



# Judicial Council of California

Rules Committee

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## RULES COMMITTEE

### MINUTES OF OPEN VIDEOCONFERENCE MEETING

Thursday, March 28, 2024

12:10 p.m. - 1:40 p.m.

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**Rules Committee Members Present:** Hon. Carin T. Fujisaki, Chair, Hon. Michelle Williams Court, Vice-Chair, Ms. Kate Bieker, Hon. Charles S. Crompton, Hon. Maria D. Hernandez, Ms. Rachel W. Hill, and Mr. Charles Johnson.

**Rules Committee Members Absent:** Hon Erica R. Yew, Ms. Rachel Hill, and Mr. Maxwell V. Pritt.

**Rules Committee Staff Present:** Ms. Anne M. Ronan and Ms. Benita Downs

**Advisory Bodies Chair(s) and Staff Present** James Barolo, Tony Cheng Theresa Chiong, Kerry Doyle, Sarah Fleischer-Ihn Diana Glick, Jenny Grantz, Kendall Hannon, Frances Ho, Eric Long, Jason Mayo, Daniel Richardson, Jamie Schechter, Gabrielle Selden, and Christy Simon.

**Other JC Staff Present** Audrey Fancy, Michael Giden, Stephanie Lacambra, Anna Maves, Leah Rose-Goodman, and Marymichael Smrdell.

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#### OPEN MEETING

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##### Call to Order and Roll Call

The chair called the meeting to order at 12:10 p.m., and Ms. Downs took roll call.

##### Approval of Minutes

Approve minutes of the February 7 and February 20 meetings.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 01-32)

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##### APPELLATE

##### Invitation to Comment–Recommend Circulation for Comment

Item 01/SPR24-02

**Appellate Procedure: Civil Case Information Statement, Calendar Preference, and Extension of Time**

The committee reviewed a proposal from the Appellate Advisory Committee recommending revising the Civil Case Information Statement (form APP-004) to allow the appellant to provide a nonstatutory reason why the appeal is eligible for calendar preference and amending rule 8.100 to require the civil case information statement to be filed within 15 days after the Court of Appeal lodges the notice of appeal and assigns the appeal a case number. The Appellate Advisory Committee also proposed adopting a new mandatory form for requesting extensions of time to file a brief in misdemeanor appeals, revising all existing forms for requesting an extension of time to file briefs to make the forms mandatory, and revising the rules to reflect this new mandatory status. This proposal originated with a suggestion from the former Chief Justice's Appellate Caseflow Workgroup and a committee member.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

***Item 02/SPR24-03***

**Appellate Procedure: Expanded Clerk's Transcript in Criminal Appeals**

The committee reviewed a proposal from the Appellate Advisory Committee recommending amending California Rules of Court, rule 8.320 to authorize the Courts of Appeal to require, by local rule, that the clerk's transcript in felony appeals include either (1) all contents of the superior court file or (2) additional items from the superior court file beyond those currently required in rule 8.320(b). This proposal is designed to help minimize delays in felony appeals occasioned by the need to cure omissions from, or make augmentations to, the clerk's transcript. This proposal originated from a recommendation of the former Chief Justice's Appellate Caseflow Workgroup.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

***Item 03/SPR24-04***

**Appellate Procedure: Deadline for Amicus Curiae Briefs**

The committee reviewed a proposal from the Appellate Advisory Committee recommending amending California Rules of Court, rule 8.200 to provide a deadline for filing an application to file an amicus brief when no respondent's brief has been filed. The current rule requires that applications to file an amicus brief be filed within 14 days after the reply brief "is filed or could have been filed." The rule, however, does not provide a deadline in cases where the respondent does not file a brief and, therefore, there is no reply brief. The proposed amendment would close this gap in the rules. This proposal originated with a suggestion from the Family Violence Appellate Project.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 04/SPR24-05****Appellate Procedure: Form Briefs for Use in Limited Civil Appeals**

The committee reviewed a proposal from the Appellate Advisory Committee recommending the approval of three optional forms that parties in limited civil appeals can use to draft their appellate briefs and an information sheet that explains the use of these form briefs. Additionally, the committee proposed amending one rule of court and revising one form to address these new form briefs. The new form briefs are intended to assist self-represented litigants and attorneys unfamiliar with appellate practice in drafting effective briefs in limited civil appeals before the appellate division. The proposal originated with a suggestion from the California Lawyers Association.

**Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.**

**CIVIL****Invitation to Comment–Recommend Circulation for Comment****Item 05/SPR24-06****Civil Practice and Procedure: Order on Unlawful Use of Personal Identifying Information**

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending revisions to form CIV-165, Order on Unlawful Use of Personal Identifying Information, effective January 1, 2025, to include information about the business entity at issue in the petition underlying an order. The proposed revisions respond to a request from the Secretary of State's office for more information to allow it to act on a court's determination that a petitioner's personal identifying information was used unlawfully. The revisions are intended to assist the Secretary of State in (1) redacting the victim's name and personal identifying information from the business entity filing or label the data to show that it is impersonated and (2) removing the data from publicly accessible electronic indexes and databases.

**Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.**

**Item 06/SPR24-07****Civil Practice and Procedure: Memorandum of Costs**

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending revising the optional form for claiming prejudgment costs under Code of Civil Procedure sections 1032 and 1033.5 (form MC-010), effective January 1, 2025, to add a certification under penalty of perjury for the costs submitted. The committee also proposed (1) removing item 15 from both form MC-010 and form MC-011 (the companion worksheet) because fees for hosting electronic documents have sunsetted as an expressly allowable cost under section 1033.5 and (2) relocating "Models, enlargements, and photocopies of exhibits" on both forms to follow more closely

the sequence of costs in section 1033.5. The changes are recommended based on a litigant's challenge to form MC-010's verification language, a sunset provision in the statute, and a suggestion from a paralegal.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 07/SPR24-08**

**Civil Practice and Procedure: Implementation of Assembly Bill 1119**

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending adopting one rule and six mandatory forms and revising one form to implement Assembly Bill 1119 (Stats. 2023, ch. 562), enacted October 8, 2023. AB 1119 creates special procedures for debtor's examinations for judgments concerning consumer debts awarded on or after January 1, 2025, and requires the Judicial Council to adopt new forms to implement these procedures.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 08/SPR24-09**

**Civil Practice and Procedure: Tentative Rulings**

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending amending California Rules of Court, rule 3.1308 to remove the outdated requirement that courts make tentative rulings available by telephone.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 09/SPR24-10**

**Civil Practice and Procedures: Case Dismissal with Retained Jurisdiction**

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending amending California Rules of Court, rule 3.1385 and revising form CIV-110 to implement amended Code of Civil Procedure section 664.6, which allows courts to dismiss cases without prejudice and retain jurisdiction to enforce settlement terms.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 10/SPR24-11**

***CEQA Actions: Initial Case Management Conferences***

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending amending rule 3.2226 of the California Rules of Court to implement the provisions of Senate Bill 149 concerning initial case management conferences for actions brought under the California Environmental Quality Act.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**CENTER FOR JUDICIAL EDUCATION AND RESEARCH (CJER)**

**Invitation to Comment–Recommend Circulation for Comment**

**Item 11/SPR24-13**

**Judicial Branch Education: Fairness and Access Requirements**

The committee reviewed a proposal from the Center for Judicial Education and Research Advisory Committee recommending amending rule 10.469 of the California Rules of Court and adopting rule 10.465 to clarify existing fairness and access education requirements for judicial officers.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**COURT INTERPRETERS**

**Invitation to Comment–Recommend Circulation for Comment**

**Item 12/SPR24-14**

**Court Interpreters: Implementation of Assembly Bill 1032**

The committee reviewed a proposal from the Court Interpreters Advisory Panel recommending amending rule 2.893 of the California Rules of Court and revise four forms to conform with recent statutory changes enacted by Assembly Bill 1032 (Pacheco; Stats. 2023, ch. 556), relating to provisionally qualified court interpreters.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**CRIMINAL****Invitation to Comment–Recommend Circulation for Comment****Item 13/SPR24 15****Criminal Law: Parole Period Advisement**

The committee reviewed a proposal from the Criminal Law Advisory Committee recommending amending rule 4.433 of the California Rules of Court to add a reference to the parole periods described in Penal Code section 3000.01. This reference would appear in subdivision (e), which describes the sentencing judge's advisement to the defendant about the parole period to be served after expiration of the sentence.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 14/SPR24-16****Criminal Law: Firearm and Body Armor Prohibitions**

The committee reviewed a proposal from the Criminal Law Advisory Committee recommending revising six criminal forms to incorporate firearm and body armor prohibitions enacted in recent legislation. The committee also proposed further revisions to the plea and relinquishment forms in this proposal (forms CR-101, CR-102, and CR-210) to reflect new procedures on firearm relinquishment, clarify prohibited items and relinquishment requirements, and refer to the possibility of a lifetime prohibition on firearm possession for misdemeanor domestic violence offenses. Finally, the committee proposed additional revisions to the felony plea form (form CR-101) based on other statutory changes, and to the criminal protective orders (forms CR-160 and CR-161) based on stakeholder suggestions.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**FAMILY AND JUVENILE LAW****Invitation to Comment–Recommend Circulation for Comment****Item 15/SPR24-18****Jointly with the Criminal Law Advisory Committee****Criminal Law and Family Law: Changes to Form MIL-100**

The committee reviewed a joint proposal from the Family and Juvenile Law Advisory Committee and Criminal Law Advisory Committee recommending revising form MIL-100, effective January 1, 2025. The Family and Juvenile Law Advisory Committee proposed revising form MIL-100 to implement the requirements of Family Code section 211.5, which was added by Senate Bill 1182 (Stats. 2022, ch. 385). The proposed changes would allow the court to comply with section 211.5 when the form is filed

in a family law case involving a person who has military, veteran, reserve, or active status. The Criminal Law Advisory Committee recommended additional revisions to form MIL-100 to clarify procedures under Penal Code section 858 when the form is filed in a criminal case, and to reference treatment options for pretrial diversion under Penal Code section 1001.80. The committees also recommended updating and reformatting the information on the back of the form for improved readability.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 16/SPR24-19**

**Juvenile Law: Harm of Removal**

The committee reviewed a proposal from the Family and Juvenile Law Advisory Committee recommending amending three rules and revising one Judicial Council form, effective January 1, 2025. Senate Bill 578 (Ashby; Stats. 2023, ch. 618) amended Welfare and Institutions Code section 319 to require the court to consider the impact on the child when being separated from their parent or guardian at a detention hearing. The proposal would amend rules and revise a form related to the detention hearing to address the new reporting requirements and clarify the court's role in mitigating harm to the child related to removal from their home.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 17/SPR24-20**

**Juvenile Law: Retention of Jurisdiction and Petitions Requesting Juvenile Case Files of Deceased Children**

The committee reviewed a Family and Juvenile Law Advisory Committee recommending amending one rule of court to implement Assembly Bill 1756 (Stats. 2023, ch. 478, § 62), which amended Welfare and Institutions Code section 10850.4 to extend the juvenile court's jurisdiction in cases involving the death of a child or nonminor dependent. The committee also recommended adopting one rule of court, amending two rules of court, adopting a new form, and revising six forms to clarify the different legal standards for petitions seeking disclosure of a living child's juvenile case file under section 827(a)(3) and a deceased child's juvenile case file under section 827(a)(2).

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**~~Item 18/SPR24-21~~ (Item deferred-moved to the April 4 meeting)**

**Item 19/SPR24-23****Family Law: Adoption Forms**

The committee reviewed a proposal from the Family and Juvenile Law Advisory Committee recommending the adoption of one new form and revising six forms to simplify the process for all adopting parents, and their counsel if represented. The committee further recommended revising the adoption request form to conform to a portion of Assembly Bill 1650 (Patterson; Stats. 2023, ch. 76) which requires that the petitioner inform the court, in writing, whether the petitioner has entered, or has agreed to enter, into a postadoption contact agreement.

**Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.**

**Item 20/ SPR24-26****Family Law: Custody Forms and a Standard of Judicial Administration Under Senate Bill 5999**

The committee reviewed a proposal from the Family and Juvenile Law Advisory Committee recommending implementing Senate Bill 599 by amending one standard of judicial administration relating to supervised visitation, approving a new information sheet to include the new statutory definition of virtual visitation, and revising three forms relating to child custody and visitation (parenting time) for cases involving allegations of a parent or parents' history of abuse or substance abuse under Family Code section 3011.

**Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.**

~~Item 21/SPR24-27~~(Item deferred-moved to the April 4 meeting)

**JUDICIAL ADMINISTRATION****Invitation to Comment–Recommend Circulation for Comment****Item 22/SPR24-01****Trial Courts: Standard 2.2 Diversion Reporting**

The committee reviewed a proposal from the Court Executives Advisory Committee recommending that the Judicial Council amend standard 2.2 of the California Standards of Judicial Administration, which gives guidance to trial courts on the types of matters that remove a case from court control for purposes of calculating computation of time. The standard calls out cases in drug diversion programs under Penal Code section 1000 et seq. but is unclear as to whether other types of diversion programs should be treated similarly. The issue was raised to the committee's Judicial Branch Statistical Information System Subcommittee by a court seeking clarity on whether the time reporting guidelines for drug diversion programs under Penal Code 1000 et seq. were intended to apply to other types of



diversion programs. Revising the language in the standard is intended to increase clarity and help ensure consistent data reporting.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

## **PROBATE AND MENTAL HEALTH**

### **Invitation to Comment—Recommend Circulation for Comment**

#### **Item 23/SPR24-28**

##### **Probate Conservatorship: Care Plan**

The committee reviewed a proposal from the Probate and Mental Health Advisory Committee, to implement recent legislation, for the adoption of one form and the revision of another for mandatory use by a conservator of the person to prepare and file the care plan required, effective January 1, 2025, by Probate Code section 2351.2.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

#### **Item 24/SPR24-29**

##### **Probate Conservatorship: Confidential Declaration Forms**

The committee reviewed a proposal from the Probate and Mental Health Advisory Committee recommending adopting one form, revising one form, and revoking one form related to probate conservatorships. The new mandatory form would be used to certify that a conservatee, proposed conservatee, or person alleged to lack capacity is medically unable to attend a hearing that they would otherwise be required to attend. The revised form—also mandatory—would (1) expand the scope of the existing capacity declaration to allow the assessing clinician to provide additional information needed by the court to make the legal determinations at issue, and (2) incorporate other capacity determinations related to a conservatee's treatment for a major neurocognitive disorder, such as dementia. The existing attachment form for major neurocognitive disorder capacity determinations would be revoked as no longer necessary. The proposal is part of the committee's project to update the conservatorship forms to conform to recent legislation promoting self-determination for persons subject to protective proceedings, including conservatorships.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 25/SPR24-30****Probate Guardianship: Participation of a Minor Ward in Court**

The committee reviewed a proposal from the Probate and Mental Health Advisory Committee recommending amending rule 7.1016 of the California Rules of Court to conform to recent legislation that amended Family Code section 3042. The legislation changed the conditions under which a minor child participates or testifies in court in a child custody or visitation proceeding, including a probate guardianship of the person. The committee also proposed amending the rule to conform more closely to statute by narrowing the scope of its application and expanding the protections afforded to wards who are parties, as well as to clarify its requirements and simplify its language.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**TRAFFIC****Invitation to Comment—Recommend Circulation for Comment****Item 26/SPR24-32****Traffic: Officer's Declaration in Trial by Written Declaration**

The committee reviewed a proposal from the Traffic Advisory Committee recommending revising form TR-235, *Officer's Declaration*, used in trials by written declaration for certain traffic infractions. The committee recommended revising the form to state that an officer should verify that the current version of the engineering and traffic survey (ETS) is on file with the court before checking a box that states the ETS is on file. The committee also recommended amending an out-of-date reference to the length of validity of an ETS and other minor updates to the form.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 27/SPR24-33****Traffic: Mandatory Reminder Notices—Traffic Procedures**

The committee reviewed a proposal from the Traffic Advisory Committee recommending revising a rule of court to clarify the procedures for a court to follow for sending infraction notices. The committee recommends exceptions to the notice procedures when a court does not have a litigant's address or the information necessary (or the technological capability) to send a notice electronically. Additionally, the proposal included revisions to improve readability and changes to comply with current law.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 28/SPR-34****Traffic: Instructions for Notice to Appear and Related Forms**

The committee reviewed a proposal from the Traffic Advisory Committee recommending revising form TR-INST for clarification. Form TR-INST provides a manual of instructions for the notice to appear and related forms that include forms TR-100, TR-106, TR-108, TR-115, TR-120, TR-130, and TR-140. The proposal addresses technical amendments and corrections and responds to several suggestions from forms users.

**Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.**

**Item 29/SPR24-35****Traffic: Ability-to-Pay Request Form and Court Order**

The committee reviewed a proposal from the Traffic Advisory Committee recommending changes to form TR-320/CR-320, *Can't Afford to Pay Fine: Traffic and Other Infractions*, and to form TR-321/CR-321, *Can't Afford to Pay Fine: Traffic and Other Infractions (Court Order)*. Several courts have specifically requested that these forms provide an option for a litigant to enter a plea on the form itself, so that litigants would not be required to appear in court to enter a guilty or no-contest plea in traffic and other infraction cases. Stakeholders have also requested the types of public benefits listed on the form be expanded. The Traffic Advisory Committee recommended changes that would make the forms conform with the options currently offered through the court's online ability-to-pay tool, MyCitations.

**Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.**

**TRIBAL COURT–STATE COURT FORUM****Invitation to Comment–Recommend Circulation for Comment****Item 30/SPR24-36****Family and Juvenile Law: Recognition and Enforcement of Tribal Court Child Custody Orders**

The committee reviewed a joint proposal from the Tribal Court–State Court Forum and the Family and Juvenile Law Advisory Committee recommending that, effective January 1, 2025, the Judicial Council approve two new forms and revise four existing forms to clarify that the requirement to recognize and enforce child custody orders under the provisions of the Uniform Child Custody Jurisdiction and Enforcement Act (found in sections 3400–3465 of the Family Code) applies to custody orders issued by a tribal court. Tribal court judges reported that they have experienced problems having their child custody orders registered and enforced because the existing form refers only to out-of-state custody orders and does not reference tribal court orders.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

## **PROTECTIVE ORDERS**

### **Invitation to Comment–Recommend Circulation for Comment**

#### **Item 31/SPR24-22**

##### **Juvenile Law: Restraining Orders**

The committee reviewed a proposal from the Family and Juvenile Law Advisory Committee recommending amending several rules of the California Rules of Court and revising several forms to conform to recent statutory changes enacted by Assembly Bill 1621 (Gipson; Stats. 2022, ch. 76) and Assembly Bill 92 (Stats. 2023, ch. 232). AB 1621 redefines “firearm precursor parts” and AB 92 specifies that a person who is from possessing firearms is also prohibited from possessing, owning, or buying body armor. The committee also proposed a new notice of hearing form that is separate from the temporary restraining order forms and a new rule clarifying the requirement that the juvenile court that has jurisdiction of a child or youth must hear requests for restraining orders initiated by or brought against the child or youth.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

#### **Item 32/SPR24-24**

##### **Protective Orders: Rule and Form Changes to Implement Senate Bill 459**

The committee reviewed a proposal from the Family and Juvenile Law Advisory recommending adopting several domestic violence restraining order forms to allow either party to request to change or end a domestic violence restraining order. The proposal also included changes to existing family law forms and a family law rule of court to reflect the new proposed process. The proposed changes would help parties, attorneys, and court professionals understand the changes in the procedures when a party wants to ask the court to change or end orders made in a domestic violence restraining order. to implement Senate Bill 459 (Stats. 2023, ch. 874), the Family and Juvenile Law Advisory Committee.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 33/SPR24-25**

**Protective Orders: Changes to Domestic Violence Forms to Implement New Laws**

The committee reviewed a proposal from the Family and Juvenile Law Advisory Committee recommending the approval and revision of several domestic violence restraining order forms to comply with new requirements for child custody and visitation orders (Senate Bill 599), and include body armor prohibitions (Assembly Bill 92)

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

**Item 34/SPR24-31**

**Protective Orders: Revisions to Civil Forms to Implement New Law**

The committee reviewed a proposal from the Civil and Small Claims Advisory Committee recommending the revision of numerous protective order forms. These revised forms implement three significant changes to the law. First, changes are needed to all the restraining order form series, including the Gun Violence, Civil Harassment, Elder Abuse, Workplace Violence, and Private Post-Secondary School Violence forms addressed in this proposal to implement a new law prohibiting the possession of body armor by those who are prohibited from possessing firearms. Second, further changes are needed to gun violence restraining order forms to reflect a new law that permits the acquisition of body armor to be considered as evidence in determining whether to issue such a restraining order. Finally, the proposal also implements new laws concerning workplace violence restraining orders that add harassment as a basis for orders, permit collective bargaining representatives to petition for orders, and allow the employee who suffered the harassment, violence, or threat of violence to opt out of being named in orders.

***Action: The committee unanimously approved the proposal for circulation on the regular spring cycle through May 3.***

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**INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**The Next Rules Committee meeting will be held on: April 4, 2024.**

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**ADJOURNMENT**

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There being no further business, the meeting was adjourned at 1:38 p.m.

Approved by the committee on May 1, 2024.