Revised 10/20/09

JUDICIAL COUNCIL MEETING
Administrative Office of the Courts
Malcolm M. Lucas Board Room
455 Golden Gate Avenue
San Francisco, California 94102-3688
October 23, 2009
8:30 a.m.–12:55 p.m.
Open to the Public
AGENDA

8:30–8:40 a.m. **Swearing-in of New Council Members**
The Chief Justice will administer the oath of office to new council members.

8:40–8:50 a.m. **Public Comment Related to Trial Court Budget Issues***
[Subject to requests]
*This time is reserved for public comment on Discussion Agenda items relating to trial court budgets.

8:50–8:55 a.m. **Approval of Minutes**
Minutes of the **July 29, 2009**, and **August 14, 2009**, business meetings.

8:55–9:10 a.m. **Judicial Council Committee Presentations**
Executive and Planning Committee
Hon. Richard D. Huffman, Chair
Policy Coordination and Liaison Committee
Hon. Marvin R. Baxter, Chair
Rules and Projects Committee
Hon. Dennis E. Murray, Chair
[Committee Reports Tab]

9:10–9:30 a.m. **Judicial Council Court Visit Report**
Hon. Brad R. Hill, Team Leader
Ms. Althea Lowe-Thomas
Bay Area/Northern Coastal Regional Office

Report on visits to the Superior Courts of Monterey and Santa Clara Counties.

9:30–9:40 a.m. **Chief Justice's Report**
Chief Justice Ronald M. George will report on activities in which he has been involved since the last Judicial Council business meeting.

9:40–9:50 a.m. **Administrative Director's Report**
Mr. William C. Vickrey, Administrative Director of the Courts, will make a report.

CONSENT AGENDA (Items A1–A43, B–C, and J)

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Nancy Spero at 415-865-7915 at least 48 hours before the meeting.

ITEM A RULES, FORMS, AND STANDARDS

Appellate

Item A1 **Appellate Procedure: Time for Filing Notice of Appeal in a Civil Case (amend Cal. Rules of Court, rule 8.104) (Action Required)**

The Appellate Advisory Committee recommends amending the rule regarding the time for filing the notice of appeal in a civil case (other than a limited civil case) to provide that the time for filing a notice of appeal runs from when the superior court clerk "serves," rather than "mails," the judgment or notice of entry of the judgment. This amendment will clarify that electronic service by the court of the judgment or a notice of entry of the judgment will trigger the start of the time for filing the notice of appeal. The rule is recommended to be effective January 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel

Item A2 **Appellate Procedure: *Civil Case Information Statement* (revise form APP-004) (Action Required)**

The Appellate Advisory Committee recommends revising the form that appellants in civil appeals use to provide the Court of Appeal with information about the case to: (1) provide the court with the filing date of any notice of intent to file a motion for a new trial; (2) alert appellants to the special service requirements under Business and Professions Code section 16750.2; and (3) alert appellants to the requirement that they attach to the form a list of all parties and all attorneys of record who will participate in the appeal. These revisions will help the court appropriately determine the timeliness of an

appeal and reduce errors by appellants in complying with these service and attachment requirements. The form is recommended to be effective July 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel

Item A3 **Appellate Procedure: Record on Appeal (adopt Cal. Rules of Court, rule 8.819; amend rules 8.122, 8.124, 8.147, 8.320, 8.336, 8.832, 8.861, 8.862, 8.864, and 8.915; renumber rule 8.160 as rule 8.46; approve forms APP-010, App-011, and APP-110; and revise forms APP-003 and APP-103) (Action Required)**

The Appellate Advisory Committee recommends: (1) revising the optional forms appellants may use in designating the record on appeal in civil cases to include spaces for additional information required or permitted by statute or rule and to make other clarifying changes; (2) approving new optional forms to assist respondents in civil cases in making record designations permitted under the rules; and (3) amending the rules relating to records on appeal to: (a) provide additional guidance regarding incorporating by reference or copying records from another appeal; (b) address the burden on the appellant when a respondent elects to use an appendix by providing that respondents may elect to use an appendix only in cases in which the appellant's fees for the clerk's transcript have not been waived; (c) fill a gap in the rules by specifying the consequences if the appellant in a misdemeanor or infraction case does not timely file the required election concerning the record of the oral proceedings; (d) reduce the need for requests to augment the record in criminal appeals by adding certain court-ordered diagnostic or psychological reports to the documents that are automatically included in the clerk's transcript when the defendant is the appellant; (e) clarify the appropriate handling of probation reports and court-ordered diagnostic reports in the clerk's transcripts in criminal appeals; and (f) clarify that the rule on sealed records applies in all proceedings in the appellate courts, not just in civil appeals. These changes are intended to make the rules and forms clearer and easier to use and to improve the record designation and preparation process. These changes to the rules above and forms APP-010,APP-011, and APP-110 are recommended to be effective January 1, 2010; forms APP-003 and APP-103 are recommended to be effective July 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel

Item A4 **Appellate Procedure: Time for Filing Briefs (amend Cal. Rules of Court, rules 8.212 and 8.882; renumber form APP-106 as form APP-107; approve form APP-106; and revise forms APP-006 and APP-101-INFO) (Action Required)**

The Appellate Advisory Committee recommends: (1) amending the rules relating to briefs in civil appeals in the Court of Appeal to give appellants 10 more days to file their opening brief; (2) revising the existing optional form for requesting an extension of briefing time in the Court of Appeal to request information about whether the trial court proceedings have been stayed; (3) amending the rules relating to briefs in civil appeals in the superior court appellate division to specifically provide that parties can apply to the presiding judge for an extension of briefing time; (4) approving a new optional form for requesting an extension of briefing time in the superior court appellate division; and (5) revising the information sheet about civil appeals in the superior court appellate division to reflect these changes. These changes are intended to reduce the need for appellants to file and the court to consider requests for extension of briefing time in the Court of Appeal and make it easier for presiding justices in the Court of Appeal and presiding judges in the superior court appellate division to rule on any requests for extensions of briefing time that are filed. The rules are recommended to be effective January 1, 2010, and the forms are recommended to be effective July 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel

Item A5 **Appellate Procedure: Petitions for Writs of Supersedeas (amend Cal. Rules of Court, rules 8.112 and 8.824) (Action Required)**

The Appellate Advisory Committee recommends amending the rules regarding petitions for writs of supersedeas to require that the appellant/petitioner attach to the petition either a transcript of certain oral proceedings or, if a transcript is unavailable, a summary of these proceedings. These changes will help ensure that when the record on appeal has not yet been filed, the reviewing court has sufficient information to properly determine whether to issue the writ of supersedeas. The rules are recommended to be effective January 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel

Appellate and Trial Court Presiding Judges

Item A6 **Appellate Procedure: Videoconferencing Oral Argument in the Superior Court Appellate Division (amend Cal. Rules of Court, rules 8.885 and 8.929) (Action Required)**

The Appellate and Trial Court Presiding Judges Advisory Committees recommend amending the rules regarding oral argument in the superior court appellate division to specifically provide that the judges of an appellate division can participate in oral argument by videoconference either on order of the presiding judge or if the court has adopted a local rule authorizing videoconferencing for oral argument. These changes will

allow courts to conserve resources by reducing the time and costs associated with judges traveling to participate in oral argument in the appellate division. The rules are recommended to be effective January 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel

Appellate and Access and Fairness

Item A7 **Appellate Procedure: Requests for Accommodations (amend Cal. Rules of Court, rule 1.100; revise *Requests for Accommodations by Persons With Disabilities and Response* (form MC-410) (Action Required)**

The Access and Fairness and Appellate Advisory Committees recommend amending the rule regarding requests for accommodations for persons with disabilities and the optional form for making and responding to such requests to: (1) clarify when a response to such a request must be in writing; (2) clarify when the period for seeking review of an accommodation decision begins to run; and (3) clarify the procedures for seeking review of an accommodation decision made by a judicial officer. These changes are intended to make the rule and form clearer and easier to understand. Both the rule and form are recommended to be effective January 1, 2010.

Staff: Ms. Heather Anderson
Ms. Donna Clay-Conti
Office of the General Counsel

Appellate and Civil and Small Claims

Item A8 **Civil Forms: *Notice of Entry of Judgment or Order* (approve form CIV-130) (Action Required)**

The Appellate and Civil and Small Claims Advisory Committees recommend that the Judicial Council approve a new optional form that can be used by litigants to give notice of entry of a judgment or order. This proposal is intended to assist litigants who are required to give notice of entry of a judgment or order and those who receive such notice by providing a simple, clear form for this purpose. The form is recommended to be effective January 1, 2010.

Staff: Ms. Heather Anderson
Ms. Anne Ronan
Office of the General Counsel

Civil and Small Claims

Item A9 **Alternative Dispute Resolution: Qualifications of Mediators in Court-Connected Mediation for General Civil Cases (amend Cal. Rules of Court, rules 3.851, 3.865, and 10.781) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that: (1) the rule concerning court-related ADR neutrals be amended to require that courts that have mediation programs for general civil cases must establish minimum qualifications for the mediators in these programs; and (2) that the rules relating to the conduct of mediators in court-connected mediation programs for general civil cases and procedures for handling complaints against these mediators be amended to clarify that these rules do not apply to private mediators who are selected by the parties simply because the court memorializes the parties' agreement to use the mediator in a court order. These changes are intended to clarify the application of the rules and help courts assure the quality of court-connected mediation programs for general civil cases. Rules 3.851 and 3.865 are recommended to be effective January 1, 2010, and rule 10.781 to be effective January 1, 2011.

Staff: Ms. Heather Anderson
Office of the General Counsel

Item A10 **Alternative Dispute Resolution: Access to Hearings and Records in Proceedings Before Temporary Judges and Referees (adopt Cal. Rules of Court, rules 2.833, 3.930, 3.931, and 3.932; amend rules 2.400, 3.902, 3.922, and 3.926; amend and renumber rules 2.833, 2.834, and 3.909 as 2.834, 2.835, and 3.907, respectively; and repeal rules 3.907, 3.908, 3.910, and 3.927) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the rules relating to temporary judges and referees be amended to: (1) clarify that all original documents in proceedings conducted by either a temporary judge or a referee must be filed with the court clerk; (2) require that all documents and exhibits in the possession of a temporary judge or referee that would be open to the public if filed or lodged with the court be made available to the public; (3) require that all proceedings before a temporary judge requested by the parties or before a referee that would be open to the public if held before a judge must be open to the public, regardless of where they are held; (4) require that, when they accept their appointments, all temporary judges requested by the parties and referees provide the court with a statement containing information about whom to contact for access to the hearings they conduct in these proceedings and that the court post this information in the court facility; and (5) make other clarifying changes. These amendments are intended to ensure that the court has a complete file in any proceedings before a temporary judge or referee and that the public has appropriate access to hearings and records in these proceedings. The rules are recommended to be effective January 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel

Item A11 **Small Claims Plain-Language Forms (adopt forms SC-200 and SC-202A; approve forms SC-112A, SC-113A, SC-150, SC-152, SC-200-INFO, SC-220, SC-220-INFO, SC-221, SC-222, and SC-290; revise forms SC-130 and SC-132; and revoke forms SC-106, SC-110, and SC-111) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt and approve new forms for use in small claims cases and revise and revoke existing small claims forms. This proposal is part of an ongoing process of converting all small claims forms into plain language and will promote the Judicial Council goal of access to the courts. The forms are recommended to be effective July 1, 2010.

Staff: Mr. Alan Wiener
Office of the General Counsel

Item A12 **Civil Discovery: Subpoenas in Actions Pending Outside California (adopt forms SUBP-030, SUBP-035, SUBP-040, SUBP-045, and SUBP-050) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt forms to be used in applying for and issuing subpoenas for California discovery in out-of-state actions. The Legislature recently passed the Interstate and International Depositions and Discovery Act (Assem. Bill 2193 [Tran]; Stats. 2008, ch. 231). The act clarifies the deponents for whom California subpoenas can be issued in out-of-state actions and provides processes for obtaining the subpoenas and for the resolution of disputes regarding discovery in actions pending outside the state. This proposal fulfills the legislative mandate that the Judicial Council develop an application form and includes four new subpoena forms for use under the new statutory provisions. The forms are recommended to be effective January 1, 2010.

Staff: Ms. Anne Ronan
Office of the General Counsel

Item A13 **Civil Law: Confidential Name Change Proceedings (adopt Cal. Rules of Court, rules 2.575, 2.576, and 2.577; adopt forms NC-400, NC-400-INFO, NC-410, and NC-420; approve form NC-425; and revise form NC-100) (Action Required)**

Amendments to Code of Civil Procedure section 1277, enacted in Assembly Bill 2304 (Plescia; Stats. 2008, ch. 586), mandate that when a person seeks a name change based on abuse, stalking, or sexual assault and that person is participating in the Secretary of State's confidential address program (Safe at Home), the court must keep the current legal name of the person confidential. In addition, the person may ask the court to file the petition and any associated papers under seal. The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt three new rules of court to facilitate (1) the mandatory confidentiality of the petitioner's current name and (2) the filing of a record under seal where appropriate. The committee also recommends that the Judicial Council revise the instructions on a current name change form and adopt five new name change forms, including an information sheet concerning confidential name change proceedings, a confidential cover sheet to be attached to all records in such proceedings, and forms for seeking permission to file the name change records under seal. The rules and forms are recommended to be effective January 1, 2010.

Staff: Ms. Anne Ronan
Office of the General Counsel

Item A14 **Attachments: Financial Abuse of Elder or Dependent Adults (revise forms AT-105, AT-115, AT-120, AT-125, AT-130, and AT-140) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council revise the civil attachment forms to include references to attachments under Welfare and Institutions Code section 15657.01. That statute authorizes issuance of attachments in actions alleging financial abuse of an elder or dependent adult. The statute mandates that an application for such a writ include reference to the Welfare and Institutions Code section and that the writ provisions of the Code of Civil Procedure not inconsistent with Welfare and Institutions Code section 15657.01 otherwise apply. Under this proposal, parties seeking and courts issuing writs of attachment under the Welfare and Institutions Code will be able to use the Judicial Council forms. The forms are recommended to be effective July 1, 2010.

Staff: Ms. Anne Ronan
Office of the General Counsel

Item A15 **Civil Form: *Notice of Intent to Appear by Telephone* (approve form CIV-020) (Action Required)**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council approve *Notice of Intent to Appear by Telephone* (form CIV-020). Code of Civil Procedure section 367.5 and amended rule 3.670 changed the law, effective January 1, 2008, to allow parties to appear by telephone at certain conferences, hearings, and

proceedings in civil cases, unless the court determines on a hearing-by-hearing basis that a personal appearance would materially assist in the determination of the proceedings or in the effective management or resolution of the case. The proposed form will make it easier for a party to provide written notice to the court and other parties of the intent to appear at a hearing, conference, or proceeding by telephone. The form is recommended to be effective July 1, 2010.

Staff: Ms. Anne Ronan
Office of the General Counsel

Item A16 **Administrative Record in CEQA Actions (adopt Cal. Rules of Court, rules 3.1365–3.1368) (Action Required)**

The Civil and Small Claims Advisory Committee recommends the adoption of rules governing the administrative record in CEQA actions. These rules will provide a statewide standard for organizing the record, authorize an electronic version of the record, and assure that the paper administrative record remains physically intact throughout trial court and appellate court review. The rules are recommended to be effective January 1, 2010.

Staff: Ms. Susan R. McMullan
Office of the General Counsel

Item A17 **Statement of Decision (amend Cal. Rules of Court, rule 3.1590) (Action Required)**

The Civil and Small Claims Advisory Committee recommends amendment of the statement of decision rule to simplify time deadlines and other provisions that are unnecessarily complicated and difficult to follow. The rule is recommended to be effective January 1, 2010.

Staff: Ms. Susan R. McMullan
Office of the General Counsel

Court Technology

Item A18 **Electronic Filing and Service: Changes to the Rules (adopt Cal. Rules of Court, rule 2.251; and amend rules 2.256 and 2.260) (Action Required)**

The Court Technology Advisory Committee recommends that the rules on electronic filing and service be amended to make certain provisions more practical and effective.

In addition, the committee recommends the adoption of a new general rule on the construction of the rules on electronic filing and service to provide guidance on the interpretation of those rules. The rules are recommended to be effective January 1, 2010.

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

Item A19 **Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address* and *Notice of Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010) (Action Required)**

The Court Technology Advisory Committee recommends the approval of two new optional forms to assist persons filing documents electronically with the courts: (1) *Consent to Electronic Service and Notice of Electronic Notification Address* (form EFS-005), to provide a means for a party to state its consent to electronic service and provide its electronic notification address to the court and other parties under rule 2.260(a) of the California Rules of Court; and (2) *Notice of Change of Electronic Notification Address* (form EFS-010), to provide a means for parties to give notice of a change in electronic notification address under rule 2.260(d). The forms are recommended to be effective January 1, 2010.

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

Item A20 **Electronic Filing and Service: Forms for Proof of Electronic Service (approve forms POS-050/EFS-050, POS-050(D)/EFS-050(D), and POS-050(P)/EFS-050(P); and revise form POS-040) (Action Required)**

The Court Technology Advisory Committee recommends the approval of new optional forms to help persons provide proof of electronic service. The proposal also recommends the revision of the current multipurpose proof of service form to reflect the proposed amendment of California Rules of Court, rule 2.260(f)(1)(D) to simplify proof of electronic service. The new and revised forms will assist the public in providing proof of electronic service as such service becomes increasingly available in the years ahead. The forms are recommended to be effective January 1, 2010.

Staff: Mr. Patrick O'Donnell
Office of the General Counsel
Mr. Christopher Smith
Information Services Division

Probate and Mental Health and Civil and Small Claims

Item A21 **Access to Electronic Records: Limitation on Remote Access to Records in Proceedings to Compromise the Claims of Minors or Persons With a Disability (amend Cal. Rules of Court, rule 2.503) (Action Required)**

The Civil and Small Claims and Probate and Mental Health Advisory Committees recommend that the Judicial Council amend rule 2.503(c) of the California Rules of Court to add proceedings for court approval of compromises of the claims of minors and persons with a disability to the list of proceedings for which remote electronic access is not available. These proceedings involve financial and other sensitive information concerning particularly vulnerable populations. Limiting remote electronic access to court records concerning the compromises and settlements would protect minors and disabled persons from unnecessary and widespread disclosure over the Internet of this sensitive information. The rule is recommended to be effective January 1, 2010.

Staff: Mr. Douglas C. Miller
Mr. Patrick O'Donnell
Office of the General Counsel

Item A22 **Civil and Probate Practice and Procedure: Compromise of Minors' Claims, Settlement of Actions Involving Minors and Persons With Disabilities, and Disposition of Judgments in Favor of Minors and Persons With Disabilities (amend Cal. Rules of Court, rules 7.101, 7.950, and 7.955; adopt rule 7.950.5; revise Judicial Council forms MC-350 and MC-351; adopt form MC-350EX, and approve form MC-350(A-13b(5)) (Action Required)**

The Civil and Small Claims and Probate and Mental Health Advisory Committees recommend that the Judicial Council (1) amend existing rules of court governing proceedings for the compromise of the disputed claims of minors, settlement of filed actions involving minors or persons with certain defined disabilities, and disposition of the proceeds of judgments in favor of minors or persons with disabilities; (2) revise the form petition and order used in these proceedings and approve a new optional attachment to that petition for listing additional medical service providers to be paid from the proceeds to the compromise or judgment; (3) adopt a new rule of court to implement a new procedure for expedited disposition of certain small or uncontroversial compromises without a court hearing; and (4) adopt a new form petition to request the new expedited disposition. The proposal will establish a statewide standard for determining reasonable attorneys' fees to be awarded in minors' compromises and will clarify, reorganize, and update the existing petition for approval of minors' compromises and the order on the petition. The revised forms will address recent changes in the law defining disabled persons subject to the compromise approval procedure and concerning discharge of liens against recoveries for personal injuries in favor of public agencies for medical treatment

provided to injured minors or disabled persons. The proposal will also create a new procedure for prompt determination of smaller or uncontroversial compromises without a court hearing and a new petition to be used to request this procedure. The rules and forms are recommended to be effective January 1, 2010.

Staff: Mr. Douglas C. Miller
Mr. Patrick O'Donnell
Office of the General Counsel

Elder and Dependent Adult Abuse

Item A23 **Protective Orders: Prevention of Elder and Dependent Adult Abuse (revise forms EA-100, DV-260/CH-102/EA-102, EA-120, and EA-130) (Action Required)**

The Civil and Small Claims and Probate and Mental Health Advisory Committees recommend the revision of four forms used in proceedings to prevent abuse of elder and dependent adults. The revised forms will permit petitioners to request, and the courts to issue, orders protecting other named household family members and the conservators of petitioners. The revisions implement changes in the law relating to protecting elder and dependent adults and are recommended to be effective January 1, 2010.

Staff: Mr. Douglas C. Miller
Mr. Patrick O'Donnell
Office of the General Counsel

Probate and Mental Health

Item A24 **Probate Conservatorships and Guardianships: Value of Estate Property for Setting Surety Bond Amount for the Cost of Recovery on the Bond (amend Cal. Rules of Court, rule 7.207) (Action Required)**

The Probate and Mental Health Advisory Committee recommends that the Judicial Council amend rule 7.207 of the California Rules of Court to clarify that the value of property in the estates of conservatees and wards is its estimated value, not its appraised value, for purposes of setting the additional amount of bond to cover the cost of recovery on the bond required by the rule and Probate Code section 2320(c)(4). This amendment would make the valuation of estate property for purposes of the additional bond consistent with its valuation for purposes of the base amount of the surety bond required by section 2320. The amended rule would also delete as no longer necessary transitional provisions applicable to conservatorships and guardianships in existence when the rule became effective on January 1, 2008. The rule is recommended to be effective January 1, 2010.

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

Item A25 **Probate Conservatorships and Guardianships: *Reviewing the Accountings of Conservators' and Guardians: Guidelines for Probate Examiners and Court Investigators* (adopt and authorize distribution of guidelines) (Action Required)**

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective October 23, 2009, (1) adopt guidelines for probate examiners and court investigators to assist them in their review of accountings of conservators and guardians filed for court approval, and (2) authorize distribution of the guidelines to the superior courts and their incorporation into curricula of the Administrative Office of the Courts' (AOC) Education Division/Center for Judicial Education and Research (CJER) and court-sponsored training programs for these court staff positions. The committee also recommends that the council delegate authority to the Administrative Director of the Courts—in consultation with the advisory committee, court investigators, court staff attorneys, probate examiners, and others in his discretion—to revise the guidelines as necessary or advisable, working with the Trial Court Presiding Judges and Court Executives Advisory Committees, the Probate and Mental Health Education Committee, and the AOC's Education Division/CJER.

The guidelines, required by statute, will help courts respond to significant changes in the frequency, depth, and scope of investigations required by law in conservatorships and use techniques newly authorized by law to evaluate the accountings filed by conservatees and guardians to spot and reduce fraud and mismanagement by these fiduciaries.

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

Criminal

Item A26 **Criminal Law: Felony Notice of Appeal (revise Judicial Council form CR-120) (Action Required)**

The Criminal Law Advisory Committee recommends that the Judicial Council approve revisions to the form to reorganize the check boxes, add a check box, and provide additional information and instructions. The current form contains several check boxes to indicate the grounds for appeal and the type of proceeding the appeal follows. Frequently, the check boxes are marked incorrectly by self-represented defendants who are unclear about the applicable check boxes and grounds for appeal. The recommended revisions would better distinguish the grounds for appeal and provide additional information regarding the requirements for completion of the form. The form is recommended to be effective January 1, 2010.

Staff: Mr. Arturo Castro
Office of the General Counsel

Item A27 **Criminal Law: Deadlines for Filing Pretrial Motions (amend Cal. Rules of Court, rule 4.111(a)) (Action Required)**

The Criminal Law Advisory Committee recommends that the Judicial Council approve amendments to rule 4.111(a) of the California Rules of Court to replace the word "calendar" with "court" in the deadlines prescribed for filing pretrial motions, replies, and proofs of service. Use of the word "calendar" in the current deadlines severely shortens the number of days parties have to file those papers, particularly during time frames that include weekends and governmental holidays. The recommended amendments would ensure that parties have sufficient time to file during time frames that include weekends and governmental holidays. The rule is recommended to be effective January 1, 2010.

Staff: Mr. Arturo Castro
Office of the General Counsel

Item A28 **Criminal Law: Petitions for Writs of Habeas Corpus (revise Judicial Council form MC-275) (Action Required)**

The Criminal Law Advisory Committee recommends that the Judicial Council approve minor revisions to *Petition for Writ of Habeas Corpus* (form MC-275) to add information to the instructions on the first page of the form to specify certain filing requirements prescribed by the California Rules of Court. The form is recommended to be effective January 1, 2010.

Staff: Mr. Arturo Castro
Office of the General Counsel

Item A29 **Criminal Law: Petition and Order for Dismissal (revise Judicial Council forms CR-180 and CR-181) (Action Required)**

The Criminal Law Advisory Committee recommends that the Judicial Council approve revisions to *Petition for Dismissal* (form CR-180) and *Order for Dismissal* (form CR-181) to add an "interest of justice" basis for dismissal to the petition, an advisement to the order to indicate that a dismissal does not restore a defendant's ability to hold public office, and a check box to the order to indicate that the court has denied a request to reduce the charge from a felony to a misdemeanor. These revisions would conform the forms with existing statutory authority and recent changes in the law. Form CR-180 is recommended to be effective January 1, 2010, and form CR-181 is recommended to be effective July 1, 2010.

Staff: Mr. Arturo Castro
Office of the General Counsel

Item A30 **Criminal Law: Felony Plea Form (revise Judicial Council form CR-101) (Action Required)**

The Criminal Law Advisory Committee recommends that the Judicial Council approve revisions to the *Plea Form, With Explanations and Waiver of Rights—Felony* (form CR-101) to delete an incomplete advisement regarding mandatory sex offender registration. The form is recommended to be effective January 1, 2010.

Staff: Mr. Arturo Castro
Office of the General Counsel

Appellate and Family and Juvenile Law

Item A31 **Appellate Procedure: Appeals and Writ Proceedings in Juvenile Dependency and Delinquency Cases (adopt Cal. Rules of Court, rules 5.585, 8.401, 8.403, 8.404, 8.405, 8.406, 8.410, and 8.411; amend rules 5.595, 5.708, 8.400, 8.412, 8.416, 8.450, 8.452, 8.454, and 8.456; amend and renumber rules 5.585, 8.404, and 8.408 as rules 5.590, 8.407, and 8.409, respectively; renumber rule 8.406 as rule 8.408; repeal rules 5.590 and 5.600; and revise forms JV-320, JV-510, JV-800, JV-820, JV-825, and JV-828) (Action Required)**

The Appellate and Family and Juvenile Law Advisory Committees recommend: (1) amending the rules governing appeals and writs in juvenile cases to delete duplicate provisions, consolidate provisions addressing the same subject, fill gaps in the rules, and make several substantive changes in the rules; and (2) revising the Judicial Council forms used in these proceedings to correspond with these changes in the rules. The substantive changes to the rules include conforming the provisions in several rules regarding notice to Indian tribes with statute; adding motions and associated material to the normal record on appeal; eliminating the requirement for automatic augmentation of the record on appeal whenever a new order is issued in a case; allowing trial and appellate courts to agree to implement expedited appeal procedures in all juvenile dependency proceedings; allowing attorneys to sign notices of intent to file writ petitions; and clarifying who must receive the notice of intent and writ petition. These amendments are intended to make the rules clearer and easier to understand; ensure that appropriate notice is given to Indian tribes in these proceedings; reduce the need for parties to file and courts to consider requests for additions to the record; eliminate unnecessary record augmentations; permit courts to implement procedures that will expedite juvenile dependency proceedings; and eliminate the possibility that difficulties in obtaining a potential petitioners' signatures on

the notice of intent could threaten individuals' rights to seek review. The rules and forms are recommended to be effective July 1, 2010.

Staff: Ms. Heather Anderson
Office of the General Counsel
Ms. Kerry Doyle
Center for Families, Children & the Courts

Family and Juvenile Law

Item A32 **Family Law: Child Custody Evaluations (amend Cal. Rules of Court, rule 5.220; revise form FL-327; adopt form FL-328; and approve form FL-329-INFO (Action Required)**

The Family and Juvenile Law Advisory Committee recommends revising, adopting, and approving specific forms to promote compliance with statutory mandates and to facilitate judicial consistency in proceedings involving child custody evaluations. Particular changes relate to recent amendments to Family Code section 3111, which authorizes the court to impose a monetary sanction for the unwarranted disclosure of a written, confidential child custody evaluation report. The rule and forms are recommended to be effective January 1, 2010.

Staff: Ms. Gabrielle Selden
Center for Families, Children & the Courts

Item A33 **Child Support: Revised Forms to Implement Changes to the Family Code and Improve Administration of Title IV-D Cases (revise forms FL-342, FL-350, FL-530, FL-615, FL-618, FL-625, FL-630, FL-665, FL-684, FL-687, FL-688, and FL-692) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revise 12 forms to implement two recent statutory changes. Assembly Bill 2781 (Leno; Stats. 2006, ch. 797) requires that every child support order issued on or after January 1, 2010, include a separate money judgment owed by the child support obligor to pay a fee to a private child support collector. Assembly Bill 910 (Karnette; Stats. 2007, ch. 617) requires continuation of health insurance coverage for adult disabled children, necessitating an additional item on many of these forms. Additional space would be added to five forms and the term "obligor" would be changed to "parent ordered to pay support" and "obligee" would be changed to "parent receiving support" throughout the forms to make the forms more understandable. The forms are recommended to be effective January 1, 2010.

Staff: Ms. Anna Maves
Center for Families, Children & the Courts

Item A34 **Juvenile Law: Deferred Entry of Judgment (amend Cal. Rule of Court, rule 5.800; revise form JV-751) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend rule 5.800 and revise form JV-751, effective July 1, 2010, to promote compliance with statutory mandates and facilitate judicial consistency in proceedings involving deferred entry of judgment (DEJ). The proposed rule and form changes are designed to bring rule 5.80 and form JV-751 into compliance with Welfare and Institutions Code section 790, including clarifying the court's independent authority to grant DEJ and incorporating findings related to the child's ability to benefit from DEJ.

Staff: Ms. Laura Pedicini
Center for Families, Children & the Courts

Item A35 **Juvenile Law: Review and Permanency Hearings in Dependency Proceedings (amend Cal. Rules of Court, rules 5.695, 5.710, 5.715, and 5.720; adopt rules 5.706, 5.708, and 5.722) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend four rules and adopt three rules to implement statutory changes relevant to review and permanency hearings in juvenile dependency proceedings, as mandated by Assembly Bill 2070 and Assembly Bill 706. Further restructuring and language changes are necessary to facilitate rule usage for judicial officers and practitioners. The amended and new rules will comply with current statutory mandates and promote legal consistency and clarity. The rules are recommended to be effective January 1, 2010.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts

Item A36 **Juvenile Law: Presence and Participation of Child at Hearings (amend Cal. Rules of Court, rules 5.534 and 5.725) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend two rules to comply with current statutory mandates. Effective January 1, 2009, the Legislature revised Welfare and Institutions Code section 349, which includes revised provisions regarding a child's presence at and participation in a juvenile court hearing if the child is the subject of that hearing. The proposed rule amendments are necessary to promote legal compliance with section 349 and to eliminate unnecessary redundancy. The rules are recommended to be effective January 1, 2010.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts

Item A37 **Juvenile Law: Request to Change Court Order (amend Cal. Rules of Court, rule 5.570) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend rule 5.570 to promote compliance with new legal requirements in Welfare and Institutions Code section 388(c)(1), effective January 1, 2009, that allow any party, including a dependent child, to petition the court to terminate court-ordered reunification services under certain conditions. The amended rule will conform to current statutory mandates and promote clarity. The rule is recommended to be effective January 1, 2010.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts

Item A38 **Juvenile Law: Required Information for Child Attaining Age of Majority (revise form JV-365) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revise form JV-365 to comply with changes to Welfare and Institutions Code section 391, effective January 1, 2009, which identify new requirements regarding information, documents, and services that must be provided to a dependent child who has reached the age of majority before the termination of jurisdiction hearing. The amended form will conform to current statutory mandates and promote clarity. The form is recommended to be effective January 1, 2010.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts

Item A39 **Juvenile Law: Nondiscrimination in the Appointment of Court Appointed Special Advocates (CASAs) (amend Cal. Rules of Court, rule 5.655) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council amend rule 5.655 to comply with changes to Welfare and Institutions Code section 103, effective January 1, 2009, which expand the list of categories protected from discrimination for an adult qualified to act as a CASA volunteer. The amended rule will conform to current statutory mandates and promote consistency. The rule is recommended to be effective January 1, 2010.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts

Item A40 **Juvenile Law: Affidavit Under Penalty of Perjury (revise form JV-210) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council revise form JV-210 because of concerns that the form does not qualify as an affidavit as required under section 329 of the Welfare and Institutions Code since the affiant is not required to sign the declaration under penalty of perjury. The proposed amendments are necessary to promote compliance with that section and with Code of Civil Procedure section 2015.5 and to ensure that form JV-210 serves as a valid affidavit. Various technical and clarifying changes to the form are also proposed. The amended rule will conform to current statutory mandates and promote consistency. The form is recommended to be effective July 1, 2010.

Staff: Ms. Melissa Ardaiz
Center for Families, Children & the Courts

Domestic Violence

Item A41 **Domestic Violence: Judicial Education on Domestic Violence Issues (adopt Cal. Rules of Court, rule 10.464) (Action Required)**

The Domestic Violence Practice and Procedure Task Force and the CJER Governing Committee recommend adoption of a rule to provide for education on domestic violence for trial court judges and subordinate judicial officers. The rule would not increase the total number of hours stated in existing educational requirements and expectations under California Rules of Court, rule 10.462. Rather, it would create a duty for those who hear matters in criminal, family, juvenile delinquency, juvenile dependency, or probate to participate in appropriate education on domestic violence issues within those requirements and expectations, and for judicial officers with primary assignments in these areas, to participate in periodic updates. In addition, the rule would require inclusion of domestic violence issues at the Judicial College and in primary assignment courses for both new and experienced judges. The proposed rule is in response to a recommendation to the Judicial Council and its resulting directive of February 2008. The rule is recommended to be effective January 1, 2010.

Staff: Mr. James M. Vesper
Education Division/CJER
Ms. Bobbie Welling
Center for Families, Children & the Courts

Item A42 **Family Law: Denial of Request for Temporary Restraining Order (revise Judicial Council forms DV-110, DV-125, DV-126-INFO, DV-130, DV-200, DV-210-INFO, DV-250, DV-510-INFO, and DV-540-INFO; adopt form DV-109; and approve form DV-112) (Action Required)**

The Family and Juvenile Law Advisory Committee recommends revising, adopting, and approving specific forms related to the Domestic Violence Prevention Act. Particular changes relate to recent amendments to Family Code section 6320.5, which requires a court to state its reasons when denying a petition for an ex parte restraining order. The forms are recommended to be effective January 1, 2010.

Staff: Ms. Tamara Abrams
Center for Families, Children & the Courts

Miscellaneous

Item A43 **Rules and Forms: Miscellaneous Technical Changes (amend Cal. Rules of Court, rules 2.258, 8.104, 8.130, 8.212, 8.910, 8.1005, and 10.54; and revise forms ADR-103, APP-015/FW-015-INFO, APP-016/FW-016, DV-101, FW-007, FW-008, GC-340, SUBP-010, and SUM-140) (Action Required)**

The Administrative Office of the Courts recommends making technical and minor substantive changes unlikely to create controversy to miscellaneous rules and forms. These changes are necessary to correct inadvertent omissions, typographical errors, language inconsistencies, or changes in the rule and statute name and numbering systems. All rules and forms APP-015/FW-015-INFO, APP-016/FW-016, FW-007, and FW-008 are recommended to be effective January 1, 2010, and forms ADR-103, DV-101, GC-340, SUBP-010, and SUM-140 are recommended to be effective July 1, 2010.

Staff: Ms. Susan R. McMullan
Office of the General Counsel

Item B **Child Support: Base Allocations for AB 1058 Child Support Commissioner and Family Law Facilitator Program, Fiscal Year 2009–2010 (Action Required)**

The Family and Juvenile Law Advisory Committee recommends that the council approve the allocation of non–trial court funding to local courts for the child support commissioner and family law facilitator program. The funds for this program are provided by a cooperative agreement between the California Department of Child Support Services (DCSS) and the Judicial Council. Two-thirds of these funds are federal funds and the remaining one-third are state General Funds (non–trial court

funding). The courts are also being offered an option to use local court funds up to an approved amount to draw down federal matching funds.

Staff: Mr. Michael L. Wright
Family and Juvenile Law Advisory Committee

Item C **Court Interpreters: Certification and Registration Testing Fees (Action Required)**

The Court Interpreters Advisory Panel recommends requiring that court interpreter certification and registration test candidates pay the full cost of their examinations. The Court Interpreters Advisory Panel also recommends delegating authority to the Administrative Director of the Courts to set future court interpreter testing fees, based on competitive market rates. Currently the AOC subsidizes roughly a third of the cost of all examinations, which is both fiscally unsustainable and not a good use of scarce resources. The council should act on this proposal so that the AOC can invest in court interpreter program initiatives that are more likely to produce qualified court interpreters.

Staff: Ms. Lucy Smallsreed
Mr. Ekuike Falorca
Executive Office Programs Division

Item J **Civil Law: Disability Access Litigation (approve form DAL-001) (Action Required)**

The Civil and Small Claims Advisory Committee recommends approval of *Important Information for Building Owners and Tenants* (form DAL-001). Civil Code section 55.3(c) relates to construction-related accessibility claims in which a plaintiff represented by an attorney has made a monetary demand or has filed or is about to file a civil complaint. It requires the attorney to provide a written advisory to the defendant with each monetary demand or complaint and requires the Judicial Council to adopt a form that may be used for this purpose. Form DAL-001 contains the required information. The form is recommended to become effective October 23 1, 2009.

Staff: Ms. Susan R. McMullan
Office of the General Counsel

DISCUSSION AGENDA (Items D–I)

Item D **Presentation of the 2008–2009 Recipients of the Ralph N. Kleps**
9:50–10:20 a.m. **Award for Improvement in the Administration of the Courts (No materials for this item, and no action required)**

Kleps Award Committee Chair Ronald B. Robie will recognize and profile the eight 2008–2009 Kleps Award recipients.

Presentation/Discussion (25 minutes)
Speaker: Hon. Ronald B. Robie
Chair, Kleps Award Committee
Discussion/Council Action (5 minutes)

Item E **Ethics: Amendments to the Code of Ethics for the Court**
10:20–10:35 a.m. **Employees of California (Action Required)**

The Court Executives Advisory Committee recommends that the Judicial Council approve amendments to the *Code of Ethics for the Court Employees of California* to reflect updated and comprehensive tenets and guidelines that support the highest standards of professional integrity and ethical conduct by all court employees. The Supreme Court, Court of Appeal, and most of the trial courts have adopted the current 1994 Code of Ethics version or a local variation of the model code. These proposed revisions are recommended to modernize expectations for ethical employee conduct and ensure the public's trust and confidence in the justice system.

Presentation/Discussion (5 minutes)
Speakers: Mr. Michael D. Planet
Chair, Court Executives Advisory Committee (CEAC)
Ms. Deena Fawcett
Clerk/Administrator, Court of Appeal, Third Appellate District
Ms. Marlene Hagman-Smith
Executive Office Programs Division
Discussion/Council Action (10 minutes)

10:35–10:50 a.m. **BREAK**

Item F **Statement of Policy for Prefunding Other Postemployment**
10:50–11:05 a.m. **Benefits and Establishing Qualified Irrevocable Trusts in the Trial Courts (Action Required)**

The Administrative Office of the Courts proposes that the Judicial Council adopt a policy and guidelines on prefunding other postemployment benefits and the establishment of

irrevocable trusts by the trial courts. The policy would require trial courts to work with the AOC in determining the court's ability to prefund such trusts, as well as the actual process of establishing an irrevocable trust. No current policy or guidelines cover these issues.

Presentation/Discussion (10 minutes)
Speakers: Mr. Ernesto V. Fuentes
Mr. Kenneth R. Couch
Human Resources Division
Discussion/Council Action (5 minutes)

Item G **Allocation of Special Fund Monies for Court System Projects and Programs in FY 2009–2010 (Action Required)**
11:05 a.m.–12:35 p.m.

The Administrative Office of the Courts recommends approval of allocations from the Trial Court Improvement Fund, Judicial Administration Efficiency and Modernization Fund, and Trial Court Trust Fund to support various programs and projects, including statewide administrative and technology infrastructure, judicial education, complex civil litigation, alternative dispute resolution, and self-help.

Presentation/Discussion (45 minutes)
Speakers: Mr. Stephen Nash
Finance Division
Mr. Steven Chang
Finance Division
Discussion/Council Action (45 minutes)

Item I **Adoption and Permanency for Children in California: A Resolution for the Courts (Action Required)**
12:35–12:55 p.m.

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council actively recognize National Adoption Month in California's courts by proclaiming November to be Court Adoption and Permanency Month, as it has since 1999. The goal of the month is to encourage and highlight innovative efforts by courts and local communities to take special measures to expedite adoption and permanency while raising awareness of the need for safe and permanent homes for children. With approximately 71,000 children in California living apart from their families in child welfare–supervised out-of-home care, it is important that California's courts continue to make specific efforts to find them safe and permanent homes. Annual recognition of November as Court Adoption and Permanency Month reinforces the Judicial Council's commitment to finding permanent homes for children.

Presentation (15 minutes)

Speakers: Mr. Christopher Wu
Center for Families, Children & the Courts
Ms. Michelle Sales
CASA volunteer/former foster youth (Stanislaus County)
Discussion/Council Action (5 minutes)

Information Only Item

***Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO)**
Effective February 9, 2009, a revision to form FW-001-INFO was approved by the Executive and Planning Committee on behalf of the Judicial Council to reflect revised federal poverty guidelines in accordance with California Government Code section 68511.3(a)(6)(B).

There have been no Circulating Orders since the last business meeting.

Appointment Orders since the last business meeting.
[Appointment Orders Tab]