



JUDICIAL COUNCIL OF CALIFORNIA

COURT TECHNOLOGY
ADVISORY COMMITTEE

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JOINT APPELLATE TECHNOLOGY SUBCOMMITTEE

MINUTES OF OPEN MEETING

January 26, 2015
4:00 PM – 5:00 PM

Teleconference

Advisory Body Members Present: Hon. Louis Mauro, Chair; Ms. Kimberly Stewart; Mr. Kevin Green; Mr. Don Willenburg; Mr. Joseph Lane; and Mr. Frank McGuire.

Advisory Body Members Absent: Hon. Peter Siggins

Others Present: Ms. Heather Anderson; Mr. Patrick O'Donnell, Ms. Tara Lundstrom; and Ms. Julie Bagoye

OPEN SESSION

Call to Order and Roll Call

Justice Mauro called the meeting to order at 4:00 PM, and roll call was taken. He noted there were no public comments received prior to this meeting.

Approval of Minutes

The subcommittee reviewed and approved the minutes of the December 17, 2014, Joint Appellate Technology Subcommittee (JATS) meeting.

JATS Membership Changes

Justice Mauro announced that after the December JATS meeting, Brian Cotta, Assistant Clerk/Administrator for the Fifth District Court of Appeal, asked to withdraw from the subcommittee and his request was approved.

Status of Proposed Amendments to Rule 8.71

Justice Mauro provided an update on the status of the proposed amendments to Rule 8.71 that JATS approved in October 2014. Heather made the changes requested by JATS and the proposal as approved by JATS was subsequently approved by the Court Technology Advisory Committee (CTAC) and by CTAC's Rules and Policy Subcommittee. Tara Lundstrom also presented the proposed companion trial court rules amendments to CTAC's Rules and Policy Subcommittee and CTAC, and those proposed amendments were approved too. The proposal to amend 8.71 will be presented to the Appellate Advisory Committee at its March 2015 meeting.

Item 1

Public Access to Electronic Appellate Court Records

Discussion: Heather Anderson, Supervising Attorney, Judicial Council staff, Legal Services

Justice Mauro summarized the work that JATS had done so far on the second draft of a proposal for new rules regarding public access to electronic appellate court records.

JATS had reviewed the second draft proposal up through page 9, with the understanding that Frank McGuire would be given an opportunity to comment on those pages at the next meeting. The prior discussions included the following comments:

On page 3, regarding rule 8.82(2), Joe Lane suggested changing the word “computerized” to “digitized.” Don Willenburg suggested instead that the definition of electronic record should be the opposite of the last sentence in (2), i.e.: “ ‘Electronic record’ is a court record that requires the use of an electronic device to be read.”

On page 4, concern was expressed regarding the definition of “bulk distribution.”

On pages 6 and 7, members suggested deleting the enumerated items under proposed rule 8.83(b)(1)(A) and (B).

On page 7, members agreed to wait for Frank McGuire’s input on rule 8.83(b)(1)(D) regarding Supreme Court records.

On page 9, item 2, members agreed to wait for Frank McGuire’s input.

On page 9, item 3b, members thought the rules did not have to specify items that should not be included. Members believed that would be a solution in search of a problem and the proposed rules were not the appropriate place for such protections.

Ms. Anderson then led the continued discussion regarding the proposal.

Frank discussed proposed rule 8.83(b)(1)(D), and specifically the effective dates referenced in proposed rule 8.83(b)(1)(D)(ii) and (iii). JATS agreed the precise dates would not be included in the rule but they would be added in the commentary section. JATS agreed 8.83(b)(1)(D)(ii) should include language specifying that only party briefs are posted, not amicus briefs, and the posting is limited to briefs that are electronically available.

JATS discussed Joseph Lane’s suggestion on page 3, regarding rule 8.82(2), to change the word “computerized” to “digitized,” along with Don Willenburg’s suggestion to change the definition of electronic record to read: “ ‘Electronic record’ is a court record that requires the use of an electronic device to be read.” JATS voted to adopt Don Willenburg’s suggested language, but if the proposal goes out for public comment it will include a reference to the prior language and a request for comment on the proposed change.

JATS discussed the definition of “bulk distribution” in rule 8.82(6). JATS agreed bulk distribution should be defined as “distribution of multiple electronic records that are not provided on a case-by-case basis.”

In addition, JATS discussed proposed rule 8.83(c) on pages 10 and 11. Members agreed with the list of records in subdivision (c)(2).

Future action:

- Ms. Anderson will work with Frank McGuire to revise the language in Rule 8.83(b)(1)(D) as suggested in the meeting.

- The subcommittee will meet again in February 2015 and continue its work, beginning with page 11 of the second draft, in an effort to prepare the proposed rules for consideration by CTAC and the Appellate Advisory Committee (AAC). If approved by CTAC and AAC, the proposal would be submitted to the Judicial Council Rules & Projects Committee for possible circulation for public comment during the regular spring 2015 annual comment period.

A D J O U R N M E N T

The meeting was adjourned at 5:00 PM.