JUDICIAL COUNCIL MEETING
Minutes of the October 15, 2004, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:45 a.m. on Friday, October 15, 2004, at the Administrative Office of the Courts (AOC) in San Francisco, California. The Chief Justice administered the oath of office to the following new Judicial Council members: Justice Candace D. Cooper; Judges J. Stephen Czuleger,[1] Douglas P. Miller, James M. Mize, and Suzanne N. Kingsbury; Ms. Tamara Lynn Beard, and Mr. James E. Herman.

Judicial Council members present: Chief Justice Ronald M. George; Associate Justices Marvin R. Baxter, Candace D. Cooper, Richard D. Huffman, and Laurence Donald Kay; Judges J. Stephen Czuleger, Eric L. DuTemple, Michael T. Garcia, Suzanne N. Kingsbury, Jack Komar, William A. MacLaughlin, Douglas P. Miller, Heather D. Morse, William J. Murray, Jr., Michael Nash, and Richard Strauss; Mr. Rex S. Heinke, Mr. James E. Herman, Mr. David J. Pasternak, Ms. Ann Miller Ravel, and Mr. William C. Vickrey; **advisory members:** Judges Frederick Paul Horn and James M. Mize, Commissioner Patricia H. Wong; Ms. Tamara Lynn Beard, Ms. Tressa S. Kentner, and Mr. Alan Slater.

Absent: Assembly Member Ellen M. Corbett and Senator Martha M. Escutia.

Others present included: Chief Justice Kathleen Blatz, Associate Justice James D. Ward; Judges Clifford R. Anderson III, Terence L. Bruiniers, Corey Scott Cramin, Robert H. Gallivan, W. Michael Hayes, Stephen V. Manley, David T. McEachen, Kimberly Menninger, William Michael Monroe, Robert James Moss, Kirk H. Nakamura, and David C. Velasquez; Commissioners Gale Hickman, Barry S. Michaelson, Jane D. Myers, and James L. Waltz; Ms. Catalina Caballero, Ms. Beth Jay, Dr. Norman Myers, Mr. Mark Nielson, Mr. Michael J. Saade, Ms. Amanda Valentine, Ms. Betty Valentine, Mr. Bill Valentine, Mr. Brandon Valentine, Ms. Justice Valentine, and Mr. Nathaniel Valentine; **staff:** Ms. Melissa Ardaiz, Ms. Elizabeth Ashford, Mr. Michael Bergeisen, Mr. Dennis Blanchard, Mr. Keith Britton, Ms. Carolynn Castaneda, Ms. Roma Cheadle, Ms. Kim K. Davis, Ms. Penny Davis, Ms. Charlene Depner, Mr. Robert Emerson, Ms. Sherri Eng, Ms. Nina Erlich-Williams, Ms. Patty Fitzsimmons, Ms. Susan Goins, Ms. Sheila Gonzalez, Ms. Christine M. Hansen, Ms. Lyn Hinegardner, Ms. Lynn Holton, Ms. Bonnie Hough, Ms. Kathleen T. Howard, Ms. Karen Jackson, Mr. Kenneth Kann, Ms. Camilla Kieliger, Mr. Ray LeBov, Mr. James Mensing, Mr. Douglas C. Miller, Mr. Lee Morhar, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Christine Patton, Ms. Romunda Price, Mr. Michael M. Roddy, Ms. Allison

[1] Judge Czuleger was sworn in with the understanding that his term of office would not begin until the conclusion of the term of Judge William A. MacLaughlin.

Schurman, Ms. Robin Seeley, Ms. Sonya Smith, Ms. Pat Sweeten, Ms. Marcia M. Taylor, Ms. Karen M. Thorson, Ms. Alla Urisman, Mr. Joshua Weinstein, Mr. Tony Wernert, and Ms. Pat Yerian; **media representatives:** Ms. Jill Duman, *The Recorder;* and Ms. Donna Domino, *San Francisco Daily Journal*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. Tab letters and item numbers refer to the binder of Reports and Recommendations dated October 15, 2004, that was sent to members in advance of the meeting. Underlined text in council actions indicates a substantive change to the recommendations contained in the binder.

Public Comment Related to Trial Court Budget Issues

The Chief Justice noted that there had been no requests from the public to comment on trial court budget issues.

Approval of Minutes of August 27, 2004

The council approved the minutes of the August 27, 2004, meeting.

Judicial Council Committee Presentations

Executive and Planning Committee

Justice Richard D. Huffman, chair of the Executive and Planning (E&P) Committee, reported on the committee's activities since the August 27, 2004, Judicial Council meeting.

On September 17, 2004, the committee met by conference call to take up two matters that the council had delegated to it—the approval of the budgets for two special funds, the Trial Court Improvement Fund (Improvement Fund) and the Judicial Administration and Modernization Fund (Modernization Fund). After discussion, the committee approved a $34.122 million dollar allocation from the Modernization Fund to benefit trial court operations in three categories: statewide technology projects; education and development projects; and pilot projects, special initiatives, and ongoing projects.

The committee also approved a $138.881 million allocation from the Improvement Fund to divide among four categories: ongoing funding for court-based operations; ongoing statewide programs such as legal services programs, Commission on Judicial Performance insurance, and technology programs; trial court projects; model programs; and emergency funding reserves.

The committee also set the agenda for the October Judicial Council meeting.

On October 14, 2004, E&P met in person to review nominations to be sent to the Chief Justice for the Task Force on Self-Represented Litigants and, to review hypotheticals and work with staff in preparation for the council's issues meeting.

The committee also received a report from staff regarding the Statewide Public Trust and Confidence Survey that is being prepared with the assistance of a research consultant. The survey is a follow-up on the 20/20 Survey but is larger and incorporates more respondents from the general public. The Executive Committee will work with staff on the survey and hopes to have some preliminary results by the time of the April 2005 council meeting. The goal is to have materials that can be discussed at the council's planning meeting in June 2005 and ultimately presented at the Statewide Judicial Conference in September 2005.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported on the committee's activities since the August 27, 2004, Judicial Council meeting.

The committee met by conference call in early August to consider a bill relating to traffic. On October 14, 2004, the committee held an orientation meeting for its new members: Judge Heather D. Morse, who rejoined the committee as vice-chair; Justice Candace D. Cooper; Judges Douglas P. Miller and James M. Mize; and Mr. David J. Pasternak.

Justice Baxter reported that the Legislature had adjourned its session and noted that it had been a very positive legislative year for the council. The Governor had signed into law all six of the Judicial Council–sponsored bills that had passed the Legislature. The Office of Governmental Affairs was preparing the annual *Court News Legislative Summary,* which highlights bills of interest to the courts, for publishing in November.

Justice Baxter noted that the new legislative session would begin on December 6, 2004. The committee had scheduled an extensive conference call for the following week to make recommendations on proposals for Judicial Council–sponsored legislation for 2005. Those proposals were scheduled for discussion with the full council in December 2004.

Rules and Projects Committee

Justice Laurence Donald Kay, chair of the Rules and Projects Committee (RUPRO), reported on the committee's activities since the August 27, 2004, Judicial Council meeting.

Justice Kay noted that the previous membership of RUPRO held its final meeting on September 9, 2004, and that he and the committee's new vice-chair, Judge William J. Murray, Jr., joined the meeting to facilitate the transition of membership.

Justice Kay reported that on September 9, 2004, the committee reviewed the rules proposed for the October council agenda. He noted that RUPRO recommended approval of those items except as described below. The committee recommended approval of items A1 and A3 through A37 on the consent agenda and items D1 through D9 on the discussion agenda. Item A2, concerning telephone appearances by attorneys, was moved from the consent agenda to the discussion agenda, and RUPRO did not recommend that the council approve that item at the October meeting.

The previous membership referred parts of proposals A9 and A12 to the new membership. As explained in RUPRO's written recommendations, the new committee met by telephone on September 30, 2004, to review and approve modified versions of the proposals resulting from revisions by the advisory committees and AOC staff.

With respect to item D3 on remote public access to electronic records in extraordinary criminal cases, RUPRO recommended approval and two additional recommendations—that staff: (1) provide an annual report to the council on the use of the proposed rule and (2) prepare a how-to manual to assist the courts with establishing systems and procedures for remote access under proposed rule 27(e)(3)(e). Also on September 30, 2004, the committee approved a new rule proposal for public circulation.

On October 14, 2004, RUPRO held an in-person orientation meeting and approved another new rule proposal for public circulation. Those two proposals, along with three other pending rule proposals on special cycles, will come before the council at its December meeting.

Also on October 14, 2004, RUPRO reviewed a proposal to amend two related items on the October 15 council discussion agenda: items D4 and D5 on rules and forms concerning education, training, and experience requirements for mediators and evaluators in family and juvenile proceedings. The additional proposed amendments—which were distributed to council members at the October 15 meeting—would require AOC approval of all providers of training to mediators and evaluators in family and juvenile proceedings and strengthen the mechanism for verifying their training.

RUPRO recommended that the council approve the final proposals.

Chief Justice Ronald M. George thanked the committee chairs for their reports and reported on some of his activities since the August council meeting. He noted that he had participated in the dedication of the new juvenile facility of the Superior Court of San Bernardino County at the invitation of council member Ms. Tressa S. Kentner. He

observed that when he had visited the San Bernardino County court's juvenile facilities in his first year as Chief Justice, they were the worst in the state, but the new facility is something the court can be very proud of. He congratulated the court on its success and recommended the new juvenile facility as a model for other courts around the state.

Chief Justice George announced his plan to travel to the Superior Court of Riverside County in October for the very first transfer of trial court facilities from county to state maintenance and ownership under the Trial Court Facilities Act of 2002.

Chief Justice George also reported that he had attended the State Bar annual meeting in Monterey and the concurrent meeting of the California Judges Association (CJA). The meetings were excellent, and the Chief Justice had many speaking engagements. He observed a spirit of cooperation between the bar and the bench and CJA. He commended council member and CJA president Judge James M. Mize on his speech on judicial independence to the delegates.

Chief Justice George introduced and welcomed a visitor to the council meeting: Minnesota Chief Justice Kathleen Blatz. He also welcomed a group of judges and staff visiting from the Superior Court of Orange County: Judges Corey Scott Cramin, Robert H. Gallivan, W. Michael Hayes, David T. McEachen, Kimberly Menninger, William Michael Monroe, Robert James Moss, Kirk H. Nakamura, and David C. Velasquez; Commissioners Gale Hickman, Barry S. Michaelson, Jane D. Myers, and James L. Waltz; and Ms. Catalina Caballero.

Presiding Judge Frederick Paul Horn of the Superior Court of Orange County, a council member, welcomed the Orange County group and thanked AOC staff for their role in organizing presentations for the visiting judges. He noted that he had brought several groups of judges to San Francisco to observe a council meeting and learn about the AOC, and that the program had been very beneficial.

Judge Suzanne N. Kingsbury noted that members of her court had also benefited from a visit to the AOC.

Mr. James E. Herman thanked the Chief Justice for his attendance at the annual State Bar meeting and for his State of the Judiciary address at the meeting. He also noted that it was a pleasure to have the CJA hold its meeting in conjunction with the State Bar meeting.

Mr. William C. Vickrey thanked the council members who had participated in the regional meetings with judges at the last judicial college. The purpose of the meetings was to expose the judges to some of the issues faced by the judicial branch and to get their feedback. He noted that the meetings had been well attended and beneficial.

Judges Richard Strauss, Jack Komar, and Michael T. Garcia also commented favorably on the meetings.

Mr. Vickrey announced that Ms. Bonnie Hough, an attorney in the AOC's Center for Children, Families & the Courts, had received the prestigious California Women Lawyers' Fay Stender Award for her commitment to the representation of women, disadvantaged groups, and unpopular causes and for her demonstrated ability to effect change as a single individual and a role model for women attorneys.

Mr. Vickrey announced the retirement of Mr. Ray LeBov, and he and the Chief Justice expressed their appreciation for Mr. LeBov's many contributions to the state justice system throughout his long career in the AOC's Office of Governmental Affairs. Mr. Vickrey then announced the appointment of Ms. Kathleen T. Howard as the new director of the Office of Governmental Affairs.

Resolution—Achieving Permanency for Children in California: A Resolution for the Courts

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt a resolution that the month of November 2004 is Court Adoption and Permanency Month.

Ms. Diane Nunn and Ms. Patty Fitzsimmons presented this item and introduced the Valentine family: Bill and Betty Valentine and their four adopted children, Amanda, Brandon, Justice, and Nathaniel.

> ***Council action***
> The Judicial Council approved and adopted a resolution proclaiming that the month of November 2004 would be Court Adoption and Permanency Month.

CONSENT AGENDA

ITEM A RULES, FORMS, AND STANDARDS

Appellate

Item A1 Appellate Procedure: Designation and Preparation of the Record (amend Cal. Rules of Court, rules 4, 5, and 5.1)

To help clerks identify the appeal for which a record designation is filed, the Appellate Advisory Committee recommends amending rules 4, 5, and 5.1 to require that the party designating the record provide the date on which the notice of appeal was filed. The

committee also recommends amending rule 5.1 to establish a new procedure for use by a party preparing an appendix to request an exhibit from another party.

Council action
The Judicial Council, effective January 1, 2005, amended rules 4, 5, and 5.1 of the California Rules of Court to:

1. Require that the party designating the record provide the date on which the notice of appeal was filed; and
2. Establish a new procedure that a party preparing an appendix can use to request an exhibit from another party.

Item A2 Telephone Appearances (amend Cal. Rules of Court, rules 212 and 298)
[This item was moved to the end of the Discussion Agenda.]

Civil and Small Claims

Item A3 *Notice and Acknowledgment of Receipt* (revise and renumber form 982(a)(4))

The Civil and Small Claims Advisory Committee recommends revising the *Notice and Acknowledgment of Receipt* form to delete obsolete references to family law documents. The references to these documents are no longer accurate because the names of the documents have been changed, and the references are unnecessary because the new *Notice and Acknowledgment of Receipt* form is not available for use in family law cases. This form would be designated "Civil" to distinguish it from the new family law forms. Some stylistic changes would be made to improve this form, which has not been revised since 1975.

Council action
The Judicial Council, effective January 1, 2005:

1. Revised form 982(a)(4) to conform it more closely to statute and make technical changes;
2. Renamed the form *Notice and Acknowledgment of Receipt—Civil* to reflect that similar notice and acknowledgment of receipt of forms now exist for family law cases and that this form need be used only in other civil matters; and
3. Renumbered the form POS-015 to place it in the new proof of service (POS) forms category.

Item A4 Proofs of Service (approve forms POS-020, POS-020(D), POS-020(P), POS-030, POS-030(D), POS-030(P), POS-040, POS-040(D), and POS-040(P))

The Civil and Small Claims Advisory Committee recommends approving three optional forms for proof of service of documents in civil cases. One form would be used to show service by personal delivery; the second would be used to show service by mail; and the third would be a multipurpose form to show service by a variety of means. Attachments to show service on multiple parties and service of multiple documents would also be approved. These proof of service forms should be particularly helpful for self-represented litigants in civil cases.

Council action
The Judicial Council, effective January 1, 2005, approved the following proof of service forms for general use in civil cases:

1. *Proof of Personal Service—Civil* (form POS-020);
2. *Attachment to Proof of Personal Service—Civil (Documents Served)* (form POS-020(D));
3. *Attachment to Proof of Personal Service—Civil (Persons Served)* (form POS-020(P));
4. *Proof of Personal Service by First-Class Mail—Civil* (form POS-030);
5. *Attachment to Proof of Personal Service by First-Class Mail—Civil (Documents Served)* (form POS-030(D));
6. *Attachment to Proof of Personal Service by First-Class Mail—Civil (Persons Served)* (form POS-030(P));
7. *Proof of Personal Service—Civil* (form POS-040);
8. *Attachment to Proof of Personal Service—Civil (Documents Served)* (form POS-040(D)); and
9. *Attachment to Proof of Personal Service—Civil (Persons Served)* (form POS-040(P)).

Item A5 Elder and Dependent Adult Abuse Prevention (revise forms EA-100, EA-110, EA-120, EA-130, EA-140, EA-141, and EA-150)

The Civil and Small Claims Advisory Committee recommends revising seven forms used in cases involving abuse of elders or dependent adults. Based on public comments, improvements would be made to the forms. For instance, the petition would identify the statutory time for service as well as provide a space for requesting an alternative, shortened time; the order to show cause would include a notice concerning the availability of assisted listening devices; and the instructions form would be updated. These revisions should make the forms more effective.

Council action
The Judicial Council, effective January 1, 2005, revised:

1. *Petition for Protective Orders (Elder or Dependent Adult Abuse)* (form EA-100);
2. *Response to Petition for Protective Orders (Elder or Dependent Adult Abuse)* (form EA-110);
3. *Order to Show Cause and Temporary Restraining Order (Elder or Dependent Adult Abuse) (CLETS)* (form EA-120);
4. *Restraining Order After Hearing (Elder or Dependent Adult Abuse) (CLETS)* (form EA-130);
5. *Proof of Personal Service (Elder or Dependent Adult Abuse)* (form EA-140);
6. *Proof of Personal Service by Mail (Elder or Dependent Adult Abuse)* (form EA-141); and
7. *Instructions on Petition for Protective Order to Prevent Elder or Dependent Adult Abuse* (form EA-150).

Item A6 Workplace Violence (revise forms WV-100, WV-120, WV-130, WV-131, WV-132, WV-140, and WV-150)

The Civil and Small Claims Advisory Committee recommends revising seven forms used in cases involving workplace violence. Based on public comments, improvements would be made to the forms. For instance, the petition would more clearly identify related actions; the order to show cause would include a notice concerning the availability of assisted listening devices; and the order to show cause and order after hearing would be made mandatory. These revisions should make the forms more effective.

Council action
The Judicial Council, effective January 1, 2005, revised:

1. *Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (Workplace Violence)* (form WV-100);
2. *Order to Show Cause and Temporary Restraining Order (CLETS) (Workplace Violence)* (form WV-120);
3. *Proof of Personal Service (Workplace Violence)* (form WV-130);
4. *Proof of Service by Mail of Completed Response (Workplace Violence)* (form WV-131);
5. *Proof of Service by Personal Delivery of Completed Response (Workplace Violence)* (form WV-132);
6. *Order After Hearing on Petition of Employer for Injunction Prohibiting Violence or Threats of Violence Against Employee (CLETS) (Workplace Violence)* (form WV-140); and
7. *Instructions for Petitions to Prevent Workplace Violence* (form WV-150).

Item A7 Elder Abuse and Workplace Violence: Proof of Sale or Turning In of Firearms (revise and renumber form CH-145/EA-145/WV-145)

The Civil and Small Claims Advisory Committee recommends revising the traditional-style form for proof of sale of firearms or turning in of firearms to apply only to cases involving elder or dependent adult abuse or workplace violence. A new plain-language form for this purpose in civil harassment cases would be approved separately as part of the set of plain-language civil harassment prevention forms. As a result, there would be two forms for proof of firearms relinquishment. Each would be formatted specifically for the set of forms that it assists in implementing.

> ***Council action***
> The Judicial Council, effective January 1, 2005, revised, renumbered, and renamed *Proof of Sale of Firearms/Turning In of Firearms* (form CH-145/EA-145/WV-145) so that it applies only to elder and dependent adult abuse and workplace violence cases and incorporates minor technical revisions.

Item A8 *Exemptions From the Enforcement of Judgments* (revise form EJ-155)

The Civil and Small Claims Advisory Committee recommends revising the form containing the list of exemptions from enforcement of judgments to eliminate technical defects. For instance, a statutory exemption that has been repealed would be removed from the list; some repetitive information would be eliminated; and minor typographic errors would be corrected.

> ***Council action***
> The Judicial Council, effective January 1, 2005, revised form EJ-155, *Exemptions From the Enforcement of Judgments,* to correct outdated references and technical defects.

Item A9 Civil Harassment Forms: Plain-Language Versions (revise forms CH-100, CH-101/DV-290, CH-110, CH-120, CH-125, CH-130, CH-131, CH-140, CH-145, and CH-150; adopt forms CH-135 and CH-151)

The Civil and Small Claims Advisory Committee recommends revising 10 forms used in cases involving civil harassment and adopting 2 new forms to provide information for litigants in these cases. All the forms would be in the plain-language style that already has been implemented in forms used in domestic violence cases. The new format should make the civil harassment forms easier for litigants to understand and use; hence, the forms should improve access to the courts, particularly for self-represented litigants.

Council action
The Judicial Council, effective January 1, 2005, revised the following civil harassment forms to make them plain-language forms:

1. *Request for Orders to Stop Harassment* (form CH-100);
2. *Request and Order for Free Service of Restraining Order* (form CH-101/ DV-290);
3. *Answer to Request for Orders to Stop Harassment* (form CH-110);
4. *Notice of Hearing and Temporary Restraining Order (CLETS)* (form CH-120);
5. *Reissue Temporary Restraining Order* (form CH-125);
6. *Proof of Personal Service* (form CH-130);
7. *Proof of Service by Mai*l (form CH-131);
8. *Restraining Order After Hearing to Stop Harassment (CLETS)* (form CH-140);
9. *Proof of Firearms Turned in or Sold* (form CH-145); and
10. *Can a Civil Harassment Restraining Order Help Me?* (form CH-150).

In addition, the Judicial Council, effective January 1, 2005, adopted the following plain-language forms:

1. *What is "Proof of Service"?* (form CH-135); and
2. *How Can I Answer a Request for Orders to Stop Harassment?* (form CH-151).

Item A10 Small Claims Plain-Language Claim Forms (revise form SC-100; adopt form SC-100A; repeal form SC-160)

The Civil and Small Claims Advisory Committee recommends replacing the current small claims mandatory claim form with a plain-language version; adopting a new plain-language attachment form for listing additional parties, to replace an existing form; and repealing the existing attachment form. Small claims forms in plain English are easier for laypersons to understand and complete, and they promote the Judicial Council objective of greater access to the courts.

Council action
The Judicial Council, effective January 1, 2005:

1. Renamed mandatory form SC-100 *Plaintiff's Claim and Order to Go to Small Claims Court* and revised it to make it a plain-language form;
2. Adopted form SC-100A, *Other Plaintiffs or Defendants*, a plain-language form, to list additional parties when more than one plaintiff is suing or more than one defendant is being sued in small claims court; and
3. Repealed form SC-160, which was replaced by form SC-100A.

Item A11 Small Claims: *Proof of Service (Small Claims)* and *Attachment to Form SC-104: Proof of Mailing After Substituted Service (Small Claims)* (revise form SC-104; approve form SC-104A)

The Civil and Small Claims Advisory Committee recommends revising the small claims proof of service form by reorganizing the substituted service methods to match the recently revised general civil proof of summons forms (including a recent legislative change concerning substituted service on a person apparently in charge at a private post office box if the party's physical address is unknown) and by making technical changes. The committee also recommends approving a new optional small claims attachment form for proof of mailing after substituted service when someone other than the person who served the documents by substituted service did the mailing.

Council action
The Judicial Council, effective January 1, 2005:

1. Revised the optional *Proof of Service (Small Claims)* (form SC-104) to:
   a. Reorganize the substituted service methods on the form to include the recent amendment to Code of Civil Procedure section 415.20 that allows substituted service to be made on a person apparently in charge at a private post office box if the party's physical address is unknown, and to conform to the format and style of the recently revised civil and family law proof of service forms POS-010 and FL-115;
   b. Delete "Subpena Duces Tecum" from the list of documents that are regularly served because a separate subpoena duces tecum form, SC-107, which has a proof of service on the reverse of the form, was adopted for mandatory use effective January 1, 2000; and
   c. Add an instruction at the beginning of the form directing the parties to read *Information for the Small Claims Plaintiff* (form SC-150) before filling out the form (this information sheet gives detailed instructions on how to serve a claim); and

2. Approved the optional *Attachment to Form SC-104: Proof of Mailing After Substituted Service (Small Claims)* (form SC-104A), to be completed by the person who mailed copies of the documents if they were mailed by someone other than the person who served the documents by substituted service.

Item A12 Small Claims Rules on Appeal (amend Cal. Rules of Court, rules 151–156)

The Civil and Small Claims Advisory Committee recommends amending the small

claims rules on appeal to reflect the small claims de novo appeal procedure in a postunification court system and to make other technical and clarifying amendments.

Council action
The Judicial Council, effective January 1, 2005, amended rules 151–156 of the California Rules of Court, under Chapter III of Title I—with a new title, "Trial of Small Claims Cases on Appeal"—to reflect the small claims de novo appeal procedure in a post-unification court system and to make other technical and clarifying amendments.

Item A13 Default Judgment (amend Cal. Rules of Court, rule 388; revise form 982(a)(6))

The Civil and Small Claims Advisory Committee recommends amending rule 388, governing default judgments, to allow the use of the recently approved form *Declaration for Default Judgment by Court* instead of personal testimony when a party seeks a default judgment on declarations in an unlawful detainer case. The committee also recommends revising form 982(a)(6), *Request for Entry of Default,* to state that the memorandum of costs must be completed if a "money" judgment is requested and to reflect recent federal legislation renaming an act "Servicemembers Civil Relief Act."

Council action
The Judicial Council, effective January 1, 2005:

1. Amended rule 388 of the California Rules of Court to allow the filing of optional form UD-116, *Declaration for Default Judgment by Court (Unlawful Detainer—Code Civ. Proc., § 585(d)),* when a party seeks a default judgment on declarations in an unlawful detainer case; and
2. Revised form 982(a)(6), *Request for Entry of Default*, to (a) require that item 7, Memorandum of Costs, be completed only when a money judgment is requested and (b) modify the Declaration of Nonmilitary Statutes under item 8 to refer to the Servicemembers Civil Relief Act.

Item A14 Unlawful Detainer Complaint (revise and renumber form 982.1(90))

The Civil and Small Claims Advisory Committee recommends revising the unlawful detainer complaint form to add new information and attachments that must be provided by the plaintiff and an optional "60-day notice to quit" box. These changes would conform to recent legislative amendments. The committee also recommends renumbering the form UD-100 to conform to current the policy of identifying forms by subject-matter designators.

Council action
The Judicial Council, effective January 1, 2005:

1. Renumbered form 982.1(90) as UD-100 to conform to the current Judicial Council policy of identifying forms by subject-matter designators; and

2. Revised the *Complaint—Unlawful Detainer* (form UD-100) to conform to recent legislative amendments, by:
   a. Incorporating information and attachments that must be provided by the plaintiff under changes to Code of Civil Procedure section 1166, operative on January 1, 2005, and
   b. Adding an optional box for "60-day notice to quit" under item 7a, to conform to recently amended Civil Code section 1946.1.

Item A15 Unlawful Detainer Request to Set Case for Trial (adopt form UD-150)

The Civil and Small Claims Advisory Committee recommends adopting a mandatory form to set an unlawful detainer case for trial that conforms to California statutory requirements, establishes whether the case is entitled to preference in setting the trial, and serves as a uniform state form.

Council action
The Judicial Council, effective January 1, 2005, adopted mandatory form UD-150, *Request/Counter-Request to Set Case for Trial—Unlawful Detainer,* to:

1. Implement Code of Civil Procedure section 1170.5;
2. Establish whether the case is entitled to preference in setting the trial under Code of Civil Procedure section 1179a; and
3. Serve as a uniform statewide form.

Item A16 Unlawful Detainer: Obsolete Pilot Project Pleading Forms (revoke forms 982.1(90S) and 982.1(95S); amend Cal. Rules of Court, rule 201.2)

The Civil and Small Claims Advisory Committee recommends revoking two obsolete pilot project unlawful detainer forms and deleting a rule's reference to one of the obsolete forms.

Council action
The Judicial Council, effective January 1, 2005:

1. Revoked the *Complaint—Unlawful Detainer (Pilot Project—C.C.P. § 1167.2)* (form 982.1(90S)) and *Reply—Unlawful Detainer (Pilot Project—C.C.P. § 1167.2)* (form 982.1(95S)); and
2. Amended rule 201.2 of the California Rules of Court to delete obsolete form 982.1(95S) from the list of Judicial Council pleading forms and replace it with form 982.1(95), which is the last pleading form in the series after form 982.1(95S) is removed.

Criminal Law

Item A17 Sexually Violent Predator Cases: Standardized Commitment Forms (approve forms MC-280 and MC-281)

The Criminal Law Advisory Committee recommends approving two new forms to provide uniform orders for commitment in sexually violent predator cases. Under Welfare and Institutions Code section 6600 et seq., sexually violent predators may be committed to the Department of Mental Health for an initial two-year period and subsequent two-year extended commitments. The Department of Mental Health suggested standardized commitment forms because current commitment orders vary significantly and may not include all the necessary information.

Council action
The Judicial Council, effective January 1, 2005, approved optional forms MC-280, *Order for Commitment,* and MC-281, *Order for Extended Commitment,* to provide uniform orders for commitment in sexually violent predator cases.

Item A18 Criminal Sentencing: New Restitution Collection Forms (approve forms CR-118 and CR-119)

The Criminal Law Advisory Committee recommends approving two new forms that would provide statewide consistency concerning the entry of income deduction orders for collection of restitution. Legislation designed to increase restitution collection requires courts to enter and stay income deduction orders and provide the defendant with certain notices regarding the income deduction order. (Pen. Code, § 1202.42(a).) Courts have suggested that it would be helpful if there were statewide optional forms for the courts to use to enter these income deduction orders. These optional forms would assist courts in complying with the statutory requirement regarding income deduction orders.

Council action
The Judicial Council, effective January 1, 2005, approved forms CR-118, *Information Regarding Income Deduction Order,* and CR-119, *Order for Income Deduction,* to establish statewide forms concerning the entry of an income deduction order for collection of restitution.

Item A19 Criminal Procedure: Rule Governing Readiness Conferences (amend Cal. Rules of Court, rule 4.112)

The Criminal Law Advisory Committee recommends amending rule 4.112 to remove the requirement of a readiness conference. The rule currently requires courts to hold a readiness conference in a criminal case 1 to 14 days prior to the date set for trial. Some courts, however, find that their readiness conferences are counterproductive since they do not result in enough settled cases to be effective. The proposed amendment would make readiness conferences discretionary.

> ***Council action***
> The Judicial Council, effective January 1, 2005, amended rule 4.112 of the California Rules of Court to remove the requirement of a readiness conference in criminal cases and to specify that the rule applies only to felony cases.

Item A20 Criminal Procedure: New Form for Person Convicted of Crime to Petition for Expungement (approve form CR-180)

The Criminal Law Advisory Committee recommends approving a form by which defendants may petition courts to remove criminal convictions from their records. The Penal Code provides procedures for defendants who have satisfactorily completed probation to follow in petitioning the court to have the convictions removed from their records. If the court grants the petition, the guilty plea will be withdrawn or the finding of guilt will be set aside, a plea of not guilty will be entered, and the case will be dismissed. Petitioning the court to set aside the conviction can be confusing, and hiring an attorney to do so can be costly. This optional form has a simple check-box format to alleviate those burdens.

> ***Council action***
> The Judicial Council, effective January 1, 2005, approved form CR-180, *Petition and Order for Expungement,* so that defendants may petition courts to remove criminal convictions from their record.

Item A21 Criminal Procedure: New Form for Identity Theft Victims, *Petition for Certificate of Identity Theft* (approve form CR-151*)*

The Criminal Law Advisory Committee recommends approving a form to assist identity theft victims in obtaining a judicial finding of identity theft under the Penal Code. Currently, identity theft victims may petition the court for a certificate of identity theft. However, according to the California Department of Consumer Affairs' Office of Privacy Protection (OPP), very few certificates have been requested because the procedure is unclear and difficult. Thus, OPP requested that the Judicial Council develop forms for

identity theft victims to use in petitioning for a certificate of identity theft under Penal Code section 530.6. The proposed petition is an optional form that an identity theft victim can use to provide the court with information about the criminal case with which the victim's name was erroneously associated.

> ***Council action***
> The Judicial Council, effective January 1, 2005, approved form CR-151, *Petition for Certificate of Identity Theft,* to assist identity theft victims in obtaining a judicial finding of identity theft under Penal Code section 530.6.

Family and Juvenile Law

Item A22 Juvenile Law: Maintaining Children's Important Relationships (amend Cal. Rules of Court, rules 1410, 1412, 1460–1463, and 1466; revise form JV-365)

The Family and Juvenile Law Advisory Committee recommends amending seven juvenile dependency rules and revising one form to include new requirements for maintaining children's relationships with significant individuals in their lives. These revisions conform the rules and form to statutory changes that went into effect on January 1, 2004. This proposal also includes minor technical changes to conform the rules to other existing laws.

> ***Council action***
> The Judicial Council, effective January 1, 2005, amended rules 1410, 1412, 1460–1463, and 1466 of the California Rules of Court and revised form JV-365, *Termination of Dependency Jurisdiction—Child Attaining Age of Majority,* to conform the rules and form to new statutory language and to make technical changes, including corrections of typographical errors and inadvertent omissions of necessary statutory language.

Item A23 Indian Child Welfare Act (amend Cal. Rules of Court, rule 1439; adopt forms JV-130, JV-135, and ADOPT-226; revise form ADOPT-225)

The Family and Juvenile Law Advisory Committee proposes amending rule 1439, revising form ADOPT-225, and adopting forms JV-130, JV-135, and ADOPT-226 to clarify when and how notice should be given under the federal Indian Child Welfare Act (ICWA) in juvenile dependency, delinquency, status offense, and adoption cases. ICWA requires courts and agencies to follow specific procedures to notify Indian tribes and the Bureau of Indian Affairs when a child may be an Indian child subject to ICWA. Numerous California appellate cases have resulted in reversals of juvenile court orders due to defective notice under ICWA. In addition, Senate Bill 947 (Ducheny; Stats. 2003, ch. 469), effective January 1, 2004, requires that notice of voluntary adoption proceedings be

given to any Indian tribe of which the prospective adoptive child is a member or in which the child may be eligible for membership.

Council action
The Judicial Council, effective January 1, 2005:

Amended rule 1439 of the California Rules of Court; adopted mandatory forms *Parental Notification of Indian Status (Juvenile Court)* (form JV-130), *Notice of Involuntary Child Custody Proceedings for an Indian Child (Juvenile Court)* (form JV-135), and *Notice of Voluntary Adoption Proceedings for an Indian Child* (form ADOPT-226); and revised *Parent of Indian Child Agrees to End Parental Rights* (form ADOPT-225), to:

1. Clarify that ICWA applies to certain delinquency and status offense proceedings;
2. Clarify the notice procedures and content under ICWA; and
3. Add an advisory committee comment to reflect the availability of relevant information on the Web site of the Administrative Office of the Courts' Center for Families, Children & the Courts.

Item A24 Juvenile Law: Appeal of Placement Orders After Termination of Parental Rights (Welf. & Inst. Code, § 366.28) (adopt Cal. Rules of Court, rules 38.2 and 38.3)

The Family and Juvenile Law Advisory Committee recommends adopting rules 38.2 and 38.3 to create a writ process for appeals from placement orders in dependency cases that are issued after the parental rights have been terminated. Implementation of this writ process is required by Senate Bill 59 (Escutia; Stats. 2003, ch. 247), which added section 366.28 to the Welfare and Institutions Code. Proposed rules 38.2 and 38.3 were drafted to set forth a substantive writ process with the same timing and filing requirements as rule 38 (formerly rule 39.1B).

Council action
The Judicial Council, effective January 1, 2005, adopted rules 38.2 and 38.3 of the California Rules of Court to introduce the procedural requirements for appealing a post-determination placement order for a dependent child.

Item A25 Juvenile Law: Psychotropic Medication Forms (revise forms JV-220 and JV-220A)

The Family and Juvenile Law Advisory Committee recommends revising the psychotropic medication forms to assist the court in making a timely decision about the

administration of medication to a dependent child who has been removed from a parent's physical custody and to make the forms easier to read, understand, and complete.

Council action
The Judicial Council, effective January 1, 2005:

Revised form JV-220, *Application and Order for Authorization to Administer Psychotropic Medication—Juvenile,* and form JV-220A, *Opposition to Application for Authorization to Administer Order for Psychotropic Medication—Juvenile,* to assist the court in making a timely decision regarding the administration of psychotropic medication to a dependent child who has been removed from a parent's physical custody and to make the forms easier to read, understand, and complete.

Item A26 Court Appointed Special Advocates: Program Guidelines (amend Cal. Rules of Court, rule 1424)

The Family and Juvenile Law Advisory Committee recommends revising rule 1424 of the California Rules of Court to clarify state requirements for California Court Appointed Special Advocate (CASA) programs. Currently rule 1424 contains both state-mandated requirements and general recommendations for the operation of CASA programs. The inclusion of recommendations in the rule causes confusion for CASA programs. Moving the recommendations out of the rule and clarifying the state requirements will help CASA programs meet their obligations and plan their operations.

Council action
The Judicial Council, effective January 1, 2005, amended rule 1424 of the California Rules of Court to:

1. Eliminate recommendations for CASA program operations and limit the rule's scope to requirements that California CASA programs must meet to retain Judicial Council funding; and
2. Add a provision authorizing the Administrative Office of the Courts to create a policies and procedures manual containing recommended protocols for CASA programs.

Item A27 Juvenile Law: Miscellaneous Rules (amend Cal. Rules of Court, rules 37.2, 1438, 1449, and 1450)

The Family and Juvenile Law Advisory Committee has grouped several juvenile-related issues in one proposal. In response to court executives' requests for clarification, the committee proposes amending rule 37.2 (formerly rule 39) to specify that the court that made the order being appealed must pay all allowable costs for the preparation of the

clerk's and reporter's transcripts in juvenile dependency cases in which an appeal has been filed after a case has been transferred to another county pursuant to rule 1425.

The committee also proposes amending rules 1438, 1449, and 1450 to implement legislative mandates from the 2003–2004 session.

Council action
The Judicial Council, effective January 1, 2005:

1. Amended rule 37.2 (previously rule 39) of the California Rules of Court to clarify that when an issue is appealed after the matter is transferred to another county pursuant to rule 1425, the court that made the order being appealed must pay all allowable costs for the preparation of the clerk's and reporter's transcripts;
2. Amended rule 1438 to require attorneys for dependent children to provide their contact information to the child's caregivers, and to the child in specified circumstances, in a timely manner;
3. Amended rule 1450 to provide that when allegations under Welfare and Institutions Code section 300 are not proven, the court must order the child's return to the physical custody of his or her parent or guardian within two working days of the decision; and
4. Amended rule 1449 to require the court to advise the parent or guardian that, upon dismissal of the petition, the child must be returned within two days of the court order.

Item A28 Child Support: Miscellaneous Technical Changes Relating to the Child Support Case Registry (revise forms FL-191, FL-630, FL-632, and FL-692)

The Family and Juvenile Law Advisory Committee recommends revising forms relating to the Child Support Case Registry. The California Department of Child Support Services (CDCSS) is in the process of rolling out the federally mandated state disbursement unit that is to be effective no later than September 30, 2005. CDCSS has requested that additional information be included on the Judicial Council forms for the Child Support Case Registry. The information on these forms will be used to facilitate the settling of individual support accounts in the state disbursement unit. This additional information must be gathered and incorporated into a database as soon as possible to meet the implementation deadline.

Council action
The Judicial Council, effective January 1, 2005, revised:

1. Form FL-191, *Child Support Case Registry Form*, to clarify that a wage assignment has been issued and to indicate the amount of past-due support, provide for the gathering of information needed for the state Child Support Case Registry to comply with federal mandates, comply with new forms guidelines, and correct typographical errors;
2. Form FL-630, *Judgment Regarding Parental Obligations (Governmental),* to provide a requirement for parents to keep the agency notified of any changes in employment or residence, comply with new forms guidelines, and correct typographical errors;
3. Form FL-632, *Notice Regarding Payment of Support (Governmental),* to provide specific directions for the parents to report changes in his or her place of residence or employment to the Child Support Case Registry; comply with new forms guidelines, and correct typographical errors; and
4. Form FL-692, *Minutes and Order or Judgment (Governmental),* to correct spacing errors and a reference to a paragraph number, modify some instructions on the Information Sheet on Changing Child Support Order and update the translation, add a phrase in item 14(d) regarding payment of a percentage of costs as additional child support, comply with new forms guidelines, and correct typographical errors.

Judicial Administration

Item A29 Trial Courts: Workers' Compensation Program (adopt Cal. Rules of Court, rule 6.302)

Staff recommends adopting a rule to direct the Administrative Office of the Courts (AOC) to establish a workers' compensation program for trial courts and provide guidance to ensure that the coverage meets legal requirements and is cost-efficient. The proposed rule reflects the current practice of allowing trial courts to participate in either the ongoing AOC-sponsored program or a separate workers' compensation program selected by the court and approved by the AOC. Adoption of a new rule is necessary to comply with the mandate of Government Code section 71623.5 (Trial Court Employment Protection and Governance Act).

Council action
The Judicial Council, effective January 1, 2005, adopted rule 6.302 of the California Rules of Court to:

1. Establish the governing policies and procedures of the AOC's workers' compensation program for the trial courts; and
2. Establish procedures by which the AOC ensures that any trial court workers' compensation coverage provided by a different vendor complies with applicable law and is cost-efficient, as mandated by Government Code section 71623.5(a).

Item A30 Information Access Disputes: Writ Petition (Gov. Code, § 71675) (adopt Cal. Rules of Court, rule 6.710)

AOC staff recommends adopting a rule establishing a writ petition and hearing procedure for alleged violations of rule 6.702, to address claims by a requesting party that the trial courts or the AOC failed to properly maintain or provide access to budget and management information. The proposed rule would establish a procedure for the Chief Justice to use in appointing a panel consisting of one justice from each district of the Court of Appeal and assigning one justice from the panel to hear petitions. The rule is necessary to conform with the requirements of Government Code section 71675.

Council action
The Judicial Council, effective October 15, 2004, adopted rule 6.710 of the California Rules of Court to establish the procedure for writ petitions filed under Government Code section 71675 for violations of rule 6.702 (Maintenance of and public access to budget and management information).

Item A31 Selection and Term of Presiding Judge (amend Cal. Rules of Court, rule 6.602)

The Trial Court Presiding Judges Advisory Committee recommends changes to current rule 6.602 to clarify the length of an additional term for presiding judges, encourage courts to provide training for assistant presiding judges, and delete mandatory secret ballots for the election of presiding judges (with a notation that a court may continue secret balloting through established internal local rules or policies). These changes will encourage presiding judges to serve an additional term in order to maintain continuity in policy initatives and provide for orderly succession from assistant presiding judge to presiding judge.

Council action
The Judicial Council, effective January 1, 2005, amended rule 6.602 of the California Rules of Court to:

1. Clarify that a presiding judge may serve an additional term of such duration as set by internal local policy or rule;
2. Encourage courts to provide training for the assistant presiding judge to foster an orderly succession to the office of presiding judge; and
3. Delete mandatory secret ballots for the election of presiding judges, by allowing courts to use either open or secret ballot voting, and encourage courts to establish internal local rules or policies on the selection of the presiding judge.

Miscellaneous

Item A32 Juror Motion to Set Aside Sanctions Imposed by Default (adopt Cal. Rules of Court, rule 862; approve form MC-070)

The Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee, on behalf of those advisory committees, recommends adopting a rule to establish a procedure by which a prospective juror may bring a motion to set aside sanctions, as well as approving a form to allow a prospective juror to bring such a motion. Code of Civil Procedure section 209 was recently amended to permit a court to impose "reasonable monetary sanctions" on a prospective juror who fails to respond to two summonses and to a failure-to-appear notice. The amended statute requires the Judicial Council to adopt a rule containing procedures by which a prospective juror against whom a sanction has been imposed by default can move to set aside the default.

Council action
The Judicial Council, effective January 1, 2005:

1. Adopted rule 862 of the California Rules of Court (Juror motion to set aside sanctions imposed by default) to establish a procedure by which a prospective juror may being a motion to set aside sanctions; and
2. Approved form MC-070, to allow a prospective juror to bring a motion to set aside sanctions.

Item A33 Miscellaneous Technical Amendments to the California Rules of Court, the Appendixes to the California Rules of Court, and Judicial Council Forms (amend Cal. Rules of Court, rules 31 and 5.500; amend Ethics Standards for Neutral Arbitrators in Contractual Arbitration, standard 7; amend Cal. Stds. Jud. Admin., § 20.6; revise forms CM-110, CR-110/JV-790, EJ-100, FL-620, FL-640, WV-131, and WV-132; revise and renumber form 2009)

Advisory committee members, court personnel, members of the public, and AOC staff have identified technical inaccuracies in rules, standards, and forms resulting from prior rule amendments, renumbering, and inadvertent omissions. Staff recommends approving non-controversial corrections of these errors.

Council action
The Judicial Council, effective January 1, 2005:

1. Amended rule 31 of the California Rules of Court to correct a cross-reference;
2. Amended rule 5.500 to correct a statutory reference;

3. Amended the advisory comment to standard 7 of the Ethics Standards for Neutral Arbitrators in Contractual Arbitration to correct a cross-reference;
4. Amended section 20.6 of the California Standards of Judicial Administration to correct a statutory reference;
5. Revised form CM-110 to correct a rule reference;
6. Revised form CR-110/JV-790 to correct a statutory reference;
7. Revised form EJ-100 to correct the statutory reference in the lower right corner;
8. Revised form FL-620 to replace the title in item 3;
9. Revised form FL-640 to correct the format of the form and to add language that was omitted from the Information Sheet;
10. Revised form WV-131 to correct the title of the form;
11. Revised form WV-132 to correct the title of the form; and
12. Revised form 2009 to delete an incorrect reference to a statute and renumbered it as form MC-005.

Probate and Mental Health

Item A34 Probate: *Petition for Probate* (revise form DE-111)

The Probate and Mental Health Advisory Committee recommends revising the Judicial Council form that must be filed to commence a decedent's estate proceeding. The revision would clarify an instruction to petitioners concerning the estimated value of the estate for purposes of the graduated filing fee; solicit additional information, required by existing law, concerning the assets of the estate; and improve the form's overall clarity and ease of use by petitioners, court staff, and judicial officers.

Council action
The Judicial Council, effective January 1, 2005, revised form DE-111 to clarify an instruction concerning estate valuation for purposes of the filing fee, conform to the requirement of the law that the character and the estimated value of the assets of the estate be stated in every case, and make additional changes that will increase the form's clarity and enhance its ease of use by practitioners, court staff, and judicial officers.

Item A35 Probate: *Petition to Approve Compromise of Claim* and *Order Approving Compromise of Claim* (revise forms MC-350 and MC-351)

The Probate and Mental Health Advisory Committee recommends revising the petition for court approval and the order approving the compromise of a claim or action involving a minor or disabled adult. These forms would be revised to (1) apply to court approval of a proposed disposition of the proceeds of a judgment, (2) specify the alternatives available under the law for disposition of the net proceeds of a judgment or settlement, (3) refer to adults who are subject to the court approval requirement as "persons with

disabilities" instead of "incompetent persons," and (4) clarify required information about expenses to be deducted from the proceeds of a judgment or settlement. These changes are prompted or required by legislation that takes effect on January 1, 2005.

Council action
The Judicial Council, effective January 1, 2005, revised forms MC-350 and MC-351 to incorporate changes in applicable law that will be made on that date by Assembly Bill 1851, specify the disposition alternatives available for the net proceeds of compromises or judgments in favor of minors or disabled adults, explicitly apply the forms to a petition for court approval of the disposition of a judgment in favor of a minor or disabled adult, and clarify the information required by the forms concerning court-approved expenses to be deducted from the gross proceeds of a compromise of judgment.

Item A36 Probate: *Spousal Property Petition* and *Spousal Property Order* (revise forms DE-221 and DE-226)

The Probate and Mental Health Advisory Committee recommends revising the petition and order that are filed by a surviving spouse of a decedent to confirm the survivor's interest in marital property or to transfer the decedent's property to the survivor without administration. The revised forms would refer to deceased and surviving registered domestic partners in addition to deceased and surviving married persons, and provide for confirmation or transfer of domestic partnership property or the property of a deceased domestic partner. This revision is required by legislation, effective January 1, 2005, that will enable surviving registered domestic partners to confirm or transfer property of the partnership or the deceased partner without administration.

Council action
The Judicial Council, effective January 1, 2005, revised forms DE-221 and DE-226 to enable surviving domestic partners to use them to exercise their right under the act to confirm or transfer partnership property without administration.

Item A37 Trusts Funded by Court Order (adopt Cal. Rules of Court, rule 7.903 and Stds. Jud. Admin., § 40)

The Probate and Mental Health Advisory Committee recommends adopting a rule concerning certain express trusts that are created or funded by court orders in probate or civil departments of the court, and a standard of judicial administration that would make recommendations concerning certain court-funded trusts in proceedings heard in civil departments of the court. The proposed rule would define the trusts subject to the rule, prescribe the contents of instruments that implement those trusts, and require that such trusts be subject to the continuing jurisdiction of the court. The proposed standard of judicial administration would recommend that courts provide for either (1) probate

department determination of trust issues in civil actions involving minors or disabled adults where trusts will receive the proceeds of settlements or judgments or (2) the training of judicial officers who hear these actions on substantive and technical issues involving trusts.

The rule would create greater statewide uniformity in court supervision of court-funded trusts. If implemented by courts, the standard would improve court administration, either by applying the experience and expertise of probate departments or judicial officers in handling trusts to certain civil actions that involve trusts or by increasing the expertise of civil department judicial officers in trust issues.

Council action

The Judicial Council, effective January 1, 2005, adopted rule 7.903 of the California Rules of Court and section 40 of the Standards of Judicial Administration to promote greater statewide uniformity in judicial oversight of court-funded trusts and to encourage courts to develop procedures and practices that (1) provide for probate department determination of trust issues in certain proceedings involving court-funded trusts that are heard in civil departments of the court, or (2) ensure that judicial officers who approve the creation or funding of these trusts in civil actions are experienced or have been trained in substantive and technical issues involving trusts.

Item B Equal Access Fund: Distribution of Funds for IOLTA Formula Grants

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 distribution of $8,550,000 according to the statutory formula set out in the State Budget, and reports that it has complied with the guidelines set forth for the distribution of those funds. The Budget Act authorizing the Equal Access Fund provides that the Judicial Council must approve the commission's recommendations if the council determines that the awards comply with statutory and other relevant guidelines.

Council action

The Judicial Council followed the October 8, 2004, recommendation of the State Bar Legal Services Trust Fund Commission and approved the distribution of $8,550,000 in IOLTA Formula Grants for 2004–2005 according to the terms of the State Budget and the commission's determination, with regard to each individual grant, that the proposed budget complies with the statutory and other guidelines.

Item C Drug Court Project Grants Under the 2004–2005 Budget Act

The Collaborative Justice Courts Advisory Committee requests authorization to allocate $1 million in California Drug Court Project funds to local jurisdictions in the form of mini-grants distributed through the Collaborative Justice Courts Project. The 2004–2005 Budget Act provides for this allocation of $1 million to California drug court projects.

> ***Council action***
> The Judicial Council approved distribution of grant awards to local courts through allocation of the California Drug Court Project fund of $1 million.
>
> Funds are to be distributed to collaborative justice projects through a mini-grant process, using a formulaic distribution method. Local jurisdictions will be eligible for mini-grant awards of up to $60,000 for an individual court.

DISCUSSION AGENDA

ITEM D RULES, FORMS, AND STANDARDS

Civil and Small Claims Advisory Committee

Item D1 Rules for Coordination of Complex Civil Actions (amend Cal. Rules of Court, rules 1501–1529 and 1540–1550; adopt rules 1530–1532)

Ms. Susan Goins presented this item.

The Civil and Small Claims Advisory Committee recommends amending and adopting rules for coordination of complex actions. The proposed amendments address the objectives of (1) reducing the time required for assignment of a coordination trial judge and each interim step in the process, (2) providing for fair and efficient handling of coordination petitions and add-on cases, and (3) addressing the common misperception that cases are usually coordinated in the location requested by the petitioner even when it is not the most appropriate site. In addition, some of the rules require changes to make them consistent with the language of the statutes governing coordination. Finally, the rules should be amended to update and clarify their language and make their format consistent with more recently adopted rules.

> ***Council action***
> The Judicial Council, effective January 1, 2005, amended rules 1501–1529 and 1540–1550 of the California Rules of Court and adopted rules 1530–1532 for coordination of complex actions to increase the efficiency and fairness in processing

these cases, make certain rules more consistent with relevant statutes, and make other technical changes.

Item D2 Drop Box Deposits for Filing (adopt Cal. Rules of Court, rule 201.6)

Ms. Susan Goins presented this item.

The Civil and Small Claims Advisory Committee recommends adopting a new rule regarding the use of drop boxes. There is currently no uniform statewide rule of court authorizing or requiring a court to use a drop box to accept papers for filing. No rule or statute prohibits the use of drop boxes, however, and at least several trial courts currently maintain drop boxes. The Judicial Council has adopted *Operating Guidelines and Directives for Budget Management in the Judicial Branch,* which includes a directive requiring trial courts to provide drop boxes during periods of shortened hours. This rule would implement the council's directive.

Council action
The Judicial Council, effective January 2005, adopted rule 201.6 of the California Rules of Court to implement the Judicial Council's *Operating Guidelines and Directives for Budget Management in the Judicial Branch* to:

1. Require each trial court to provide a drop box for depositing documents if the clerk's office closes at any time between 8:30 a.m. and 4:00 p.m.;
2. Permit a court to provide a drop box at other times;
3. Specify when documents will be deemed filed; and
4. Require that if a drop box is employed, there be a means of determining whether the documents were deposited by the court's deadline for same-day filing.

Court Technology Advisory Committee

Item D3 Electronic Court Records: Remote Public Access in Extraordinary Criminal Cases (amend Cal. Rules of Court, rule 2073; repeal rule 2073.5)

Judge Terence L. Bruiniers presented this item with the participation of Ms. Pat Yerian.

The Court Technology Advisory Committee recommends amending rule 2073 to allow remote public access to electronic trial court records in extraordinary criminal cases. As an exception to the general rule permitting access to electronic trial court records in criminal cases only at the courthouse, the rule provides that a court may allow remote electronic access to specified court records in a criminal case when there is an individualized finding that, because of an extraordinary level of press and public interest in a

case, the court should be allowed to meet the demands for information while continuing to respect the privacy rights and interests of parties, victims, and witnesses. The rule would improve court administration by easing demands on court staff while taking advantage of existing technology.

Council action
The Judicial Council, effective January 1, 2005:

1. Amended rule 2073 of the California Rules of Court to allow courts to make court records in extraordinary criminal cases available for remote electronic access; and
2. Repealed rule 2073.5.

The council revised the Advisory Committee Comment section of rule 2073 to allow courts to submit to the Administrative Office of the Courts electronic copies of orders permitting remote electronic access in extraordinary criminal cases.

The council also directed staff to conduct a continuing evaluation of the implementation of the rule and to prepare a "how to" manual to assist courts in its implementation.

The vote on this item was 18 in favor and one opposed.

Family and Juvenile Law

Item D4 Family and Juvenile Law: Mediator and Evaluator Education, Training, and Experience Requirements (amend Cal. Rules of Court, rules 5.210, 5.230, and 1405.5)

Ms. Diane Nunn and Ms. Karen M. Thorson presented this item in conjunction with item D5, with the participation of Mr. Lee Morhar and Ms. Melissa Ardaiz.

The Family and Juvenile Law Advisory Committee recommends amending rules 5.210, 5.230, and 1405.5, concerning education, training, and experience standards for mediators and evaluators in family and juvenile law proceedings. The amendments clarify certain legal and procedural requirements, provide additional flexibility for compliance, and promote consistency among rules of court involving education, training, and experience standards for court professionals working with families and children.

Rule 5.210, which was circulated for comment in the spring 2004 cycle and adopted by the Judicial Council in October, contained a technical error which has been corrected for printing. Subdivision (f)(1)(B) incorrectly refers to rule 5.230 as outlining the annual four-hour domestic violence update training required for mediators. While mediators are

required to complete four hours of domestic violence update training, the correct authority for this mandate is rule 5.215(j), not rule 5.230. Rule 5.230 outlines the domestic violence training requirements specifically applicable to child custody evaluators, while rule 5.215 refers to the domestic violence training requirements applicable to family court services staff (who encompass mediators). The text of the amended rule is attached to these minutes.

Council action[2]
The Judicial Council, effective January 1, 2005, amended rules 5.210, 5.230, and 1405.5 of the California Rules of Court to clarify the education, training, and experience requirements applicable to mediators and evaluators and provide flexibility in meeting the rules' requirements.

Item D5 Child Custody: Education, Training, and Experience Standards for Evaluators (amend Cal. Rules of Court, rule 5.225; adopt form FL-325; revise form FL-326)

Ms. Diane Nunn and Ms. Karen M. Thorson presented this item with the participation of Mr. Lee Morhar and Ms. Melissa Ardaiz.

The Family and Juvenile Law Advisory Committee recommends amending rule 5.225 of the California Rules of Court to clarify the education, training, and experience requirements applicable to court-appointed child custody evaluators and to diversify the permissible means of obtaining training. The committee also recommends adopting form FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications,* and revising form FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications,* to clarify certification procedures and assist evaluators in establishing a record of compliance.

Council action[3]
The Judicial Council, effective January 1, 2005, amended rule 5.225 of the California Rules of Court; adopted form FL-325, *Declaration of Court-Connected Child Custody Evaluator Regarding Qualifications;* and revised form FL-326, *Declaration of Private Child Custody Evaluator Regarding Qualifications,* to clarify the education, training, and experience requirements and certification procedures for court-appointed child custody evaluators.

[2] The council acted on revised recommendations distributed at the meeting. The revisions added provisions defining who qualifies as eligible to provide the education and training required for mediators and evaluators under rules 5.210, 5.230, and 1405.5 and outlining requirements for providers. They also added provisions permitting the Administrative Office of the Courts to approve education and training programs and requiring eligible providers to develop a procedure to verify that participants complete the education and training programs.
[3] The council acted on revised recommendations distributed at the meeting. The revisions added provisions permitting the Administrative Office of the Courts to approve education and training programs and requiring eligible providers to develop a procedure to verify that participants complete the education and training programs.

Item D6 Family Law: Privacy Notices and Domestic Partnership Dissolution, Legal Separation, and Annulment Procedures (adopt Cal. Rules of Court, rule 5.28; amend rule 5.102; adopt forms FL-103 and FL-123; approve form FL-316; revise forms FL-100, FL-110, FL-115, FL-117, FL-120, FL-142, FL-145, FL-150, FL-160, FL-165, FL-170, FL-180, FL-190, FL-310, FL-311, FL-341, FL-341(B), FL-341(C), FL-341(D), FL-341(E), FL-343, FL-344, FL-345, FL-435, and FL-450)

Ms. Bonnie Hough presented this item.

The Family and Juvenile Law Advisory Committee recommends adopting rules and forms to conform to statutory changes. Assembly Bill 205 (Stats. 2003, ch. 421), the California Domestic Partner Rights and Responsibilities Act of 2003, modified the procedures for terminating domestic partnerships. The proposed new and revised forms would be used by domestic partners to obtain a dissolution, a legal separation, or an annulment under the new statute.

Urgency legislation enacted on June 7, 2004, Assembly Bill 782 (Stats. 2004, ch. 45), requires the Judicial Council to add notices to family law forms stating that parties to a case may redact their social security numbers from all written materials in the case other than forms to enforce child or spousal support. The legislation further requires the council to add a question on forms in which parties list their assets and debts, regarding whether identifying information is available on those forms. The forms include these required changes. A new form is proposed to simplify the process of sealing forms covered under this statute.

Council action

The Judicial Council, effective January 1, 2005, adopted rule 5.28 of the California Rules of Court; amended rule 5.102; adopted forms FL-103 and FL-123; approved form FL-316; and revised forms FL-100, FL-110, FL-115, FL-117, FL-120, FL-142, FL-145, FL-150, FL-160, FL-165, FL-170, FL-180, FL-190, FL-310, FL-311, FL-341, FL-341(B), FL-341(C), FL-341(D), FL-341(E), FL-343, FL-344, FL-345, FL-435, and FL-450 to:

1. Allow domestic partners to obtain a dissolution, a legal separation, or an annulment; and
2. Provide privacy protections for family law litigants.

Jurors

Item D7 Judicial Council Jury Instructions: Approve Publication of Revisions and Additions to Civil Instructions

Justice James D. Ward presented this item with the participation of Ms. Lyn Hinegardner.

The Advisory Committee on Civil Jury Instructions recommends approving the publication of revisions to the *Judicial Council Jury Instructions* that were first published in September 2003 and last amended in April 2004. Instructions would be added or revised based on new developments in the law and to improve clarity and accuracy.

> ***Council action***
> The Judicial Council, effective October 15, 2004, approved the civil jury instructions prepared by the task force. The revisions will be officially published in an end-of-year update.

Item D8 Trial Court Rules: Scheduling Accommodations for Jurors (adopt Cal. Rules of Court, rule 858)

Ms. Susan Goins presented this item.

The Court Executives Advisory Committee recommends adopting a rule to require that jury commissioners make scheduling accommodations for peace officers. The rule would also recommend that jury commissioners, where practicable, accommodate the schedules of all prospective jurors by granting a one-time deferral of jury service upon request. This rule implements a new statutory requirement to accommodate the jury service scheduling needs of certain peace officers and recommends flexibility for all jurors' scheduling needs as a matter of public policy.

> ***Council action***
> The Judicial Council, effective January 1, 2005, adopted rule 858 of the California Rules of Court to require that jury commissioners:
>
> 1. Make scheduling accommodations for peace officers as mandated by Code of Civil Procedure section 219.5; and
> 2. Where practicable, accommodate the schedules of all prospective jurors by granting a one-time deferral of jury service upon request.

Judicial Administration

Item D9 Advisory Committee Membership (amend Cal. Rules of Court, rule 6.31)

Ms. Sonya Smith presented this item with the participation of Ms. Susan Goins.

AOC staff recommends amending rule 6.31 to clarify the authority of the Chief Justice to appoint judges with less than two years on the bench to shortened advisory committee terms. This change would facilitate the development of a program for new judges in which they would serve one-year terms on advisory committees.

> ***Council action***
> The Judicial Council, effective November 1, 2004, amended rule 6.31 of the California Rules of Court to permit the appointment of new judges and subordinate judicial officers to one-year advisory committee terms.

Civil and Small Claims

Item A2 Telephone Appearances (amend Cal. Rules of Court, rules 212 and 298)[4]
[Formerly on the Consent Agenda]

Mr. Patrick O'Donnell presented this item.

The Civil and Small Claims Advisory Committee recommends that rules 212 and 298 be amended to facilitate the general use of telephone appearances at case management conferences. Currently, counsel and self-represented persons are required to appear in person at conferences unless the court permits telephone appearances. The rules would be changed to allow them to appear by telephone unless the court, on a case-by-case basis, determines that they must appear in person. Rule 298 would also be amended to require parties to appear in person at hearings on orders to show cause for the violation of a court order or a rule of court.

> ***Council action***
> The Judicial Council heard a presentation and, following discussion, directed AOC staff to further investigate the impact of the proposed rule on case management and report back to the council at its December 2004 meeting.

Circulating Orders

No circulating orders were approved since the last business meeting.

[4] This agenda item was heard out of order, before item D4.

Appointment Orders

Copies of appointment orders are for information only; no action was necessary.

There being no further public business, the meeting was adjourned at 11:50 a.m.

Respectfully submitted,

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