



# JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

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

## TRIBAL COURT-STATE COURT FORUM

### MINUTES OF OPEN MEETING

June 8, 2017

12:15-1:15 p.m.

By Conference Call

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**Advisory Body  
Members Present:**

*Hon. Abby Abinanti, Co-chair, Hon. Dennis M. Perluss, Co-chair, Hon. April Attebury, Hon. Hilary A. Chittick, Ms. Jacqueline Davenport, Hon. Gail Dekreon, Hon. Leonard Edwards(Ret.), Hon. Kimberly Gaab, Hon. Lawrence C. King, Hon. Patricia Lenzi, Hon. Mark Radoff, Hon. David Riemenschneider, Hon. John Sugiyama, Hon. Christopher Wilson, and Hon. Joseph Wiseman*

**Advisory Body  
Members Absent:**

Hon. Richard Blake, Hon. Cynthia Gomez, Hon. Michael Golden, Mr. Olin Jones, Hon. Mark Juhas, Hon. Susanne Kingsbury, Hon. William Kockenmeister, Hon. Anthony Lee, Hon. Lester Marston, Hon. Allen Sumner, Hon. Sunshine Sykes, Hon. Juan Ulloa, Hon. Christine Williams, Hon. Claudette White, and Hon. Zeke Zeidler

**Others Present:**

Ms.Carolynn Bernabe, Ms. Vida Castaneda, Ms. Charlene Depner, Ms. Ann Gilmour, Mr. Dan Pone

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### OPEN MEETING

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**Call to Order and Roll Call**

The co-chairs called the meeting to order at 12:17 p.m.

**Approval of Minutes**

The forum approved the April 13, 2017 meeting minutes.

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### DISCUSSION AND ACTION ITEMS (ITEMS 1-6)

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**Item 1**

**Cochairs Report**

- [Attorney General video](#)

The link to the video is available in the [Tribal/State Programs Website](#) under Family Violence on the landing page and on [CJER Online](#) under Toolkits/Family/Domestic Violence. The video is nine minutes long, and forum members are encouraged to watch it. The Attorney General made a significant introduction on the importance of enforcement of tribal DV orders. If interested in obtaining a DVD copy of video that can be used as a teaching tool for conferences, please contact [Ann Gilmour](#) or [Carolynn Bernabe](#).

- ***Addition of technology plan committee to forum [annual agenda](#)***  
The forum's annual agenda was amended to authorize work implementing the council's cross-advisory committee group implementing different technologies in the court to increase court access. Judge Wiseman agreed to be the forum's representative to the Information Technology Advisory Committee (ITAC). Judge Wiseman will attend the in-person ITAC meeting on June 9, 2017 and will provide an update at the next call.
- ***2017-2018 Meeting dates and in person meeting date***  
The committee agreed to schedule the next in-person meeting for Thursday, February 15, 2018 in San Francisco. The forum was provided the meetings dates set through the end of 2018.

## **Item 2**

**Legislative Update:** [AB 905](#)

*Presenter: Dan Pone*

Mr. Dan Pone reported on the status of AB 905 sponsored by the California Law Revision Commission that would remove the sunset on the Tribal Court Civil Money Judgement Act. The bill is supported by the Judicial Council, California Nations Indian Gaming Association (35 tribes), the Luiseno Band of Mission Indians, Rincon Band, and Yurok. The bill passed the Assembly Judiciary and Appropriations Committees. It is on the consent calendar pending in Senate Judiciary set for hearing on June 13. After the Senate Judiciary Committee, it will go to the Appropriations Committee. Following passage by consent or on the senate floor, the bill will go to the Governor's desk. Mr. Pone will provide another update at the next forum meeting.

## **Item 3**

### **RUPRO Items**

- **SPR17-16 Indian Child Welfare Act: Amend Rule 5.552 to Allow Indian Child's Tribe Access to Court Records Consistent with Welfare and Institutions Code Section 827**  
The original purpose of this proposal was to correct two specific inconsistency between the rule and section 827 of the Welfare and Institutions Code. In the course of developing the proposal, it was noted that much of the language in rule 5.552 is duplicative of the statute. RUPRO has given general direction that duplication of statutory language in rules of court should be avoided. Where rules that contain such duplication are being amended, consideration should be given to removing the duplicative language. When this proposal was sent out for public comment, commentators were specifically asked whether the duplicative language should be removed or retained. The comment period ended April 28, 2017. Eight comments were received. All commentators are supportive of the proposal. Three commentators indicated that the duplicative language should be stripped out. Three indicated that the duplicative language should be retained. Two took no position on this question. The Family and Juvenile Law Advisory Committee considered the comments and proposed responses received during the comment period. The committee discussed in particular the issue whether language that is duplicative of statute should be deleted to avoid the potential for conflict and the need for rule updating when the statute is revised, or should be kept in the rule for ease of reference by practitioners and self-

represented litigants as suggested by several commentators. After discussion of the pros and cons, the majority of the committee concluded that, consistent with general RUPRO direction, the language in the rule that duplicated statutory language should be removed. The forum agreed with this conclusion.

*Action item: Staff to finalize report to go to RUPRO and to Judicial Council for final amendment to the rule.*

- **SPR17-18 Family Law: Transfers of title IV-D Child Support Cases Between State and Tribal Court**  
This proposal was in response to recommendations made by parties involved in transfer cases from Yurok Child Support, Del Norte and Humboldt Counties. The proposal was circulated for public comment during the comment period ending April 28. The revised rule and comment chart reflect the technical changes made in response to comments received. There is only one substantive change. A question arose whether filing fees would be charged when a title IV-D child support case that includes child custody issues is transferred from a tribal court to the state court. Upon review of the relevant statutory law, staff could find no authority for the charging fees for these transfers. The Family and Juvenile Law Advisory Committee considered the comments and proposed responses received during the comment period and at their last call and approved moving forward as amended. The committee determined that there should be no filing fee for these transfers and that language and an advisory comment should be included in the rule of court to that effect. The forum concurred with this conclusion and approved the proposal.

*Action item: Staff to finalize report to go to RUPRO and to Judicial Council for final amendment to the rule.*

#### **Item 4**

##### **Traffic Initiative (Small Group Update)**

*Presenter: Ann Gilmour*

Ms. Ann Gilmour received a number of volunteers to serve on the traffic group. These include Judges Marston, Williams, Wiseman and Judge Dekreon who is the liaison with the Traffic Advisory Committee. Ann will find time that works for all.

#### **Item 5**

##### **Upcoming Conferences**

*Presenter: Vida Castaneda*

Ms. Vida Castaneda provided a status update on these events:

- **[Beyond the Bench](#) – December 18-20, 2017, San Diego**  
Preconference events begin on December 18, main conference December 19-20 at the Manchester Grand Hyatt. The theme is “*Uniting for a Better Future*,” which will bring together approximately 1200 participants including judges, attorneys, court staff, tribal and non-tribal, social workers, and probation officers. There will be a wide range of topic areas including juvenile, family, criminal probate, guardianship, conservatorship, tribal

court-state court jurisdiction, mental health, immigration, education, human trafficking, trauma, and racial justice. There will be three tribal-related workshops to include topics on ICWA Task Force report, ICWA Regulations and Guidelines, and Trafficking in tribal communities. Pre-registration open through June 30.

- ***Legal Aid Association of California and the Judicial Council [California Family Law and Self-Help Conference](#) – July 24, 2017, Los Angeles***

This event will be held at the California Endowment Building. Topics to include real property, pensions, military, traffic tickets, domestic violence/custody, and immigration. Two tribal related workshops will be presented, “Providing Effective Self-Help Services to Tribal Communities” and “Assisting and Understanding Victims Within the Native American Community”. There are scholarships available to tribal court judges, tribal court staff, and staff working on domestic violence program. If interested, please contact Laural Ayala, [laural.ayala@jud.ca.gov](mailto:laural.ayala@jud.ca.gov); 415-865-7459.

- ***Native American Day – September 22, 2017, 10:00 a.m. to 2:00 p.m.***

This event will be held at the state Capitol Building in Sacramento. This year marks the 50<sup>th</sup> anniversary and the theme is “Tribal Sovereignty: Past, Present, and Future.” There will be many resource tables from agencies throughout California, health-related information, an educational corner, and booths featuring live food demonstrations. The planning committee is in the process of finding speakers and cultural performers. Ms. Castaneda will provide more information to the forum in the next few months.

## **Item 6**

### **Other Business**

The next forum call is on August 17, 2017 at 12:15 p.m.

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

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There being no further business, the meeting was adjourned at 12:57 p.m.

Approved by the advisory body on August 17, 2017.