



# JUDICIAL COUNCIL OF CALIFORNIA

EXECUTIVE AND  
PLANNING COMMITTEE

[www.courts.ca.gov/epmeetings.htm](http://www.courts.ca.gov/epmeetings.htm)  
[executiveandplanning@jud.ca.gov](mailto:executiveandplanning@jud.ca.gov)

## EXECUTIVE AND PLANNING COMMITTEE

### MINUTES OF OPEN MEETING

Wednesday, April 13, 2022

12:10 to 1:00 p.m.

Videoconference

**Advisory Body Members Present:** Hon. Marsha G. Slough (Chair), Hon. Marla O. Anderson, Hon. Stacy Boulware Eurie, Hon. Carin T. Fujisaki, Mr. Kevin Harrigan, Hon. Ann C. Moorman, Ms. Gretchen Nelson, Hon. David M. Rubin and Hon. Theodore C. Zayner

**Advisory Body Members Absent:** Hon. Samuel K. Feng (Vice-chair) and Hon. Dalila C. Lyons

**Committee Staff Present:** Ms. Amber Barnett and Mr. Cliff Alumno

**Staff Present:** Ms. Kate Albertus, Mr. Peter Allen, Mr. James Barolo, Ms. Deborah Brown, Ms. Roma Cheadle, Mr. Blaine Corren, Ms. Shelley Curran, Ms. Nicole Davis, Mr. Douglas Denton, Ms. Audrey Fancy, Mr. Patrick Farrales, Ms. Sarah Fleischer-Ihn, Mr. Michael Giden, Ms. Kristin Greenaway, Mr. John Henzl, Ms. Bonnie Hough, Ms. Donna Ignacio, Mr. Cyrus Ip, Ms. Tracy Kenny, Ms. Eunice Lee, Mr. Eric Long, Ms. Anna Maves, Ms. Pella McCormick, Ms. Kelly Meehleib, Mr. Edward Metro, Ms. Fran Mueller, Ms. Donna Newman, Ms. Brandy Olivera, Mr. Corey Rada, Ms. Anne Ronan, Ms. Jamie Schechter, Ms. Laura Speed, Mr. Zlatko Theodorovic, Ms. Millicent Tidwell, Mr. Catrayel Wood, Mr. John Wordlaw, Mr. Jeffrey Wu

#### OPEN MEETING

##### Call to Order and Roll Call

The chair called the meeting to order at 12:10 p.m. Mr. Alumno took roll call and made the opening announcements.

##### Approval of Minutes

The committee reviewed the draft minutes of the March 10, 2022, meeting.

**Action:** *The committee unanimously approved the draft minutes of the March 10, 2022, meeting.*

#### DISCUSSION AND ACTION ITEM

##### Agenda Setting for May 10, 2022, Judicial Council Meeting (Action Required)

Justice Slough advised that the May 2022 Judicial Council agenda items will be considered by email action via circulating order as the agenda consists solely of consent and information-only items. This circulating order will allow the council to carry out its policymaking role while

members remain in their courts or offices to conduct business, which creates cost savings in travel, time, and resources. The committee proceeded to review available draft reports and set the agenda for the Judicial Council action by email via circulating order.

**Action: The committee set the agenda for the May 10, 2022, Judicial Council action by email by circulating order by approving all proposed items for placement except for Item 22-111 (Traffic | Remote Video Proceedings and Related Forms), which was deferred for review and approval via action by email to be conducted by the committee when the draft report is ready for consideration. Placement of the item would be contingent upon the approval of the Rules Committee**

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**A D J O U R N M E N T**

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With the business concluded, the meeting was adjourned at 12:30 p.m.

Approved by the committee on [insert date].



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## EXECUTIVE AND PLANNING COMMITTEE

### MINUTES OF ACTION BY EMAIL

Monday, April 25, 2022  
12:00 p.m.

**Advisory Body Members Who Participated:** Hon. Marsha G. Slough (Chair), Hon. Samuel K. Feng (Vice-chair), Hon. Marla O. Anderson, Hon. Stacy Boulware Eurie, Hon. Carin T. Fujisaki, Mr. Kevin Harrigan, Hon. Dalila C. Lyons, Hon. Ann C. Moorman, Ms. Gretchen Nelson, Hon. David M. Rubin, and Hon. Theodore C. Zayner

**Advisory Body Members Who Did Not Participate:** None

**Committee Staff:** Ms. Amber Barnett and Mr. Cliff Alumno

#### ACTION BY EMAIL

As provided in the California Rules of Court, rule 10.75 (o)(1)(B), the chair concluded that prompt action was needed. This action by email concerned a matter that would otherwise be discussed in an open meeting; therefore, in accordance with rule 10.75(o)(2), public notice and the proposal were posted on Friday, April 22, 2022, to allow at least one complete business day for public comment before the committee took action. No public comments were received.

#### OPEN DISCUSSION AND ACTION ITEM

##### **Agenda Setting for May 10, 2022, Judicial Council Action by Email via Circulating Order (Action Required)**

The committee reviewed the following draft report to consider for placement on the consent agenda of the May 10, 2022, Judicial Council action by email via circulating order: 22-111 (Rules and Forms | Traffic: Remote Video Proceedings and Related Forms (Action Required))

**Action: The committee unanimously approved item 22-111 for placement on the May 10, 2022, Judicial Council action by email via circulating order. Placement of the item was contingent upon the Rules Committee's approval.**

#### CLOSURE OF ACTION

The action by email concluded at 3:55 p.m. on Monday, April 25, 2022.

Approved by the committee on [insert date].



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## EXECUTIVE AND PLANNING COMMITTEE

### MINUTES OF ACTION BY EMAIL

Wednesday, April 27, 2022

1:00 p.m.

**Advisory Body Members Who Participated:** Hon. Marsha G. Slough (Chair), Hon. Samuel K. Feng (Vice-chair), Hon. Marla O. Anderson, Hon. Stacy Boulware Eurie, Hon. Carin T. Fujisaki, Mr. Kevin Harrigan, Hon. Dalila C. Lyons, Hon. Ann C. Moorman, Ms. Gretchen Nelson, Hon. David M. Rubin, and Hon. Theodore C. Zayner

**Advisory Body Members Who Did Not Participate:** None

**Committee Staff:** Ms. Amber Barnett and Mr. Cliff Alumno

#### ACTION BY EMAIL

As provided in the California Rules of Court, rule 10.75 (o)(1)(B), the chair concluded that prompt action was needed. This action by email concerned a matter that would otherwise be discussed in an open meeting; therefore, in accordance with rule 10.75(o)(2), public notice and the proposal were posted on Tuesday, April 26, 2022, to allow at least one complete business day for public comment before the committee took action. No public comments were received.

#### OPEN DISCUSSION AND ACTION ITEM

##### **Agenda Setting for May 10, 2022, Judicial Council Action by Email via Circulating Order (Action Required)**

The committee reviewed the following draft report to consider for placement on the consent agenda of the May 10, 2022, Judicial Council action by email via circulating order: 22-114 (Judicial Branch Administration | Judicial Branch Workers' Compensation Program (Action Required))

**Action: The committee unanimously approved item 22-114 for placement on the May 10, 2022, Judicial Council action by email via circulating order.**

#### CLOSURE OF ACTION

The action by email concluded at [insert time] on [insert day], April [insert date], 2022.

Approved by the committee on [insert date].



## JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue . San Francisco, California 94102-3688  
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

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### MEMORANDUM

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**Date**

May 13, 2022

**Action Requested**

Approve Staff Recommendation

**To**

Members of the Executive and Planning  
Committee

**Deadline**

May 18, 2022

**From**

Judicial Council staff  
Leah Rose-Goodwin, Manager  
Kristin Greenaway, Supervising Research  
Analyst  
Office of Court Research

**Contact**

David Smith  
415-865-7696 phone  
david.smith@jud.ca.gov

**Subject**

Request for an Exception to the Conversion of  
One Subordinate Judicial Officer Position in  
the Superior Court of Placer County

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#### **Executive Summary**

Office of Court Research staff recommend that the Judicial Council's Executive and Planning Committee (E&P) confirm the request by the Superior Court of Placer County to defer the conversion of a subordinate judicial officer (SJO) position to a judgeship. The court has informed council staff that the impetus for this request is the announced retirement of a commissioner serving in the court on July 1, 2022. The Superior Court of Placer County indicates that the request for a deferral is being made at this time because it is currently experiencing operational hardships caused by multiple judicial vacancies, which may be compounded when the current commissioner retires. By hiring a new commissioner to fill this position soon after the announced July 1 retirement date, the court intends to mitigate the impact this vacancy would otherwise have on court calendars and case dispositions.

## Recommendation

Office of Court Research staff recommend that the Executive and Planning Committee confirm the request by the Superior Court of Placer County for an exception to the conversion of an SJO position to a judgeship upon its announced vacancy date of July 1, 2022. Further, staff recommend that the court's request to temporarily fill this position, once vacant, be granted by the Executive and Planning Committee.

## Relevant Previous Council Action

In 2007, the Judicial Council adopted a policy for the review and approval of requests from trial courts to change the number of subordinate judicial officer positions, and delegate approval authority to its Executive and Planning Committee. Government Code section 71622(a) grants authority to the council to determine the number and type of subordinate judicial officer positions in each trial court.<sup>1</sup>

More specifically, the Judicial Council adopted a policy pertaining to changes in the number and status of SJO positions that, for the purposes of the current request, contained the following elements:

1. To establish a new SJO position, permanently eliminate an SJO position, or change the time base of an existing SJO position, a court must request and obtain approval from E&P. The requesting court must fund and bear all costs associated with an additional or augmented SJO position.
2. If an increase in the number of SJO positions is sought, the court must submit a request in writing to the appropriate Judicial Council regional administrative director.<sup>2</sup> A request must contain a certification by the presiding judge that the court has sufficient funds in its ongoing budget to cover the cost of any additional or augmented position. Judicial Council staff must provide E&P with (a) an estimation of the requesting court's ability to fund one-time and ongoing costs resulting from the establishment or augmentation of a new position, and (b) a confirmation of need, both SJO workload and overall judicial need, based on the most recent council-approved Judicial Needs Assessment.
3. E&P will authorize new or augmented SJO positions only if (a) the court can continuously fund the associated increased costs, and (b) the most recent council-approved Judicial Needs

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<sup>1</sup> Judicial Council meeting of February 23, 2007, San Francisco, California, Items 9 and 10, *Subordinate Judicial Officers: Policy for Approval of Number of Subordinate Judicial Officers in Trial Courts*, <http://www.courts.ca.gov/documents/min0207.pdf>.

<sup>2</sup> The position of regional administrative director was eliminated in 2012 as a result of the restructuring of the Administrative Office of the Courts (former name of Judicial Council staff).

Assessment demonstrates that the requesting court's SJO workload justifies additional SJO positions and cannot be handled with existing judicial resources. E&P's decision to change the number or type of SJO positions must be in writing and contain an analysis of the factors underlying the decision.

4. E&P will eliminate or decrease the time base of an SJO position on the request of a trial court.

### **Analysis/Rationale**

The Superior Court of Placer County is eligible for a total of two of the 162 conversions authorized by the Legislature under Government Code section 69615(b)(1)(A); it was granted an exception to the conversion of a vacant SJO position by E&P<sup>3</sup> in fiscal year 2018–19.

Confirming the court's current request for an exception to conversion of this SJO position once vacated, and the appointment of a commissioner to fill it, will enable the court to manage the allocation of its judicial workload in a way that allows it to be responsive to litigants seeking legal assistance and the needs of the public more generally. The challenges facing the Superior Court of Placer County are based on a number of factors including a shortfall in judicial resources,<sup>4</sup> and a relatively large number of pending case backlogs that are related to the disruptive effects of the pandemic. While the implementation of additional pretrial calendars to address pending criminal cases has been useful in addressing part of this challenge, the court indicates that it is under pressure to hear criminal and civil cases that are approaching their five-year statutory time to trial, as well as to address delays in calendaring contested hearings in family law.

The court has indicated that if the request is granted, a new commissioner will be hired in time to avoid a significant gap between the retirement of the current commissioner and the hiring of a worthy replacement. This would, in turn, allow the court's limited number of judges to continue to hear more complex cases, as well as address the current case backlogs in civil, criminal, and family law.

Council policies concerning SJO conversions grant the Executive and Planning Committee the authority to confirm conversions, as well as evaluate and grant requests by courts to exempt vacancies from conversion. Because this request falls within the scope of the current policy on

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<sup>3</sup> See Executive and Planning Committee meeting, Request for an Exception to the Conversion of One Subordinate Judicial Officer Position in the Superior Court of Placer County (Aug. 28, 2018), <http://www.courts.ca.gov/documents/eandp-20180828-mm.pdf>.

<sup>4</sup> The Superior Court of Placer County has 10 authorized and funded judgeships as of April 2022, with 2 judges having retired since September 2021. These positions are currently unfilled, which means that 20 percent of the court's judgeships remain vacant.

exceptions, yet is consistent with the spirit of the statute governing SJO conversions, it is staff's recommendation that the request be granted.

**Policy implications**

Confirming this request for an exception to conversion is consistent with well-established tenets of council policy on SJO conversions.

**Comments**

This proposal, which is consistent with council policy on SJO conversions, did not circulate for comment.

**Alternatives considered**

The proposed exception to an SJO conversion is consistent with council policy. On that basis, no alternatives were considered.

**Fiscal and Operational Impacts**

If this temporary exception to SJO conversions is granted by E&P, the court would incur no new costs, and the requirement for eventual conversion of the aforementioned positions would continue to be in effect. Hence, the operational impact is projected to be minimal.

**Attachments and Links**

1. Attachment A: Letter from Presiding Judge Alan V. Pineschi, Superior Court of Placer County, to Justice Marsha G. Slough, E&P Chair (Apr. 18, 2022)





**Superior Court of the State of California**  
**In and For The County of Placer**  
**Roseville, California**

In Chambers of  
**HONORABLE ALAN V. PINESCHI**  
PRESIDING JUDGE  
OF THE SUPERIOR COURT  
DEPARTMENT 33  
(916) 408-6305 Fax (916) 408-6306

April 18, 2022

Hon. Marsha G. Slough, Chair  
Executive and Planning Committee  
Judicial Council of California

Transmitted via email to: [executiveandplanning@jud.ca.gov](mailto:executiveandplanning@jud.ca.gov)

Re: Notification of Commissioner Vacancy and Request for Deferral of Conversion Due to Operational Hardship & Notification of Conversion of 0.5 Referee to 0.5 Commissioner

Dear Justice Slough:

The purpose of this letter is to seek approval by the Executive and Planning Committee to defer the conversion of a Commissioner position at the Placer County Superior Court to a judgeship. This request is occasioned by the announced retirement of Commissioner John Paulsen, effective Friday, July 1, 2022. As explained below, this deferral request is being made due to an operational hardship created by multiple judicial vacancies in our court at this time. The court seeks to defer the conversion at this time such that it may proceed with recruiting a Commissioner to reduce impacts on court calendars and case dispositions

The Placer Superior Court has ten authorized and funded judgeships. In September 2021, two judges retired from our bench. These positions, which represent 20% of the court's judgeships remain vacant. Although the court is hopeful of appointments in the next few months, this is uncertain.

Although the court sees the value of the conversation of commissioners to judges, generally, we are concerned an additional judgeship vacancy would have a significant impact on the court's ability to cover all calendars and trial departments in the coming months.

Like many courts, the Placer Superior Court continues to work through a larger than normal pending case backlog due to the lingering impacts of the pandemic. The court has implemented additional pretrial calendars to address pending criminal cases.

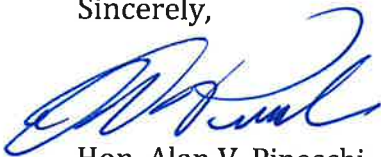
Notwithstanding that effort, there is significant pressure caused by criminal cases and civil cases approaching their five year statutory time to trial, along with long delays in calendaring family law contested hearings. The court intends to rapidly fill the Commissioner vacancy, if allowed to defer conversion, such that there is no gap between Commissioner Paulsen's retirement and a new Commissioner joining the court. Doing so will mitigate any impacts on the court's calendars.

The court highlights this point to support of our request that the current vacant SJO position not convert, at this time.

In addition, the court wishes to inform the Executive and Planning Committee that it intends to fill a 0.5 Referee position that has remained vacant since 2013. To reduce confusion and allow for greater flexibility in assignments, the court is reclassifying this position to a 0.5 Commissioner.

Thank you, and the members of E&P, for considering the court's request to defer the conversion of our upcoming Commissioner vacancy. Should E&P require further information or clarifications, regarding either the request to defer or the court's reclassification of a 0.5 Referee to a 0.5 Commissioner please do not hesitate to contact me using the information above or Mr. Jake Chatters, Court Executive Officer at (916) 408-6186.

Sincerely,



Hon. Alan V. Pineschi  
Presiding Judge

Cc:

Mr. Jake Chatters, Court Executive Officer, Superior Court of Placer County

Ms. Leah Rose-Goodwin, Manager, Office of Court Research, Judicial Council of California