



JUDICIAL COUNCIL OF CALIFORNIA

INFORMATION TECHNOLOGY
ADVISORY COMMITTEE

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ITAC RULES AND POLICY SUBCOMMITTEE

MINUTES OF OPEN MEETING

June 21, 2018

12:10 PM – 1:30 PM

Teleconference

Advisory Body Members Present: Hon. Peter Siggins; Hon. Julie Culver; Hon. Jackson Lucky; Hon. Louis Mauro;
Mr. Darrell Parker

Advisory Body Members Absent: Mr. Don Willenburg

Others Present: Ms. Fati Farmanfarmaian; Ms. Andrea Jaramillo

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:10 PM and took roll call.

Approval of Minutes

The ITAC Rules and Policy Subcommittee reviewed and approved the minutes of the January 22, 2018 with one amendment to page 2, item 2 correcting the EFS numbering. There was one abstention as Mr. Parker did not attend the meeting. There was no public comment for this meeting.

DISCUSSION AND ACTION ITEMS (ITEMS 1-2)

Item 1

Modernization Project Rules Proposal: Proposed Amendments to Title 2, Division 3, Chapter 2 (Action Required)

Review public comments received and decide whether to recommend the Judicial Council approve amendments to title 2, division 3, chapter 2 of the California Rules of Court. The proposed amendments respond to new requirements in Code of Civil Procedure section 1010.6, amend definitions in the rules, and ensure indigent filers are not required to have a payment mechanism to create an account with electronic filing service providers.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee
Mr. Patrick O'Donnell, Managing Attorney, Legal Services
Ms. Andrea Jaramillo, Attorney II, Legal Services

Action: Ms. Jaramillo provided responses on the comments received during the public comment period.

Rule 2.250(b)(1) definition of “document”:

The existing rule contains “an exhibit” within the scope of what can constitute a “document” and this is unaffected by the proposed amendments. Accordingly, the recommendation may be something for the subcommittee to consider for potential amendment during next year’s rules cycle. Staff will present potential topics for next year’s rules proposals to the subcommittee in the fall for discussion by the subcommittee and direction on which topics are to be developed into proposals.

Rule 2.251 provisions for consent to permissive electronic service

The full requirements, not just a subset, of section 1010.6’s express consent requirements are already captured in the rules. Concerning express consent, section 1010.6 states,

Express consent to electronic service may be accomplished either by (I) serving a notice on all the parties and filing the notice with the court, or (II) manifesting affirmative consent through electronic means with the court or the court’s electronic filing service provider, and concurrently providing the party’s electronic address with that consent for the purpose of receiving electronic service. The act of electronic filing shall not be construed as express consent.

(§ 1010.6(a)(2)(A)(ii).) The option to serve a notice on all parties is in existing rule 2.251(b)(1)(A).

Additional Comments

The impacts on court operations will be included with the Judicial Council report. To ensure the report is clear on which rules will have these impacts, staff have reached out to TCPJAC/CEAC Joint Rules Subcommittee staff to request additional specificity.

The Superior Court, County of Los Angeles submitted a comment regarding rule 2.251(c)(1). Rule 2.251(c). This comment is out of the scope of the proposed amendments. It is a statement of existing law, but the subcommittee may consider it for clarifying purposes when reviewing material for next year’s rule cycle.

Motion to Approve the Modernization Project Rules Proposal: Proposed Amendments to Title 2, Division 3, Chapter 2 to pass along to ITAC for consideration.

Motion approved.

Item 2

Modernization Project: Form Proposal, Withdrawal of Consent to Electronic Service (Action Required)

Review public comments received and decide whether to recommend the Judicial Council approve Judicial Council form EFS-006, *Withdrawal of Consent to Electronic Service*. The purpose of the proposal is to comply with Code of Civil Procedure section 1010.6(a)(6), which requires the Judicial Council to create such a form by January 1, 2019. This is a joint proposal with the Civil and Small Claims Advisory Committee.

Presenters: Hon. Peter Siggins, Chair, Rules and Policy Subcommittee
Mr. Patrick O'Donnell, Managing Attorney, Legal Services
Ms. Andrea Jaramillo, Attorney II, Legal Services

Action: Ms. Jaramillo provided an update on comments received and that the Civil and Small Claims Advisory Committee approved the comments and proposals to move forward at their recent meeting to modify the proposed form EFS-006, *Withdrawal of Consent to Electronic Service*, to include a notice that the form may not be used for electronic service required by local rule or court order. As modified, recommend the form for Judicial Council adoption at its September 2018 meeting.

Motion to Approve the Modernization Project: Form Proposal, Withdrawal of Consent to Electronic Service to pass along to ITAC for consideration with a notice provision added that this form may not be used for mandatory electronic service as required by local rule or court order.

Motion approved.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:45 PM.

Approved by the advisory body on November 6, 2018.