

JUDICIAL COUNCIL MEETING
Administrative Office of the Courts
Malcolm M. Lucas Boardroom
455 Golden Gate Avenue
San Francisco, California 94102-3688

December 14, 2010
8:30 a.m.–12:00 p.m.
Business Meeting Open to the Public
(Cal. Rules of Court, rule 10.6(a).)

AGENDA

- 8:30–8:40 a.m. **Public Comment**
(See Cal. Rules of Court, rules 10.6(d) and 10.6(e).)
- 8:40–8:45 a.m. **Approval of Minutes**
Minutes of the October 29, 2010, business meeting.
- 8:45–9:00 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. Douglas P. Miller, Chair
[Committee Reports Tab]
- 9:00–9:10 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.
- 9:10–9:20 a.m. **Administrative Director’s Report**
Mr. William C. Vickrey, Administrative Director of the Courts, will make a report.

CONSENT AGENDA (Items 1–13)

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 1 **Judicial Council–Sponsored Legislation (Criminal Procedure):
Dismissals in the Interests of Justice (amend Pen. Code, § 1385(a))
(Action Required)**

The Policy Coordination and Liaison Committee (PCLC) and the Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend Penal Code section 1385(a), to authorize trial courts to state the reasons for a dismissal in the furtherance of justice on the record as an alternative to setting forth the reasons in an order entered upon the minutes. The proposal is designed to relieve trial courts of an unnecessary mandate and eliminate extraneous proceedings resulting from automatic reversals for failure to set forth the reasons in the minutes as required by the current statute.

Staff: Mr. Arturo Castro
 Office of the General Counsel
 Ms. June Clark
 Office of Governmental Affairs

Item 2 **Judicial Council–Sponsored Legislation (Criminal Procedure):
Obtaining Thumbprints of Felony Defendants (amend Pen. Code,
§ 992) (Action Required)**

The PCLC and the Criminal Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend subdivision (a) of Penal Code section 992, to authorize courts to obtain thumbprints of felony defendants at the earliest possible time but no later than at the arraignment on the information or indictment of upon entry of a guilty or no contest plea under Penal Code section 859a.

Staff: Mr. Arturo Castro
 Office of the General Counsel
 Ms. June Clark
 Office of Governmental Affairs

Item 3 **Judicial Council–Sponsored Legislation (Civil Cases): Vexatious
Litigants (amend Code Civ. Proc., § 391.7; add § 391.8) (Action
Required)**

The PCLC, Trial Court Presiding Judges Advisory Committee and the Civil and Small Claims Advisory Committee recommend that the Judicial Council sponsor legislation to amend Code of Civil Procedure section 391.7(b), and add section 391.8, to improve practice and procedure surrounding filings by vexatious litigants.

Staff: Ms. Susan McMullan
Office of the General Counsel
Mr. Daniel Pone
Office of Governmental Affairs

Item 4 **Judicial Council–Sponsored Legislation (Civil Cases): Judicial Arbitration Statutes (amend Code Civ. Proc., §§ 1141.20 and 1141.23) (Action Required)**

The PCLC and the Civil and Small Claims Advisory Committee recommend that the Judicial Council sponsor legislation to amend Code of Civil Procedure sections 1141.20 and 1141.23 to encourage settlement following judicial arbitration and reduce the number of trial de novo requests. The amendments would (1) provide that a party need not file a request for a trial de novo to stop entry of the arbitrator’s award as the judgment in the case, but instead could file a request for dismissal; and (2) would give parties up to 60 days after filing of the arbitrator’s award to file either of the requests. This should reduce costs for the parties and courts associated with preparing, filing, and processing unnecessary trial de novo requests.

Staff: Ms. Heather Anderson
Office of the General Counsel
Mr. Daniel Pone
Office of Governmental Affairs

Item 5 **Judicial Council–Sponsored Legislation (Probate): Guardianship Venue When Previously Filed Family Code Custody Proceedings Exist (amend Prob. Code, §§ 1514 and 2203; add § 2204) (Action Required)**

The PCLC, Probate and Mental Health Advisory Committee, and the Family and Juvenile Law Advisory Committee recommend that the Judicial Council sponsor legislation to amend provisions of the Probate Code that govern venue in probate guardianship proceedings. The legislation would address situations where a guardianship matter is filed in one county and one or more child custody proceedings under the Family Code concerning the proposed ward have been previously filed in one or more other counties. The legislation would abrogate a portion of a 1951 California Supreme Court decision affecting venue in these circumstances, and establish a procedure under which courts in the guardianship and Family Code custody

proceedings would communicate with each other before the court where the guardianship is filed determines the appropriate forum for that proceeding.

Staff: Mr. Douglas C. Miller
Office of the General Counsel
Ms. Julia Weber
Center for Families, Children & the Courts
Mr. Daniel Pone
Office of Governmental Affairs

Item 6 **Judicial Council Legislative Policy Guidelines: 2010 (Action Required)**

The PCLC recommends that the Judicial Council adopt the updated Legislative Policy Guidelines reflecting actions through the 2010 legislative year. Adoption of these guidelines, setting forth concise policy guidance regarding court-related legislation, will help guide council decision-making on future legislation, consistent with strategic plan goals.

Staff: Mr. Curtis L. Child
Ms. Donna S. Hershkowitz
Office of Governmental Affairs

Item 7 **Traffic: 2011 Uniform Bail and Penalty Schedules (Action Required)**

The Traffic Advisory Committee proposes revisions to the Uniform Bail and Penalty Schedules to become effective January 1, 2011. Vehicle Code section 40310 provides that the Judicial Council must annually adopt a uniform traffic penalty schedule for all nonparking Vehicle Code infractions. Under rule 4.102 of the California Rules of Court, trial courts, in performing their duty under Penal Code section 1269b, must revise and adopt a schedule of bail and penalties for all misdemeanor and infraction offenses except Vehicle Code infractions. The penalty schedule for traffic infractions is established by the schedules approved by the Judicial Council. The proposed revisions bring the schedules into conformance with recent legislation.

Staff: Mr. Courtney Tucker
Office of the General Counsel

Item 8 **Appellate Procedure: Filing, Modification, and Finality of Decisions in Proceedings for Writs of Review of Certain State Agency Decisions (amend Cal. Rules of Court, rule 8.499) (Action Required)**

The Appellate Advisory Committee recommends amending the rule relating to remittitur in proceedings for writs of review of certain state administrative agency decisions to also address the filing, modification, and finality of courts' decisions in these proceedings. This amendment would fill a gap in the California Rules of Court.

Staff: Ms. Heather Anderson
Office of the General Counsel

Item 9 **[Jury Instructions: Additions and Revisions to Civil Instructions, Judicial Council of California Civil Jury Instructions \(CACI\) \(Action Required\)](#)**

The Advisory Committee on Civil Jury Instructions recommends approval of the proposed additions, revisions, and renumbering to the *Judicial Council of California Civil Jury Instructions (CACI)*.

Staff: Mr. Bruce Greenlee
Office of the General Counsel

Item 10 **[Judicial Administration: Membership of the Criminal Law Advisory Committee \(amend Cal. Rules of Court, rule 10.42\) \(Action Required\)](#)**

The Criminal Law Advisory Committee recommends that the Judicial Council amend rule 10.42 of the California Rules of Court to add a probation officer membership category to the Criminal Law Advisory Committee.

Staff: Mr. Arturo Castro
Office of the General Counsel

Item 11 **[Court Facilities: Rules and Regulations for Relocation Payments and Assistance Regarding Real Property Acquisition \(Action Required\)](#)**

The AOC recommends that the Judicial Council of California adopt Rules and Regulations for Relocation Payments and Assistance for Judicial Branch Capital-Outlay Projects (Relocation Rules; see Attachment 1) and direct the Administrative Director of the Courts or a designee to administer the Relocation Rules in accordance with California Relocation Assistance Act (Gov. Code § 7267.8) and the Relocation Assistance and Real Property Acquisition Guidelines (Cal. Code Regs., tit. 25, § 6006). The Relocation Rules provide the framework for implementation of state relocation law in connection with acquisition of sites for court facilities. Adoption of the Relocation Rules is required under Government Code section 7267.8 and section 6006(a) of the guidelines before providing

relocation assistance and benefits to persons, businesses or government agencies or entities displaced by site acquisition activities.

Staff: Mr. Burt Hirschfeld
Ms. Eunice Calvert-Banks
Office of Court Construction and Management
Ms. Rachel Dragolovich
Office of the General Counsel

Item 12 **[Equal Access Fund: Distribution of Partnership Grants \(Action Required\)](#)**

The State Bar Legal Services Trust Fund Commission has submitted a report on the distribution of Equal Access Fund grants. In that report, the commission requests that the Judicial Council approve the distribution of \$2 million according to the statutory formula set out in the State Budget. For the last 10 years, the Budget Act authorizing the Equal Access Fund has provided that the Judicial Council must approve the commission's recommendations if the council determines that the awards comply with statutory and other relevant guidelines.

The AOC recommends that the Judicial Council, effective December 14, 2010, follow the recommendation of the State Bar Legal Services Trust Fund Commission and approve the distribution of \$2 million in Partnership Grants for 2010–2011 according to the terms of the State Budget, and approve the commission's determination that the proposed budget of each individual grant complies with statutory and other guidelines.

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

Item 13 **[School Violence Prevention: Technical Form Revision \(Action Required\)](#)**

An error that could result in confusion has been identified on the recently adopted Judicial Council form Response to *Petition for Orders to Stop Private Postsecondary School Violence* (form SV-120). This proposal would correct that error by restoring a missing word on page one of the form.

Mr. Patrick O'Donnell
Office of the General Counsel

DISCUSSION AGENDA (Items 14–19A and 19B)

Item 14 Judicial Council Legislative Priorities: 2011 (Action Required)

9:20–9:50 a.m.

Each year, the Judicial Council sponsors legislation to further key council objectives. Due to the continuing budget constraints facing the state, the PCLC recommends that the Judicial Council adopt mostly budget and budget-related legislative priorities for 2011, i.e., advocating for sufficient overall funding, funding related to court security, dependency counsel, probate conservatorship, and interpreters, along with the continuing priority of securing new judgeships and expediting the conversion of subordinate judicial officer positions to judgeships on vacancy.

Presentation (15 minutes)

Speakers: Mr. Curtis L. Child
 Ms. Donna S. Hershkowitz
 Office of Governmental Affairs

Discussion/Council Action (15 minutes)

Item 15 Special Funds: Allocations for Fiscal Year 2010–2011 (Action Required)

9:50–
10:35 a.m.

The Judicial Council has statutory authority to allocate funding from statewide special funds for projects and programs that support the trial courts. The AOC presents recommendations related to fiscal year (FY) 2010–2011 allocations for specific projects and programs funded from the Trial Court Improvement Fund, the Judicial Administration Efficiency and Modernization Fund, and the Trial Court Trust Fund (TCTF)

Presentation (30 minutes)

Speakers: Mr. Stephen Nash
 Mr. Steven Chang
 Mr. Colin Simpson
 Finance Division

Discussion/Council Action (15 minutes)

[Statement by the AOC's General Counsel Regarding Judicial Council Responsibility and Authority For Trial Court Budget and Fiscal Management \(for Judicial Council Meeting on December 14, 2010, Agenda Item 15: Special Funds, Allocations for Fiscal Year 2010–2011\)](#)

10:35–10:50 a.m. **BREAK**

Item 16 **This item was removed from the agenda.**

Item 17 **Family Law: Elkins Family Law Implementation Task Force**
10:50– **Interim Report (No Action Required)**
11:15 a.m.

This interim report provides Judicial Council members with information on the Elkins Family Law Implementation Task Force’s progress to date.

Presentation (10 minutes)

Speakers: Hon. Laurie D. Zelon
 Chair, Elkins Family Law Implementation Task Force
 Ms. Bonnie Rose Hough
 Center for Families, Children & the Courts

Discussion (15 minutes)

Item 18 **Trial Courts: Reinstate Local Responsibility for Fiscal Management**
11:15– **of the Superior Courts of Glenn and Placer Counties (Action**
11:35 a.m. **Required)**

The Administrative Director of the Courts recommends that effective January 1, 2011, the Judicial Council reinstate local responsibility for fiscal management of the Superior Courts of Placer and Glenn Counties. On April 23, 2009, the Judicial Council directed the Administrative Director of the Courts to provide oversight for the fiscal operations of those courts under Government Code section 77206.1. The courts have met the criteria for this action by significantly improving their fiscal condition since fiscal year 2008–2009, establishing internal fiscal oversight controls, implementing appropriate financial and operating policies and procedures, stabilizing revenue and expenditure streams, and having sufficient operating and emergency reserves to warrant this recommendation.

Presentation (10 minutes)

Speakers: Ms. Jody Patel
 Regional Administrative Director
 Mr. Curt Soderlund
 Trial Court Administrative Services

Discussion/Council Action (10 minutes)

Item 19A **Commission for Impartial Courts: Recommendations 51 and 52**
11:35 a.m.– **(Action Required)**
12:00 p.m.

The Implementation Committee of the Commission for Impartial Courts is presenting for Judicial Council action two recommendations from the commission’s final report,

both concerning the judicial appointment process and for referral to the State Bar of California for further action. The recommendations in this report are consistent with the prioritization plan accepted by the council at its February 26, 2010, meeting.

Item 19B **[Commission for Impartial Courts: Status Report on Implementation of Recommendations for Safeguarding Judicial Quality, Impartiality, and Accountability in California \(No Action Required\)](#)**

This is an informational report on the first year of implementation efforts of the Commission for Impartial Courts following submission of its final report and recommendations to the council in December 2009.

Presentation (15 minutes)

Speakers: Hon. Ronald B. Robie
 Chair, Task Force on Judicial Selection and Retention
 Hon. Douglas P. Miller
 Chair, Task Force on Judicial Campaign Conduct
 Hon. William A. MacLaughlin
 Chair, Task Force on Judicial Campaign Finance
 Ms. Christine Patton
 Regional Administrative Director

Discussion/Council Action (10 minutes)

Information Only Items (No Action Required)

[Trial Court Quarterly Investment Report for the Period Ending September 30, 2010](#)

Trial court quarterly investment reports provide financial results for the funds invested by the AOC on behalf of the trial courts as part of the judicial branch treasury program. The period covered by this report is from July 1, 2010, through September 30, 2010.

[Court Administration: Trial Court Records Manual](#)

This report introduces the *Trial Court Records Manual*, the initial version of a manual that provides guidance and assistance to the courts in managing court records and modernizing those records. The manual is an important resource containing references, statutes, rules, industry standards, and best practices relating to records management. It implements Assembly Bill 1926 (Evans) and California Rules of Court, rule 10.854. The initial version of the manual (Version 1.0) is effective January 1, 2011.

Government Code Section 68106: Implementation and Notice by Trial Courts of Closing Courtrooms or Clerk's Offices or Reducing Clerk's Office Hours

In the 2010 Judiciary Budget Trailer Bill, Senate Bill 857, the Legislature provided fee increases and fund transfers for the courts and required that courts notify the public and the Judicial Council prior to the closing of courtrooms or clerk's offices or reducing clerk's office hours on days that are not judicial holidays. This report provides information about the implementation of these notice requirements, now codified in Government Code section 68106.

Written Comments Received

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

Appointment Orders since the last business meeting.

[Appointment Orders Tab]