



JUDICIAL COUNCIL OF CALIFORNIA

EXECUTIVE AND
PLANNING COMMITTEE

www.courts.ca.gov/epmeetings.htm
executiveandplanning@jud.ca.gov

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EXECUTIVE AND PLANNING COMMITTEE

NOTICE AND AGENDA OF OPEN MEETING

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1) and (e)(1))

THIS MEETING IS BEING CONDUCTED BY VIDEOCONFERENCE

THIS MEETING IS BEING RECORDED

Date: Tuesday, June 21, 2022
Time: 11:00 a.m. to Noon
Public Videocast: <https://jcc.granicus.com/player/event/1309>

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Members of the public seeking to make a recording of the meeting must submit a written request at least two business days before the meeting. Requests can be e-mailed to executiveandplanning@jud.ca.gov.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

Approval of Minutes

Approve the following draft minutes:

- May 18, 2022, open meeting with closed session;
- June 1, 2022, closed session; and
- June 2, 2022, closed session.

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(1))

This meeting will be conducted by videoconference with a livestream available for the public. As such, the public may submit comments for this meeting in writing only. In accordance with rule 10.75(k)(1) of the California Rules of Court, written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to executiveandplanning@jud.ca.gov or mailed or delivered to Judicial Council of California, 455 Golden Gate Avenue, San Francisco, California 94102, attention: Cliff Alumno. Only written comments received by 11:00 a.m. on Monday, June 20, 2022, will be provided to the committee members prior to the meeting.

III. DISCUSSION ITEMS

Item 1

Agenda Setting for July 15, 2022, Judicial Council Meeting (Action Required)

Review draft reports and set the agenda for the Judicial Council meeting in July.

Presenters: Various

Item 2

**Sabbatical Leave Request: Hon. Jo-Lynne Q. Lee, Superior Court of Alameda County
(Action Required)**

Review sabbatical leave request, and, if approved, consider placement of the item on the consent agenda of the July 15, 2022, Judicial Council meeting.

Presenter: Ms. Felizia Nava-Kardon, Human Resources

IV. ADJOURNMENT

Adjourn



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EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF OPEN MEETING WITH CLOSED SESSION

Wednesday, May 18, 2022

Open Meeting (Conference Call): 1:00 to 1:15 p.m.

Closed Session (Videoconference): 1:15 to 4:00 p.m.

Advisory Body Members Present: 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, and Hon. David M. Rubin,

Advisory Body Members Absent: Ms. Gretchen Nelson and Hon. Theodore C. Zayner

Committee Staff Present: Ms. Amber Barnett, Mr. Cliff Alumno, and Ms. Josely Yangco-Frona

Staff Present: Ms. Roma Cheadle, Mr. Michael Giden, Ms. Leah Rose-Goodwin, Mr. David Smith, Ms. Laura Speed, and Ms. Millicent Tidwell

OPEN MEETING

Call to Order and Roll Call

The chair called the open meeting to order at 1:00 p.m., and Mr. Alumno took roll call and made the opening announcements.

Approval of Minutes

The committee reviewed the draft minutes of the following:

- April 13, 2022, meeting;
- April 25, 2022, action by e-mail; and
- April 27, 2022, action by e-mail.

Action: *With one abstention, the committee approved the minutes listed above. (Judge Lyons abstained from voting on the draft minutes of the April 13, 2022, meeting.)*

DISCUSSION AND ACTION ITEM

Subordinate Judicial Officer Position Request: Superior Court of Placer County (Action Required)

The committee reviewed a recommendation from Office of Court Research staff to confirm a request from the Superior Court of Placer County to defer the conversion of a subordinate judicial officer position to a judgeship due to an upcoming retirement of a commissioner effective July 1, 2022.

Action: *The committee unanimously confirmed the court's request.*

ADJOURNMENT

With the business of the open meeting concluded, the meeting was adjourned at 1:15 p.m.

CLOSED SESSION

Pursuant to California Rules of Court, rule 10.75(d)(1)

2022 Advisory Body Nominations Discussions

The committee reviewed nominations for the following advisory bodies:

- Advisory Committee on Audits and Financial Accountability for the Judicial Branch;
- Advisory Committee on Criminal Jury Instructions;
- Advisory Committee on Providing Access and Fairness;
- Appellate Advisory Committee;
- Civil and Small Claims Advisory Committee;
- Criminal Law Advisory Committee;
- Judicial Branch Workers' Compensation Program; and
- Tribal Court-State Court Forum.

Action: *The committee developed recommendations to be submitted to the Chief Justice for appointments to the advisory bodies listed above.*

Adjourned closed session at 4:15 p.m.

Approved by the advisory body on [insert date].



JUDICIAL COUNCIL OF CALIFORNIA

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EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF CLOSED MEETING

June 1, 2022
12:00 to 3:00 P.M.

Advisory Body Members Present: Hon. Marsha G. Slough (Chair), Hon. Samuel K. Feng (Vice-chair), Hon. Marla O. Anderson, 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 Absent: Hon. Stacy Boulware Eurie

Staff Present: Ms. Millicent Tidwell, Ms. Laura Speed, Ms. Amber Barnett, Ms. Roma Cheadle, and Ms. Josely Yangco-Fronza

CLOSED SESSION

Call to Order and Roll Call

The chair called the meeting to order at 12:00 p.m. and staff confirmed members' attendance.

Item 1

Pursuant to California Rules of Court, rule 10.75(d)(1)

2022 Advisory Body and Education Curriculum Committee Nominations Discussions

The committee reviewed nominations for the following advisory bodies and education curriculum committee:

- Advisory Committee on Civil Jury Instructions;
- Collaborative Justice Courts Advisory Committee;
- Court Facilities Advisory Committee;
- Court Security Advisory Committee;
- Executive Committee of Court Executives Advisory Committee;
- Legal Services Trust Fund Commission;
- Probate and Mental Health Advisory Committee;
- Traffic Advisory Committee;
- Trial Court Facility Modifications Advisory Committee; and
- Criminal Law Curriculum Committee

Action: *The committee developed recommendations to be submitted to the Chief Justice for appointments to the advisory bodies and education curriculum committee listed above.*

ADJOURNMENT

There being no further business, the meeting was adjourned at 3:10 p.m.

Approved by the advisory body on enter date.

DRAFT



JUDICIAL COUNCIL OF CALIFORNIA

EXECUTIVE AND
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EXECUTIVE AND PLANNING COMMITTEE

MINUTES OF CLOSED MEETING

June 2, 2022
12:00 to 3:30 P.M.

Advisory Body Members Present: 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, Ms. Gretchen Nelson, Hon. David M. Rubin, and Hon. Theodore C. Zayner

Advisory Body Members Absent: Hon. Ann C. Moorman

Staff Present: Ms. Millicent Tidwell, Ms. Laura Speed, Ms. Amber Barnett, Ms. Roma Cheadle, and Ms. Josely Yangco-Fronza

CLOSED SESSION

Call to Order and Roll Call

The chair called the meeting to order at 12:00 p.m. and staff confirmed members' attendance.

Item 1

Pursuant to California Rules of Court, rule 10.75(d)(1)

2022 Advisory Body and Education Curriculum Committees Nominations Discussions

The committee reviewed nominations for the following advisory bodies and education curriculum committees:

- Center for Judicial Education and Research Advisory Committee;
- Court Interpreters Advisory Panel;
- Data Analytics Advisory Committee;
- Family and Juvenile Law Advisory Committee;
- Information Technology Advisory Committee;
- Trial Court Budget Advisory Committee;
- Appellate Practice Curriculum Committee;
- Civil Law Curriculum Committee;
- Family Law Curriculum Committee;
- Judicial Branch Access, Ethics and Fairness Curriculum Committee;
- Judicial Branch Leadership Development Curriculum Committee;

- Juvenile Law Curriculum Committee;
- Probate Law Curriculum Committee; and
- Trial Court Operations Curriculum Committee

Action: *The committee developed recommendations to be submitted to the Chief Justice for appointments to the advisory bodies and education curriculum committees listed above.*

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 3:25 p.m.

Approved by the advisory body on enter date.

DRAFT



Judicial Council of California

Meeting Agenda

Judicial Council

Please visit
courts website at
www.courts.ca.gov
to view live meeting on
July 15, 2022

Meeting materials
are available through
the hyperlinks in
this document.

*Open to the Public Unless Indicated as Closed
(Cal. Rules of Court, rule 10.6(a))*

*Requests for ADA accommodation should be directed to
JCCAccessCoordinator@jud.ca.gov*

Friday, July 15, 2022

San Francisco

CLOSED SESSION (RULE 10.6(B))—PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE

Session: 9:00 – 9:40 a.m.

Transitional Break 9:40 – 9:50 a.m.

OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA

A link to the live videostream of the meeting will be available in the Meeting Information Center approximately 15 minutes prior to the start of the open session. In the event the preceding closed session adjourns late, the start time of the public session may be delayed.

Open Session Begins: 9:50 a.m.

Call to Order

10 minutes

Public Comment

The Judicial Council welcomes public comment on general matters of judicial administration and on specific agenda items as it can enhance the council's understanding of the issues coming before it. For more information about meeting attendance and public comment procedures, visit:

<http://www.courts.ca.gov/28045.htm>

- 1) Submit advance requests to speak by 4:00 p.m., Tuesday, July 12.
- 2) Submit written comments for this meeting by 1:00 p.m. on Wednesday, July 13.

Submit advance requests to speak, written comments, or questions by e-mail to:

judicialcouncil@jud.ca.gov

May 13, 2022 Business Meeting

[CO 22-02](#)

Judicial Council: Agenda Items From the May 13 Business Meeting.

Chief Justice's Report

20 minutes

Administrative Director's Report

22-109

Administrative Director's Report

20 minutes

Judicial Council Committee Presentations

22-132

Presentation | Executive and Planning Committee, Rules Committee, and Legislation Committee

Speakers:

Hon. Marla O. Anderson, Chair, Legislation Committee

10 minutes

22-056

Presentation | Budget Committee

Speakers:

Hon. David M. Rubin, Chair

10 minutes

22-110

Written Reports

CONSENT AGENDA

5 minutes

A council member who wishes to request that any item be moved from the Consent Agenda to the Discussion Agenda is asked to please notify Roma Cheadle at 415-865-7640 at least 48 hours before the meeting.

[22-104](#)

Collaborative Justice | Recommended Allocations of Fiscal Year 2022-23 Substance Abuse Focus Grants (Action Required)

Summary:

As part of the Budget Act of 2022, the Legislature has allocated \$1,160,000 to the superior courts to maintain, expand, or enhance collaborative courts. In November 2005, the Judicial Council established a caseload-based methodology for allocation of these funds (the Substance Abuse Focus Grants) to the courts. The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council allocate the fiscal year (FY) 2022-23 funds to courts using the council's methodology. Additionally, \$75,000 in federal Court Improvement Program funds have been made available for FY 2022-23 to fund the noncompetitive Dependency Drug Court

Augmentation to the focus grant program. The committee recommends funding programs in 45 courts for FY 2022-23 with these annual grants and providing augmentation grants to dependency drug courts in 20 counties.

[22-046](#)

Court Facilities | Judicial Branch Five-Year Infrastructure Plan for Fiscal Year 2023-24 (Action Required)

Summary:

The Court Facilities Advisory Committee recommends approval of the Judicial Branch Five-Year Infrastructure Plan for Fiscal Year 2023-24 and submission of the plan to the state Department of Finance. This five-year plan for trial court capital-outlay projects forms the basis for capital project funding requests for the upcoming and outlying fiscal years.

[22-096](#)

Court Facilities | Use of Air Filtration Devices During Wildfires (Action Required)

Summary:

The Trial Court Facility Modification Advisory Committee recommends adoption of a policy that governs responsibility for the cost of providing air filtration devices and their use at trial court facilities during wildfire events and other appropriate mitigation measures to protect court users, court staff, and judicial officers. The recommendation is based on a study performed where the data did not indicate a consistent improvement of air quality when operating the air filtration devices, and the need to make the best and most cost-effective use of limited judicial branch facilities funds.

[22-131](#)

Judicial Branch | Revisions to the Judicial Branch Statistical Information System (Action Required)

Summary:

The Court Executives Advisory Committee recommends approving revised data standards for the Judicial Branch Statistical Information System (JBSIS). The proposed JBSIS 4.0 data reporting standards would replace JBSIS 3.0 as the system for collecting statistical data from California trial courts. Transitioning from JBSIS 3.0 to JBSIS 4.0 would simplify and increase the efficiency of court data submission and allow court data contacts and Judicial Council staff to more effectively ensure that important court data elements are reported accurately, reliably, uniformly, and in a timely fashion across all trial courts.

22-123

Judicial Sabbatical | Judicial Sabbatical Request: Judge Jo-Lynne Q. Lee (Action Required)

Summary:

Judge Jo-Lynne Q. Lee requests the Judicial Council to approve an unpaid sabbatical leave for the period of January 1, 2023 through May 1, 2023. Judge Lee will be a Visiting Fellow with the Commercial Law Center at Magdalen College, Oxford University to engage in a study comparing asbestos litigation as practiced in California with asbestos litigation as practiced in the United Kingdom and comparing the outcomes. Judge Lee intends to share the information learned from the study with her colleagues on the bench and with Court administrators in hopes that it will lead to improvements in the management of the asbestos caseload.

[22-120](#)**Juvenile Law | Fiscal Year 2022-23 Funding Allocations for Court Appointed Special Advocate Local Assistance (Action Required)****Summary:**

The Family and Juvenile Law Advisory Committee recommends approving Court Appointed Special Advocate (CASA) program grant funding allocations for fiscal year (FY) 2022-23. The judicial branch budget for Judicial Council CASA grants for FY 2022-23 is \$2.713 million, which includes a \$500,000 augmentation to support efforts to increase the number of foster children served. The recommended allocations were calculated based on the CASA funding methodology approved by the Judicial Council at its July 20 and September 21, 2018, business meetings.

[22-124](#)**Report to the Legislature | Pretrial Pilot Program (Action Required)****Summary:**

The Budget Act of 2019 earmarked \$75 million to the Judicial Council to launch and evaluate two-year pretrial projects in local trial courts. As directed by the Legislature, the projects aim to increase the safe and efficient release of arrestees before trial; use the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances; validate and expand the use of risk assessment tools; and assess any bias. Criminal Justice Services staff recommend that the Judicial Council receive *Pretrial Pilot Program: Report to the Legislature* and direct the Administrative Director to submit this report to the Joint Legislative Budget Committee and the Department of Finance. The Budget Act of 2019 mandates that this report be submitted periodically through 2022. This is the fifth legislative report on the program and documents the activities of pilot courts and Judicial Council administration of the program carried out between July 2021 and July 2022. It also presents select data on pretrial risk assessments conducted on individuals in all pilot projects since the start of the program.

[22-117](#)**Rules and Forms | Form Revision to Reflect Annual Cost of Living Adjustment (Action Required)****Summary:**

The Code of Civil Procedure requires the Judicial Council to publish a list of the current dollar amounts of exemptions from judgment. As required by statute, the dollar amount of one exemption was adjusted effective July 1, 2022. Accordingly, Judicial Council staff recommend revising the form that contains the list of dollar amounts of exemptions from judgment to reflect the updated figure.

22-119

Rules and Forms | Unlawful Detainer: Form Revisions [as required by Code of Civil Procedure, section 1179.11 or to Implement Assembly or Senate Bill ##] (Action Required)**Summary:**

Parts of existing law on unlawful detainers are set to expire on June 30, 2022. Depending on legislative action, the Civil and Small Claims Advisory Committee may recommend revisions to Judicial Council unlawful detainer forms to remove expired provisions from the forms or to implement new law enacted by the legislature to extend the provisions beyond June 30. The Advisory Committee will not know what changes are needed, if any, until the legislature acts (or does not act), which is unlikely

to happen before late June.

[22-121](#)**Trial Court Budget | Fiscal Year 2022-23 Allocation of Court-Appointed Juvenile Dependency Counsel Funding (Action Required)****Summary:**

The Trial Court Budget Advisory Committee recommends allocation of \$156.7 million for fiscal year 2022-23 from the ongoing Trial Court Trust Fund to the trial courts for court-appointed juvenile dependency counsel, and two adjustments to the dependency counsel funding allocation methodology. The allocation may change based on final appropriations included in the signed 2022 Budget Act.

[22-045](#)**Trial Courts | Trial Court Trust Fund Funds Held on Behalf of the Trial Courts (Action Required)****Summary:**

The Fiscal Planning Subcommittee of the Trial Court Budget Advisory Committee recommends approval of seven amended Trial Court Trust Fund funds to be held on behalf of the trial courts requests totaling \$4.6 million from six trial courts. Under the Judicial Council-adopted process, a court may request reduced funding as a result of the court exceeding the 3 percent fund balance cap, to be retained in the Trial Court Trust Fund for the benefit of that court.

DISCUSSION AGENDA[22-116](#)**Allocations and Reimbursements to Trial Courts | Distribution of the Fee for Remote Appearances (Action Required)****Summary:**

The Trial Court Budget Advisory Committee recommends the Judicial Council approve a recommendation that remote appearance fees collected under Government Code section 70630-videoconferencing or remote appearance-be distributed back to trial courts on a dollar-for-dollar basis after deposit into the Trial Court Trust Fund retroactive to January 1, 2022 when California Rules of Court rule 3.672 became effective. The Trial Court Budget Advisory Committee also recommends the council approve a recommendation to exclude this revenue stream from the Workload Formula, for consistency in allowing courts to offset costs as provided in Government Code section 70630, videoconferencing or remote appearance.

Speakers:

Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Ms. Rebecca Fleming, Vice Chair, Trial Court Budget Advisory Committee

10 minutes

[22-044](#)**Trial Court Budget | Allocations from the Trial Court Trust Fund and Trial Court Allocations for 2022-23 (Action Required)****Summary:**

For 2022-23, the Trial Court Budget Advisory Committee recommends the Judicial Council allocate \$2.583 billion to the trial courts, including \$2.665 billion from the Trial Court Trust Fund, which includes new funding of \$84.2 million inflationary funding, \$100 million equity funding, \$31.2 million new judgeship funding, \$137.8 million from the state General Fund for employee benefits and pretrial funding, and

\$50.0 million in State Court Facilities Construction Fund for support of operation of the trial courts.

The Trial Court Budget Advisory Committee also recommends the Judicial Council approve the Workload Formula allocation of \$2.447 billion based on recommended methodologies as well as methodologies approved by the Judicial Council. Assuming approval of the allocations, current revenue projections, and estimated savings from 2021-22 appropriations, the Trial Court Trust Fund will end 2022-23 with a fund balance of \$137.5 million, of which approximately \$76.2 million will be unrestricted.

Speakers:

Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Ms. Rebecca Fleming, Vice Chair, Trial Court Budget Advisory Committee

10 minutes

[22-040](#)

Trial Court Budget | State Trial Court Improvement and Modernization Fund Allocations for 2022-23 (Action Required)

Summary:

The Trial Court Budget Advisory Committee recommends the Judicial Council approve allocations for 2022-23 from the State Trial Court Improvement and Modernization Fund in the amount of \$45.384 million. Assuming approval of the allocations, and with current revenue projections, the State Trial Court Improvement and Modernization Fund will end 2022-23 with a fund balance of \$16.448 million, of which approximately \$13.781 million will be unrestricted.

Speakers:

Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee
Ms. Rebecca Fleming, Vice Chair, Trial Court Budget Advisory Committee

10 minutes

22-130

Collections | Recommendation to Rescind Outdated Policy on Civil Assessments (Action Required)

Summary:

The Judicial Branch Budget Committee recommends that the Judicial Council rescind, as outdated, previously approved trial court collections program statewide criteria related to civil assessments. The Legislature and Governor are currently considering the broader issue of civil assessment fees.

Speakers:

Hon. David M. Rubin, Chair, Judicial Branch Budget Committee

10 minutes

22-127

Trial Court Budget | 2022-23 Civil Assessment Allocation Methodology (Action Required)

Summary:

The Judicial Branch Budget Committee recommends that the Judicial Council approve a new methodology for 2022-23 civil assessment allocations. The Legislature and Governor are currently considering the broader issue of civil assessment fees.

Speakers:

Hon. David M. Rubin, Chair, Judicial Branch Budget Committee

15 minutes

[22-043](#)**Judicial Branch Budget | 2023-24 Budget Change Proposals for Supreme Court, Courts of Appeal, Superior Courts, Judicial Branch Facilities Program, Habeas Corpus Resource Center, and Judicial Council (Action Required)****Summary:**

To continue responsible reinvestment in the judicial branch allowing for greater access to justice for California's citizens, the Judicial Branch Budget Committee recommends submitting these 2023-24 budget change proposals to the State Department of Finance.

Speakers:

Hon. David M. Rubin, Chair, Judicial Branch Budget Committee
Hon. Jonathan B. Conklin, Chair, Trial Court Budget Advisory Committee

15 minutes

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)[22-041](#)**Report to the Legislature | Electronic Recording Equipment****Summary:**

Government Code section 69958 requires the Judicial Council to report to the Legislature semiannually on the purchase and lease of any electronic recording equipment that will be used to record superior court proceedings. During the reporting period of July 1 through December 31, 2021, six courts reported spending a combined total of \$312,932 for equipment or related items.

[22-122](#)**Report to the Legislature | Impact of Self-Help Services: Supplement to Cost-Benefit Analysis****Summary:**

On June 15, 2022 the Judicial Council's Center for Families, Children & the Courts submitted the attached report to the Legislature and Department of Finance in conformance with the Budget Act of 2021 (Stats. 2021, ch. 69).

[22-082](#)**Report to the Legislature | Trial Court Interpreters Program Expenditure Report for Fiscal Year 2020-21****Summary:**

On May 6, 2022, the Judicial Council's Language Access Services submitted the annual report on trial court interpreter expenditures to the Legislature and the Department of Finance. This report is required by the Budget Act of 2020 (Sen. Bill 74; Stats. 2020, ch. 6).

[22-118](#)**Trial Courts | Public Notice by Courts of Closures or Reduced Clerks' Office Hours****Summary:**

Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices, or reducing clerks' regular office hours; and (2) the council to post all such notices on its website and relay them to the Legislature. This report lists the latest court notices received by the council under this statutory requirement. Since the previous report, two superior courts-the Superior Courts of San Benito County and Ventura County-have issued new notices.

[22-042](#)**Trial Courts | Quarterly Investment Report for First Quarter of 2022****Summary:**

This quarterly investment report covers the period from January 1, 2022, through March 31, 2022, and provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under the Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004.

Circulating Orders

22-055 Circulating Orders since the last business meeting.

Appointment Orders

22-107 Appointment Orders since the last business meeting.

Adjournment



JUDICIAL COUNCIL OF CALIFORNIA

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Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date

June 14, 2022

Action Requested

Approve Request for Judicial Sabbatical
Leave

To

Members of the Executive and Planning
Committee

Deadline

June 14, 2022

From

Aurora Rezapour, Director
Human Resources

Contact

Felizia Nava-Kardon
415-865-4280 phone
felizia.nava-kardon@jud.ca.gov

Subject

Sabbatical Leave Request by Hon. Jo-Lynne
Q. Lee

Executive Summary

The Executive and Planning Committee recommends the approval of an unpaid sabbatical leave for Judge Jo-Lynne Q. Lee, Superior Court of Alameda County, for the period of January 1, 2023, through May 31, 2023. During this sabbatical leave, Judge Lee will be a Visiting Fellow with the Commercial Law Center at Magdalen College, Oxford University (she has now been formally invited since her April 15, 2022, letter) to engage in a study comparing asbestos litigation as practiced in California with asbestos litigation as practiced in the United Kingdom and comparing the outcomes.

Judge Lee intends to share the information learned from the study with her colleagues on the bench and with the Alameda court's administrators in hopes that it will lead to improvements in the management of the asbestos caseload. Judge Lee also intends to submit an article for publication in the journal of the Alameda County Bar Association.

Recommendation

The Judicial Council's Human Resources office recommends that the Executive and Planning Committee approve the request for an unpaid sabbatical leave for the period of January 1, 2023, through May 31, 2023, for Judge Jo-Lynne Q. Lee.

Relevant Previous Council Action

This request is being considered under the procedures set forth in California Rules of Court, rule 10.502. Rule 10.502(d) contemplates that the Judicial Council's Executive Committee will make a recommendation to the Judicial Council regarding requests for judicial sabbaticals.

Analysis/Rationale

Judge Lee is currently presiding over the Asbestos Litigation Department at the Superior Court of Alameda County and has held the assignment since January of 2020. Judge Lee's participation as a Visiting Fellow at Magdalen College, Oxford University, will allow her to interview British barristers who specialize in asbestos litigation, observe court proceedings, and consult with researchers and other academics at Oxford in developing her analysis. Judge Lee states that given the significant time, money, and personnel devoted to asbestos-related cases, she believes it would be beneficial to investigate how other courts process and resolve these complex, resource-intensive matters and to examine the difference, if any, in outcomes.

Policy implications

California Rules of Court, rule 10.502(b) outlines the eligibility requirements for an unpaid sabbatical under Government Code section 68554.

Judge Lee's sabbatical proposal contains all the documentation required by rule 10.502. Judge Lee's letter (Attachment A) elaborates how her study on asbestos litigation as practiced in the United Kingdom will lead to benefits to the administration of justice in California and the performance of her duties. Presiding Judge Charles A. Smiley of the Superior Court of Alameda County has written a letter of support for Judge Lee's sabbatical (Attachment B).

Comments

The presiding judge of the Superior Court of Alameda County states that he supports research that might provide insight to better manage and process asbestos litigation and so also supports Judge Lee's request and recommends that the sabbatical request be granted.

Alternatives considered

There were no alternatives proposed for this recommendation.

Fiscal and Operational Impacts

There is no fiscal impact. If the unpaid sabbatical leave is approved, Judge Thompson will draw no salary during her sabbatical, and the period of absence does not count as service toward retirement.

Attachments and Links

1. Attachment A: Sabbatical proposal from Judge Jo-Lynne Q. Lee, Superior Court of Alameda County
2. Attachment B: Letter of support from Presiding Judge Charles A. Smiley, Superior Court of Alameda County



SUPERIOR COURT
STATE OF CALIFORNIA
COUNTY OF ALAMEDA

CHAMBERS OF
JO-LYNNE Q. LEE
JUDGE

ADMINISTRATION BUILDING
1221 OAK STREET
OAKLAND, CALIFORNIA 94612
(510) 267-6938
FAX (510) 891-6276

April 15, 2022

Martin Hoshino, Administrative Director
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Request for Sabbatical Leave

Dear Mr. Hoshino,

Please accept this letter as my application for unpaid sabbatical pursuant to Government Code §68554 and California Rules of Court, Rule 10.502. I am a judge at the Alameda County Superior Court and have served in this capacity since 2002. I have never previously requested or taken sabbatical leave. The period of my requested sabbatical leave is five months, commencing on or about January 1, 2023, through May 30, 2023.

California Rule of Court 10.502(a) states: "The objective of sabbatical leave is to facilitate study, teaching, research, or another activity that will benefit the administration of justice and enhance judges' performance of their duties." I believe the study that I am interested in pursuing during this sabbatical would fully satisfy this requirement. I am proposing to engage in a study comparing asbestos litigation as practiced in California with asbestos litigation as practiced in the United Kingdom and comparing outcomes. In this regard, I have been in contact with the Commercial Law Center at Magdalen College, Oxford University, where I anticipate doing most of my research. They have indicated that they would welcome me as a Visiting Fellow during the Hilary Term, 2023, and I expect confirmation of that invitation shortly.

The Proposed Study

As you may be aware, Alameda County was home to a number of Naval shipyards during WWII that remained active military bases until the late 1990s. Asbestos containing products, such as insulation, were commonly specified and installed in Navy vessels and these shipyards employed thousands of men in our community over the years. Since the 1960s, after the relationship of asbestos exposure and disease became more commonly known and understood, there have been at least one hundred plus complaints filed annually in Alameda County Superior Court alleging asbestos-induced injury, the vast majority involving plaintiffs suffering from mesothelioma. Mesothelioma is the most

Martin Hoshino, Administrative Director
Judicial Council of California
April 15, 2022
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serious cancer associated with asbestos exposure and it is a rare disease with only 2,000 diagnosed cases a year in the United States in total. Recently, plaintiff lawyers involved in this practice have brought lawsuits alleging asbestos contaminated cosmetic talc has caused ovarian cancer and colon cancer as well as mesothelioma. These lawsuits generally involve multiple parties, complex issues, and lengthy jury trials. Many of the plaintiffs filing these claims must be given preferential trial settings resulting in even greater burden on our court's already over-burdened docket. Judges in non-complex case departments, each with more than 800 matters on their dockets, are continually called upon to set aside their own assigned cases in order to preside over a preferential asbestos trial because I am already engaged in an asbestos preferential trial.

Past efforts to resolve asbestos claims through alternative dispute resolution has never succeeded and while many claims will result in a settlement, those settlements generally do not occur until the eve of trial or during trial. In other words, not only is there a substantial amount of judicial resources expended on these cases but they place an equally heavy burden on prospective jurors and the community at large.

The United Kingdom was home to some of the first scientists to document the relationship of asbestos exposure in the workplace and disease but the United States was ahead of the United Kingdom in enacting legislation addressing this hazard. Apparently, the United Kingdom possesses one of the highest rates of mesothelioma in the world and the annual number of cases of documented mesothelioma in the U.K. is at least equal to or greater than numbers reported in the U.S. In contrast to the U.S., under British law plaintiffs in civil actions are not entitled to a trial by jury, with the exception of claims for false imprisonment, malicious prosecution, and fraud. Some asbestos litigation might fall under the "fraud" claims exception. However, a judge may refuse a jury trial if the court concludes the trial requires any prolonged examination of documents or accounts or any scientific or local investigation which cannot conveniently be made with a jury.

With few exceptions, during COVID the only civil jury trials held in Alameda County were preferential trials in asbestos cases. These trials continue to dominate the court's civil jury trial calendar. There is an asbestos preference trial set every week through June in my department. Notwithstanding the Johnson and Johnson bankruptcy which has stayed pending actions involving J&J Baby Powder, talc-based asbestos complaints continue to be filed and tried. This is because talc is and was commonly used in industry, such as in printing and paper manufacture, and other brands of cosmetic talc products, such as Mennen After Shave and Cashmere Bouquet, have been manufactured and sold in the U.S. for decades. Given the significant time, money, and personnel devoted to the management and trial of these cases and the consequent impact on the community, I believe it would be beneficial to investigate how other courts process and resolve these complex, resource-intensive matters and to examine the difference, if any, in outcomes.

Martin Hoshino, Administrative Director
Judicial Council of California
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Proposed Sabbatical Term and Approvals

As noted above, I am requesting five months sabbatical leave, commencing on or about January 1, 2023, through May 30, 2023. This coincides with Hilary Term at Oxford University, where I propose conducting the study. I intend to use my vacation time at the front end of my sabbatical tenure and on the end, if necessary.

This project will involve meeting with and interviewing British barristers who specialize in asbestos litigation, observing court proceedings, and consulting with researchers and other academics at Oxford for assistance in developing a robust analysis. I hope to arrange meetings between American and British lawyers involved in asbestos litigation who can share their experiences and perspectives with each other and with me. I will be collaborating with ACIC, an American consulting firm that collects and analyzes data on asbestos filings and verdicts in courts throughout the U.S. That firm has expressed interest in obtaining similar statistics, if possible, for asbestos cases litigated in the British courts for purposes of this study.

Although it is contemplated that I will return to a general civil direct calendar upon completion of the sabbatical, I will be sharing information learned from the study with my colleagues on the bench and with our court administrators that hopefully will lead to improvements in the management of the asbestos caseload. Additionally, I intend to submit an article for publication in the journal of the Alameda County Bar Association and, if given the opportunity, share my experience and findings at judicial meetings or forums.

This sabbatical is supported by Presiding Judge Charles Smiley and Civil Division Supervising Judge Brad Seligman of the Alameda County Superior Court.

I appreciate the Judicial Council's consideration of this request. If you or any member of the Executive & Planning Committee have any questions, or desire further information, please do not hesitate to contact me at the numbers listed above. I look forward to the Council's response.

Thank you.

Very truly yours,

Jo-Lynne Q. Lee



SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

CHAMBERS OF
CHARLES A. SMILEY
Presiding Judge
Department 1

Rene C. Davidson Courthouse
1225 Fallon Street
Oakland, California 94612

April 12, 2022

Martin Hoshino
Administrative Director
Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3688

Re: Statement of Approval
Request for Sabbatical Leave
Judge Jo-Lynne Q. Lee

Dear Mr. Hoshino,

I am the Presiding Judge of the Superior Court of Alameda County. Please be advised that I approve the application submitted by Judge Jo-Lynne Q. Lee for sabbatical leave of five months, commencing on or about January 1, 2023, through May 30, 2023. Pursuant to Rules of Court, Rule 10.502 please forward this Statement of Approval to the Executive and Planning Committee for recommendation to the Judicial Council regarding Judge Lee's sabbatical request.

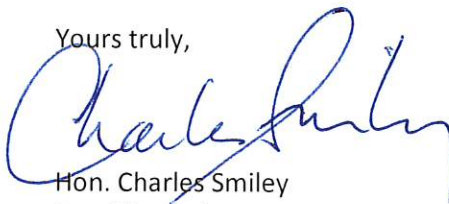
It is my understanding that Judge Lee intends to use this sabbatical to conduct a comparative analysis of proceedings and practices in asbestos litigation in the United Kingdom and California. Judge Lee is currently presiding over the Asbestos Litigation Department at our court and has held this assignment since January 2020. She also headed that department for approximately four years in a previous assignment. Our court is one of three in the State with a specialty department devoted to the management and trial of asbestos litigation. In our court, most asbestos claims involve plaintiffs suffering from mesothelioma, the most serious cancer identified with asbestos exposure. These cases involve numerous parties and complex issues. For instance, in one case recently tried in Alameda County, the number of defendants appearing in that action started with over 80 named entities. Recent motions filed in this court often involve complex and sometimes novel issues. In one case, plaintiffs are seeking a protective order to preclude defense experts from using medical information to which they have become privy for purposes outside of litigation, including scientific research. Jury trials in these cases generally take 4-6 weeks to complete to verdict.

While it is always difficult when a judicial officer is absent from the court, given the judicial time and resources commanded by these matters, I support research that might provide insight as to how to

better manage and process this type of litigation. The results might also prove helpful in improving our own management of other complex case types. I anticipate placing another civil judge in the asbestos department in 2023 and when Judge Lee returns from sabbatical she will take on a calendar that avoids conflicts of interest in connection with her sabbatical study.

Thank you for your consideration of this statement of support for Judge Lee's sabbatical leave request. Please feel free to contact me for further information if needed.

Yours truly,

A handwritten signature in blue ink, appearing to read "Charles Smiley". The signature is fluid and cursive, with a large initial "C" and a long, sweeping tail.

Hon. Charles Smiley
Presiding Judge
Superior Court of California
County of Alameda

cc. Jo-Lynne Q. Lee