognizing the third week of every March as Mediation Week to coincide with similar recognitions by other government organizations and leaders. Information about the Judicial Council resolution will be disseminated throughout the judicial branch and to local bar associations, mediation providers, and the general public. Judicial Council recognition of Mediation Week will encourage courts to implement and expand mediation programs; promote public awareness and use of those programs; and acknowledge the court staff, mediators, and others who make them successful.

Council action

The Judicial Council adopted a standing resolution recognizing the third week of every March as Mediation Week.

Other Matters

Chief Justice George reported on two more matters before adjourning the meeting. The Chief referred to a recent incident of violence in the Superior Court of San Joaquin County. A suspect in a murder case stepped off the witness stand and stabbed the judge, Hon. Cinda Sanchez Fox, with a six-inch metal spike. Fortunately, due to the diligence of a law enforcement officer in the courtroom,

the suspect was shot and Judge Fox was saved from serious injury. The Chief Justice extended best wishes from himself and the Judicial Council to Judge Fox.

Chief Justice George commented that that situation illustrated the need for improved court security and that he was able to incorporate mention of the incident in his recent remarks to the Legislature in that context. Much is owed to the deputy sheriffs who maintain order in our courthouses and for whom we have not been able to provide sufficient equipment and resources in order to do their job to their fullest capacity. The 2009 report from the Superior Court of Los Angeles County supported the Chief's presentation to the Legislature. That report contained some remarkable data, including the statistic that more than \$200,000 worth of dangerous items, including thousands of knives, stun guns, handcuffs, and other objects, were recovered in 48 facilities of that court during the first eight months of last year. This report illustrates the need for making court security improvements a priority. Even with the difficult economic times we face, we are asking the Legislature to support our proposals in this area.

Chief Justice George also expressed his appreciation to Mr. Curtis L. Child and his staff in the AOC Office of Governmental Affairs for an outstanding job, not only with the Bench-Bar Coalition meeting that followed the State of the Judiciary address this week, but throughout the year. They have obtained for the judicial branch some remarkable achievements with regard to our budget during this very difficult period.

Special Award Presented to Mr. William C. Vickrey

Hon. Leonard P. Edwards (Ret.), Superior Court of Santa Clara County, presented an award to Administrative Director of the Courts William C. Vickrey from the Juvenile Court Judges of California, part of the California Judges Association. The award cites Mr. Vickrey's "continuing commitment and unique service to the children and families of California." The special award acknowledged Mr. Vickrey for helping to create and sustain the Blue Ribbon Commission on Children in Foster Care and for his work on these issues nationally as a member of the Pew Commission on Children in Foster Care.

Information-only Items

- *Jury Sanctions: 2008 Report to the Legislature* (Code Civ. Proc., § 209)
- Liability Limits of a Parent or Guardian (amended Cal. Rules of Court, Appendix B) (Civ. Code, § 1714.1)
- *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO)
Effective January 2, 2009, a revision to form APP-101-INFO was approved by the Executive and Planning Committee on behalf of the council to reflect a

change in the filing fee, under Senate Bill 1407, for a notice of appeal in a limited civil case. The changes are highlighted in the form.

- *Operating Guidelines and Directives for Budget Management in the Judicial Branch.*

A reaffirmed and revised version was approved by the Executive and Planning Committee on January 20, 2009.

Circulating Orders since the last business meeting.

[CO-09-01 tab]

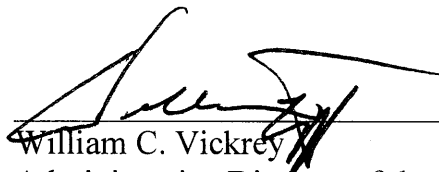
Information Sheet on Waiver of Court Fees and Costs (form FW-001-INFO)

Appointment Orders since the last business meeting.

[Appointment Orders Tab]

There being no further public business, the meeting was adjourned at 4:10 p.m.

Respectfully submitted,



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

