

**JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE**

**Conference Call Meeting
August 16, 2012 – 4:30 p.m.
Summary Minutes of Meeting**

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. James E. Herman, Vice-Chair; Hon. Terry B. Friedman (Ret.); Hon. Robert James Moss; Hon. Mary Ann O'Malley; Hon. David M. Rubin; and Ms. Angela J. Davis.

Policy Coordination and Liaison Committee members absent: Mr. Mark P. Robinson, Jr. and Ms. Kim Turner.

Other Judicial Council member present: Hon. Stephen Baker

OGA staff present: Mr. Curtis L. Child, Ms. Donna Hershkowitz, Mr. Daniel Pone, Ms. Andi Liebenbaum, and Ms. Monica LeBlond.

Other AOC staff present: Mr. Curt Soderlund and Mr. Arturo Castro.

ACTION ITEMS

1. Approval of minutes

The minutes of the July 26, 2012, conference call were approved as submitted.

2. Consent Item

N/A

3. Discussion Items

Action on Pending Legislation

- a) SB 210 (Hancock), as proposed to be amended – Criminal procedure: release on defendant's own recognizance

Requires that a judge determine whether a defendant charged with a felony, the sentence for which may be served in county jail pursuant to Penal Code section 1170(h), is eligible for release on his or her own recognizance. Sets forth a nonexclusive list of factors a court may, but is not required to consider in granting OR release to ensure that public safety is not compromised and to ensure the defendant's appearance. Expands the list of entities that may be

responsible for preparing a pretrial investigation report that, if available, may be considered by the court in determining a defendant's eligibility for OR release.

PCLC Action: Oppose.

- b) AB 2076 (Ma), as proposed to be amended – Official court reporter fee
Makes necessary amendments to a fee enacted in the budget trailer bill (SB 1021, ch. 41, Stats. of 2012) for court reporter services in civil proceedings lasting less than one hour. Specifically, 1) clarifies that the fee is for proceedings lasting one hour or less; 2) clarifies that the moving party is responsible to pay the fee; 3) authorizes the court to collect the fee at the time the party files the papers that result in the scheduled hearing; and 4) specifies that the fee is only refundable if the court fails to provide a court reporter at the scheduled hearing. Provides that longstanding fees charged and collected by courts for the cost of providing a court reporter in civil cases lasting more than one hour are to be retained by the court in which the fee was collected in lieu of the current practice of depositing the fee in the Trial Court Trust Fund where it is allocated to all courts on a pro rata basis.

PCLC Action: Support the clean up to the budget trailer bill language regarding the fee for court reporter services lasting less than one hour. No action on remainder of bill, as bill was held in the Senate Appropriations Committee.

- c) AB 1875 (Gatto), as amended August 14, 2012 – Civil procedure: depositions: time limits
Specifies that, unless otherwise ordered by the court, a deposition in a civil case would generally be limited to one day of 7 hours of total testimony. Provides that the court shall allow additional time if needed to fairly examine the deponent or if the deponent, another person, or any other circumstance impedes or delays the examination. Exempts from the bill's provisions: depositions of experts; depositions of persons designated as most qualified; employment cases; complex cases, as specified; and cases where the parties have stipulated that the bill's provisions will not apply to a specific deposition or the entire proceeding.

PCLC Action: No position.

OTHER BUSINESS

Confirm next PCLC conference call:

Proposed date: September 6, 2012

Approved by the committee October 25, 2012

**JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE**

**Conference Call Meeting
August 27, 2012 – 4:30 p.m.
Summary Minutes of Meeting**

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. James E. Herman, Vice-Chair; Hon. Mary Ann O'Malley; Hon. David M. Rubin; and Mr. Mark P. Robinson, Jr.

Policy Coordination and Liaison Committee members absent: Hon. Terry B. Friedman (Ret.); Hon. Robert James Moss; Ms. Angela J. Davis; and Ms. Kim Turner.

OGA staff present: Mr. Curtis L. Child, Ms. Donna Hershkowitz, Mr. Daniel Pone, and Ms. Yvette Casillas.

ACTION ITEMS

1. Approval of minutes

Approval of the minutes of the August 16, 2012, conference call were deferred to the next meeting.

2. Consent Item

N/A

3. Discussion Item

Action on Pending Legislation

- a) SB 1186 (Steinberg and Dutton), as proposed to be amended – Disability access
Among other things, provides, in construction-related accessibility cases, for an expansion of the early evaluation conference (EEC) process to two slightly broader classes of defendants: (1) small businesses, as defined, who declare that all of the alleged violations have been or will be fixed within 30 days of being served with the complaint; and (2) a defendant, until January 1, 2018, whose site's new construction or improvement on or after January 1, 2008, and before January 1, 2016, was approved pursuant to the local building permit and inspection process, or was approved by a local public building department inspector who is a certified access specialist, as specified, and who declares that all violations have been or will be corrected within 60 days of being served with the complaint. Extends the timeline for the court to conduct all EECs, including

those covered under current law, from 50 to 70 days. Authorizes a defendant who does not qualify for an EEC pursuant to the above provisions, or who forgoes those provisions, to request a mandatory evaluation conference (MEC), and allows a plaintiff to make that request if the defendant does not do so. Requires the court to schedule the MEC no later than 180 days from the date of the request. Provides further that an MEC may, at the court's discretion, be scheduled or combined with the case management conference, as specified.
PCLC Action: Neutral.

OTHER BUSINESS

Confirm next PCLC conference call:

Proposed date: September 6, 2012

Approved by the committee October 25, 2012

**JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE**

**In-person Meeting
October 25, 2012 – 12:50 p.m.
Summary Minutes of Meeting**

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. James E. Herman, Vice-Chair; Hon. Sue Alexander; Hon. James R. Brandlin; Hon. David De Alba; Hon. Allan D. Hardcastle; Mr. Mark P. Robinson, Jr.; and Ms. Mary Beth Todd.

Policy Coordination and Liaison Committee members absent: Ms. Angela J. Davis

Other Judicial Council member present: Hon. Stephen Baker

OGA staff present: Ms. Donna Hershkowitz, Mr. Daniel Pone, Ms. Tracy Kenny, Ms. Monica LeBlond, and Ms. Yvette Casillas.

Guests present: Hon. Dennis M. Perluss, Chair, Civil and Small Claims Advisory Committee; Ms. Jennifer Walter, AOC; and Ms. Anne M. Ronan, AOC.

ACTION ITEMS

1. Approval of minutes

The minutes of the August 16, 2012, and August 27, 2012, conference calls were approved as submitted.

2. Consent Item

Proposals for Judicial Council-Sponsored Legislation

a) 2012 Judicial Council Legislative Policy Guidelines

Sets forth concise council policy guidelines regarding court-related legislative proposals.

PCLC Action: Approved for submission to the Judicial Council.

3. Discussion Items

Proposals for Judicial Council-Sponsored Legislation

a) Tribal Court Civil Judgement Act

Clarifies and simplifies the process by which tribal court civil judgments will be recognized and enforced in California, in the form of the Tribal Court Civil Judgment Act.

PCLC Action: Recommend Judicial Council sponsorship.

b) **2013 Judicial Council Legislative Priorities**

Donna Hershkowitz led a discussion of potential items for the 2013 legislative priorities. The recommendations included: 1) budget, including advocating against further reductions and for sufficient resources for the judicial branch as well as continuing advocacy for the 17 operational efficiencies, cost savings, and revenue proposals approved for sponsorship in 2012; 2) the continuing priority of securing new judgeships and ratifying the authority of the council to convert 16 vacant subordinate judicial officer positions to judgeships in eligible courts; and 3) sponsored legislation for 10 additional SJO conversions. These legislative priorities will help ensure that Californians continue to have access to courts and critical court services, and that the judicial branch can provide some degree of access to justice. [*Hon. Sue Alexander voted no on item 3.*]

PCLC Action: Approved for submission to the Judicial Council.

OTHER BUSINESS

Confirm next PCLC conference call:

Proposed date: November 15, 2012

As approved by the committee on November 15, 2012

**JUDICIAL COUNCIL OF CALIFORNIA
POLICY COORDINATION AND LIAISON COMMITTEE**

**Conference Call Meeting
November 15, 2012 – 4:30 p.m.
Summary Minutes of Meeting**

Policy Coordination and Liaison Committee members present: Hon. Marvin R. Baxter, Chair; Hon. James E. Herman, Vice-Chair; Hon. James R. Brandlin; Hon. David De Alba; Hon. Allan D. Hardcastle; Ms. Angela J. Davis; Mr. Mark P. Robinson, Jr.; and Ms. Mary Beth Todd.

Policy Coordination and Liaison Committee members absent: Hon. Sue Alexander

Other Judicial Council member present: Hon. Laurie M. Earl

OGA staff present: Ms. Donna Hershkowitz, Mr. Daniel Pone, Ms. Tracy Kenny, Ms. Andi Liebenbaum, Ms. Monica LeBlond, and Ms. Kate Nitta.

Guests present: Mr. Cory Jasperson

ACTION ITEMS

1. Approval of minutes

The minutes of the October 25, 2012, conference call were approved as submitted.

2. Consent Item

None

3. Discussion Item

Proposals for Judicial Council-Sponsored Legislation

a) Court reporter fee clean-up

Amends Government Code section 68086 to provide necessary cleanup to the newly enacted \$30 court reporter fee.

PCLC Action: Recommend Judicial Council sponsorship.

4. Information Items

a) Preview of discussion of fiscal impact of legislation

Donna Hershkowitz highlighted Office of Governmental Affairs activities during 2012 to report fiscal impacts of pending legislation to the Legislature. This item

will be brought back to PCLC at the first meeting in January for PCLC direction for the 2013-2014 legislative session.

PCLC Action: No action required.

- b) Status report on proposals for efficiencies, cost savings, and new revenue
Donna Hershkowitz provided a status report on proposals for statutory changes to promote or create operational efficiencies, cost savings, and new revenue.

PCLC Action: No action required.

OTHER BUSINESS

Confirm next PCLC conference call:

Proposed date: November 29, 2012

As approved by the committee on November 29, 2012

Minutes
Rules and Projects Committee Teleconference
October 5, 2012
12:10 - 1:00 p.m.

RUPRO Members present: Hon. Harry E. Hull, Jr. (chair), Hon. Judith Ashmann-Gerst (vice-chair), Mr. Alan Carlson, Mr. James P. Fox, Hon. Morris D. Jacobson, and Hon. Charles D. Wachob.

RUPRO Members absent: Hon. Laurie M. Earl, Hon. Emily H. Elias, Hon. Sherrill A. Ellsworth, and Hon. Mary Ann O'Malley.

RUPRO staff present: Ms. Deborah C. Brown, Ms. Susan R. McMullan, Mr. Patrick O'Donnell, and Ms. Camilla Kieliger.

Proposals to approve for circulation for comment

Pilot Project

Item 1 **Trial Courts: Authorization for Remote Video Trial Pilot Projects in Proceedings for Violations of Traffic and Compulsory Education Laws** (adopt Cal. Rules of Court, rules 4.220 and 4.230; adopt forms TR-500-INFO, TR-505, TR-510, MC-900-INFO, and MC-905; sponsor legislation to add section 40904 to the Vehicle Code and section 48297 to the Education Code)

Action: The Rules and Projects Committee approved the proposal for circulation with the following modifications:

Invitation to Comment:

Executive Summary, second bullet point: Add language to include the truancy forms proposed for revision.

Alternatives Considered, third paragraph: Correct “waver” to “waiver”.

Specific comments requested: Add questions to solicit comments on (1) whether and how the two information sheets could be made clearer and easier to understand; (2) if the types of situations where video trials could be held should be expanded or limited; and (3) whether difficulties such as the handling of money and exhibits or the swearing in of witnesses should be further addressed in the proposed rules and legislation.

Rule 4.220(b)(1):

Simplify language to mirror the proposed legislation, section (b)(1).

The Legal Services Office was directed to research the legal issue of deputizing city employees as court clerks.

Minutes
Rules and Projects Committee Teleconference
October 15, 2012
12:10 - 1:00 p.m.

RUPRO Members present: Hon. Harry E. Hull, Jr. (chair), Hon. Judith Ashmann-Gerst (vice-chair), Mr. Alan Carlson, Hon. Laurie M. Earl, Hon. Emily H. Elias, Hon. Sherrill A. Ellsworth, Mr. James P. Fox, Hon. Morris D. Jacobson, Hon. Mary Ann O'Malley, and Hon. Charles D. Wachob.

RUPRO staff present: Ms. Deborah C. Brown, Ms. Susan R. McMullan, Mr. Patrick O'Donnell, and Ms. Camilla Kieliger.

Others present: Mr. Arturo Castro and Mr. Michael Giden.

Proposals to recommend for Judicial Council action

Criminal

Item 1 **Criminal Justice Realignment: Procedure to Revoke Postrelease Community Supervision** (amend Cal. Rules of Court, rule 4.541; and repeal rule 4.540 and form CR-300)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 26, 2012, consent agenda with an effective date of November 1, 2012.

Item 2 **Criminal Justice Realignment: Intercounty Transfer Procedures** (amend Cal. Rules of Court, rule 4.530 and revise forms CR-250, CR-251, and CR-252)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 26, 2012, consent agenda with an effective date of November 1, 2012, with the following modifications:

Form CR-250, item 1:
Delete "if any" after "Address".

Trial Court Security

Item 3 **Trial Court Security:** Petitions under Government Code section 69926 (adopt Cal. Rules of Court, rule 10.174)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 26, 2012, consent agenda with an effective date of January 1, 2013.

Other Business

Item 4 **Judicial Council recommendations referred to RUPRO**

Recommendation #6: The Rules and Projects Committee reviewed actions previously taken by RUPRO responsive to the recommendation and discussed further possible

RUPRO

October 15, 2012, Minutes

actions.

Recommendation #79: RUPRO discussed this recommendation and considered options.

Item 5 **Upcoming meetings and housekeeping** (review schedule and set meeting dates; information on meeting activities) (information only)

Approved by the committee on 11/19/12

Minutes
Rules and Projects Committee Teleconference
November 19, 2012
12:10 - 12:20 p.m.

***Proposals to recommend for approval and
for Judicial Council action***

Members present: Hon. Harry E. Hull, Jr. (chair), Mr. Alan Carlson, Hon. Emily H. Elias, Hon. Sherrill A. Ellsworth, Hon. Mary Ann O'Malley, and Hon. Charles D. Wachob.

Members absent: Hon. Judith Ashmann-Gerst (vice-chair), Hon. Laurie M. Earl, Mr. James P. Fox, and Hon. Morris D. Jacobson.

RUPRO staff present: Ms. Susan R. McMullan and Ms. Camilla Kieliger.

AOC staff present: Mr. Bruce Greenlee.

Civil Jury Instructions

Item 1 Review and Approve Publication of Instructions With Minor Revisions and Renumbered Civil Rights Instructions

Action: The Rules and Projects Committee approved the minor revisions for publication effective December 14, 2012.

Item 2 Jury Instructions: Additions, Revisions, Revocations, and Renumbering of Civil Jury Instructions

Action: The Rules and Projects Committee recommended approval on the Judicial Council's December 14, 2012, consent agenda, with an effective date of December 14, 2012.

Other Business

Item 3 Minutes (October 5, 2012, and October 15, 2012, meeting minutes)

Action: The Rules and Projects Committee approved the minutes.

Approved by the Committee on November 29, 2012

Minutes

Rules and Projects Committee

Proposal Circulated by Email on Tuesday, November 20, 2012
and approved on Monday, November 26, 2012

Members participating: Hon. Harry E. Hull, Jr. (chair), Hon. Judith Ashmann-Gerst (vice-chair), Mr. Alan Carlson, Hon. Laurie M. Earl, Hon. Emily H. Elias, Hon. Sherrill A. Ellsworth, Mr. James P. Fox, Hon. Morris D. Jacobson, Hon. Mary Ann O'Malley, and Hon. Charles D. Wachob.

RUPRO staff participating: Ms. Deborah Brown, Ms. Susan McMullan, Mr. Patrick O'Donnell, and Ms. Camilla Kieliger.

AOC staff participating: Mr. Courtney Tucker.

Proposals to recommend for Judicial Council action

Item 1 Traffic: 2013 Uniform Bail and Penalty Schedules

Action: The Rules and Projects Committee recommended approval of the 2013 Uniform Bail and Penalty Schedules on the Judicial Council's December 14, 2012, consent agenda, with an effective date of January 1, 2013.

Approved by the Committee on November 29, 2012