

JUDICIAL COUNCIL MEETING
Minutes of the June 24, 2011, Meeting
San Francisco, California

Chief Justice Tani Cantil-Sakauye, Chair, called the meeting to order at 8:30 a.m. on Friday, June 24, 2011, at the Administrative Office of the Courts (AOC) in San Francisco.

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

Absent: Senator Noreen Evans, Assembly Member Mike Feuer, and Judge Erica R. Yew.

Others present included: Justices Terence L. Bruiniers, Martin J. Jenkins, and William R. McGuinness; **Court Executive Officers:** Mr. David H. Yamasaki and Mr. T. Michael Yuen; Judges David F. De Alba and David M. Rubin; Mr. Michael Fitzpatrick, Ms. Roberta Fitzpatrick, Ms. Britney Huelberg, Ms. Beth Jay, Mr. Harry Ma, Ms. Arcelia Montoya, Mr. Jeff Nicklas, Mr. Brandon Scovill, Ms. Arnella Sims, and Mr. Zlatko Theodorovic; **AOC staff:** Mr. Peter Allen, Ms. Heather Anderson, Mr. Nick Barsetti, Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Nancy Carlisle, Marcia Carlton, Mr. Philip Carrizosa, Mr. James Carroll, Ms. Roma Cheadle, Mr. Curtis L. Child, Mr. Kenneth Couch, Dr. Diane Cowdrey, Mr. Dexter Craig, Mr. Mark W. Dusman, Mr. Edward Ellestad, Mr. Robert Emerson, Mr. Ekuike Falorca, Mr. Chad Finke, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Mr. Bruce Greenlee, Ms. Sue Hansen, Ms. Lynn Holton, Mr. John A. Judnick, Mr. Kenneth L. Kann, Mr. William L. Kasley, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Maria Kwan, Ms. Althea Lowe-Thomas, Ms. Susan McMullan, Mr. Frederick Miller, Mr. Mark A. Moore, Ms. Vicki Muzny, Mr. Stephen Nash, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Dia Poole, Ms. Mary M. Roberts, Mr. Brent Robinson, Ms. Robin Seeley, Mr. Colin Simpson, Mr. Curt Soderlund, Ms. Nancy E. Spero, Mr. Alan Wiener, Mr. Alex Wilson, Mr. Lee Willoughby, and Ms. Daisy Yee; and **media representative:** Ms. Pam MacLean, *Bloomberg News*.

Public Comment

No requests to address the council were received.

Approval of Minutes

The minutes of the April 29, 2011, business meeting were approved.

Chief Justice's Report

Chief Justice Tani Cantil-Sakauye gave her report on the highlights of her activities since the April 29, 2011, Judicial Council meeting.

The Chief Justice reported that at the Planning Meetings on June 22 and 23, the council engaged in productive discussions regarding Judicial Council governance procedures, the nature and length of council meetings, and expanding public participation. As a result of those discussions, the council put together a list of recommendations to be addressed. The Chief Justice announced her intention to form a committee to examine the recommendations and formulate short-term, mid-term, and long-term recommendations for council action. The Chief Justice called for a motion that an internal working group be appointed to address these recommendations and report back to the council. A motion was made, seconded, and passed.

Council action

The Judicial Council, effective June 24, 2011, approved the appointment of an internal working group to examine the council's recommendations from the June 22–23, 2011, Planning Meeting and directed the committee to formulate short-term, mid-term, and long-term recommendations for council action.

Administrative Director's Report

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

Judicial Council Committee Presentations

Executive and Planning Committee

Justice Richard D. Huffman, chair of the Executive and Planning Committee, reported that the committee had met seven times since the April 29, 2011, Judicial Council meeting: by e-mail on May 6 and June 3, in person on May 17 and June 23, and by telephone conference call on May 4, June 1, and June 17.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee, reported that the committee had met five times since the April 29, 2011, Judicial Council meeting: on May 11, May 19, June 3, June 8, and June 15.

Rules and Projects Committee

Justice Douglas P. Miller, chair of the Rules and Projects Committee, reported that the committee had met three times since the April 29, 2011, Judicial Council meeting: by telephone on May 17 and June 13, and in person on May 31.

California Court Case Management System Internal Committee

Judge James E. Herman, chair of the California Court Case Management System (CCMS) Internal Committee reported that the committee has met two times since the April 29, 2011, JC meeting: by e-mail on May 11 and in person on June 21, 2011.

Judge Herman then asked Justice Terence L. Bruiniers, chair of the CCMS Executive Committee, Mr. Ronald G. Overholt, AOC Chief Deputy Director, and Mr. Mark A. Moore,

Executive Program Director of the CCMS Program Management Office, to provide a status update on the CCMS project.

Court Facilities Working Group

Mr. Ronald G. Overholt provided a status report on the Court Facilities Oversight Working Group at the request of Chief Justice Tani Cantil-Sakauye.

CONSENT AGENDA (ITEMS 1–5)

Item 1 Report to the Legislature: Annual Summary of Trial Court Security Plans

The Working Group on Court Security recommended that the council approve a report to the Legislature, as required by statute, with a summary of the submissions from the courts of their security plans. This report fulfills a requirement under Government Code section 69925 that the council submit an annual report on the status of locally negotiated trial-court security plans.

Council action

The Judicial Council, effective June 24, 2011, approved the Working Group on Court Security’s proposed report to the Legislature summarizing locally negotiated court security plans submitted to the AOC by the trial courts, in conformance with the requirements of Government Code section 69925 and rule 10.172(e) of the California Rules of Court.

Item 2 Jury Instructions: Additions and Revisions to Civil Jury Instructions

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

Council action

The Judicial Council, effective June 24, 2011, approved for publication under rule 2.1050 of the California Rules of Court the civil jury instructions prepared by the committee. The new and revised instructions will be published in the June supplement to the 2011 edition of the *Judicial Council of California Civil Jury Instructions (CACI)*.

Item 3 Judicial Branch Administration: Audit Reports for Judicial Council Acceptance

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch recommended that the Judicial Council accept eight audit reports pertaining to the Superior Courts of Colusa, Lassen, Merced, Plumas, San Mateo (two reports), Santa Cruz, and Shasta Counties. This complies with the policy approved by the Judicial Council on August 27, 2010, which specifies council acceptance of audit reports as the last step to finalization of the reports prior to their placement on the California Courts website for public access. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risks.

Council action

The Judicial Council, effective June 24, 2011, accepted the eight audit reports pertaining to the Superior Courts of Colusa, Lassen, Merced, Plumas, San Mateo (two reports), Santa Cruz, and Shasta Counties.

Item 4 Traffic: 2011 Uniform Bail and Penalty Schedules

The Traffic Advisory Committee proposed revisions to the Uniform Bail and Penalty Schedules to become effective July 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 that extends the sunset date from July 1, 2011, to July 1, 2013, for the court security fee of \$40 per conviction in criminal cases, including traffic infraction cases.

Council action

The Judicial Council, effective July 1, 2011, adopted the revised 2011 Uniform Bail and Penalty Schedules to bring the schedules into conformance with recent legislation and extended the sunset date from July 1, 2011, to July 1, 2013, for the court security fee of \$40 per conviction in criminal cases, including traffic infraction cases.

Item 5 Criminal Fines and Fees: Court-Ordered Debt Task Force Report to the Judicial Council and Legislature

The Judicial Council's Court-Ordered Debt Task Force presented this interim report, as required by Penal Code Section 1463.02, to the Judicial Council and to the Legislature on the task force's efforts to evaluate and explore means to streamline the existing structure for imposing and distributing criminal and traffic fines and fees in the State of California. The task force made initial recommendations regarding the priority in which court-ordered debts should be satisfied and the use of comprehensive collection programs authorized under Penal Code Section 1463.07, including associated cost-recovery practices.

Council action

The Judicial Council took no action on this item.

DISCUSSION AGENDA (ITEMS 6–10)

Item 6 Budget: Allocation of \$17.862 Million in 2010 Budget Act Funding for Trial Court Employee Benefits

Presenter: Mr. Stephen Nash, Chief Financial Officer and Director, AOC Finance Division, with the participation of Ms. Vicki Muzny, Finance Division.

The AOC and the Trial Court Budget Working Group recommended an allocation of \$17.862 million in funding provided by the Budget Act of 2010 (Stats. 2010, ch. 712) to address fiscal year 2010–2011 cost changes in court employee retirement, retiree health, and health benefits.

Council action

The Judicial Council, effective June 24, 2011, approved an allocation of \$17.862 million in funding appropriated by the Budget Act of 2010 for FY 2010–2011 trial court cost increases in employee retirement, health, and retiree health benefits, based on a pro rata methodology to courts.

Item 7 **Alternative Dispute Resolution (ADR): Use of Remaining Fiscal Year 2010–2011 Judicial Administration Efficiency and Modernization Fund Allocation for ADR Projects**

Presenters: Mr. Alan Wiener, AOC Office of the General Counsel, and Mr. Colin Simpson, AOC Finance Division.

The AOC recommended that the Judicial Council approve using a portion of the remaining fiscal year 2010–2011 Judicial Administration Efficiency and Modernization Fund that the council allocated for alternative dispute resolution (ADR) projects to (1) increase 10 previously approved FY 2010–2011 Civil Mediation and Settlement Program Awards to superior courts; and (2) produce a video, suitable for statewide use by courts, to promote and facilitate the use of court-connected mediation programs for civil harassment cases. Increasing the Civil Mediation and Settlement Program Awards will enable the recipient courts to continue currently operating ADR projects until December 31, 2011. The proposed video is intended to help reduce court workloads and increase litigant satisfaction in civil harassment cases.

Council action

The Judicial Council, effective June 24, 2011, in a vote of 11 yes and 7 no:

1. Approved using \$282,634 of the FY 2010–2011 ADR allocation to increase FY 2010–2011 Civil Mediation and Settlement Program Implementation and Improvement Project Awards to the Superior Courts of Inyo, Lake, Los Angeles, Monterey, San Diego, San Francisco, San Luis Obispo, Santa Clara, Solano, and Sonoma Counties; and
2. Approved using \$25,300 of the FY 2010–2011 ADR allocation for the AOC to produce a video, suitable for statewide use by courts, to encourage and help self-represented litigants to participate in court-connected mediation programs for civil harassment cases.

A copy of the results of the roll call vote is attached to the minutes.

Item 8 **Judicial Branch Administration: Presentation of Audit Reports for Judicial Council Acceptance**

Presenters: Mr. John A. Judnick, AOC Finance Division, and Mr. T. Michael Yuen, Court Executive Officer, Superior Court of San Francisco County, with the participation of Justice

William R. McGuiness, Chair, Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch.

The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch recommended that the Judicial Council accept the two audit reports that pertain to the Superior Courts of San Francisco and Tehama Counties. This complies with the policy approved by the council on August 27, 2010, which specified council acceptance of audit reports as the last step to finalization of the reports prior to their placement on the California Courts website for public access. Acceptance and publication of these reports will enhance accountability and provide the courts with information to minimize financial, compliance, and operational risk.

Council action

The Judicial Council, effective June 24, 2011, accepted the following two audit reports:

1. Audit report dated May 2010 and entitled *Audit of the Superior Court of California, County of San Francisco*; and
2. Audit report dated June 2010 and entitled *Audit of the Superior Court of California, County of Tehama*.

Item 9 Telephone Appearances: Fees and Revenues

Presenters: Mr. Patrick O'Donnell, AOC Office of the General Counsel, and Mr. Colin Simpson, AOC Finance Division.

To implement Senate Bill 857, the 2010 judicial branch–related budget trailer bill that requires the Judicial Council to establish statewide uniform telephone appearance fees by July 1, 2011, the Office of the General Counsel and the Finance Division of the AOC recommended that the council amend rule 3.670 of the California Rules of Court to establish a uniform telephone appearance fee, a late fee, and a cancellation fee to be charged by vendors and courts for parties and their attorneys to appear by telephone at court hearings, conferences, and proceedings in civil cases. This report also recommended that rule 5.324 on telephone appearances in title IV-D child support proceedings be amended to be consistent with the amendments to rule 3.670. Finally, this report recommended that the Judicial Council (1) approve the proposed method of apportioning among vendors an amount equal to the total revenue received by courts from vendors in fiscal year 2009–2010, and (2) approve the proposed method for allocating the fiscal year 2009–2010 revenue amount among eligible superior courts.

Council action

The Judicial Council, effective July 1, 2011:

1. Amended rule 3.670 of the California Rules of Court on telephone appearances to establish statewide uniform fees for telephone appearances consisting of (1) a telephone appearance fee of \$78, (2) a late request fee of \$30, and (3) a cancellation fee of \$5;
2. Amended rule 5.324 on telephone appearances in title IV-D child support proceedings to provide accurate cross-references to the amended subdivisions in rule 3.670;

3. Approved the method of apportionment of the FY 2009–2010 revenue amount among the vendors that are parties to a master agreement for the provision of telephone appearance services; and
4. Approved the method of allocating quarterly to each eligible superior court an amount equivalent to one-fourth of what the court received in FY 2009–2010 from revenue-sharing arrangements with vendors.

Item 10 Judicial Council Resolution: Recognizing the Service of African-American Justices in the California Courts

Presenters: Mr. William C. Vickrey, Administrative Director of the Courts, and Justice Martin J. Jenkins, Court of Appeal, First Appellate District, Division Three, with the participation of Ms. Dia Poole, AOC Office of Governmental Affairs.

The AOC recommended that the Judicial Council commend the significant achievements of the African-American justices who have served, or are serving, on the California Supreme Court and Courts of Appeal. Recognizing these achievements is especially significant this year since 2011 marks the 70th anniversary year of the appointment of California’s first African-American judge and the 50th anniversary year of the appointment of California’s first African-American justice.

Council action

The Judicial Council, effective June 24, 2011, approved the resolution commending the leadership and achievements of the African-American justices who have served, or are serving, on the California Supreme Court and Courts of Appeal. The resolution also called upon the judicial, legal, and justice communities to acknowledge the occasion of these historic 50th- and 70th-anniversary milestones and to participate in statewide and local celebrations to educate the public and pursue opportunities to discuss enhancing diversity within the branch.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

Trial Courts: Quarterly Investment Report for First Quarter of 2011

This Trial Court Quarterly Investment Report provides the 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 January 1 through March 31, 2011.

Government Code Section 68106: Implementation and Notice by Trial Courts of Closing Courtrooms or Clerks’ Offices or Reducing Clerks’ Office Hours (Report #4)

In the 2010 Judiciary Budget Trailer Bill, Senate Bill 857, the Legislature provided fee increases and fund transfers for the courts and also added section 68106 to the Government Code. The new code section (1) directs trial courts to notify the public and the Judicial Council before closing courtrooms or clerks’ offices or reducing clerks’ office hours on days that are not judicial holidays, and (2) directs the council to post on its website and relay to the Legislature all such court notices. This is the fourth report about the implementation of these notice requirements. Since the previous report, one more court, the Superior Court of Siskiyou County, issued such notice on May 27, 2011,

and the Superior Court of San Francisco, which issued notice of limited service on November 22, 2010, gave notice on May 9, 2011, of its continuation of limited service.

**Circulating Orders since the last business meeting
[CO-11-02 Tab]**

**CO-11-02, Joint Recipients for New Judicial Council Distinguished Service Award:
The Richard D. Huffman Justice for Children and Families Award**

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

In Memoriam

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

- Judge Robert P. Ahern (Ret.), Superior Court of California, County of Santa Clara
- Judge Leighton Hatch (Ret.), Sacramento Superior and Municipal Courts
- Judge Frank S. Petersen (Ret.), Superior Court of California, County of Del Norte
- Judge Benjamin Travis (Ret.), Superior Court of California, County of Alameda

There being no further public business, the meeting was adjourned at 12:40 p.m.

Respectfully submitted,

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

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Circulating Orders since the last business meeting
[CO-11-02 Tab]

**CO-11-02, Joint Recipients for New Judicial Council Distinguished Service Award:
The Richard D. Huffman Justice for Children and Families Award**

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

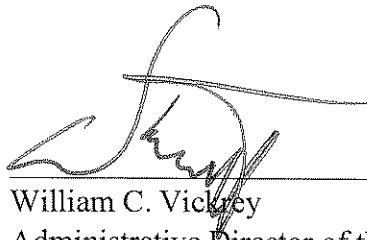
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- Judge Benjamin Travis (Ret.), Superior Court of California, County of Alameda

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Respectfully submitted,



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

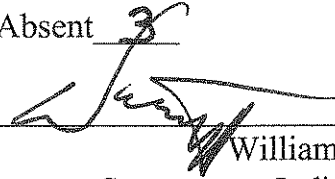
**JUDICIAL COUNCIL
ROLL CALL VOTE**

ATTACHMENT A

Subject # 7 - ADR Date 6-24-11 Tab # 7

NAME	VOTE ¹		
	YES	NO	ABSTAIN
1. Hon. Tani Cantil-Sakauye, Chair	✓		
2. Hon. Stephen H. Baker	✓		
3. Hon. Marvin R. Baxter		✓	
4. Hon. Noreen Evans	N/A	N/A	N/A
5. Hon. Mike Feuer	N/A	N/A	N/A
6. Hon. James E. Herman	✓		
7. Hon. Richard D. Huffman	✓		
8. Hon. Harry E. Hull, Jr.	✓		
9. Hon. Ira R. Kaufman		✓	
10. Ms. Miriam Aroni Krinsky		✓	
11. Hon. Edith R. Matthai		✓	
12. Mr. Joel S. Miliband	✓		
13. Hon. Douglas P. Miller		✓	
14. Hon. Mary Ann O'Malley	✓		
15. Mr. James N. Penrod	✓		
16. Hon. Burt Pines		✓	
17. Hon. Winifred Younge Smith	✓		
18. Hon. Kenneth K. So	✓		
19. Hon. Sharon J. Waters	✓		
20. Hon. David S. Wesley		✓	
21. Hon. Erica R. Yew	N/A	N/A	N/A

Total: Yes 11 No 7 Abstain _____ Absent 3


 William C. Vickrey
 Secretary to Judicial Council

¹ The Secretary will read each voting member's name, in alphabetical order, with the Chair last. Each member, as his or her name is called, responds in the affirmative or negative as shown above. If the member does not wish to vote, he or she answers "present" (or "abstain").

After each member speaks, the Secretary then repeats that member's name and notes that answer in the correct column. At the conclusion of the roll call, the names of those who failed to answer can be called again or the chair can ask if any voting member entered the room after his or her name was called. Changes of vote are permitted at this time, before the result is announced.

In roll call voting, a record of how each member voted, as well as the result of the vote, should be entered in full in the minutes.