



# JUDICIAL COUNCIL OF CALIFORNIA

RULES AND PROJECTS  
COMMITTEE

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[ruprometings@jud.ca.gov](mailto:ruprometings@jud.ca.gov)

## RULES AND PROJECTS COMMITTEE

### OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule [10.75\(c\)\(1\)](#))

THIS MEETING IS BEING RECORDED

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**Date:** March 20, 2015  
**Time:** 12:10 p.m.  
**Location:** Teleconference  
**Call-In Number** 1-877-820-7831 Passcode: 4653278 (Listen only)

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

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##### Call to Order and Roll Call

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#### II. DISCUSSION AND POSSIBLE ACTION ITEMS

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##### Item 1

**Probate/Guardianship – Fee Waivers** (Action Required – Approval for circulation for comment)  
Presenter: Douglas C. Miller

##### Item 2

**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment** (Adopt form EJ-115) (Action required – Recommendation to Judicial Council)  
Presenter: Anne Ronan

##### Item 3

**Civil Forms: Confidential Information Form** (Adopt form MC-125) (Action required – Recommendation to Judicial Council)  
Presenter: Anne Ronan

##### Item 4

**Judicial Administration: Changes to Delegations in Rules of Court** (Action required - Recommendation to Judicial Council)  
Presenter: Susan McMullan

##### Item 5

**Judicial Branch Education: Court Executive Officers Education** (Amend Cal. Rules of Court, rule 10.473) (Action required - Recommendation to Judicial Council)  
Presenter: Hon. Brian McCabe and Mr. Richard Feldstein

**Item 6**

**Trial Courts: Reporting of Reciprocal Assignment Orders** (Amend Cal. Rules of Court, rule 10.630) (Action required - Recommendation to Judicial Council)

Presenter: Hon. Brian McCabe and Mr. Richard Feldstein

**Item 7**

**Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges** (Amend California Rules of Court, rules 2.810 and 10.742) (Action required - Recommendation to Judicial Council)

Presenter: Hon. Brian McCabe and Mr. Richard Feldstein

**Item 8**

**Subordinate Judicial Officers: Complaints and Notice Requirements** (amend Cal. Rules of Court, rule 10.703) (Action Required – Recommendation to Judicial Council)

Presenter: Mark Jacobson

**Item 9**

**Military Service: Notification of Military Status** (amend MIL-100) (Action Required – Recommendation to Judicial Council)

Presenter: Adrienne Toomey

**Item 10**

**Domestic Violence and Family Law: Technical Changes to Forms** (Revise forms DV-600, FL-800, FL-810, and FL-830) (Action required - Recommendation to Judicial Council)

Presenter: Gabrielle Selden

**Item 11**

**Child Support: Revise Forms to Remove Items Regarding Sunsetting Family Code Provision** (Revise forms FL-530, FL-615, FL-625, FL-630, FL-665, FL-676, FL-676-INFO, FL-687, and FL-692) (Action required - Recommendation to Judicial Council)

Presenter: Anna Maves

**Item 12**

**Forms: Miscellaneous Technical Amendments** (Revise forms CR-110/JV-790, CR-111/JV-791, CR-132, DE-305, FL-530, FL-615, FL-625, FL-630, FL-632, FL-665, FL-676, FL-676-INFO, FL-687, FL-692, and GC-350) (Action required - Recommendation to Judicial Council)

Presenter: Susan McMullan

**Item 13**

**Minutes** (December 10, 2014, January 26, 2015, February 6, 2015, and February 13, 2015) (Action required)

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**III. ADJOURNMENT**

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**Adjourn**

**RUPRO ACTION REQUEST FORM****RUPRO action requested:** Circulate for comment (Out of cycle)**RUPRO Meeting:** March 20, 2015**Title of proposal:****Court fee waivers in decedent estates, guardianships, and conservatorships and for wards and conservatees participating in civil actions**

Committee or other entity submitting the proposal:

Probate and Mental Health Advisory Committee

Staff contact (Name, phone and e-mail):

Douglas C. Miller, (818) 558-4178, douglas.c.miller@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: 2015

Project description from annual agenda:

# 4: Proposal for adoption of a new rule of court and new and revised Judicial Council forms to implement recent statutory provisions and civil rules of court concerning court fee waivers in the unique circumstances of decedents' estates, conservatorships, and guardianships.

If requesting July 1 or out of cycle, explain:

This proposal would implement new legislation, effective January 1, 2015, that substantially changes court fee waivers involving guardians, conservators, and petitioners for their appointment. An early effective date of September 1, 2015 for the rule of court and forms involved is proposed to bring them on line as quickly as possible after the effective date of the legislation.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

# JUDICIAL COUNCIL OF CALIFORNIA

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## INVITATION TO COMMENT

[ItC prefix as assigned]-\_\_

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Title

Court fee waivers in decedent estates, guardianships, and conservatorships and for wards and conservatees participating in civil actions

Proposed Rules, Forms, Standards, or Statutes  
Adopt Cal. Rules of Court, rule 7.5; amend rules 3.50–3.53 and 8.26; adopt forms FW-001-GC, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, and APP-016-GC/FW-016-GC; revise forms FW-001-INFO and APP-015/FW-015-INFO

Proposed by

Probate and Mental Health Advisory  
Committee  
Hon. John H. Sugiyama, Chair

Action Requested

Review and submit comments by April 23, 2015

Proposed Effective Date

September 1, 2015

Contact

Douglas C. Miller, 818-558-4178  
[douglas.c.miller@jud.ca.gov](mailto:douglas.c.miller@jud.ca.gov)

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### Executive Summary and Origin

Legislation effective on January 1, 2015, has changed the law governing court fee waivers involving guardians, conservators, and petitioners for their appointment. The new law clarifies that the fee waiver in such matters is in favor of the (proposed) ward or conservatee and must be based solely on his or her financial condition, but requires the fiduciary or the petitioner for the fiduciary's appointment, or both, to participate in all court proceedings and to respond to all court orders concerning the waiver.

To implement this new law, the committee is proposing a new rule of court regarding fee waivers in guardianships and conservatorship proceedings and new versions of Judicial Council fee waiver forms for use by probate guardians and conservators, and by petitioners for their appointment. The rule would also address fee waivers in decedent estate proceedings.

### Background

No rules of court, Judicial Council forms, or—until 2014—legislation specifically addressed court fee waivers in decedent's estates, probate guardianship and conservatorship proceedings, or civil actions in which guardians or conservators represent the interests of their wards or conservatees as parties. These matters present unique circumstances. For example:

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

- A decedent’s estate may involve a petitioner for the appointment of a personal representative who personally qualifies for a court fee waiver. However, after appointment, the personal representative will have access to the assets of the estate and will be authorized to pay court fees from those assets as expenses of administration; and
- Guardianship or conservatorship proceedings and civil actions in which a guardian or conservator is a party representing the ward or conservatee share the characteristic that the fiduciary represents the interests of another person, not his or her own interests. But the current fee waiver rules and forms presume that a fee waiver applicant is also the beneficiary of the waiver.

In 2014, legislation was enacted that changed the law concerning court fee waivers in cases involving guardians and conservators, and petitioners for their appointment.<sup>1</sup> The changes are as follows:

- Assessments for court investigations in guardianships and conservatorships under Probate Code sections 1513.1 and 1851.5 are made subject to the fee waiver provisions in the Government Code “as specified in rules adopted by the Judicial Council” (Gov. Code, § 68631; and Prob. Code, §§ 1513.1 and 1851.5);<sup>2</sup>
- Upon establishment of the guardianship or conservatorship, the court may collect all or part of any fees waived under Government Code sections 68631 and 68632 from the estate of the ward or conservatee if the court finds that the estate has the ability to pay all or a portion of the fees immediately, over a period of time, or under some other equitable agreement, without using moneys that normally would pay for the common necessities of life for the *applicant* and the *applicant’s* family (Gov. Code, § 68631);
- For purposes of the fee waiver provisions, the (proposed) ward or conservatee is the “applicant,” and the guardian, conservator, or person seeking to establish the guardianship or conservatorship is the “petitioner.” The “petitioner,” not the “applicant,” is responsible for completing all forms and providing all information required under those provisions (Gov. Code, § 68631.5); and

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<sup>1</sup> Chapter 913, Statutes of 2014 (Assem. Bill 2747), sections 23–25, 27.5, and 30.5.

<sup>2</sup> The existing provisions in sections 1513.1 and 1851.5 authorizing courts to decline to order payment of all or any portion of an assessment if payment would impose a hardship on the ward or conservatee or his or her estate remain in the law, giving courts opportunities to continue to eliminate or reduce guardianship or conservatorship investigation assessments independent of the Government Code fee waiver provisions.

- Instead of a “person” qualifying for a court fee waiver under any of the three ways listed in Government Code section 68632(a), (b), or (c),<sup>3</sup> an “applicant,” as defined above, who qualifies under any of those ways, is eligible for the waiver. In addition, a person also qualifies for the waiver if he or she petitions for appointment of a fiduciary in a guardianship or conservatorship or files pleadings as the appointed fiduciary of a ward or conservatee who qualifies for a waiver (Gov. Code, § 68632).

## **The Proposal**

### **Rule 7.5**

To implement this new legislation, the committee proposes the adoption of new rule 7.5 to govern initial fee waivers (as defined in existing rule 3.50(b)) requested by petitioners for the appointment of fiduciaries in decedents’ estates, conservatorships, and guardianships; by these fiduciaries for filings in these proceedings after their appointment; and by conservators and guardians in other civil actions or proceedings in which they are parties representing the interests of their wards or conservatees.<sup>4</sup> The main elements of the proposed rule are summarized below.

#### *Decedents’ estates*

- A court fee waiver requested by a petitioner for the appointment of a personal representative of a decedent’s estate would be based on the financial condition of the petitioner (rule 7.5(c)), however, if a petitioner who has obtained a fee waiver is appointed as personal representative, the appointment may be considered a change of financial condition for fee waiver purposes under Government Code section 68636 and the petitioner’s continued eligibility for the waiver would be based on his or her financial condition, combined with that of the estate (rule 7.5(d)(1)(A)).
- Upon collection of the estate after appointment and qualification, the personal representative must notify the court of a possible change in financial circumstances under Government Code section 68636(a) (rule 7.5(d)(1)(B)).
- The court may make a preliminary determination, based on the initial estimates of estate value and annual income from real and personal property in the *Petition for Probate*, that the petitioner’s appointment as personal representative is a change of financial condition that makes him or her no longer eligible for a fee waiver. If the court does so, it must give the notice and conduct the hearing required by Government Code section 68636(b) (rule 7.5(d)(1)(C));

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<sup>3</sup> A person who (a) receives listed public benefits, (b) has income equal to or less than 125 percent of federal poverty guidelines, or (c) is determined by the court to be unable to pay court fees without using funds that normally would be used for the common necessities of life for the person and his or her family.

<sup>4</sup> In 2011, an earlier version of a proposed rule 7.5 regarding fee waivers in these proceedings was circulated for comment by the committee (proposal SPR11-57). However, that version of the rule was not ultimately presented to or considered by the Judicial Council. The rule proposed here is significantly changed from the rule that was previously circulated, reflecting the effect of the new legislation.

- If a petitioner who has obtained a fee waiver is not appointed as personal representative of the decedent’s estate—because his or her petition sought another’s appointment or was not the successful petition—his or her fee waiver would continue for any additional filings in the proceeding in his or her individual capacity (e.g., as an heir or beneficiary). In that event, the appointed personal representative may apply for a fee waiver if he or she and the estate, taken together, qualify (rule 7.5(d)(2));
- If collection of the estate of a decedent is a change of financial condition of a successful fee waiver applicant that results in withdrawal of a previously granted initial waiver, the estate would be required to pay the previously waived costs and fees as an allowable expense of administration (rule 7.5(g)).
- “Final disposition of the case” for purposes of determining the expiration date of an initial fee waiver in a decedent’s estate under Government Code section 68639 is the discharge of the personal representative (rule 7.5(k)(2)).

### *Conservatorships and guardianships*

- A court fee waiver requested by a petitioner for the appointment of a conservator or guardian would be based on the financial condition of the proposed conservatee or ward, not that of the petitioner (rule 7.5(b)).
- The financial condition of the (proposed) ward or (proposed) conservatee would include the financial condition of any person against whom he or she has a claim for support, including the spouse or registered domestic partner of a conservatee and the parents of a ward (rule 7.5(e)(1)).
- Claims for support would be subject to the provisions of Government Code section 68637(d) and (e) concerning the support obligor’s ability to pay all or a portion of the waived fees (rule 7.5(e)(1)(A)).<sup>5</sup>

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<sup>5</sup> Government Code section 68637(e) provides in part: “In considering whether a child or spousal support order constitutes a change of circumstances allowing the [supported] party to pay fees, the court also shall consider the likelihood that the support obligor will remit the payments ordered by the court.” Section 68637(d) and (e) expressly apply only to support orders in family law cases, in which the support obligor and obligee were opponents in the litigation, the obligee had received a fee waiver, and the obligor might be directly ordered to pay the previously waived fees. Under the proposed rule, consideration of the financial condition of those with an obligation to support a ward or conservatee is not limited to situations in which there are support orders; but the court may evaluate the likelihood of the support obligor’s actual payment of the waived fees, expressed in the rule as ability to pay, in determining whether the financial condition of the obligor should be included as part of the ward’s or conservatee’s financial condition for purposes of a court fee waiver.



- After the appointment of a conservator or guardian, the rule would define the appointee as “the person who received [an] initial fee waiver,” within the meaning of Government Code section 68636(a), whether or not he or she was the successful applicant for the initial waiver. The appointed fiduciary would have a duty to notify the court of any change in the financial circumstances of the conservatee or ward—any change that affects his or her ability to pay the waived fees, including any changes in the financial condition of those with an obligation to support him or her of which the fiduciary becomes aware after reasonable investigation (rule 7.5(e)(2)).
- The financial condition of the (proposed) conservatee would include his or her interest in community property that is outside the conservatorship estate and under the management or control of his or her spouse or registered domestic partner, and the right to receive support, income, or other distributions from a trust or under a contract. (See Prob. Code, § 3051(b)) (rule 7.5(e)(1)(B) and (C).)
- Upon establishment of a conservatorship or guardianship of the estate or the person and estate of the conservatee or ward, the court would be permitted to collect all or a portion of court fees previously waived from the estate if the court finds that the estate has the ability to pay the fees, or a portion of them, immediately, over a period of time, or under some other equitable agreement, without using money that would normally be used to pay for the common necessities of life for the conservatee or ward and his or her family. The court would be required to comply with the notice and hearing requirements of the second paragraph of Government Code section 68634(e)(5) (rule 7.5(h)).
- “Final disposition of the case,” for purposes of determining the expiration date of an initial fee waiver in a conservatorship or guardianship proceeding under Government Code section 68639, would be the later of termination of the proceeding by order of court or under operation of law in conservatorships and guardianships of the person, and discharge of conservators and guardians of the estate (rule 7.5(k)(1) and (2)).
- The provisions of Government Code section 68633(g) concerning agreements between applicants for initial court fee waivers and their counsel for counsel to advance court fees would apply to the proceedings governed by the proposed rule. Conservators, guardians, and petitioners for their appointment applying for initial fee waivers under the rule would be required to complete items 2a and 2b of forms FW-001-GC and FW-002-GC, proposed here, which would be used to request these waivers (rule 7.5(j)).<sup>6</sup>

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<sup>6</sup> Form FW-002-GC is a request for a waiver of “additional fees,” defined by rule 3.56 to include jury fees and expenses, court-appointed interpreter’s fees for witnesses, certain reporter’s fees, and witness fees of court-appointed experts. “[A]dditional fees” are within the scope of initial court fee waivers under rule 3.50(b) and thus also within the scope of proposed rule 7.5.

***Additional discretionary factors.*** The court would have discretion in decedent estates, conservatorships, and guardianships to consider additional estate management factors in making a determination of the estate’s financial condition for fee waiver purposes. These factors include the estate’s liquidity; whether estate property or income is necessary for the support of a person entitled to a family allowance in a decedent’s estate, the conservatee or a person entitled to support from the conservatee, or the ward; and whether property in a decedent’s estate is specifically devised.

If the court eliminates property from consideration in its discretion under this provision, it may determine that the estate could make payments over time or partial payments, or establish a lien against distribution of the property under an equitable arrangement within the meaning of Government Code section 68632(c) and 68634(e)(5) (rule 7.5(f)).

***Civil actions in which a conservator or guardian is a party representing his or her conservatee or ward.*** In a civil action in which a conservator or guardian is a party representing the conservatee or ward, for purposes of Government Code sections 68631.5, 68636, and 68637, the conservator or guardian, not the conservatee or ward, would be the person with a duty to notify the court of a change of the conservatee’s or ward’s financial condition under section 68636(a) and the person the court may require to appear at a court hearing under sections 68636(b) and (c) (rule 7.5(i)).

### **Rules 3.50–3.53 and 8.26**

Existing rules 3.50–3.53 and 8.26, concerning, respectively, trial court and appellate court fee waivers, are proposed for amendment in appropriate places to refer to proposed new rule 7.5 (amended rules 3.50(c) and 3.51(b)) and to the proposed new Judicial Council forms to be used by conservators and guardians—and petitioners for their appointment—to apply for initial and additional court fee waivers in trial and appellate fee waiver proceedings, and to address subsequent court proceedings concerning the applications.

### **Judicial Council forms**

***Forms for fee waiver applications, notices, and orders.*** The committee is proposing new versions of all current mandatory forms used for initial fee waiver applications, notices, and orders, modified for use only by petitioners for the appointment of guardians or conservators or by guardians or conservators after their appointment.<sup>7</sup> The new versions of forms are identified by “(Ward or Conservatee)” in the title and the suffix “-GC” in the form designator, but

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<sup>7</sup> Forms FW-001, FW-002, FW-003, FW-005, FW-006, FW-007, FW-008, FW-010, FW-011, FW-012, and APP-016/FW-016. The forms presented here have been drafted from the latest versions of the listed forms, including revisions of some of them—proposed by the Civil and Small Claims Advisory Committee and the Appellate Advisory Committee—that will be considered for adoption by the Judicial Council on April 17, 2015, effective July 1, 2015. If any of these revised forms are not approved by the Judicial Council or are approved after additional changes, the corresponding new forms proposed here will be modified following the comment period on this proposal to match the latest versions of the forms adopted by the Judicial Council in April.

otherwise with designators and titles identical to those of the current forms. The introductory paragraph of the proposed new *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC) describes the intended application of that form and all of the other new forms:

This form must be used by a guardian or conservator, or by a petitioner for the appointment of a guardian or conservator, to request a waiver of court fees in the guardianship or conservatorship court proceeding or in any other civil action in which the guardian or conservator represents the interests of the ward or conservatee as a plaintiff or defendant.

New forms are recommended rather than revisions of the current fee waiver forms because the committee concluded that adding the necessary information to the current forms would make these forms too long and complex. To address waivers involving conservators or guardians, the name, address, and other personal information about the ward or conservatee—and his or her attorney, if any—in addition to the same information about the guardian or conservator or the petitioner for the fiduciary’s appointment, are necessary in all of the new forms. In addition, the forms must refer to the financial condition of the (proposed) ward or conservatee, not that of the petitioner or the appointed fiduciary who is asking for the waiver, although the latter is responsible for applying for the waiver, replying to requests from the court about it, and defending the waiver application in response to court action concerning it. Attempting to add requests for this information to the current forms—which request financial information of only the applicant, refer to the fees subject to the waiver as “your” (the applicant’s) fees, and impose all responsibilities on the applicant—would increase the number of checkbox selections that would be required, create forms that contain instructions and material applicable only to a relatively small percentage of fee waiver applicants (guardians and conservators and those seeking their appointment).

Items 9–13 of new form FW-001-GC represent the only significant change in the content of information requested by the new fee waiver forms, compared to the current forms. Items 9 and 10 would apply to guardians; items 11–13 would apply to conservators. These items seek information concerning the ward’s or conservatee’s estate, the ward’s parents, the conservatee’s spouse or registered domestic partner, and the conservatee’s connections with trusts. These items are based on the provisions of proposed rule 7.5 concerning these topics. (See rule 7.5(e)(1)(A)–(C).)

***Information forms FW-001-INFO and APP-015/FW-015-INFO.*** These information forms would also be revised to advise guardians, conservators, and petitioners for appointment of guardians and conservators that they must complete and file the new proposed *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC) or *Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee)* (form FW-002-GC) to request fee waivers and additional fee waivers in their cases. The proposed changes in the forms are highlighted in the attached drafts.

## **Alternatives Considered**

The 2014 legislation discussed above eliminated the alternative of doing nothing to change the current fee waiver forms to address conservatorships and guardianships, and civil actions involving conservators and guardians. As noted above, the committee considered the option of amending the existing fee waiver forms to include the elements required to comply with the legislation, but concluded that this would make the general fee waiver forms too long and complex.

## **Implementation Requirements, Costs, and Operational Impacts**

Probate department judicial officers and staff, the probate bar, and public interest law firms or organizations and self-help centers assisting self-represented low-income petitioners for the appointment of conservators or guardians will be required to quickly become familiar with the new rule of court and an entire set of new Judicial Council forms necessitated by the new law affecting fee waivers for these applicants. The committee believes that adopting a full set of specialty forms for these matters instead of modifying the existing forms used by all waiver applicants will actually reduce court training and implementation costs.

## Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Would it be preferable to modify the existing forms instead of providing new forms to address applications for fee waivers by guardians, conservators, and petitioners for their appointment?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts, including self-help centers sponsored by courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- Would an effective date other than January 1 present additional difficulties?
- Would those problems be greater or lesser than the problems presented to courts dealing with fee waiver applications by conservators, guardians, or petitioners for their appointments without a rule of court and forms specifically designed for these proceedings, in light of the new law affecting fee waivers in these matters?
- How well would this proposal work in courts of different sizes?

### Attachments and Links

1. Proposed Cal. Rules of Court, rules 3.50–3.53, 7.5, and 8.26, at pages 10–17
2. Proposed new and revised forms FW-001-GC, FW-001-INFO, FW-002-GC, FW-003-GC, FW-005-GC, FW-006-GC, FW-007-GC, FW-008-GC, FW-010-GC, FW-011-GC, FW-012-GC, APP-015/FW-015-INFO, and APP-016-GC/FW-016-GC, at pages 18–48
3. Assembly Bill 2747 (Stats. 2014, ch. 913), linked at:  
[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB2747&search\\_keywords=](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2747&search_keywords=)

## Rule Proposal

Rules 3.50, 3.51, 3.52, 3.53, and 8.26 of the California Rules of Court would be amended and rule 7.5 adopted, effective September 1, 2015, to read:

### TITLE 3 Civil Rules

#### Division 2 Waiver of Fees and Costs

##### 3.50. Application of rules

(a)–(b) \* \* \*

##### (c) Probate fee waivers

Initial fee waivers in decedents’ estate, probate conservatorship, and probate guardianship proceedings or involving guardians or conservators as parties on behalf of their wards or conservatees are governed by rule 7.5.

##### 3.51. Method of application

(a) \* \* \*

##### (b) Applications involving (proposed) wards and conservatees

An application for initial fee waiver under rules 3.55 and 7.5 by a probate guardian or probate conservator or a petitioner for the appointment of a probate guardian or probate conservator for the benefit of a (proposed) ward or conservatee, in the guardianship or conservatorship proceeding or in a civil action or proceeding in which the guardian or conservator is a party on behalf of the ward or conservatee, must be made on *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC). An application for initial fee waiver under rule 3.56 by a guardian or conservator or a petitioner for the appointment of a guardian or conservator for the benefit of a (proposed) ward or conservatee must be made on *Request to Waive Additional Court Fees (Superior Court)(Ward or Conservatee)* (form FW-002-GC).

##### 3.52. Procedure for determining application

The procedure for determining an application is as follows:

1 (1) \* \* \*

2  
3 (2) An order determining an application for an initial fee waiver must be made  
4 on *Order on Court Fee Waiver (Superior Court)* (form FW-003) or, if the  
5 application is made for the benefit of a (proposed) ward or conservatee, on  
6 *Order on Court Fee Waiver (Superior Court)(Ward or Conservatee)* (form  
7 FW-003-GC), except as provided in (6) below.

8  
9 (3) An order determining an application for an initial fee waiver after a hearing  
10 in the trial court must be made on *Order on Court Fee Waiver After Hearing*  
11 *(Superior Court)* (form FW-008) or, if the application is made for the benefit  
12 of a (proposed) ward or conservatee, on *Order on Court Fee Waiver After*  
13 *Hearing (Superior Court) (Ward or Conservatee)* (form FW-008-GC).

14  
15 (4) Any order granting a fee waiver must be accompanied by a blank *Notice of*  
16 *Improved Financial Situation or Settlement* (form FW-010) or, if the  
17 application is made for the benefit of a (proposed) ward or conservatee, on  
18 *Notice to Court of Improved Financial Situation or Settlement (Ward or*  
19 *Conservatee)*(form FW-010(GC).

20  
21 (5) Any order denying an application without a hearing on the ground that the  
22 information on the application conclusively establishes that the applicant is  
23 not eligible for a waiver must be accompanied by a blank *Request for*  
24 *Hearing About Fee Waiver Order (Superior Court)* (form FW-006) or, if the  
25 application is made for the benefit of a (proposed) ward or conservatee, on  
26 *Request for Hearing About Court Fee Waiver Order (Superior Court)(Ward*  
27 *or Conservatee)* (form FW-006-GC).

28  
29 (6) \* \* \*

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31 **3.53. Application granted unless acted on by the court**

32  
33 The application for initial fee waiver is deemed granted unless the court gives  
34 notice of action on the application within five court days after it is filed. If the  
35 application is deemed granted under this provision, the clerk must prepare and  
36 serve a *Notice: Waiver of Court Fees (Superior Court)* (form FW-005) or, if the  
37 application is made for the benefit of a (proposed) ward or conservatee, a *Notice:*  
38 *Waiver of Court Fees (Superior Court) (Ward or Conservatee)* (form FW-005-  
39 GC), five court days after the application is filed.

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**TITLE 7**  
**Probate Rules**

**Chapter 1**  
**General Provisions**

**7.5. Waivers of court fees in decedents' estates, conservatorships, and guardianships**

**(a) Scope of rule**

This rule governs initial fee waivers, as defined in rule 3.50(b), that are requested by petitioners for the appointment of fiduciaries, or by fiduciaries after their appointment, in decedents' estates, conservatorships, and guardianships under the Probate Code. It also governs initial fee waivers in other civil actions or proceedings in which guardians or conservators are parties representing the interests of their wards or conservatees.

**(b) Court fee waiver requested by a petitioner for the appointment of a conservator or guardian of the person, estate, or person and estate, of a conservatee or ward**

A petitioner for the appointment of a conservator or guardian of the person, estate, or person and estate of a conservatee or ward must base an application for an initial fee waiver on the personal financial condition of the proposed conservatee or ward.

**(c) Court fee waiver requested by a petitioner for the appointment of a personal representative of a decedent's estate**

A petitioner for the appointment of a personal representative of a decedent's estate must base an application for an initial fee waiver on the petitioner's personal financial condition.

**(d) Effect of appointment of a personal representative of a decedent's estate on a court fee waiver**

The appointment of a personal representative of a decedent's estate may be a change of financial condition for fee waiver purposes under Government Code section 68636 in accordance with the following:



- 1           (1) If the successful petitioner is an appointed personal representative:  
2  
3           (A) The petitioner’s continued eligibility for an initial fee waiver must  
4           be based on the combined financial condition of the petitioner and  
5           the decedent’s estate.  
6  
7           (B) Upon marshaling or collecting assets of the decedent’s estate  
8           following the petitioner’s appointment and qualification as  
9           personal representative, the petitioner must notify the court of a  
10           change in financial condition under Government Code section  
11           68636(a) that may affect his or her ability to pay all or a portion  
12           of the waived court fees and costs.  
13  
14           (C) The court may make a preliminary determination under  
15           Government Code section 68636(b) that the petitioner’s  
16           appointment as fiduciary is a change of financial condition that  
17           makes the petitioner no longer eligible for an initial fee waiver  
18           based, in whole or in part, on the estimates of estate value and  
19           income contained in the petitioner’s appointment petition. In that  
20           event, the court must give notice and conduct the hearing required  
21           by section 68636(b).  
22  
23           (2) If the successful petitioner is not an appointed personal representative:  
24  
25           (A) An initial fee waiver for that petitioner continues in effect  
26           according to its terms for subsequent fees incurred by that  
27           petitioner in the proceeding solely in his or her individual  
28           capacity.  
29  
30           (B) The appointed personal representative may apply for an initial fee  
31           waiver. The application must be based on the combined financial  
32           condition of the personal representative and the decedent’s estate.

34 **(e) Financial condition of the conservatee or ward**  
35

- 36           (1) The financial condition of the conservatee or ward for purposes of this  
37           rule includes:  
38  
39           (A) The financial condition—to the extent of the information known  
40           or reasonably available to the conservator or guardian, or the  
41           petitioner for the conservator’s or guardian’s appointment, upon  
42           reasonable inquiry—of any person against whom the conservatee  
43           or ward has a claim for support, including a spouse, registered

1                    domestic partner, or parent. Such claims are subject to the  
2                    provisions of Government Code sections 68637(d) and (e)  
3                    concerning the obligated person’s ability to pay all or any portion  
4                    of the waived fees;

5  
6                    (B) A conservatee’s interest in community property that is outside the  
7                    conservatorship estate and under the management or control of  
8                    the conservatee’s spouse or registered domestic partner; and

9  
10                  (C) The right to receive support, income, or other distributions from a  
11                  trust or under a contract.

12  
13                  (2) Following the appointment of a conservator or guardian and the grant of  
14                  an initial fee waiver based on the financial condition of the conservatee  
15                  or ward, the conservator or guardian is the “person who received the  
16                  initial fee waiver” for purposes of Government Code section 68636(a),  
17                  whether or not he or she was the successful applicant for the initial  
18                  waiver. The conservator or guardian must report to the court any  
19                  changes in the financial condition of the conservatee or ward that affects  
20                  his or her ability to pay all or a portion of the court fees and costs that  
21                  were initially waived, including any changes in the financial condition  
22                  of the persons or property mentioned in subparagraphs (1)(A) and  
23                  (1)(B) of this subdivision of which the conservator or guardian becomes  
24                  aware after reasonable investigation.

25  
26                  (f) **Additional discretionary factors in the financial condition or**  
27                  **circumstances of a decedent’s, conservatee’s, or ward’s estate**

28  
29                  (1) The financial condition of the decedent’s, conservatee’s, or ward’s  
30                  estate for purposes of this rule may, in the court’s discretion, include  
31                  consideration of:

32  
33                    (A) The estate’s liquidity;

34  
35                    (B) Whether estate property or income is necessary for the support of  
36                    a person entitled to a family allowance from the estate of a  
37                    decedent, the conservatee or a person entitled to support from the  
38                    conservatee, or the ward; or

39  
40                    (C) Whether property in a decedent’s estate is specifically devised.

41  
42                  (2) If property of the estate is eliminated from consideration for initial  
43                  court fee waiver purposes because of one or more of the factors listed

1 in (1), the court may determine that the estate can pay a portion of court  
2 fees, can pay court fees over time, or can pay court fees at a later time,  
3 under an equitable arrangement within the meaning of Government  
4 Code sections 68632(c) and 68634(e)(5). An equitable arrangement  
5 under this paragraph may include establishment of a lien for initially  
6 waived court fees against property distributable from a decedent's  
7 estate or payable to the conservatee or ward or other successor in  
8 interest at the termination of a conservatorship or guardianship.  
9

10 **(g) Payment of previously waived court fees by a decedent's estate**

11  
12 If the financial condition of the estate of a decedent is a change of financial  
13 condition of a fee waiver applicant under this rule that results in withdrawal  
14 of a previously granted initial waiver of fees in favor of a petitioner for the  
15 appointment of a personal representative, the estate must pay to the court as  
16 an allowable expense of administration fees and costs waived before the  
17 court's order withdrawing the initial fee waiver.  
18

19 **(h) Payment of previously waived court fees by the estate of a conservatee or**  
20 **ward**

21  
22 Upon establishment of a conservatorship or guardianship of the estate or  
23 person and estate, the court may collect all or a portion of court fees  
24 previously waived from the estate of the conservatee or ward, if the court  
25 finds that the estate has the ability to pay the fees, or a portion thereof,  
26 immediately, over a period of time, or under some other equitable agreement,  
27 without using moneys that normally would pay for the common necessities  
28 of life for the conservatee or ward and his or her family. The court must  
29 comply with the notice and hearing requirements of the second paragraph of  
30 Government Code section 68634(e)(5) to make the findings authorized in  
31 this subdivision.  
32

33 **(i) Civil actions in which a conservator or guardian is a party representing**  
34 **the interests of a conservatee or ward**

35  
36 In a civil action in which a conservator or guardian is a party representing the  
37 interests of a conservatee or ward against another party or parties, for  
38 purposes of Government Code sections 68631.5, 68636 and 68637:  
39

40 (1) The conservator or guardian is the person with a duty to notify the  
41 court of a change of financial condition under section 68636(a) and the  
42 person the court may require to appear at a court hearing under sections  
43 68636(b) and (c);

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(2) The conservatee or ward and the persons identified in subparagraphs (1)(A) and (B) of subdivision (e) of this rule is the person or persons whose change of financial condition or circumstances of which the court is to be notified under section 68636(a); and

(3) The conservatee or ward is the person or party whose initial fees and costs were initially waived under sections 68636(c) and 68637.

**(j) Advances of court fees and costs by legal counsel**

(1) Government Code section 68633(g)—concerning agreements between applicants for initial court fee waivers and their legal counsel for counsel to advance court fees and costs and court hearings to determine the effect of the presence or absence of such agreements on the applications—applies to proceedings described in this rule.

(2) Guardians, conservators, and petitioners for their appointment applying for initial fee waivers under this rule represented by legal counsel, and their counsel, must complete the *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC), including items 2a and 2b, and, if a request to waive additional court fees is made, the *Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee)* (form FW-002-GC), including items 2a and 2b. The reference to “legal-aid type services” in these forms refers to legal services provided to an applicant by counsel for or affiliated with a qualified legal services project defined in Business and Professions Code section 6213.

**(k) Expiration of initial court fee waivers in decedents’ estates, conservatorships, and guardianships**

“Final disposition of the case” in conservatorship and guardianship proceedings for purposes of determining the expiration of fee waivers under Government Code section 68639 occurs on the later of the following events:

(1) Termination of the proceedings by order of court or under operation of law in conservatorships and guardianships of the person; or

(2) Discharge of personal representatives of decedent estates and discharge of conservators or guardians of estates.



*Clerk stamps date here when form is filed.*

**DRAFT**

**NOT APPROVED BY  
THE JUDICIAL COUNCIL**

**This form must be used by a guardian or conservator, or by a petitioner for the appointment of a guardian or conservator, to request a waiver of court fees in the guardianship or conservatorship court proceeding or in any other civil action in which the guardian or conservator represents the interests of the ward or conservatee as a plaintiff or defendant.**

If the ward or conservatee (including a proposed ward or conservatee if a petition for appointment of a guardian or conservator has been filed but has not yet been decided by the court) directly receives public benefits or is supported by public benefits received by another for his or her support, is a low-income person, or does not have enough income to pay for his or her household's basic needs and the court fees, you may use this form to ask the court to waive the court fees. The court may order you to answer questions about the finances of the ward or conservatee. If the court waives the fees, the ward or conservatee, his or her estate, or someone with a duty to support the ward or conservatee, may still have to pay later if:

- You cannot give the court proof of the ward's or conservatee's eligibility,
- The ward's or conservatee's financial situation improves during this case, or
- You settle the civil case on behalf of the ward or conservatee for **\$10,000** or more. The trial court that waives fees will have a lien on any such settlement in the amount of the waived fees and costs. The court may also charge the ward or conservatee, or his or her estate, any collection costs.

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**1 Your Information** (*guardian or conservator, or person asking the court to appoint a guardian or conservator*):

Name: \_\_\_\_\_ Phone number: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_

**2 Your Lawyer** (*if you have one*): Name: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

- a. The lawyer has agreed to advance all or a portion of court fees or costs (*check one*): Yes  No
- b. (*If yes, your lawyer must sign here.*) Lawyer's signature: \_\_\_\_\_  
*If your lawyer is not providing legal-aid type services based on your or the ward's or conservatee's low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.*

**3 Ward's or Conservatee's Information** (*file a separate Request for each ward in a multi-ward case*):

Name: \_\_\_\_\_ Age and date of birth (*ward only*): \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

**4 Ward's or Conservatee's Lawyer**, if any: Name: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

**5 Ward or Conservatee's Job** (*job title; if not employed, so state*): \_\_\_\_\_

Name of employer: \_\_\_\_\_  
Employer's address: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

Case Number: \_\_\_\_\_

**6 What court's fees or costs are you asking to be waived?**

- Superior Court (See *Information Sheet on Waiver of Superior Court Fees and Costs* (form FW-001-INFO).)
- Supreme Court, Court of Appeal, or Appellate Division of Superior Court (See *Information Sheet on Waiver of Appellate Court Fees* (form APP-015/FW-015-INFO).)

**7**  Check here if you asked the court to waive court fees for this case in the last six months.  
(If your previous request is reasonably available, please attach it to this form and check here):

**8 Why are you asking the court to waive the ward's or conservatee's court fees?**

- a.  The ward or conservatee and his or her family members who live with or provide the ward or conservatee with financial support receive (check all that apply):
- Supplemental Security Income (SSI)  State Supplemental Payment (SSP)  SNAP (Food Stamps)
  - IHSS (In-Home Supportive Services)  CalWORKS or Tribal TANF  Medi-Cal
  - County Relief/General Assistance  CAPI (Cash Assistance Program for Aged, Blind, and Disabled)
- (Names and relationships to ward or conservatee of persons who receive the public benefits listed above): \_\_\_\_\_

b.  The gross monthly income of the ward's or conservatee's household (before deductions for taxes) is less than the amount listed below. (If you check 8b, you **must** fill out items 14, 15, 16, and 17 on page 4 of this form.)

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

If more than 6 people at home, add \$433.34 for each extra person.

- c.  The ward's or conservatee's household does not have enough income to pay for its basic needs and the court fees. I ask the court to (check one, and you **must** fill out items 14, 15, 16, 17, and 18 on page 4):
- (i)  Waive all court fees and costs. (ii)  Waive some court fees and costs.
  - (iii)  Let the (proposed) guardian or conservator, on behalf of the (proposed) ward or conservatee, make payments over time.

**Guardians or petitioners for their appointment must complete items 9 and 10.**

**9 Ward's Estate:**  Person only, no estate. Inventory or petition estimated value: \_\_\_\_\_

Source (e.g., gift, inheritance, settlement): \_\_\_\_\_

Estim. collection date: \_\_\_\_\_

**10 Ward's Parents' Information:**

- a. Name of ward's father: \_\_\_\_\_  Deceased (date of death): \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_  
Name of employer (if none, so state): \_\_\_\_\_  
Employer's address: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_
- b. Name of ward's mother: \_\_\_\_\_  Deceased (date of death): \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_  
Name of employer (if none, so state): \_\_\_\_\_  
Employer's address: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_
- c. Ward's parents are (check all that apply):  married  living together  separated  divorced  
Support order for ward?  No  Yes Payable to (name): \_\_\_\_\_  
Payor (name): \_\_\_\_\_  
Court: \_\_\_\_\_ Case Number: \_\_\_\_\_  
Date of order (if multiple, date of latest): \_\_\_\_\_ Monthly amount: \_\_\_\_\_



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

Case Number: \_\_\_\_\_

**Conservators or petitioners for their appointment must complete items 11–13.**

**11 Conservatee’s Estate:**  Person only, no estate.

Inventory or petition estimated value: \_\_\_\_\_

Est. collection date: \_\_\_\_\_

**12 Conservatee’s Spouse’s or Registered Domestic Partner’s Information:**

Name of conservatee’s spouse or registered domestic partner: \_\_\_\_\_  Spouse  Partner

Date of marriage or partnership: \_\_\_\_\_  Deceased (*date of death*): \_\_\_\_\_

Street or mailing address: \_\_\_\_\_ Phone number: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_

Name of employer (*if none, so state*): \_\_\_\_\_

Employer’s address: \_\_\_\_\_ State: \_\_\_ Zip: \_\_\_\_\_

The conservatee’s spouse or partner  is  is not managing or, following appointment of a conservator is planning to manage, some or all of the couple’s community property outside the conservatorship estate.

If you selected “is” above: The income, money, and property shown on page 4  includes  does not include the income and property managed, or expected to be managed, by the spouse/partner outside the estate.

**13 The Conservatee and Trusts:**

The conservatee:

a.  Is  Is not a trustor or settlor of a trust.

b.  Is  Is not a trustee or former trustee of a trust.

c.  Is  Is not a beneficiary of a trust.

If you selected “Is” to complete any of the above statements, identify and provide, in an attachment to this *Request*, the current address and telephone number of the current trustee(s) of each trust, describe the general terms of and value of each trust and the nature and value of the conservatee’s interest in each trust, and the amount(s) and frequency of any distributions to or for the benefit of the conservatee prior to your appointment as conservator of which you are aware. (*You may use Judicial Council form MC-025 for this purpose.*)

**All applicants who checked item 8b or item 8c on page 2 must continue to and follow the instructions for completion of items 14–18 at the top of page 4, before signing below.**

**The information I have provided on this form and all attachments about the (proposed) ward or conservatee is true and correct to the best of my information and belief. The information I have provided on this form and all attachments concerning myself is true and correct. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Print your name here*



\_\_\_\_\_  
*Sign here*





Name of (Proposed) Ward or Conservatee:

Case Number:

If you checked 8a on page 2, do not fill out below. If you checked 8b, you must answer questions 14-17. If you checked 8c, you must answer questions 14-18. If you need more space, attach form MC-025 or attach a sheet of paper, and write "Financial Information" and the ward's or conservatee's name and case number at the top.

14 Check here if the ward's or conservatee's income changes a lot from month to month. If it does, complete the form based on his or her average income for the past 12 months.

15 Ward's or Conservatee's Gross Monthly Income

a. List the source and amount of any income the ward or conservatee gets each month, including: wages or other income from work before deductions, spousal/child support, retirement, social security, disability, unemployment, military basic allowance for quarters (BAQ), veterans payments, dividends, interest, trust income, annuities, net business or rental income, reimbursement for job-related expenses, gambling or lottery winnings, etc.

- (1) \$
(2) \$
(3) \$
(4) \$

b. Total monthly income: \$

16 Ward's or Conservatee's Household Income

a. List the income of all other persons living in the ward's or conservatee's home who depend in whole or in part on him or her for support, or on whom he or she depends in whole or in part for support.

Table with columns: Name, Age, Relationship, Gross Monthly Income. Rows (1) through (4).

b. Total monthly income of persons above: \$

Total monthly income and household income (15b plus 16b): \$

17 Ward's or Conservatee's Money and Property

a. Cash \$

b. All financial accounts (list bank name and amount):

- (1) \$
(2) \$
(3) \$

c. Cars, boats, and other vehicles

Table with columns: Make / Year, Fair Market Value, How Much You Still Owe. Rows (1) through (3).

d. Real estate Address Fair Market Value How Much You Still Owe

- (1) \$
(2) \$

e. Other personal property (jewelry, furniture, furs, stocks, bonds, etc.):

Table with columns: Describe, Fair Market Value, How Much You Still Owe. Rows (1) through (2).

18 Ward's or Conservatee's Monthly Deductions and Expenses

a. List any payroll deductions and the monthly amount below:

- (1) \$
(2) \$
(3) \$
(4) \$

b. Rent or house payment and maintenance \$

c. Food and household supplies \$

d. Utilities and telephone \$

e. Clothing \$

f. Laundry and cleaning \$

g. Medical and dental expenses \$

h. Insurance (life, health, accident, etc.) \$

i. School, child care \$

j. Child, spousal support (another marriage) \$

k. Transportation, gas, auto repair and insurance \$

l. Installment payments (list each below):

- Paid to:
(1) \$
(2) \$
(3) \$

m. Wages/earnings withheld by court order \$

n. Any other monthly expenses (list each below). \$

- Paid to: How Much?
(1) \$
(2) \$
(3) \$

Total monthly expenses (add 18a-18n above): \$

To list any other facts you want the court to know, such as the (proposed) ward's or conservatee's unusual medical expenses, etc, attach form MC-025 or attach a sheet of paper and write "Financial Information" and the (proposed) ward's or conservatee's name and case number at the top. Check here if you attach another page. Important! If the ward's or conservatee's financial situation or ability to pay court fees improves, you must notify the court within five days on form FW-010-GC.

## INFORMATION SHEET ON WAIVER OF SUPERIOR COURT FEES AND COSTS

If you have been sued or if you wish to sue someone, if you are filing or have received a family law petition, or if you are asking the court to appoint a guardian for a minor or a conservator for an adult or are an appointed guardian or conservator, and if you (or your ward or conservatee) cannot afford to pay court fees and costs, you may not have to pay them in order to go to court. If you (or your ward or conservatee) are getting public benefits, are a low-income person, or do not have enough income to pay for your (or his or her) household's basic needs *and* your court fees, you may ask the court to waive all or part of those fees.

- To make a request to the court to waive your fees in superior court, complete the *Request to Waive Court Fees* (form FW-001) or, if you are petitioning for the appointment of a guardian or conservator or are an appointed guardian or conservator, complete the *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC). If you qualify, the court will waive all or part of its fees for the following:
  - Filing papers in superior court (other than for an appeal in a case with a value of over \$25,000)
  - Making and certifying copies
  - Sheriff's fee to give notice
  - Court fee for telephone hearing
  - Reporter's fee for attendance at hearing or trial, if a reporter is provided by the court.
  - Assessment for court investigations under Probate Code section 1513, 1826, or 1851.
  - Preparing, certifying, copying, and sending the clerk's transcript on appeal.
  - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.833 or 8.834.
  - Making a transcript or copy of an official electronic recording under rule 8.835
  - Giving notice and certificates
  - Sending papers to another court department
  - Having a court-appointed interpreter in small claims court
- You may ask the court to waive other court fees during your case in superior court as well. To do that, complete a *Request to Waive Additional Court Fees (Superior Court)* (form FW-002) or *Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee)* (form FW-002-GC). The court will consider waiving fees for items such as the following, or other court services you need for your case:
  - Jury fees and expenses
  - Fees for court-appointed experts
  - Other necessary court fees
  - Fees for a peace officer to testify in court
  - Court-appointed interpreter fees for a witness
- If you want the Appellate Division of Superior Court or the Court of Appeal to review an order or judgment against you and you want the court fees waived, ask for and follow the instructions on *Information Sheet on Waiver of Appellate Court Fees, Supreme Court, Court of Appeal, Appellate Division* (form APP-015/FW-015-INFO).

### IMPORTANT INFORMATION!

- You are signing your request under penalty of perjury. Answer truthfully, accurately, and completely.**
- The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability, or the ability of your ward or conservatee, to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you or your ward or conservatee are granted may be ended if you do not go to court when asked. You or your ward's or conservatee's estate may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- Public benefits programs listed on the application form.** In item 5 on the *Request to Waive Court Fees* (item 8 of the *Request to Waive Court Fees (Ward or Conservatee)*), there is a list of programs from which you (or your ward or conservatee) may be receiving benefits, listed by the abbreviations they are commonly known by. The full names of those programs can be found in Government Code section 68632(a), and are also listed here:
  - Medi-Cal
  - Food Stamps—California Food Assistance Program, CalFresh Program, or SNAP
  - Supp. Sec. Inc.—Supplemental Security Income (not Social Security)
  - SSP—State Supplemental Payment
  - County Relief/General Assistance—County Relief, General Relief (GR) or General Assistance (GA)
  - IHSS—In-Home Supportive Services
  - CalWORKS—California Work Opportunity and Responsibility to Kids Act
  - Tribal TANF—Tribal Temporary Assistance for Needy Families
  - CAPIC—Cash Assistance Program for Aged, Blind, or Disabled Legal Immigrants

- **If you receive a fee waiver, you must tell the court if there is a change in your finances, or the finances of your ward or conservatee.** You must tell the court within five days if those finances improve or if you, or your ward or conservatee, become able to pay court fees or costs during this case. (File *Notice to Court of Improved Financial Situation or Settlement* (form FW-010) or *Notice to Court of Improved Financial Situation or Settlement (Ward or Conservatee)* (form FW-010-GC) with the court.) You may be ordered to repay any amounts that were waived after your eligibility, or the eligibility of your ward or conservatee, came to an end.
- **If you receive a judgment or support order in a family law matter:** You may be ordered to pay all or part of your waived fees and costs if the court finds your circumstances have changed so that you can afford to pay. You will have the opportunity to ask the court for a hearing if the court makes such a decision.
- **If you win your case in the trial court:** In most circumstances the other side will be ordered to pay your waived fees and costs to the court. The court will not enter a satisfaction of judgment until the court is paid. (This does not apply in unlawful detainer cases. Special rules apply in family law cases and in guardianships and conservatorships. (Government Code, section 68637(d), (e), and Cal. Rules of Court, rule 7.5.)
- **If you settle your civil case for \$10,000 or more:** Any trial court waived fees and costs must first be paid to the court out of the settlement. **The court will have a lien on the settlement in the amount of the waived fees and costs.** The court may refuse to dismiss the case until the lien is satisfied. A request to dismiss the case (use form CIV-110) must have a declaration under penalty of perjury that the waived fees and costs have been paid. Special rules apply to family law cases.
- **The court can collect fees and costs due to the court.** If waived fees and costs are ordered paid to the trial court, or if you fail to make the payments over time, the court can start collection proceedings and add a \$25 fee plus any additional costs of collection to the other fees and costs owed to the court.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or earlier if a court finds that you or your ward or conservatee are not eligible for a fee waiver. If the case is a guardianship or conservatorship proceeding, see California Rules of Court, rule 7.5(k) for information on the final disposition of that matter.
- **If you are in jail or state prison:** Prisoners may be required to pay the full cost of the filing fee in the trial court but may be allowed to do so over time. See Government Code section 68635.

**Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee)**

**CONFIDENTIAL**

*Clerk stamps date here when form is filed.*

**DRAFT**

**Not approved by the Judicial Council**

This form must be used by a guardian or conservator, or a petitioner for the appointment of a guardian or conservator, in the guardianship or conservatorship proceeding or in any other civil action in which the guardian or conservator represents the interest of the ward or conservatee as a plaintiff or defendant, to ask the court to waive *additional* court fees that are not covered in a current order. If you have not already received an order that waived or reduced your court fees, you must complete and file a *Request to Waive Court Fees (Ward or Conservatee)*, form FW-001-GC, along with this form.

*Fill in court name and street address:*

Superior Court of California, County of

*Fill in case number and name:*

Case Number:

Case Name:

**1 Your Information** (*guardian or conservator, or person asking the court to appoint a guardian or conservator*):

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

**2 Your Lawyer** (*if you have one*): Name: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

- a. The lawyer has agreed to advance all or a portion of your fees or costs (*check one*):  Yes  No  
(*If yes, your lawyer must sign here.*) Lawyer's signature: \_\_\_\_\_
- b. *If your lawyer is not providing legal-aid type services based on the ward's or conservatee's low income, you may have to go to a hearing to explain why you are asking the court to waive the fees.*

**3 Ward's or Conservatee's Information** (*file a separate Request for each ward in a multi-ward case*):

Name: \_\_\_\_\_ Age and date of birth (*ward only*): \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_  
Phone number: \_\_\_\_\_

**4 Ward's or Conservatee's Lawyer**, if any: Name: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

**5** Date ward's or conservatee's *last* court fee waiver order, if any, was granted: \_\_\_\_\_

**6** Has the ward's or conservatee's financial situation improved since your last *Request to Waive Court Fees*?

No  Yes

(*If yes, you must fill out a new Request to Waive Court Fees, form FW-001-GC, and attach it to this form.*)



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

Case Number: \_\_\_\_\_

7 What other fees do you want the court fee waiver order to cover? (Check all that apply):

- a.  Jury fees and expenses
- b.  Court-appointed interpreter fees for a witness
- c.  Fees for a peace officer to testify in court
- d.  Fees for court-appointed experts
- e.  Other (specify):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8 Why does the ward or conservatee need these other services? (Explain):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Notice:** The court may order you to answer questions about the finances of the ward or conservatee and later order you, as guardian or conservator of his or her estate, to pay back waived fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If the fees are not paid back, the court may also charge collection fees.

If there is a change in the financial circumstances of the ward or conservatee during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC for this purpose.)

If this case is a civil action against another person on behalf of the ward or conservatee and you win it, the trial court may order the other side to pay the fees. If you settle the case against another person for **\$10,000** or more payable to the ward's or conservatee's estate, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

**I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Print your name here*



\_\_\_\_\_  
*Sign here*

*Clerk stamps date here when form is filed.*

**DRAFT**

**NOT APPROVED  
BY  
THE JUDICIAL COUNCIL**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 A request to waive court fees was filed on (date):** \_\_\_\_\_

The court made a previous fee waiver order in this case on (date): \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**Read this form carefully. All checked boxes  are court orders.**

**Notice:** The court may order you to answer questions about the ward's or conservatee's finances after granting a waiver and may later order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If there is a change in the ward's or conservatee's financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC.)

If this case is an action against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay some or all of the waived fees. If you settle the matter for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

**6 After reviewing your:**  *Request to Waive Court Fees*  *Request to Waive Additional Court Fees*  
**the court makes the following orders:**

a.  The court **grants** your request concerning the ward's or conservatee's court fees and costs, as follows:

(1)  **Fee Waiver.** The court grants your request and waives the fees and costs listed below.  
(*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:

- Filing papers in Superior Court
  - Giving notice and certificates
  - Making copies and certifying copies
  - Sending papers to another court department
  - Sheriff's fee to give notice
  - Court-appointed interpreter in small claims court
  - Court fee for phone hearing
- (*List continued on next page.*)





- 6 a. (1) • Reporter's fee for attendance at hearing or trial, if reporter provided by the court  
 • Assessment for court investigations under Probate Code section 1513, 1826, or 1851  
 • Preparing, certifying, copying, and sending the clerk's transcript on appeal  
 • Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834  
 • Making a transcript or copy of an official electronic recording under rule 8.835

- (2)  **Additional Fee Waiver.** The court grants your request and waives the additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.

- Jury fees and expenses  Fees for a peace officer to testify in court  
 Fees for court-appointed experts  Court-appointed interpreter fees for a witness  
 Other(*specify*):

- b.  The court **denies** your fee waiver request, as follows:

**Warning!** If you miss the deadline below, the court cannot process your request for hearing or the court papers you filed with your original request. If the papers were a notice of appeal, the appeal may be dismissed.

- (1)  The court **denies** your request because it is incomplete. You have **10 days** after the clerk gives notice of this order (see date of service on next page) to:
- Pay the ward's or conservatee's fees and costs, or
  - File a new revised request that includes the items listed below (*specify incomplete items*):

- (2)  The court **denies** your request because the information you provided on the request shows that the ward or conservatee is not eligible for the fee waiver you requested (*specify reasons*):

The court has enclosed a blank *Request for Hearing About Court Fee Waiver Order (Ward or Conservatee)(Superior Court)*, form FW-006-GC. You have **10 days** after the clerk gives notice of this order (see date of service on next page) to:

- Pay the fees and costs in full or the amount listed in c below, or
- Ask for a hearing in order to show the court more information. (*Use form FW-006-GC to request hearing.*)

- c.  The court needs more information to decide whether to grant your request. You must go to court on the date below. The hearing will be about (*specify questions regarding eligibility*):

- Bring the following proof to support your request if reasonably available:



Name of (Proposed) Ward or Conservatee:

Case Number:

**Warning!** If item c is checked, and you do not go to court on your hearing date, the judge will deny your request to waive court fees, and you will have 10 days to pay the ward's or conservatee's fees. If you miss that deadline, the court cannot process the court papers you filed with your request. If the papers were a notice of appeal, the appeal may be dismissed.

**NOTE TO GUARDIAN or CONSERVATOR:** If there are unpaid court fees after a denial of a request for a fee waiver, your case—including the guardianship or conservatorship proceeding if the waiver is requested in that matter—might not go forward. After a denial, you may choose to advance the court costs yourself to ensure that the case proceeds. If you or another person is appointed as guardian or conservator, you would have an opportunity to be reimbursed for such advances from the assets of the guardianship or conservatorship estate, if any, as allowable expenses of administration. You might also have the right to reimbursement for advanced court costs from persons with an obligation to support the ward or conservatee from assets not part of his or her estate, such as a parent of the ward, the spouse or registered domestic partner of the conservatee who is managing the couple's community property outside the conservatorship estate, or the trustee of a trust of which the conservatee is a beneficiary.

Name and address of court if different from above:

**Hearing  
Date**

→

Date: \_\_\_\_\_
Time: \_\_\_\_\_

Dept.: \_\_\_\_\_
Room: \_\_\_\_\_

Date: \_\_\_\_\_



Signature of (check one):  Judicial Officer  Clerk, Deputy



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least 5 days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8.)

### Clerk's Certificate of Service

I certify that I am not involved in this case and (check one):  A certificate of mailing is attached.

I handed a copy of this order to the party and attorney, if any, listed in ①, ②, and ④ at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney, if any, at the addresses listed in ①, ②, and ④, from (city): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**



*Clerk stamps date here when form is filed.*

**DRAFT**  
  
**Not Approved  
by the  
Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

*Court fills in case number when form is filed.*

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**Case Number:**  
  
**Case Name:**

**5** Your *Request to Waive Court Fees* was filed on (date): \_\_\_\_\_

**6** Your request is **granted** by operation of law because no court action was taken within five days after it was filed. A fee waiver is granted for the following court fees and costs (*Cal. Rules of Court, rule 3.55*):

- Filing papers
- Giving notice and certificates
- Sending papers to another court department
- Court fee for phone hearing
- Making copies and certifying copies
- Sheriff's fee to give notice
- Court-appointed interpreter in small claims court
- Reporter's fee for attendance at hearing or trial, if reporter provided by the court
- Assessment for court investigations under Probate Code section 1513, 1826, or 1851
- Preparing, certifying, copying, and sending the clerk's transcript on appeal
- Holding in trust the deposit for a reporter's transcript on appeal under rules 8.130 or 8.834
- Making a transcript or copy of an official electronic recording under rule 8.835

**Read Notice to (Proposed) Guardian or Conservator on page 2.**

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy



Name of (Proposed) Ward or Conservatee:

Case Number:

**Notice to (Proposed) Guardian or Conservator:** The court may order you to answer questions about the (proposed) ward's or conservatee's finances and order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also order you make efforts to collect money for the waived fees from those owing a duty of support of the ward or conservatee.

If there is a change in the ward's or conservatee's financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC.)

If this case is a civil case against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay the fees. If you settle the civil case for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

### Clerk's Certificate of Service

I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.

I handed a copy of this notice to the party and attorney(s), if any, listed in ①, ②, and ④, at the court, on the date below.

This notice was mailed first class, postage paid, to the party and attorney(s), if any, at the addresses listed in ① ②, and ④, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

*Clerk stamps date here when form is filed.*

**DRAFT**

**Not Approved  
by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 Date of order denying your request to waive court fees for the (proposed) ward or conservatee (month/day/year):** \_\_\_\_\_

*(Check here if you have a copy of the order denying your request, and attach it to this form.)*

**6 I ask the court for a hearing on my fee waiver request so that I can bring more information about the (proposed) ward's or conservatee's financial situation.**



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, form MC-410.



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 7  The additional facts that support my request for a fee waiver are *(describe)*:  
*(Use this space if you want to tell the court in advance what facts you want considered at the hearing. If the space below is not enough, attach form MC-025. Or attach a sheet of paper and write Additional Facts and your name and case number at the top. You may also attach copies of documents you want the court to look at.)*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*



\_\_\_\_\_  
*Sign your name*

**Draft**  
  
**Not Approved by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_

Firm or Affiliation: \_\_\_\_\_

Street or mailing address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_ Zip: \_\_\_\_\_

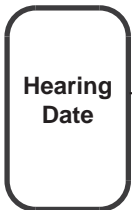
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 The court received your request for a hearing about the ward's or conservatee's court fees on (date): \_\_\_\_\_.**

**Read this form carefully. All checked boxes X are court orders.**

**6**  The court grants your request for a hearing on the eligibility of the ward or conservatee for a fee waiver. **Go to your court hearing** on the date below. You may bring information about the ward or conservatee's financial situation to the hearing.

Name and address of court if different from above:



→ Date: \_\_\_\_\_ Time: \_\_\_\_\_

Dept.: \_\_\_\_\_ Room: \_\_\_\_\_



**Request for Accommodations:** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, Form MC-410. (Civil Code, § 54.8(f))



Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

Case Number: \_\_\_\_\_

- 7  The court **denies** your request for a hearing because (*check all that apply*):
- a.  The hearing request was not filed within ten days after the clerk gave notice of the denial of the request for a fee waiver. (Government Code section 68634(g).)
  - b.  No request to waive fees has been denied by the court in your action or proceeding.
  - c.  Other (*explain*): \_\_\_\_\_

Date: \_\_\_\_\_



Signature of (*check one*):  Judicial Officer  Clerk, Deputy

### Clerk's Certificate of Service

- I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.
- I handed a copy of this notice to the parties and attorney(s), if any, listed in (1), (2), and (4), at the court, on the date below.
- This notice was mailed first class, postage paid, to the parties and attorney(s), if any, at the addresses listed in (1), (2), and (4), from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

*Clerk stamps date here when form is filed.*

**Draft**

**Not Approved by  
the Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 A request to waive court fees was filed on (date): \_\_\_\_\_**

**6 There was a hearing on (date): \_\_\_\_\_  
at (time): \_\_\_\_\_ in (Department): \_\_\_\_\_**

The following people were at the hearing (check all that apply):

- Person in 1       Lawyer in 2       Person in 3       Lawyer in 4  
 Others (names): \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number and name:*

**Case Number:**

**Case Name:**

**Read this form carefully. All checked boxes [X] are court orders.**

**Notice:** The court may order you to answer questions about the ward's or conservatee's finances after granting a waiver and may order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If there is a change in the ward's or conservatee's financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use form FW-010-GC.)

If this case is an action against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay some or all of the waived fees. If you settle the matter for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.



- 7 After reviewing your (*check one*):  Request to Waive Court Fees  Request to Waive Additional Court Fees  
**the court makes the following order:**
- a.  The court **grants** your request and waives the ward's or conservatee's court fees and costs as follows:
- (1)  **Fee Waiver.** The court **grants** your request and waives the court fees and costs listed below (*Cal. Rules of Court, rules 3.55 and 8.818.*) You do not have to pay the court fees for the following:
- Filing papers in superior court
  - Making copies and certifying copies
  - Sheriff's fee to give notice
  - Giving notice and certificates
  - Sending papers to another court department
  - Court-appointed interpreter in small claims court
  - Reporter's fee for attendance at hearing or trial, if reporter provided by the court
  - Assessment for court investigations under Probate Code section 1513, 1826, or 1851
  - Preparing and certifying the clerk's transcript on appeal
  - Holding in trust the deposit for a reporter's transcript on appeal under rule 8.130 or 8.834
  - Making a transcript or copy of an official electronic recorder under rule 8.835
  - Court fees for phone hearing
- (2)  **Additional Fee Waiver.** The court **grants** your request and waives the additional superior court fees and costs that are checked below. (*Cal. Rules of Court, rule 3.56.*) You do not have to pay for the checked items.
- Jury fees and expenses  Fees for a peace officer to testify in court
- Fees for court-appointed experts  Court-appointed interpreter fees for a witness
- Other: (*specify*): \_\_\_\_\_
- b.  The court **denies** your request and **will not waive or reduce** the ward's or conservatee's fees and costs.
- (1) The reason for this denial is as follows:
- (a)  Your request is incomplete, and you did not provide the information that the court requested (*specify items missing*): \_\_\_\_\_
- (b)  You did not go to court on the hearing date to provide the information the court needed to make a decision.
- (c)  The information you provide shows ineligibility for the fee waiver you requested because (*check all that apply*):
- i.  The ward's or conservatee's income is too high.
- ii.  Other (*explain*): \_\_\_\_\_
- (d)  There is not enough evidence to support a fee waiver.
- (e)  Other (*state reasons*): \_\_\_\_\_
- (2)  You may pay the initial filing fee over time. You must make monthly payments of at least \$\_\_\_\_\_ beginning (*date*): \_\_\_\_\_ and then payable on the 1st of each month after that, until the fees checked below are paid in full.
- Filing fees.
- Other (*describe*): \_\_\_\_\_
- You must pay all other court fees and costs as they are due.



**7** c.  The court **partially grants** your request so you can pay, from the estate of the ward or conservatee or from funds from persons or entities with a duty to support the ward or conservatee, court fees without using money needed to pay for the ward's or conservatee's household's basic needs. You are ordered to pay a portion of the ward's or conservatee's fees, **as checked in items c. (1) and (2) below**.  
 The court only partially grants the request because *(state reasons for denial)*:

- (1)  You must pay \_\_\_\_\_% of the ward's or conservatee's court fees.
- (2)  The court waives some fees. The fees checked below are waived. You must pay all other court fees.
  - Filing papers at superior court
  - Sheriff's fee to give notice
  - Court-appointed interpreter
  - Reporter's fee for attendance at trial or hearing if reporter provided by the court.
  - Jury fees and expenses
  - Court-appointed experts' fees
  - Making certified copies
  - Giving notice and certificates
  - Sending papers to another court department
  - Court-appointed interpreter fees for a witness
  - Fees for a peace officer to testify in court
  - Court fees for telephone hearings
  - Other *(specify)*:

(3)  Other *(specify)*:

**Warning! If item 7b or 7c above is checked:** You have **10 days** after the clerk gives notice of this order (see date below) to pay your fees as ordered, unless there is a later date for beginning payments in item 7b(2). If you do not pay, your court papers will not be processed. If the papers are a notice of appeal, your appeal may be dismissed.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Judicial Officer*

**Clerk's Certificate of Service**

I certify that I am not involved in this case and *(check one)*:  A certificate of mailing is attached.

I handed a copy of this order to the party and attorney(s), if any, listed in **(1)**, **(2)**, and **(4)**, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney(s), if any, at the addresses listed in **(1)**, **(2)**, and **(4)**, from *(city)*: \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

*Clerk stamps date here when form is filed.*

**Draft**

**Not Approved by the Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5 Date of the last court fee waiver order in this case (date): \_\_\_\_\_**

**Notice:** The court may order you to answer questions about the ward's or conservatee's finances after granting a waiver and may later order payment of the waived fees from his or her estate. If this happens and the fees are not paid, the court can also charge collection fees. The court may also direct you to make efforts to collect money to pay back waived fees from persons who owe a duty to support the ward or conservatee. If there are additional changes in the ward's or conservatee's financial circumstances during this case that increases his or her ability to pay fees and costs, you must notify the trial court within five days. (Use another copy of this form.)

If this case is an action against another party and you win the case on behalf of the ward or conservatee, the trial court may order the other side to pay some or all of the waived fees. If you settle the matter for **\$10,000** or more, the trial court will have a lien on the settlement in the amount of the waived fees. The trial court may not dismiss the case until the lien is paid.

The court may also have a lien against the ward's or conservatee's estate that must be paid before the estate is distributed, the guardianship or conservatorship proceeding is concluded, and you are discharged as guardian or conservator.

- 6**  The ward's or conservatee's financial situation has changed since the date of the last court fee waiver order in a way that improves my ability as guardian or conservator to pay court fees and costs. I ask the court to do one of the following:
  - a.  **End** the ward's or conservatee's fee waiver because his or her financial situation has improved and I am able to pay court fees and costs that are due after (date): \_\_\_\_\_.
  - b.  **Review** the ward's or conservatee's updated financial information in the attached *Request to Waive Court Fees*. I believe the ward or conservatee is still eligible for a fee waiver. (Complete form FW-001-GC and attach to this form.)



Name of (Proposed) Ward or Conservatee:

Case Number:

- 7  The ward's or conservatee's case has settled for (*check one*)  less than \$10,000  
 \$10,000 or more (*if so, complete a, b, and c below.*)
- a. The conservator (*check one*):  has  has not received the proceeds of the settlement.
- b. The name and address of the party who has agreed to pay the settlement:
- c. That party's attorney, if any (*name, firm or affiliation, address, e-mail, phone number, and State Bar number*):

**I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Print your name here*



\_\_\_\_\_  
*Sign here*

**Draft****Not Approved by  
the Judicial Council****Warning:** If you do not go to the hearing on the date and time below, the court may cancel the (proposed) ward's or conservatee's fee waiver.**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_**2 Lawyer, if person in 1 has one:**Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_**3 (Proposed) ward or conservatee:**Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_**4 Lawyer for (proposed) ward or conservatee, if any:**Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_**5 The court has information that (check all that apply):**a.  The ward's or conservatee's financial situation may have changed, or he or she may no longer be eligible for a fee waiver because (*explain*):b.  You may be increasing the costs of the ward's or conservatee's case unnecessarily. The fee waiver for the court services you are using may be limited because (*explain*):c.  The ward's or conservatee's case (or his or her guardianship or conservatorship proceeding) is coming to an end, and the court requires some information about his or her eligibility to have court fees waived.

Fill in court name and street address:

**Superior Court of California, County of**

Court fills in case number when form is filed.

**Case Number:****Case Name:**

Name of (Proposed) Ward or Conservatee: \_\_\_\_\_

Case Number: \_\_\_\_\_

**6 You must go to court on the date below:**

<div style="border: 1px solid black; border-radius: 15px; padding: 5px; display: inline-block;"> <b>Hearing Date</b> </div> <span style="font-size: 2em; vertical-align: middle;">→</span>	Date: _____	Time: _____	Name and address of court if different from that shown on page 1:
	Dept.: _____	Rm.: _____	

Bring the following information if reasonably available:

Date: \_\_\_\_\_

Signature of (check one):  *Judicial Officer*     *Clerk, Deputy*



**Request for Accommodations.** Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available if you ask at least five days before your hearing. Contact the clerk's office for *Request for Accommodation*, form MC-410. (Civil Code, § 54.8.)

**Clerk's Certificate of Service**

I certify that I am not involved in this case and (check one):  A certificate of mailing is attached.

I handed a copy of this notice to the party and attorney(s), if any, listed in ①, ②, and ④, at the court, on the date below.

This notice was mailed first class, postage paid, to the party and attorney(s), if any, at the addresses listed in ①, ②, and ④, from (city): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy

*Clerk stamps date here when form is filed.*

**Draft**

**Not Approved by  
the Judicial Council**

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

*Fill in court name and street address:*

**Superior Court of California, County of**

**3 (Proposed) ward or conservatee:**

Name: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_

*Court fills in case number when form is filed.*

**Case Number:**

**Case Name:**

**4 Lawyer for (proposed) ward or conservatee, if any:**

Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
Firm or Affiliation: \_\_\_\_\_  
Street or mailing address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

**5** The court made a previous fee waiver order in this case on *(date)*: \_\_\_\_\_

**6** The court sent you a notice to go to court about the fee waiver on *(date)*: \_\_\_\_\_

**Read this form carefully. All checked  boxes are court orders.**

**7** There was a hearing on *(date)*: \_\_\_\_\_  
at *(time)*: \_\_\_\_\_ in *(Department)*: \_\_\_\_\_

The following people were at the hearing *(check all that apply)*:

- Person in 1       Lawyer in 2       Person in 3       Lawyer in 4  
 Others *(names)*:

**8** After considering the information provided at the hearing, **the court makes the following order:**

- a.  **No Change to Fee Waiver.** The *Order on Court Fee Waiver* issued by this court on *(date)*: \_\_\_\_\_ remains in effect. No change is made at this time.  
b.  **Fee Waiver Is Ended as of** *(date)*: \_\_\_\_\_. The court finds that beginning on that day the ward or conservatee was no longer eligible for a fee waiver because:



- 8 b. (1)  You must pay all court fees in this case from the ward's or conservatee's estate, from the date of this order.
- (2)  You must also pay the court \$ \_\_\_\_\_ from the estate of the ward or conservatee, for fees that were initially waived after the ward or conservatee was no longer eligible.
- (a)  You must pay that amount within 10 days of this order.
- (b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (date): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.
- c.  **Fee Waiver Is Retroactively Withdrawn.** The court finds that the ward or conservatee was never entitled to a fee waiver in this case because:
- (1) You must pay all court fees in this case from the ward's or conservatee's estate, from the date of this order.
- (2)  You must also pay the court \$ \_\_\_\_\_ from the ward's or conservatee's estate, for fees that the court initially waived.
- (a)  You must pay that amount within 10 days of this order.
- (b)  You may pay that amount in monthly payments of \$ \_\_\_\_\_ beginning (date): \_\_\_\_\_ and payable on the 1st of each month after that until paid in full.
- d.  **Fee Waiver Is Modified.** The court finds that you obtained the initial fee waiver in bad faith, for an improper purpose, or to needlessly increase the costs of litigation. The court places the following limitations on the fee waiver that was granted to you:
- (1)  You must pay all court fees in this case from the ward's or conservatee's estate, from the date of this order.
- (2)  The court waives some fees. The fees checked below are waived. You must pay all other court fees.
- Filing papers at superior court
  - Sheriff's fee to give notice
  - Court-appointed interpreter
  - Making certified copies
  - Giving notice and certificates
  - Sending papers to another court department
  - Court-appointed interpreter fees for a witness
  - Jury fees and expenses
  - Court-appointed expert's fees
  - Fees for a peace officer to testify in court
  - Court fees for telephone hearings
  - Reporter's fee for attendance at hearing or trial, if reporter provided by court
  - Other (specify):

Name of (Proposed) Ward or Conservatee:

Case Number:

d. (3)  Other modification:

e.  Other Order:

Date: \_\_\_\_\_



\_\_\_\_\_  
*Signature of Judicial Officer*

**Clerk's Certificate of Service**

I certify that I am not involved in this case and (*check one*):  A certificate of mailing is attached.

I handed a copy of this order to the party and attorney(s), if any, listed in ①, ②, and ④, at the court, on the date below.

This order was mailed first class, postage paid, to the party and attorney(s), if any, at the addresses listed in ①, ②, and ④, from (*city*): \_\_\_\_\_, California on the date below.

Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy



## INFORMATION SHEET ON WAIVER OF APPELLATE COURT FEES (SUPREME COURT, COURT OF APPEAL, APPELLATE DIVISION)

If you file an appeal, a petition for a writ, or a petition for review in a civil case, such as a family law case or a case in which you sued someone or someone sued you, you must generally pay a filing fee to the court. If you are a party other than the party who filed the appeal or the petition, you must also generally pay a fee when you file your first document in a case in the Court of Appeal or Supreme Court. You and the other parties in the case may also have to pay other court fees in these proceedings, such as fees to prepare or get a copy of a clerk's transcript in an appeal. However, if you cannot afford to pay these court fees and costs, you may ask the court to issue an order saying you do not have to pay these fees (this is called "waiving" these fees).

1. Who can get their court fees waived? The court will waive your court fees and costs if:

- **You are getting public assistance**, such as Medi-Cal, Food Stamps, Supplemental Security Income (not Social Security), State Supplemental Payment, County Relief/General Assistance, In-Home Supportive Services, CalWORKS, Tribal Temporary Assistance for Needy Families, or Cash Assistance Program for Aged, Blind, and Disabled.
- **You have a low income level**. Under the law you are considered a low-income person if the gross monthly income (before deductions for taxes) of your household is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income
1	\$1,226.05	3	\$2,092.71	5	\$2,959.38
2	\$1,659.38	4	\$2,526.05	6	\$3,392.71

*If more than 6 people at home, add \$433.34 for each extra person.*

- **You do not have enough income to pay for your household's basic needs *and* your court fees .**

2. What fees and costs will the court waive? If you qualify for a fee waiver, the Supreme Court, Court of Appeal, or Appellate Division will waive the filing fee for the notice of appeal, a petition for a writ, a petition for review, or the first document filed by a party other than the party who filed the appeal or petition, and any court fee for participating in oral argument by telephone. The trial court will also waive costs related to the clerk's transcript on appeal, the fee for the court to hold in trust the deposit for a reporter's transcript on appeal under rule 8.130(b) or rule 8.834(b) of the California Rules of Court, and the fees for making a transcript or copy of an official electronic recording under rule 8.835. If you are the appellant (the person who is appealing the trial court decision), the fees waived include the deposit required under Government Code section 68926.1 and the costs for preparing and certifying the clerk's transcript and sending the original to the reviewing court and one copy to you. If you are the respondent (a party other than the appellant in a case that is being appealed), the fees waived include the costs for sending you a copy of the clerk's transcript. You can also ask the trial court to waive other necessary court fees and costs.

The court **cannot** waive the fees for preparing a reporter's transcript in a civil case. A special fund, called the Transcript Reimbursement Fund, may help pay for the transcript. (See <http://www.courtreportersboard.ca.gov/consumers/index.shtml#trf> and Business and Professions Code sections 8030.2 and following for more information about this fund.) If you are unable to pay the cost of a reporter's transcript, a record of the oral proceedings can be prepared in other ways, by preparing an agreed statement or, in some circumstances, a statement on appeal or settled statement.

3. How do I ask the court to waive my fees?

- **Appeal in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less)**. In a limited civil case, if the trial court already issued an order waiving your court fees *and that fee waiver has not ended* (fee waivers automatically end 60 days after the judgment), the fees and costs identified in item 2 above are already waived; just give the court a copy of your current fee waiver. If you do not already have an order waiving your fees or you had a fee waiver but it has ended, you must complete and file a *Request to Waive Court Fees* (form FW-001). If you are the appellant (the party who is appealing), you should check both boxes in item 4 on FW-001 and file the completed form with your notice of appeal. If you are the respondent (a party other than the appellant in a case that is being appealed), the completed form should be filed in the court when the fees you are requesting to be waived, such as the fee for the clerk's transcript or telephonic oral argument, are due.

- **Writ Proceeding in Limited Civil Case (civil case in which the amount of money claimed is \$25,000 or less).** If you want the Superior Court to waive the fees in a writ proceeding in a limited civil case, you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box. The completed form should be filed with your petition for a writ.
- **If You Are a Guardian or Conservator.** If you are a guardian or conservator or a petitioner for the appointment of a guardian or conservator, special rules apply to your request for a fee waiver on an appeal from an order in the guardianship or conservatorship proceeding or in a civil action in which you are a party acting on behalf of your ward or conservatee. Complete and submit a *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC) to request a fee waiver. See California Rules of Court, rule 7.5.
- **Appeal in Other Civil Cases.** If you want the court to waive fees and costs in an appeal in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). In item 4 on FW-001, check the second box to ask the Court of Appeal to waive the fee for filing the notice of appeal or, if you are a respondent (a party other than the one who filed the appeal), the fee for the first document you file in the Court of Appeal. Check both boxes if you also want the trial court to waive your costs for the clerk's transcript (if the trial court already issued an order waiving your fees *and that fee waiver has not ended*, you do not need to check the first box; the fees and costs identified in item 2 above are already waived, just give the court a copy of your current fee waiver). If you are the appellant, the completed form should be submitted with your notice of appeal (if you check both boxes in item 4, the court may ask for two signed copies of this form). If you are the respondent, the completed form should be submitted at the time the fee you are asking the court to waive is due. For example, file the form in the trial court with your request for a copy of the clerk's transcript if you are asking the court to waive the transcript fee or file the form in the Court of Appeal with the first document you file in that court if you are asking the court to waive the fee for filing that document. To request waiver of a court fee for telephonic oral argument, you should file the completed form in the Court of Appeal when the fee for telephonic oral argument is due.
- **Writ Proceeding in Other Civil Cases.** If you want the Supreme Court or Court of Appeal to waive the fees and costs in a writ proceeding in a civil case other than a limited civil case, such as a family law case or an unlimited civil case (a civil case in which the amount of money claimed is more than \$25,000), you must complete a *Request to Waive Court Fees* (form FW-001). If you are the petitioner (the party filing the petition), the completed form should be submitted with your petition for a writ in the Supreme Court or Court of Appeal clerk's office. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court or Court of Appeal.
- **Petition for Review.** If you want to request that the Supreme Court waive the fees in a petition for review proceeding, you must complete a *Request to Waive Court Fees* (form FW-001) or a *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC). If you are the petitioner, you should submit the completed form with your petition for review. If you are a party other than the petitioner, the completed form should be filed with first document you file in the Supreme Court.

#### IMPORTANT INFORMATION!

- **Fill out your request completely and truthfully.** When you sign your request for a fee waiver, you are declaring under penalty of perjury that the information you have provided is true and correct.
- **The court may ask you for information and evidence.** You may be ordered to go to court to answer questions about your ability to pay court fees and costs and to provide proof of eligibility. Any initial fee waiver you are granted may be ended if you do not go to court when asked. You may be ordered to repay amounts that were waived if the court finds you were not eligible for the fee waiver.
- **If you receive a fee waiver, you must tell the court if there is a change in your finances.** You must tell the court immediately if your finances improve or if you become able to pay court fees or costs during this case (file form FW-010 with the court). You may be ordered to repay any amounts that were waived after your eligibility ended. If the trial court waived your fees and costs and you settle your case for \$10,000 or more, the trial court will have a lien on the settlement in the amount of the waived fees.
- **The fee waiver ends.** The fee waiver expires 60 days after the judgment, dismissal, or other final disposition of the case or when the court finds that you are not eligible for a fee waiver.

**APP-016-GC/FW-016-GC** **Order on Court Fee Waiver**  
**(Court of Appeal or Supreme Court)**  
**(Ward or Conservatee)**

Clerk stamps date here when form is filed.

Draft

Not Approved by  
the Judicial  
Council

**1 (Proposed) guardian or conservator who asked the court to waive court fees for (proposed) ward or conservatee:**  
 Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

**2 Lawyer, if person in 1 has one:**  
 Name: \_\_\_\_\_ State Bar No: \_\_\_\_\_  
 Firm or Affiliation: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_  
 E-mail: \_\_\_\_\_ Telephone: \_\_\_\_\_

Fill in court name and street address:

\_\_\_\_\_

**3 (Proposed) ward or conservatee:**  
 Name: \_\_\_\_\_  
 Street or mailing address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: \_\_\_\_\_

**Court of Appeal or Supreme Court  
Case Number:**

**4 Ward's or Conservatee's Lawyer, if any:** Name: \_\_\_\_\_  
 Firm or Affiliation: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
 Address: \_\_\_\_\_ Telephone: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ E-mail: \_\_\_\_\_

**5** On (date): \_\_\_\_\_, you filed a *Request to Waive Court Fees* (form FW-001-GC).

- 6** The court reviewed your request and makes the following order:
- a.  The court **grants** your request and waives the (proposed) ward's or conservatee's court fees and costs listed below. You do not have to pay fees for the following:
- Filing notice of appeal, petition for writ, or petition for review
  - Other (*specify*): \_\_\_\_\_
- b.  The court **denies** your request for the following reasons:
- (1)  Your request is incomplete. You have **10 days** from the date this notice was sent to:
- Pay the (proposed) ward's or conservatee's fees and costs, or
  - File a new revised request that includes the items listed below (*specify incomplete items*): \_\_\_\_\_

**Warning!** If you miss the deadline for paying the (proposed) ward's or conservatee's fees and costs or providing the additional items required by the court and you are the appellant, your appeal may be dismissed.



- 6 b. (2)  The information you provided on the request shows that the (proposed) ward or conservatee is not eligible for the fee waiver you requested for the following reasons (*specify*):

You have **10 days** from the date this notice was sent to:

- Pay the (proposed) ward's or conservatee's fees and costs, or
- File more information that shows that he or she is eligible for a fee waiver.

- (3)  The court finds there is substantial question regarding the (proposed) ward's or conservatee's eligibility (*describe issue(s) regarding eligibility*):

You have **10 days** from the date this notice was sent to:

- Pay the (proposed) ward's or conservatee's fees and costs, or
- File the following additional documents to support your request:

- c.  The court needs more information. **You must go to court** on the date below.

**Hearing Date** → Date: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_  
 Name and address of court if different from page 1: \_\_\_\_\_

- Bring the following proof to support your request, if it is reasonably available:

**Warning!** If item 6 c. is checked and you do not go to court on the hearing date, the court will deny your request to waive court fees for the (proposed) ward or conservatee and you will have **10 days** to pay those fees. If you are the appellant and you do not pay the filing fees, your appeal may be dismissed.

Date: \_\_\_\_\_

Signature of (check one):  Judicial Officer  Clerk, Deputy

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:** Recommend JC approval (has circulated for comment)

**RUPRO Meeting:** March 20, 2015

**Title of proposal:**

**Rules and Forms:** Notice of Application for Recognition and Entry of Tribal Court Money Judgment (adopt form EJ-115)

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Hon. Patricia M. Lucas, chair

Staff contact (Name, phone and e-mail):

Anne M. Ronan, 415-865-8933

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: 2015

Project description from annual agenda:

Item 11. Notice of Application for Recognition and Entry of Tribal Court Money Judgment. Develop new form mandated by AB 406, Tribal Courts Civil Money Judgments Act.

If requesting July 1 or out of cycle, explain:

To implement AB 406, which mandates new form and is already operative.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 16–17, 2015

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Title	Agenda Item Type
Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt form EJ-115	July 1, 2015
Recommended by	Date of Report
Civil and Small Claims Advisory Committee Hon. Patricia M. Lucas, Chair	March 12, 2015
	Contact
	Anne M. Ronan, 415-865-8933 <a href="mailto:anne.ronan@jud.ca.gov">anne.ronan@jud.ca.gov</a>

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### Executive Summary

The Civil and Small Claims Advisory Committee recommends the adoption of the new notice form, which was mandated by the Legislature in the recently enacted Tribal Court Civil Money Judgment Act. The act provides for the enforcement of certain tribal court money judgments in state courts. The statute requires that the judgment creditor in the tribal court action use a form prescribed by the Judicial Council to serve—in the same manner as service of a summons—the judgment debtor with notice of filing the application for recognition of the judgment. The proposed form is intended to comply with those requirements.

### Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt the new *Notice of Application for Recognition and Entry of Tribal Court Money Judgment* (form EJ-115), effective July 1, 2015.

The form is attached at pages 7–8.

## Previous Council Action

The Tribal Court Civil Money Judgment Act (Sen. Bill 406; Stats. 2014, ch. 243) was sponsored by the Judicial Council to provide clear, less burdensome procedures for parties to use in seeking to enforce a tribal court judgment in a state court. The bill originally recommended by the council was somewhat broader than what the Legislature ultimately enacted. The current law is limited to money judgments only.

## Rationale for Recommendation

Because tribes are sovereign, a party seeking enforcement of a civil tribal court judgment in a California superior court has been required to do so under the Uniform Foreign-Country Money Judgments Recognition Act. That process can be time-consuming and expensive— sometimes requiring parties to unnecessarily relitigate what has already been decided by the tribal court, costing both the parties and the state courts unnecessary time and expense. The new procedures of the Tribal Court Civil Money Judgment Act were enacted to reduce the time and expense associate with enforcing these judgments.<sup>1</sup> The new law prescribes a more straightforward procedure for applying for recognition and entry of a judgment based on a tribal court money judgment, sets out the procedure and grounds for objecting to the entry of judgment, and describes the bases on which the court may refuse to enter the judgment or grant a stay of enforcement.

The provisions of the Tribal Court Civil Money Judgment Act require a party seeking enforcement of a tribal court judgment in superior court to file an application for entry of judgment. The application must include certain specified information regarding the parties and the tribal court judgment and must include an authenticated copy of the tribal court judgment, along with a copy of the pertinent tribal court rules of procedure and a declaration that the case that resulted in the judgment was conducted in compliance with those rules. (See Code Civ. Proc., § 1734.)<sup>2</sup> Promptly after filing the application, the applicant is to serve on the respondent a notice that the application has been filed and a copy of the application itself with all its attachments. (§ 1735(a).)

Under this new statute, the notice must:

- Be in a form prescribed by the Judicial Council;
- Inform the respondent that he or she has 30 days from service of the notice in which to file objections;
- Provide the name and address of the applicant and applicant's attorney, if any; and

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<sup>1</sup> SB 406, which went into effect in January 2015, is at [www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0401-0450/sb\\_406\\_bill\\_20140822\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_406_bill_20140822_chaptered.pdf).

<sup>2</sup> All further statutory references herein are to the Code of Civil Procedure, unless otherwise indicated.

- Include the full text of new sections 1736 and 1737, which provide that judgment will be entered if timely objections are not filed, and describe the grounds for such objections. (§ 1735(a).)

The new statute also provides that service of the notice must be made in the same manner as provided for service of summons. (§ 1735(b).)

The recommended *Notice of Application for Recognition and Entry of Tribal Court Money Judgment* (form EJ-115) was developed to comply with the requirements described above.

- The top box of the caption provides spaces for the name and address of the attorney or self-represented petitioner, plus a space for the address of a petitioner with an attorney.
- The text of the notice starts with the information that an application for state court recognition of a tribal court judgment has been filed and that the party being served has 30 days after service of the notice to file objections or a judgment will be entered against him or her. That information is bolded to make it easier for the party to see.
- The full text of new section 1736 is presented in the paragraph entitled “Entry of Judgment.”
- The full text of new section 1737 is presented in the paragraph entitled “How to Object.” (The statutory reference to this code section is expressly identified in the prior paragraph so that a party who wants to see the statute will know where to find it.)

Because the notice is to be served in the same manner as a summons, as provided in Code of Civil Procedure section 415.10 and following, the notice has been set up to be issued by the clerk, with a court seal attached. Items are included on the form under the clerk’s signature to allow the server to provide notice to the person served of which specific code section the notice is being served under (on the person as an individual, as representative of a corporation or a fictitious business, etc.), and a proof of service done in the manner of a summons is provided on the back of the form.

This format, with clerk’s signature and seal at the bottom of the notice and proof of service on the back, is the same format used in the *Notice of Entry of Judgment on Sister-State Judgment* (form EJ-110), which was designed to comply with service provisions identical to those in the new act. (Cf. new section 1735(b) and existing section 1710.30.)

## **Comments, Alternatives Considered, and Policy Implications**

### **Comments**

The proposed form was circulated for public comment in December and January 2015. Twelve comments were received, including comments from four state trial courts (the Superior Courts of El Dorado, Los Angeles, San Diego, and Ventura Counties) and two tribal courts (Blue Lake Rancheria Tribal Court and Yurok Tribal Court). Comments were also received from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee; two attorney groups, the Orange County Bar Association and the Standing Committee on the Delivery of Legal Services of the State Bar of California; the Elk



Valley Rancheria; the organization Stand Up for California; and one individual, Mr. Roger L. French.

Eleven of the 12 commentators agreed with the proposed form, with a few seeking minor modifications to the format or content of the form. One commentator, Mr. French, did not indicate whether he agreed or disagreed with the proposed form.<sup>3</sup> All the comments and the committees' responses are included in the chart of comments attached at pages 9–24. The requested modifications and the committee's responses are summarized below.

***Modifications to the notice form.*** Several commentators requested modifications of the proposed notice form, most of them minor.

- The Joint Rules Subcommittee requested that the lengthy “instructions” be removed from the form and placed on a separate information sheet. The committee has been informed that the commentator’s concerns go to the two large blocks of text on the notice form titled “Entry of Judgment” and “How to Object.” Other than the explanatory titles, these two items are the text of Code of Civil Procedure sections 1736 and 1737, which the new law mandates be included on the notice. See § 1735(a). For that reason, the committee has concluded that those provisions must remain in the form and not placed on a separate information sheet.
- The Standing Committee on the Delivery of Legal Services of the State Bar recommended some formatting changes, which the committee adopted to the extent the form could continue to fit onto two pages.
- The Superior Court of Los Angeles County agreed with the content of the form but proposed it not be made a mandatory, statewide form. The committee does not recommend that modification in light of the statute’s mandate that the application be made on a form prescribed by the Judicial Council.
- The Superior Court of Los Angeles County also proposed at least six months between council adoption and effective date. The committee does not recommend that long a delay in light of the fact that the law, which requires use of this form for a party to proceed, is already in effect.
- The Superior Court of Ventura County proposed that the form be modified to change the title of “applicant” to *petitioner* or *judgment creditor*. The committee concluded that this change was not appropriate in light of the statute’s use of the word *applicant* as a defined term. See § 1732(a). Using a different word on the form could be confusing to the parties.

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<sup>3</sup> With his comments about the forms, Mr. French included objections to the adoption of procedures for state courts to recognize tribal court judgments in certain circumstances. Those latter comments were not included in the chart as they are outside the scope of this proposal.

- The Yurok Tribal Court noted a formatting error (which has been fixed) and requested that the proof of service of the notice on the back of the form include an enumerated list of required attachments to the application. The proof of service on the form as recommended states that it is for service not only of the *Notice of Application for Recognition and Entry of Tribal Court Judgment*, but also of the application with attachments. The committee concluded that this form did not need to provide a separate list of what is supposed to be attached to the application because that information is required by the applicant, not the server. Such a list will be included on the application form, should one be developed. The committee also noted that the second line of the text of the notice itself includes, in bold, a statement that a copy of the tribal court judgment is included with the application served on the respondent, which should put a respondent on notice to check that a copy has been included in the papers served on him or her.

**Additional forms.** Several commentators suggested the development of additional forms. The advisory committee developed this notice form because it is mandated by the new statute. When the form was circulated, the committee sought public comment on whether the development of additional forms would be helpful to the courts and the parties, including an application form setting out all the pieces of information, statements, and attachments required under new Code of Civil Procedure section 1734. The committee also sought comments on whether a form response, listing the grounds for possible objections, and one or more information sheets with instructions for both sides, should be developed. All the commentators who addressed this point agreed that, even though not required by statute, the forms would be helpful to the parties and to the courts.

In light of these comments, the committee will ask the council's Rules and Projects Committee to continue to work on forms in this area as part of its work in the coming year.

### **Alternatives considered**

The advisory committee did not consider the alternative of *not* developing this notice form because it is mandated by the new statute. The committee *did* consider the alternative of developing additional forms, most significantly an application form, setting out all the pieces of information and statements required in the application under new Civil Code section 1734. The committee did not develop such a form at this time in light of the urging of the council to limit the development of new forms to those that are mandated or would be particularly helpful to the courts. Instead, the committee raised the question in the Invitation to Comment, specifically asking for comments as to whether development of an application form, response form, and information sheet would be helpful to the courts and/or the parties.

Eleven of the 12 commentators, including the four state trial courts that commented, requested that further forms be developed in this area.<sup>4</sup> The Superior Court of Ventura County proposed a mandatory application form to ensure that the statute had been complied with and noted that “[i]t would be extremely helpful and appropriate to develop a form for objections,” as well, along

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<sup>4</sup> One commentator, the Joint Rules Subcommittee, did not respond to this question in its comment.

with information sheets. The Superior Court of San Diego County commented that such forms would be of great assistance to the clerical staff, would help make the process for entry of tribal court judgments uniform statewide, and would make it easier to train clerks in this area. The Superior Court of Los Angeles County noted that the forms “would be beneficial to both the courts and general public,” although it differed from the other courts in wanting the forms to be optional, or models for local court forms.

As noted above, in light of the support for these additional forms, the committee will propose adding development of further forms in this area to its annual agenda for next year.

### **Implementation Requirements, Costs, and Operational Impacts**

There will be implementation costs associated with staff training on issuance of the notice when requested upon the filing of an application to enter a tribal judgment. That training, however, will be part of the training required for implementation of all the new court procedures under the Tribal Court Civil Money Judgment Act, which is already operative. The adoption of this notice form is required by statute so must proceed even if it affects the courts.

### **Attachments and Links**

1. Proposed form EJ-115, at pages 7–8
2. Chart of comments, at pages 9–24
3. Senate Bill 406, at [www.leginfo.ca.gov/pub/13-14/bill/sen/sb\\_0401-0450/sb\\_406\\_bill\\_20140822\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_406_bill_20140822_chaptered.pdf)

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO:  
 NAME:  
 FIRM NAME:  
 STREET ADDRESS:  
 CITY: STATE: ZIP CODE:  
 TELEPHONE NO.: FAX NO.:  
 E-MAIL ADDRESS:  
 ATTORNEY FOR (name/address):

*FOR COURT USE ONLY*

**DRAFT**  
**03/10/15**

**NOT APPROVED BY**  
**JUDICIAL COUNCIL**

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**  
 STREET ADDRESS:  
 MAILING ADDRESS:  
 CITY AND ZIP CODE:  
 BRANCH NAME:

APPLICANT:  
 RESPONDENT:

**NOTICE OF APPLICATION FOR RECOGNITION AND ENTRY OF TRIBAL COURT MONEY JUDGMENT**

CASE NUMBER:

**NOTICE:** An application has been filed for this court to recognize and enter a tribal court money judgment against you. A copy of the application, **including a copy of the tribal court money judgment**, is being served with this notice. **Unless you file objections with the superior court named above within 30 days after service of this notice, the court will enter that judgment against you.**

**Entry of Judgment.** (a) If no objections are timely filed in accordance with the provisions below (and set forth in Code of Civil Procedure section 1737), the clerk shall certify that no objections were timely filed, and a judgment shall be entered.

(b) The judgment entered by the superior court shall be based on and contain the provisions and terms of the tribal court money judgment. The judgment shall be entered in the same manner, have the same effect, and be enforceable in the same manner as any civil judgment, order, or decree of a court of this state.

**How to Object:** (a) **Any objection** to the recognition and entry of the tribal court money judgment **shall be served and filed within 30 days of service of the notice of filing**. If any objection is filed within this time period, the superior court shall set a time period for replies and set the matter for a hearing. The hearing shall be held by the superior court within 45 days from the date the objection is filed unless good cause exists for a later hearing. The only grounds for objecting to the recognition or enforcement of a tribal court money judgment are the grounds set forth in subdivisions (b) and (c).

(b) A tribal court money judgment shall not be recognized and entered if the respondent demonstrates to the superior court that at least one of the following occurred: (1) The tribal court did not have personal jurisdiction over the respondent. (2) The tribal court did not have jurisdiction over the subject matter. (3) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.

(c) The superior court may, in its discretion, decline to recognize and enter a tribal court money judgment on any one of the following grounds: (1) The defendant in the proceeding in the tribal court did not receive notice of the proceeding in sufficient time to enable the defendant to defend. (2) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case. (3) The judgment or the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of the state or of the United States. (4) The judgment conflicts with another final and conclusive judgment. (5) The proceeding in the tribal court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that tribal court. (6) In the case of jurisdiction based on personal service only, the tribal court was a seriously inconvenient forum for the trial of the action. (7) The judgment was rendered under circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment. (8) The specific proceeding in the tribal court leading to the judgment was not compatible with the requirements of due process of law. (9) The judgment includes recovery for a claim of defamation, unless the court determines that the defamation law applied by the tribal court provided at least as much protection for freedom of speech and the press as provided by both the United States and California Constitutions.

(d) If objections have been timely filed, the applicant has the burden of establishing that the tribal court money judgment is entitled to recognition. If the applicant has met its burden, a party resisting recognition of the tribal court money judgment has the burden of establishing that a ground for nonrecognition exists pursuant to subdivisions (b) or (c).

[SEAL]

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

4.  NOTICE TO THE PERSON SERVED: You are served
- a.  as an individual.
- b.  under the fictitious name of (specify):
- c.  on behalf of (specify):

Under:

- |  |   |
|--|---|
| <input type="checkbox"/> CCP 416.10 (corporation)                | <input type="checkbox"/> CCP 416.60 (minor)       |
| <input type="checkbox"/> CCP 416.20 (defunct corporation)        | <input type="checkbox"/> CCP 416.70 (conservatee) |
| <input type="checkbox"/> CCP 416.40 (association or partnership) | <input type="checkbox"/> CCP 416.90 (individual)  |
| <input type="checkbox"/> other:                                  |   |

**(Proof of service on reverse)**

PROOF OF SERVICE

(Use separate proof of service for each person served.)

- 1. I served the Notice of Application for Recognition and Entry of Tribal Court Money Judgment and the application with all attachments as follows:
a. on respondent (name):
b. by serving judgment debtor other (name and title or relationship to person served):
c. by delivery at home at business
(1) date:
(2) time:
(3) address:
d. by mailing
(1) date:
(2) place:

2. Manner of service (check proper box):

- a. Personal service. By personally delivering copies. (CCP 415.10.)
b. Substituted service on corporation, unincorporated association (including partnership), or public entity. By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a).)
c. Substituted service on natural person, minor, conservatee, or candidate. By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b).) (Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)
d. Mail and acknowledgment service. By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30.) (Attach completed acknowledgment of receipt.)
e. Certified or registered mail service. By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40.) (Attach signed return receipt or other evidence of actual delivery to the person served.)
f. Other (specify code section):
Additional page is attached.

3. The "Notice to the Person Served" was completed as follows:

- a. as an individual
b. as the person sued under the fictitious name of (specify):
c. on behalf of (specify):
under: CCP 416.10 (corporation) CCP 416.60 (minor) other:
CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
CCP 416.40 (association or partnership) CCP 416.90 (individual)

4. At the time of service, I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a. California sheriff, marshal, or constable
b. Registered California process server
c. Employee or independent contractor of a registered California process server
d. Not a registered California process server
e. Exempt from registration under Business and Professions Code, section 22350(b)
f. Name, address, and telephone number and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff, marshal, or constable use only) I certify that the foregoing is true and correct.

Date:

Date:

Signature line with arrow pointing right

Signature line with arrow pointing right

(SIGNATURE)

(SIGNATURE)

**W15-01**

**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Blue Lake Rancheria Tribal Court By: Lester J. Marston, Chief Judge	A	<p>Thank you for the Invitation to Comment on the proposed judicial council forms for implementation of SB 406. My comments are provided below.</p> <p>Section 1735 of SB 406 requires development of a form by the Judicial Council to provide notice to a respondent of a tribal court money judgment to be entered against him or her in a state court. The statute requires notification to the respondent that he or she has 30 days from the date of service of an application for entry of judgment of a tribal court money judgment to file objections to the enforcement of that judgment. Also required to be included in the notice are the name and address of the applicant and the applicant’s attorney, if any, and the texts of Section 1736 and 1737 of SB 406.</p> <p>The proposed Notice of Application for Recognition and Entry of Tribal Court Money judgment (form EJ-115) adequately addresses the requirements for such form as stated in Section 1735 of SB 406.</p> <p>You have also asked for comments concerning whether it would be useful to develop (a) a specific application form; (b) a form for objections to entry of the tribal court judgment, and (c) an information sheet with instructions for each party.</p> <p>In my opinion, in addition to the form for</p>	<p>The committee notes the commentator’s agreement with the proposed form.</p> <p>The committee notes the recommendation that</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W15-01**

**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>notice of an application for entry of judgment, development of two application forms would be useful. Development of an application form and a form containing check off boxes for the grounds to object with space for explanation would be helpful to the parties and in keeping with the purpose of SB 406, namely to streamline the process for entry of tribal court money judgments in the courts of California. Similarly, an information sheet with instructions for each party would be helpful to the parties and would further the purpose of SB 406.</p> <p>Thank you for providing the opportunity to provide comments to the Judicial Council on the forms that would help parties and the courts streamline the process for entering tribal court money judgments in the courts of California.</p>	<p>further forms be developed.</p>
2.	<p>Elk Valley Rancheria By: Mike Mattz, Vicechair Crescent City, CA</p>	A	<p>The Tribe supports the proposed form and believes that it is consistent with the intent of the underlying statutory changes to appropriately address the recognition of tribal court judgments. Use of a Judicial Council form confirms the legitimacy of the process for recognition of tribal court judgments and establishes a more uniform process for interested parties. The Tribe believes that an application form, a form for objections to entry of a tribal court judgment, and associated information sheets would be valuable to assist parties. However, the Tribe recommends that use of such forms not be mandatory.</p>	<p>The committee notes the commentator’s agreement with the proposed form.</p> <p>The recommendation for development of further forms, and that they be optional, is noted.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W15-01****Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
3.	Roger L. French Irvine, CA	NI	<p>Being in receipt of an Invitation to Comment on the proposed form W15-01 referenced above, I submit the following comments and recommendation in the application of the Tribal Court Monetary Civil Monetary Judgment Act described below. Attached are documents previously prepared expressing my opposition to the implementation of the proposed Act. *</p> <p>The "Request for Specific Comments" section within the Invitation requests comments on whether additional forms would assist the courts and parties in addition to the proposed Notice form, W15-01. I believe that all 3 forms proposed would not only indeed assist the courts and the parties, but should be mandatory for the implementation of the Act for the following reasons:</p> <p>Section 1737 (b) establishes grounds an opposing party can cite to persuade the state court to deny recognition of the tribal court judgment. However, that same opposing party must bear the legal costs of presenting such defense prior to the court having received any indication whatsoever that the subject tribal court judgment was conducted in accordance with Section 1737(b); namely proper jurisdiction, and the judgment was not "rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law".</p>	<p>The committee thanks the commentator for responding to the Invitation to Comment. However the attached objections to the enactment of SB406 made before the law was enacted have not been included here, as they are outside the scope of this proposal, which is to implement the new law that is now in effect.</p> <p>The committee notes that the commentator is in favor of development of additional forms, and that they be mandatory.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.



**W15-01**

Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>In line with the stated goal of this Act to prevent unnecessary re-litigation, an Application form should be developed that requires the tribal court to submit documentation to the state court that demonstrates its impartiality and due process, especially with regard to non-tribal members, consistent with U. S. Supreme Court case law concerning Federal Indian law, and principles of tribal jurisdiction over nonmembers established with the Montana framework. See <i>Montana v. United States</i>, 450 U.S. 544 (1981).</p> <p>The Judicial Council must be mindful that tribal courts cannot provide impartiality to non-Indian defendants, primarily because tribal governments do not utilize separation of powers, and because tribal courts are effectively an extension of their respective tribal councils. Therefore, due process, as defined in U. S. and State courts, does not exist. This fundamental lack of due process has been noted by U.S. Supreme Court Justices:</p> <p><u>Justice Anthony Kennedy:</u>            [There may be due process objections to the trial of non-Indians in tribal court, because] "<i>it wrests constitutional protections from a U.S. citizen and turns him over to a foreign sovereign.</i>"</p> <p><u>Justice Sandra Day O'Conner:</u>  <i>"Tribal courts are often subject to the complete control of the tribal councils, whose powers</i></p>	<p>The committee will consider this comment when considering a proposed form, but notes that the contents of the application are delineated in the statute.</p> <p>These comments appear to go to the substance of the underlying law and not to the proposed noticed form.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W15-01**

**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	Commentator	Position	Comment	Committee Response
			<p><i>often include the ability to select and remove judges. Therefore, the courts may be perceived as a subordinate arm of the councils rather than as a separate and equal branch of government."</i></p> <p>Therefore, as a minimum, the implementation of this Act should require that the tribal court provide documentation supporting any claims of providing an impartial tribunal in accordance with Section 1737 (b) as a precursor to any consideration of judgment recognition by a state court, and to eliminate the need for the opposing party to bear unnecessary legal costs. Such requirements are easily implemented in an Application form that the Judiciary Council is considering.</p> <p>The Judiciary Council is also considering developing another form consistent with Section 1737. Due to U.S. Supreme Court reservations cited above and the complexity of tribal jurisdiction over nonmembers, I would strongly suggest that such an "objections to entry of the tribal court judgment" form should indeed be developed and implemented as part of this Act.</p> <p>I humbly request that the Judicial Council consider my comments which reflect many years experiencing the injustice of tribal courts. Your consideration is much appreciated.</p>	<p>The committee notes that the commentator is in favor of development of a form for objections.</p>
4.	Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives	AM	The proposed form appears to contain an extensive amount of instructions. From our experience, instructions that are included on a	The committee has been informed that the commentator’s concerns go to the two large blocks of text on the notice form titled “Entry of

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**W15-01****Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	Advisory Committee		form are concise and limited to only what is necessary to be included on the form. Usually, the forms are followed by instruction sheets that contain all other instructions and guidance. The practice of keeping forms as short as possible and followed by more detailed instruction sheets is easier for those using the forms, which translates into less guidance and work required of court staff. Accordingly, the Joint Rules Subcommittee recommends that only the most necessary instructions remain on the proposed form and that the rest be moved to a separate instruction sheet following the form.	Judgment” and “How to Object”. Other than the explanatory titles, those two items are the text of Code of Civil Procedure sections 1736 and 1737, which the new law mandates be included on the notice. See Code Civ. Proc. § 1735(a). For that reason, the committee has concluded those provision must remain in the form, and not placed on a separate information sheet.
5.	Orange County Bar Association By: Ashleigh E. Aitken, President	A	In response to the committee’s request for specific comment, we recommend the committee develop an application form setting forth all the items of information and statements required under CCP 1734, and a response form listing the grounds for possible objections as are allowed under CCP 1737, as well as, accompanying instruction sheets for each form. This would, in our opinion, decrease the likelihood of errors and omissions in the pleadings filed in these cases and, thus, would be in the interests of justice and in the best interests of the courts.	The committee notes the commentator’s agreement with the pending proposal, and its recommendation that further forms be developed.
6.	Standing Committee on the Delivery of Legal Services State Bar of California By: Maria Livingston, Chair	AM	SCDLS agrees with the proposal if modified to include the alternative proposals to create forms for the application itself, objections to enforceability of tribal court judgments, and information sheets for the process. The form Notice is required by SB 406. The proposed	The committee notes this commentator’s recommendations that further forms be developed.

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**W15-01**

Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>form Notice appears to contain information that satisfies the statutory requirement; however some changes would improve the form’s readability. Please see suggestions under Specific Comments below.</p> <p>The adoption of the form Notice will reduce the chance of defective notice, fostering efficiency in the application process. SCDLS welcomes the opportunity to review the draft application, objection and information forms, assuming they are developed, whenever they are made available for public comment.</p> <p><u>Specific Comments</u></p> <p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes. In addition, changes should be considered to improve the form’s readability. Specifically: 1) increase the size of the font of the text that follows “<b>NOTICE:</b>”, and 2) add emphasis after How to Object, by placing in <b>bold</b> font the words “<b>Any objection</b>” and “<b>shall be served and filed within 30 days of service of this notice of filing</b>” in subsection (a).</p> <p><i>Would development of one or more of the following forms be of assistance to the courts and/or the parties in proceedings to enforce tribal court judgments in state courts, and, if so, should the forms be optional or mandatory:</i></p> <ul style="list-style-type: none"> <li>○ <i>An application form:</i> Yes, an</li> </ul>	<p>1) Staff increased the text by 1/2 point, but cannot make it bigger and have it fit on a single page.</p> <p>2) The requested bold font was added to the form</p> <p>The committee notes the recommendation that an application form be developed.</p>

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**W15-01**

Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

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	Commentator	Position	Comment	Committee Response
			<p>Application form should be developed because it would reduce the number of defective filings and, therefore, increase the efficiency of the process. It would also ensure that the court and parties are informed of essential information about the judgment.</p> <ul style="list-style-type: none"> <li>○ <i>A form for objections to entry of the tribal court judgment:</i> Yes, an Objection form should be developed because it would reduce the number of defective filings and, therefore, increase the efficiency of the process. It would also ensure that the court and parties are informed of essential information about the statutorily defined objections. Also, SCDLS believes that because a significant number of judgment debtors are likely to be unrepresented litigants, it would be appropriate to give explicit information to judgment debtors. Providing the form for statutorily allowed objections does no more than ensure those litigants who might have meritorious objections to tribal court judgments have an opportunity to present them.</li> <li>○ <i>An information sheet with instructions for each party:</i> Yes. Instructions will increase the efficiency of the process by reducing the time spent on defective applications which cost the parties and the courts time and money.</li> </ul>	<p>The committee notes the recommendation that an objection form be developed.</p> <p>The committee notes the recommendations that an information form be developed.</p>

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**W15-01****Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p><i>Whether the forms should be optional or mandatory:</i> The question of whether any particular form should be optional or mandatory may ultimately depend on the specific language of the form, and these forms have not yet been developed. In general, SCDLS believes that mandatory forms may serve the end of ensuring that essential information is before the Court. Service of the Objection form with the Notice and Application may also fulfill the statutory purpose of informing judgment debtors of the process, and it would help ensure that all parties to the judgment have a full and fair opportunity to be heard in California state court regarding the tribal court judgment's enforceability.</p>	<p>The committee will take these comments into consideration when developing further forms.</p>
7.	<p>Stand Up for California Penryn, CA By: Cheryl Schmit, Director</p>	AM	<p>Stand Up For California appreciates the opportunity to make comment on the proposed <i>Notice of Application for Recognition and Entry of Tribal Court Money Judgment</i> (form EJ-115). Overall the form does what the act prescribes. Nonetheless, the Judicial Council in its invitation to comment readily acknowledged that implementation, costs and operational impacts will require training for Court Clerks and Judicial Officers. Additional documents and forms as suggested in the paragraph labeled "Alternatives Considered" must be developed to assist in this training process.</p> <p>It would be beneficial if the Application form</p>	<p>The committee notes the agreement with this notice form, along with the recommendation that further forms be developed.</p>

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**W15-01**

Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

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	Commentator	Position	Comment	Committee Response
			<p>specify the factual "jurisdictional basis" for the tribal court judgment. As you know, tribal court jurisdiction over non-Indians is based on federal law. A Tribe submitting <i>an Application for Recognition and Entry of Tribal Court Money Judgment</i> should be required to thoroughly explain and document its jurisdictional exception under federal law. It will be important in training documents for the Court Clerk or other Judicial Officers unfamiliar with Indian Law to be made aware of federal law limiting civil regulatory jurisdiction of tribal courts over non-Indians.</p> <p>In 1981, <i>Montana v United States</i> (450 U.S. 544), the Supreme Court ruled as to both the criminal and civil position of tribal government authority over non-Indians. Tribal governments generally do not have civil regulatory jurisdiction over non-Indian activities on fee lands or owned lands inside of tribal reservations. Tribes simply do not have full regulatory authority over non-Indians. Moreover, the Supreme Court broadly states that tribes do not have inherent jurisdiction over non-Indian civil matters at all although tribal governments may regulate hunting and fishing on tribal lands. There are however, two exceptions in this ruling:</p> <p>1. citizens who enter into contracts with tribes are subject to tribal jurisdiction as to the contractually-related activities; or,</p>	<p>The committee will consider these comments when developing an application form, but notes that the content of the application is delineated in the statute.</p>

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**W15-01****Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>2. when the civil activity of non-Indian citizens threatens the political integrity of the tribal government or the health or security of the tribe. <i>(This exception has a very high standard to meet; the history of this standard must be provided in training documents to Court Clerks and Judicial Officers.)</i> Failure to include this information potentially provides a forum for the creation of judge-made law for tribal jurisdiction in state courts that is inconsistent with federal law. Further, without a detailed description of tribal court jurisdiction any attempt to bring resolution to complex multijurisdictional situations given the nature of tribal sovereign immunity would be made more difficult.</p> <p>I hope you find this comment helpful to the Judicial Council in the development of the forms), additional training materials and instruction to the Court Clerks and Judicial Officers regarding this new procedure.</p>	
8.	Superior Court of El Dorado County By: Keri Shane, Lead Clerk	AM	As a court clerk, I would recommend that the Judicial Council also develop an application form with an information sheet and an objection form with an information sheet. This would streamline the process, make it clear to all parties and court staff, and maintain a consistent procedure.	The committee notes the recommendation to develop further forms.
9.	Superior Court of Los Angeles County	A	Agree with the proposal and it does adequately address the stated purpose specified by SB 406 (Proposal W15-01). However, the form	The committee notes the commentator's agreement with the proposed form. Because the statute mandates that the application be made on a

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**W15-01****Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>should not be mandatory and should be considered a model form only that courts may either adopt in full or modify as the individual courts deem necessary. The proposed form is useful in terms of creating state-wide uniformity among the courts, but due to the different needs of each individual court, the use of the form should not be mandatory. Furthermore, a model form for objections plus an information sheet would be beneficial to both the courts and general public. Once again, this form and information sheet should not be mandatory. The information sheet should be in a question and answer format along with general information. It is unclear if the proposal would provide cost savings for the Los Angeles Superior Court because these types of judgments (Tribal) are not common in the County of Los Angeles. Implementation of the proposal would require staff training and at least six (6) months should be required from Judicial Council approval of this proposal until its effective date due to the size and case volume in Los Angeles County.</p>	<p>form proscribed by the Judicial Council (Code Civ. Proc. § 1735(a), the committee is recommending its adoption as a mandatory form.</p> <p>The committee notes the recommendation that an objection form be developed as an optional form, along with an information sheet.</p> <p>The committee appreciates the court's responses as to costs and training. The committee is recommending that the form be adopted with an effective date of July 1, 2015 because the new law, which mandates that party use the form to begin the proceedings, is already in effect.</p>
10.	Superior Court of San Diego County By: Mike Roddy, Executive Officer	A	<p>In answer to the request for specific responses, our court provides the following:</p> <ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose? Yes, our court agrees with the notice as presented.</li> <li>• Would development of one or more of the following forms be of assistance to the courts</li> </ul>	The committee notes the commentator's agreement with the proposal.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W15-01**

**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>and/or the parties in proceedings to enforce tribal court judgments in state courts, and, if so, should the forms be optional or mandatory:</p> <ul style="list-style-type: none"> <li>o An application form? Yes, it would be of great assistance to clerical staff to have a form similar to the one used for entry of sister state judgments that could be utilized by the parties. This would help to make the process uniform state wide and would make it easier for courts to train clerks on how these requests should be handled. The form should be mandatory.</li> <li>o A form for objections to entry of the tribal court judgment? Yes, for the same reasons provided for having an application, it would be helpful to staff to have the objections submitted in a uniform manner as well. The form should be mandatory.</li> <li>o An information sheet with instructions for each party? Yes, our court is dealing with more and more unrepresented parties in litigation today and this can be problematic for courts that are suffering deep cuts to their staff; therefore, it would be of great assistance to the court to have an instruction sheet so that the need to deal with improper applications can be reduced as much as possible. The form should be mandatory.</li> </ul>	<p>The committee notes the court’s recommendation that mandatory application, objection, and information forms would be helpful to the court.</p>
11.	Superior Court of Ventura County	AM	The proposed EJ-115 form should be a	The committee agrees that the proposed notice

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**W15-01****Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
	By: Martha E. McLaughlin Court Program Supervisor II		<p>"mandatory" form so clerks would not have to sift through a self-drafted application to ensure codes have been met.</p> <p>It would be extremely helpful and appropriate to develop a "form for objections", an "information form" as well as a standard "judgment form" to allow clerk to enter judgment per the application submitted for filing.</p> <p>CCMS system currently does not have an "applicant" role available when creating new filings in the system. I would strongly suggest that the form contains the roles on all court forms as: Petitioner/Respondent or, in the alternative: Judgment Creditor/Judgment Debtor</p>	<p>form should be mandatory, and notes the recommendation that an application form also be mandatory and other forms be developed.</p> <p>The statute uses “applicant” and “respondent” as defined terms. See Code Civil Proc. section 1732(a) and (e). While a court may choose to enter the applicant in its computerized case management system as “petitioner”, using such title on the form would be confusing to the parties in light of the statutory language.</p>
12.	Yurok Tribal Court By: Abby Abinanti, Chief Judge	AM	<p>The Yurok Tribal Court respectfully submits the following comments regarding the Notice of Application for Recognition and Entry of Tribal Court Money Judgment. The Tribal Court is enthusiastic about the recently enacted Tribal Courts Civil Money Judgment Act (SB 406), as a more efficient means of enforcing certain tribal court money judgments in state courts. The new procedure is straightforward and more efficient than the existing system.\</p> <p>Overall, we believe that proposed form EJ-115 appropriately addresses the stated purpose.</p>	<p>The committee notes the agreement with the form.</p>

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**W15-01**

**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>Our specific concerns about draft EJ-115 are listed below. While the Tribal Court recognizes that SB 406 does not mandate an application form, we concur with the committee that EJ-115 is a helpful tool that provides all the pieces of information and statements required to be in compliance with the law. Similarly, the Yurok Tribal Court supports the continued development by the committee of (1) an application form, (2) a form for objections to entry of the tribal court judgment, and (3) an information sheet with instructions for each party. These forms provide, at minimum, a valuable blueprint for tribal courts and help reduce implementation costs.</p> <p>The Yurok Tribal Court recommends the following revisions to the proposed EJ-115:</p> <ol style="list-style-type: none"><li>1. Review formatting for <i>Notice of Application for Recognition and Entry of Tribal Court Money Judgment: How to Object</i>. We believe that the last subsection "(d)" should be on a separate line, as not to confuse the reader. Currently, subsection (d) reads as a continuation of previous subsection (c). We believe this technical edit, however small, will aid in the ease of understanding EJ-115.</li></ol>	<p>The committee notes the recommendation that further forms be developed.</p> <p>The committee agrees and has corrected the formatting.</p>

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**W15-01**

Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

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	Commentator	Position	Comment	Committee Response
			<p>2. Add an enumerated list of required attachments under section 1 of <i>Proof of Service</i>. Tribal Court Civil Money Judgment Act, Section 1734(c) (1-3) lists the required documents referenced in Section 1735(a), and should be included in EJ-115.</p> <p>With these two edits, the Yurok Tribal Court believes that EJ-115 will be a useful tool for our court.</p>	<p>The committee concluded that it is not necessary for the proof of service on this form to provide a separate list of what is supposed to be attached to the application, as that is information required by the applicant, not the server. Such a list will be included on the application form, should one be developed. The committee also notes that the second line of the text of the notice itself includes, in bold, the information that a copy of the tribal court judgment should be included with the application served on respondent.</p>

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:** Recommend JC approval (has circulated for comment)

**RUPRO Meeting:** March 20, 2015

**Title of proposal:**

**Rules and Forms:** Confidential Information Form under Civil Code § 1708.85 (adopt form MC-025)

Committee or other entity submitting the proposal:

Civil and Small Claims Advisory Committee

Hon. Patricia M. Lucas, chair

Staff contact (Name, phone and e-mail):

Anne M. Ronan, 415-865-8933

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: 2015

Project description from annual agenda:

Item 12. Confidential Information Form under Civil Code §1708.85. Develop, as mandated by statute, form for party to use in actions for new civil claims for distribution of sexually explicit materials, to provide true name and redacted identifying characteristics to court confidentially, to keep outside public record

If requesting July 1 or out of cycle, explain:

To implement Assembly Bill 2643 (Stats. 2014, ch. 859), which mandates new form effective by July 1, 2015.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 17, 2015

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Title	Agenda Item Type
Rules and Forms: Confidential Information Form under Civil Code § 1708.85	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt form MC-125	July 1, 2015
Recommended by	Date of Report
Civil and Small Claims Advisory Committee Hon. Patricia M. Lucas, Chair	March 12, 2015
	Contact
	Anne M. Ronan, 415-865-8933 anne.ronan@jud.ca.gov

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### **Executive Summary**

The Civil and Small Claims Advisory Committee recommends adopting a new form to implement Assembly Bill 2643, which creates a private right of action against a person who distributes sexually explicit material. Effective July 1, 2015, The new law authorizes a plaintiff in such an action to proceed using a pseudonym instead of his or her true name and requires all parties to avoid or redact certain identifying information from any pleading filed in the action. The law mandates that the Judicial Council, by July 1, 2015, adopt a confidential information form on which the parties are to provide the plaintiff's true name and any redacted material to the court, so that the information may be kept outside the public record.

### **Recommendation**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt new *Confidential Information Form Under Civil Code Section 1708.85* (form MC-125), effective July 1, 2015.

A copy of form MC-125 is attached at pages 5–6.

### **Previous Council Action**

The recommended form is a new form to implement a new law. The council has taken no prior action related to this law.

### **Rationale for Recommendation**

New Civil Code section 1708.85 (Assembly Bill 2643, Stats. 2014, ch. 859)<sup>1</sup> provides that a plaintiff bringing an action for wrongful distribution of sexually explicit materials may file the action using a pseudonym—either John Doe, Jane Doe, or Doe—for the true name of the plaintiff and may exclude or redact from all pleadings and documents filed in the action other identifying characteristics of the plaintiff.<sup>2</sup> (See new Civ. Code, § 1708.85(f)(1).)<sup>3</sup> All papers and pleadings filed by other parties are also to be worded so as to protect the name or other identifying characteristics from the public record. (§ 1708.85(f)(2).) The responsibility for excluding or redacting the name or identifying characteristics from the primary documents filed with the court (the complaint, answer, or motion papers) rests solely with the parties and their attorneys, not with the court. (§ 1708.85(f)(4).)

The redacted information does, however, have to be provided to the court, although it is to be kept confidential and not included in the public file. A plaintiff who proceeds using a pseudonym and excluding or redacting identifying characteristics as provided in the new law must file with the court and serve upon the defendant a confidential information form that includes the plaintiff's name and any other identifying characteristics that have been excluded or redacted from the complaint. (§ 1708.85(f)(1).) The court is responsible for keeping confidential the plaintiff's name and any excluded or redacted information provided to it on the form. (§ 1708.85(f)(1).) Because other parties are also required to keep such information from the public record, any other party who redacts identifying characteristics from a document filed with the court will also need to provide the confidential information to the court.

Uncodified section 2 of this new statute mandates that the Judicial Council, but July 1, 2015, adopt a confidential information form on which the parties are to provide the plaintiff's true name and any redacted information to the court, so that the information may be kept outside the public record. The proposed *Confidential Information Form Under Civil Code Section 1708.85* (form MC-125) has been drafted to fulfill this statutory obligation by allowing the redacted

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<sup>1</sup> Assembly Bill 2643 is available online at [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB2643](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2643).

<sup>2</sup> As used in this statute, “identifying characteristics” includes, but is not limited to, name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to defendant, and race or ethnic background. (Civ. Code, § 1708.85(f)(3).)

<sup>3</sup> Unless otherwise identified, all further statutory references in this document are to the new Civil Code section 1708.85, which will become effective July 1, 2015.



information, including the name of the plaintiff, to be provided to the court while, at the same time, being kept out of the public record:

- The form begins with a reminder to the court clerk that it is a confidential form (and so not to go into the public files).
- Item 1 asserts that the form is being used in an action under section 1708.85 so that parties in other types of actions will not mistakenly use the form.
- Item 2 identifies for which pleading or document this confidential form is providing the redacted information.
- Item 3, to be used if the form is being filed with a complaint, provides the true name of any plaintiff or plaintiffs who are using a pseudonym.
- Item 4 provides the court and other parties in the action with the confidential information that has been redacted from the pleading or document that is being filed into the public record.

Additional spaces for providing redacted information, a signature block, and instructions for the filer are provided on the back of the form. The form also provides that an additional page or pages may be attached if more space is required for identifying redacted information.

## **Comments, Alternatives Considered, and Policy Implications**

### **Comments received**

The proposed form was circulated for public comment in December and January. Four comments were received, from the Orange County Bar Association, the Superior Courts of Los Angeles and San Diego Counties, and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee. All agreed with the proposal overall, but the Orange County Bar Association and the Superior Court of Los Angeles County requested some modifications to the form, which are addressed below. The full text of all comments and responses is in the attached comments chart at pages 7–9.

The Orange County Bar Association raised three points, two of which are technical points about the sections of the new law that should be quoted and cited in item 4 of the Instructions regarding “identifying characteristics.” The form has been modified in light of these comments. That group also asked for instructions as to which client name (real or pseudonym) an attorney filing on behalf of a Doe client should use to identify his or her client in the box at the top left of the form. The committee concluded that although identifying the party by the pseudonym used will not affect confidentiality, given that the form is confidential to begin with and that both the pseudonym and the matching true name of the client are included on the form, it might assist court administration. The committee therefore modified instruction item 2 on page 2 of the form to address this question.

The Superior Court of Los Angeles County agreed with the proposed form but suggested that it should be a model form that courts could choose whether to use and possibly modify to meet the needs of a given court. (See comment 2). The committee concluded, however, that the form

should be mandatory statewide in light of the mandate in the statute that the Judicial Council develop the confidential form that is required by the statute. (See AB 2643, section 2.)

The Los Angeles court also commented that at least six months would be needed from the council's approval of this form for the court to be properly trained to use it. The law, however, mandates that the form be adopted by the council by July 1, 2015 (*ibid.*), the date on which the new law will go into effect, so a later effective date would be inconsistent with this mandate.

### **Alternatives considered**

The committee did not consider *not* developing the form, because it is required by statute.

The committee considered making this form available only for the plaintiff's use, because the statute only *expressly* mandates that "[a] plaintiff who proceeds using a pseudonym and excluding or redacting identifying characteristics as provided in this section shall file with the court and serve upon the defendant a confidential information form . . ." See § 1708.85(f)(1). However, the committee concluded that because the statute also (1) requires that the defendant or other parties ensure that confidential identifying characteristics not be included in documents filed with the court, and (2) places the responsibility for redacting such information with the parties, the form should be available for use by defendants and other parties as well as by the plaintiff.

### **Implementation Requirements, Costs, and Operational Impacts**

Some training will be involved for court clerks and judicial officers regarding the new procedures under Civil Code section 1708.85, including training regarding keeping this form confidential. Because the form is mandated by legislation, it must be adopted in any event.

### **Attachments**

1. Form MC-125, at pages 5–6
2. Comments chart, at pages 7–9

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR <i>(name or pseudonym)</i> :	FOR COURT USE ONLY  <b>DRAFT</b>  03.10.15  <b>NOT APPROVED BY JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
SHORT TITLE:	
<b>CONFIDENTIAL INFORMATION FORM UNDER CIVIL CODE SECTION 1708.85</b>	CASE NUMBER:
<b>TO COURT CLERK: THIS FORM IS CONFIDENTIAL</b>	

*INSTRUCTIONS FOR FILER ARE ON BACK*

1. This action includes a claim under Civil Code section 1708.85.
2. The document with which this form is being filed is a
  - a.  complaint.
  - b.  other *(describe)*:
3. **Name of Plaintiff** *(complete if being filed with complaint)*
  - a.  Plaintiff did not use a pseudonym in the complaint.
  - b.  Plaintiff used a pseudonym in the complaint *(complete the following for each plaintiff for whom a pseudonym was used)*.

Pseudonym used

True name of plaintiff

4. **Redacted Information** *(complete for any pleading or document that includes redactions)*

	LOCATION OF REDACTION <i>(page and line where the redaction occurs)</i>	INFORMATION REDACTED <i>(text that has been redacted)</i>
1.		
2.		
3.		

Continued on next page.

SHORT TITLE:	CASE NUMBER:
--------------	--------------

	LOCATION OF REDACTION <i>(page and line where the redaction occurs)</i>	INFORMATION REDACTED <i>(text that has been redacted)</i>
4.		
5.		
6.		
7.		

Additional pages are attached. Number of pages attached: \_\_\_\_\_

Date:

\_\_\_\_\_ (TYPE OR PRINT NAME)  \_\_\_\_\_ (SIGNATURE)

**INSTRUCTIONS**

*(Note: This form may be used only in cases brought under Civil Code section 1708.85.)*

1. To protect personal privacy issues, parties who bring an action under Civil Code section 1708.85 for distribution of sexually explicit material may use a pseudonym in place of the true name of the plaintiff and may exclude or redact from all pleadings and documents other identifying characteristics. See Civil Code, section 1708.85(f)(1). Papers filed by other parties must be worded so as to protect the name or other identifying characteristics of the plaintiff from public revelation. See Civil Code, section 1708.85(f)(2).
2. A plaintiff who uses a pseudonym must file this confidential information form with the court at the time of filing the complaint, with items 2 and 3 completed, in order to provide his or her true name to the court. Plaintiff must also serve the form on defendant along with the complaint and summons. Counsel for a party filing under a pseudonym may provide the pseudonym for the name of the represented party in the attorney/party information box at the top of the form.
3. Any party who redacts identifying characteristics from any pleading or document filed with the court other than a complaint must file with the court and serve on all parties this confidential information form, with items 2 and 4 completed, providing any identifying characteristics that have been redacted from the pleading or document and stating where the information was redacted.
4. "Identifying characteristics" that may be redacted include, but are not limited to, name or any part thereof, address or any part thereof, city or unincorporated area of residence, age, marital status, relationship to defendant, and race or ethnic background. See Civil Code section 1708.85(f)(3).
5. If more space is needed to describe all the redactions in a pleading or document, form MC-025 may be attached, with information provided in the same format as in item 4.
6. A copy of this form should be completed each time a pleading or document redacted under Civil Code section 1708.85 is filed and should be served and filed along with the redacted document.

**W-15-02**

Confidential Information Form under Civil Code sec. 1708.85

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Orange County Bar Association By: Ashleigh E. Aitken, President	AM	<p>1) To comply precisely with the language of the statute, modify Instruction_ No. 4 to add the word “unincorporated” immediately preceding “area of residence”.</p> <p>2) To provide a more focused reference, it is suggested that the citation in Instruction No. 4 include the relevant subdivisions of the Code Section, to wit: section 1708.85(f)(3).</p> <p>3) To avoid mistakes, confusion or inconsistencies, it is suggested that some instruction or guidance be provided as to which name is to be used to identify the client, that is, whether the pseudonym or the true name of Plaintiff, in the upper-most box of the form, bottom-most entry, at that line which reads: “ATTORNEY FOR (Name):”.</p>	<p>1. The form has been modified in light of this comment.</p> <p>2. The committee has rewritten this item to allow for the more focused cite.</p> <p>3. The item for client identification and the instruction have been modified in light of this comment.</p>
2.	Superior Court of Los Angeles County	A	<p>Agree with the proposed new form, and it does meet its stated purpose as required by AB 2643.</p> <p>The proposed form should not be mandatory and should be used as a model form so that courts can either adopt or modify the form to meet the needs of a given court. The proposal should provide a cost savings once court staff are trained on the use and purpose of the new procedures. Since the procedure is new, court staff will need training to ensure that AB 2643 is properly complied with. At least six (6) months is needed from Judicial Council approval of this proposal until its effective date</p>	<p>The committee notes the court’s agreement with the proposed form.</p> <p>As to the mandatory nature of the form, the statute mandates the party filing under a pseudonym and redacting identifying characteristics file a confidential form (Civil Code §1708.85 (A)) and mandates that that the council develop that confidential form (See AB 2643, Sect. 2.)</p> <p>The statute mandates that the council develop the form by July 1, 2015.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W-15-02**

Confidential Information Form under Civil Code sec. 1708.85

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			and the proposal should work well in Los Angeles County.	
3.	Superior Court of San Diego County By: Mike Roddy, Executive Officer	A	<p>In answer to the request for specific responses, our court provides the following:</p> <ul style="list-style-type: none"> <li>• Does the proposal appropriately address the stated purpose? Yes.</li> <li>• Would the proposal provide cost savings? If so please quantify. Unknown. The process is being developed to deal with a new pleading that is now allowed to be filed using a pseudonym; therefore, it is unknown how much time will be saved by requiring the confidential information to be provided using this form. There will be savings; however, the exact amount is unknown.</li> <li>• What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? Yes, there will be training that will be required to notify staff of the new type of filing and of this form that must be kept confidential. The training will not be substantial. The court's CCMS and E-</li> </ul>	<p>The committee notes the commentator's agreement with the form.</p> <p>The committee appreciates the court's responses regarding costs, training, and implementation time for the new form.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**W-15-02**

Confidential Information Form under Civil Code sec. 1708.85

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>Filing systems will need to be modified to add this new form in order to make it confidential upon being filed. Once this is done, the process should be automatic upon the form being received.</p> <ul style="list-style-type: none"> <li>• Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes.</li> <li>• How well would this proposal work in courts of different sizes? As designed, it should work well for courts of all sizes.</li> </ul>	
4.	Joint Rules Subcommittee of Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee	A	Agree with proposed changes.	The committee appreciates the review and comment.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**RUPRO ACTION REQUEST FORM****RUPRO action requested:** Recommend JC approval (has circulated for comment)**RUPRO Meeting:** March 20, 2015**Title of proposal:****Judicial Administration: Changes to Delegations in Rules of Court**

Committee or other entity submitting the proposal:

Rules and Projects Committee

Harry E. Hull, Jr., Chair

Staff contact (Name, phone and e-mail):

Susan McMullan, 415-865-7990, susan.mcmullan@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

N/A

If requesting July 1 or out of cycle, explain:

This proposal implements recommendations from the Executive and Planning Committee to the Judicial Council to change the council's delegations of authority to better align them with council governance policies.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

To better describe the amendment to rule 10.70 concerning authority to establish task forces, working groups, and other advisory bodies, the following was added, post-circulation, to subdivision (b): "that address areas and topics within the Administrative Director's purview." Based on communication from Executive and Planning Committee staff, the intent of amending this rule was to draw a clearer distinction between the advisory bodies that are responsible to the council and overseen by the council versus those that are subject to the Administrative Director's direct authority and oversight. RUPRO should discuss whether to recommend this additional language.





## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 17, 2015

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**Title**

Judicial Administration: Changes to Delegations in Rules of Court

**Agenda Item Type**

Action Required

**Effective Date**

July 1, 2015

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rules 10.70, 10.101, and 10.804

**Date of Report**

February 19, 2015

**Recommended by**

Rules and Projects Committee  
Hon. Harry E. Hull, Jr., Chair

**Contact**

Susan R. McMullan, Senior Attorney  
415-865-7990  
[susan.mcmullan@jud.ca.gov](mailto:susan.mcmullan@jud.ca.gov)

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### Executive Summary

The Rules and Projects Committee recommends amending rules 10.70, 10.101, and 10.804 of the California Rules of Court to change the Judicial Council's delegations of authority to better align them with council governance policies. This need arises from the October 17, 2013, recommendations of the Executive and Planning Committee to the council concerning delegations of authority that the council issued to its Administrative Director.

### Recommendation

The Rules and Projects Committee recommends that the Judicial Council, effective April 17, 2015:

1. Amend rule 10.70 to eliminate reference to the Administrative Director's authority to establish task forces and other advisory bodies to work on specific projects that cannot be addressed by the council's standing advisory committees, and to add a subdivision providing that the Administrative Director may establish working groups to work on specific projects identified by the Administrative Director;

2. Amend rule 10.101 to provide that the council, and not the Administrative Director, must develop policies and procedures for the creation and implementation of a yearly budget for the judicial branch; that the Chief Justice, on behalf of the council, has exclusive authority to allocate funding for the council and its staff, the Supreme Court, the Courts of Appeal, the trial courts, and the Habeas Corpus Resource Center; and make clarifying changes to the rule; and
3. Amend rule 10.804 to provide that before amending the *Trial Court Financial Policies and Procedures Manual*, the Judicial Council, and not the former Administrative Office of the Courts, must make it available to certain interested parties for comment.

The text of the amended rules is attached at pages 5–7.

### **Previous Council Action**

On October 25, 2013, the Judicial Council accepted recommendations of the Executive and Planning Committee (E&P) concerning delegations of authority that the council had previously made to its Administrative Director.<sup>1</sup> E&P’s review of all delegations was made in conjunction with the council’s directive to provide greater oversight to ensure transparency, accountability, and efficiency in the operations and practices of the former Administrative Office of the Courts (AOC), as stated in recommendation 2 of the *Report and Recommendations from the Judicial Council’s Executive and Planning Committee Regarding the Strategic Evaluation Committee (SEC) Report* (August 27, 2012).<sup>2</sup> The directive included a statement reaffirming that the Administrative Director operates subject to oversight of the Judicial Council.<sup>3</sup>

### **Rationale for Recommendation**

Among E&P’s recommendations were those to amend rules that address the authority of the Administrative Director concerning the establishment of advisory bodies, budget and financial matters, and the authority of council staff on financial policies and procedures. The delegations in the current rules represent the Judicial Council’s authorization for the Administrative Director to act on the council’s behalf.

### **Rule 10.70**

This rule is amended to remove the broad authority of the Administrative Director to establish task forces and other advisory bodies to work on specific projects that cannot be addressed by the council’s standing advisory committees, and to provide authority for the Administrative Director

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<sup>1</sup> Judicial Council of Cal., *Judicial Branch Administration: Judicial Council Delegations to the Administrative Director of the Courts* (October 17, 2013), [www.courts.ca.gov/documents/jc-20131025-itemL.pdf](http://www.courts.ca.gov/documents/jc-20131025-itemL.pdf).

<sup>2</sup> Judicial Council of Cal., *Judicial Branch Administration: Report and Recommendations from the Judicial Council’s Executive Planning Committee Regarding the Strategic Evaluation Committee (SEC) Report* (August 27, 2012), Attachment 1, recommendation 2, [www.courts.ca.gov/documents/jc-20120831-itemJ.pdf](http://www.courts.ca.gov/documents/jc-20120831-itemJ.pdf).

<sup>3</sup> *Id.* at recommendation 1.

to establish working groups to work on specific projects identified by the Administrative Director. This amendment limits the working groups that the Administrative Director may establish to those that address areas and topics within the Administrative Director's purview.

#### **Rule 10.101**

Several subdivisions of this rule are amended to transfer authority to the council from the Administrative Director to "[d]evelop policies and procedures for the creation and implementation of a yearly budget for the judicial branch." Currently, this authority is listed in subdivision (d) under "Duties of the Administrative Director." Consistent with the E&P recommendation, this authority is removed from (d) and placed in subdivision (b), which sets out the role of the council. Subdivision (c) is amended to provide that the Chief Justice, on behalf of the council, has exclusive authority to allocate funding for the council and its staff, the Supreme Court, the Courts of Appeal, and the Habeas Corpus Resource Center. Other changes are made to these subdivisions consistent with retirement of the name "Administrative Office of the Courts."

Similarly, subdivision (e) is amended to eliminate the name "Administrative Office of the Courts" and a reference to the Administrative Director developing budget policies and procedures. An advisory committee comment is added to provide examples of technical changes to the budget, which the Administrative Director has authority to make.

#### **Rule 10.804**

This rule is amended to provide that the council, rather than the former AOC (now *council staff*), must make the *Trial Court Financial Policies and Procedures Manual* available to superior courts, the State Department of Finance, and the State Controller's Office for comment before amending it. Another amendment to this rule eliminates the requirement that the *Trial Court Financial Policies and Procedures Manual* be prepared and adopted: this has already occurred.

#### **Comments, Alternatives Considered, and Policy Implications**

The proposal circulated for comment from December 11, 2014, to January 23, 2015. One comment was received, from the Superior Court of Los Angeles County, which agreed with the proposal. No narrative comment was included. The chart of comments is attached at page 8.

The Rules and Projects Committee did not consider alternatives to these rule amendments because the proposal is consistent with E&P's recommendations and no person or entity opposed the amendments.

#### **Implementation Requirements, Costs, and Operational Impacts**

The effects of implementation would be minimal because this proposal seeks to align the rules with council governance policies.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

This proposal is consistent with Goal II of the branch strategic plan, Independence and Accountability. This goal affirms that “[t]he branch will maintain the highest standards of accountability for its use of public resources, and adherence to its statutory and constitutional mandates.” Reviewing and modifying the purpose of the council’s delegations of authority to the Administrative Director is fundamental to this standard.

## **Attachments**

1. Cal. Rules of Court, rules 10.70, 10.101, and 10.804, at pages 5–7
2. Chart of comments, at page 8

Rules 10.70, 10.101, and 10.804 of the California Rules of Court are amended, effective July 1, 2015, to read:

1 **Rule 10.70. Task forces, working groups, and other advisory bodies**

2  
3 **(a) Established by Chief Justice or Judicial Council**

4  
5 The Chief Justice, ~~the Administrative Director of the Courts,~~ or the council may  
6 establish task forces and other advisory bodies to work on specific projects that  
7 cannot be addressed by the council's standing advisory committees. These task  
8 forces and other advisory bodies may be required to report to one of the internal  
9 committees ~~or the Administrative Director,~~ as designated in their charges.

10  
11 **(b) Established by Administrative Director**

12  
13 The Administrative Director may establish working groups to work on specific  
14 projects identified by the Administrative Director that address areas and topics  
15 within the Administrative Director's purview.

16  
17 **Rule 10.101. Role of the Judicial Council and ~~Administrative Office of the Courts~~**

18  
19 **(a) Purpose**

20  
21 This rule specifies the responsibilities of the Judicial Council, the Chief Justice, the  
22 Administrative Director ~~of the Courts,~~ and ~~the Administrative Office of the Courts~~  
23 council staff with respect to the judicial branch budget.

24  
25 **(b) Duties of the Judicial Council**

26  
27 The Judicial Council must:

- 28  
29 (1) Establish responsible fiscal priorities that best enable the judicial branch to  
30 achieve its goals and the Judicial Council to achieve its mission;  
31  
32 (2) Develop policies and procedures for the creation and implementation of a  
33 yearly budget for the judicial branch;  
34  
35 ~~(2)~~(3) Develop the budget of the judicial branch based on the priorities established  
36 and the needs of the courts;  
37  
38 ~~(3)~~(4) Communicate and advocate the budget of the judicial branch to the Governor  
39 and the Legislature;  
40  
41 ~~(4)~~(5) Allocate funds in a manner that ensures equal access to justice for all citizens  
42 of the state, ensures the ability of the courts to carry out their functions  
43

1 effectively, promotes implementation of statewide policies as established by  
2 statute and the Judicial Council, and promotes implementation of efficiencies  
3 and cost-saving measures;

4  
5 ~~(5)~~(6) Resolve appeals on budget and allocation issues; and

6  
7 ~~(6)~~(7) Ensure that the budget of the judicial branch remains within the limits of the  
8 appropriation set by the Legislature.

9  
10 **(c) Authority of the Chief Justice and Administrative Director of the Courts**

11  
12 (1) The Chief Justice and the Administrative Director ~~of the Courts~~ may take the  
13 following actions, on behalf of the Judicial Council, with regard to any of the  
14 Judicial Council's recommended budgets for the Supreme Court, the Courts  
15 of Appeal, the trial courts, the Judicial Council, the Habeas Corpus Resource  
16 Center, and ~~the Administrative Office of the Courts~~ council staff:

17  
18 (A) Make technical changes to the proposed budget; and

19  
20 (B) Make changes during their negotiations with the legislative and  
21 executive branches consistent with the goals and priorities adopted by  
22 the Judicial Council.

23  
24 (2) The Chief Justice ~~and the Administrative Director of the Courts~~, on behalf of  
25 the Judicial Council, may allocate funding appropriated in the annual State  
26 Budget to the Supreme Court, the Courts of Appeal, the Judicial Council, the  
27 Habeas Corpus Resource Center, and ~~the Administrative Office of the Courts~~  
28 council staff.

29  
30 (3) After the end of each fiscal year, the Administrative Director ~~of the Courts~~  
31 must report to the Judicial Council on the actual expenditures from the  
32 budgets for the Supreme Court, the Courts of Appeal, the trial courts, the  
33 Judicial Council, the Habeas Corpus Resource Center, and ~~the Administrative~~  
34 ~~Office of the Courts~~ council staff.

35  
36 **(d) Duties of the Administrative Director of the Courts**

37  
38 The Administrative Director ~~of the Courts~~ implements the directives of the Judicial  
39 Council and must:

40  
41 ~~(1) Develop policies and procedures for the creation and implementation of a~~  
42 ~~yearly budget for the judicial branch;~~

1        ~~(2)~~(1) Present the judicial branch budget in negotiations with the Governor and the  
2                    Legislature; and

3  
4        ~~(3)~~(2) Allocate to the trial courts, on behalf of the Judicial Council, a portion of the  
5                    prior fiscal year baseline allocation for the trial courts following approval of  
6                    the State Budget and before the allocation of state trial court funding by the  
7                    Judicial Council. The portion of the prior fiscal year baseline allocation that  
8                    may be so allocated is limited to the amount estimated to be necessary for the  
9                    operation of the courts pending action by the Judicial Council, and may not  
10                    exceed 25 percent of the prior fiscal year baseline allocation for each trial  
11                    court.

12  
13        (e)    **Duties of the Director of the Finance Division**

14  
15                    The Director of the Finance Division of the Administrative Office of the Courts for  
16                    the Judicial Council, under the direction of the Administrative Director of the  
17                    Courts, administers the budget policies and procedures developed by the  
18                    Administrative Director of the Courts and approved by the Judicial Council. The  
19                    director of the Finance Division must:

- 20  
21                    (1)    Develop and administer a budget preparation process for the judicial branch,  
22                    and ensure the submission of a final budget recommendation for the judicial  
23                    branch to the Department of Finance by November 1 of each year;  
24  
25                    (2)    Develop, in consultation with the State Controller’s Office and the  
26                    Department of Finance, a manual of procedures for the budget request  
27                    process, revenues, expenditures, allocations, and payments;  
28  
29                    (3)    Monitor all revenues and expenditures for the judicial branch;  
30  
31                    (4)    Develop recommendations for fiscal priorities and the allocation and  
32                    reallocation of funds; and  
33  
34                    (5)    Assist all courts and the Administrative Director of the Courts in preparing  
35                    and managing budgets.

36  
37                    **Advisory Committee Comment**

38  
39                    Subdivision (c)(1)(A). Examples of technical changes to the budget include calculation of fiscal  
40                    need, translation of an approved concept to final fiscal need, and simple non-policy-related  
41                    baseline adjustments such as health and retirement benefits, Pro Rata, and the Statewide Cost  
42                    Allocation Plan.

1 **Rule 10.804. Superior court financial policies and procedures**

2  
3 **(a) Adoption of financial policies and procedures by the Judicial Council**

4  
5 ~~The Administrative Office of the Courts must prepare and adopt a financial policies~~  
6 ~~and procedures manual for the superior courts (The “Trial Court Financial Policies~~  
7 ~~and Procedures Manual”), must be consistent with the rules of court and policies~~  
8 ~~adopted by the Judicial Council. The manual and must include accounting~~  
9 ~~standards for superior courts and policies and procedures for procurement and~~  
10 ~~contracting by superior courts. These policies and procedures must not modify~~  
11 ~~superior courts’ existing authority to procure, contract for, or use goods or services~~  
12 ~~or the requirement that a court have authorized funding available in order to~~  
13 ~~procure or contract for any good or service.~~

14  
15 **(b) Comment period for financial policies and procedures**

16  
17 ~~Before issuing or amending the *Trial Court Financial Policies and Procedures*~~  
18 ~~*Manual*, the Administrative Office of the Courts Judicial Council must make it~~  
19 ~~available to the superior courts, the California Department of Finance, and the State~~  
20 ~~Controller’s Office for 30 days for comment.~~

21  
22 **(c) \* \* \***

23



**W15-07**

Amend Cal. Rules of Court, rules 10.70, 10.101, and 10. 804)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Superior Court of California County of Los Angeles Los Angeles, CA	A	No narrative comment.	No response required.

# Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**RUPRO ACTION REQUEST FORM****RUPRO action requested:** Recommend JC approval (has circulated for comment)**RUPRO Meeting:** March 20, 2015**Title of proposal:****Judicial Branch Education: Court Executive Officers Education**

Committee or other entity submitting the proposal:

Trial Court Presiding Judges Advisory Committee (TCPJAC) and Court Executives Advisory Committee (CEAC)

Staff contact (Name, phone and e-mail):

Deirdre Benedict, 415-865-8915, deirdre.benedict@jud.ca.gov

Katherine Sher, 415-865-8031, katherine.sher@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

2015 TCPJAC &amp; CEAC Annual Agendas:

Review rule 10.473 (Minimum Education Requirements for Trial Court Executive Officers) – The proposed rule change was referred to the TCPJAC/CEAC Joint Rules Subcommittee for review and vetting in 2014. In October and November 2014, the TCPJAC and CEAC reviewed and approved the proposed amendments to this rule as developed by the Joint Rules Subcommittee. It is anticipated that this rule proposal will be included in the Winter rule proposal cycle and the amendments will become effective on July 1, 2015.

If requesting July 1 or out of cycle, explain:

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)



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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 17, 2015

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Title	Agenda Item Type
Judicial Branch Education: Court Executive Officers Education	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 10.473	July 1, 2015
Recommended by	Date of Report
Trial Court Presiding Judges Advisory Committee	March 6, 2015
Hon. Marsha G. Slough, Chair	Contact
Court Executives Advisory Committee	Deirdre Benedict, 415-865-8915
Ms. Mary Beth Todd, Chair	<a href="mailto:deirdre.benedict@jud.ca.gov">deirdre.benedict@jud.ca.gov</a>
	Katherine Sher, 415-865-8031
	<a href="mailto:katherine.sher@jud.ca.gov">katherine.sher@jud.ca.gov</a>

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### **Executive Summary**

The Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee recommend the amendment of rule 10.473 of the California Rules of Court that addresses education for trial court executive officers. Among other provisions, it requires that continuing education be completed every three years and that half of the required hours be in the form of live, face-to-face education. The proposed amendment would instead allow the presiding judge discretion to determine the number of hours of live, face-to-face education required to meet the court executive officer's continuing education requirement.

### **Recommendation**

The Trial Court Presiding Judges Advisory Committee (TCPJAC) and Court Executives Advisory Committee (CEAC) recommend that the council amend rule 10.473 of the California Rules of Court to give the presiding judge of a court discretion as to the number of hours of live,

face-to-face education to be completed by that court's executive officer to meet the court executive officer's continuing education requirement, to be effective July 1, 2015. The text of the proposed amended rule is attached at pages 4–6.

### **Previous Council Action**

Effective January 1, 2007, the council adopted rule 10.473 of the California Rules of Court as part of a comprehensive set of rules addressing judicial branch education. Rule 10.473 requires each court executive officer to complete 30 hours of continuing education every three years, with half of the hours required to be completed in the form of live, face-to-face education.

In June 2012, the council's Rules and Projects Committee (RUPRO) asked advisory committees to submit suggestions for changes to rules and forms that could result in cost savings or efficiencies for the courts. As part of that process, various trial court executive officers suggested that rule 10.473 be repealed or amended to reduce training costs to trial courts for required training for court executive officers. The TCPJAC and CEAC propose amending rule 10.473 to accomplish this goal. The committees do not recommend repeal of the rule because of the value of education in the judicial branch.

The proposed amendment of rule 10.473 parallels recent changes in rules 10.491 and 10.474 to the in-person education requirement. Rule 10.491, which addresses Judicial Council employee education, was amended, effective January 1, 2014, to similarly provide that the council's Administrative Director has discretion to determine the number of hours, if any, of traditional (live, face-to-face) education that is required of council employees to meet the continuing education requirement.

Rule 10.474, which addresses trial court employee education, was amended, effective January 1, 2015, to provide that the court executive officer of each court has discretion to determine the number of hours, if any, of live, face-to-face education that is required of trial court managers, supervisors, and other personnel to meet the continuing education requirement.

### **Rationale for Recommendation**

The proposed amendment would offer courts flexibility as to how their court executive officers should complete their continuing education requirements, giving presiding judges the discretion to decide how many of the required hours must be in live, face-to-face education. The expected benefits are cost savings, as more education is completed in the form of distance learning or self-study, and allowing each court the flexibility to determine what type of court executive officer education best suits that court's particular needs. However, at least one trial court judge questions the significance of any potential savings from this change and argues that ensuring that court executive officers stay current in their skills and knowledge is well worth the relatively minor costs of continuing education.

## **Comments, Alternatives Considered, and Policy Implications**

An Invitation to Comment on this proposal was circulated for public comment from December 12, 2014, through January 23, 2015. Two commentators agreed with the proposed change without further comment. One court executive officer agreed with the proposal, citing the importance of flexibility given the financial difficulties faced by the courts. One trial court judge disagreed with the proposed change, commenting that the cost of continuing education for the court executive officer is minimal and that continuing education is essential to the ability of the court executive officer to do his or her job well.

The TCPJAC and CEAC considered the alternative of repealing the continuing education requirement for court executives, and propose not doing so for just the reasons stated in the opposing comment: continuing education is essential for court executives to stay up to speed in their skills and knowledge. The committees also considered the implications of leaving the requirement for face-to-face education unchanged, but recommend the amendment to give the courts greater flexibility. Although the cost savings will not be great, the flexibility allowed to each court under the proposed amendment should result in each trial court spending its continuing education dollars in the way that best meets the needs of that court and its executive officer.

## **Implementation Requirements, Costs, and Operational Impacts**

The proposal is expected to have positive operational impacts, giving a presiding judge the discretion to allow a court executive officer flexibility with respect to alternatives to live training. Some cost savings are anticipated where alternatives to live training are utilized.

## **Attachments and Links**

1. Cal. Rules of Court, rule 10.473, at pages 4–6
2. Chart of comments, at pages 7–8

Rule 10.473 of the California Rules of Court is amended, effective July 1, 2015, to read:

1 **Rule 10.473. Minimum education requirements for trial court executive officers**

2  
3 **(a) Applicability**

4  
5 All California trial court executive officers must complete these minimum education  
6 requirements. All executive officers should participate in more education than is required,  
7 related to each individual's responsibilities and in accordance with the education  
8 recommendations set forth in rule 10.479.  
9

10 **(b) Content-based requirement**

11  
12 (1) Each new executive officer must complete the Presiding Judges Orientation and  
13 Court Management Program provided by the ~~Administrative Office of the Courts'~~  
14 ~~Education Division/~~ Judicial Council's Center for ~~Judicial~~ Judiciary Education  
15 and Research (CJER) within one year of becoming an executive officer and  
16 should participate in additional education during the first year.  
17

18 (2) Each executive officer should participate in CJER's Presiding Judges Orientation  
19 and Court Management Program each time a new presiding judge from his or her  
20 court participates in the course and each time the executive officer becomes the  
21 executive officer in a different court.  
22

23 **(c) Hours-based requirement**

24  
25 (1) Each executive officer must complete 30 hours of continuing education, including  
26 at least three hours of ethics education, every three years, ~~beginning on the~~  
27 ~~following date:~~  
28

29 ~~(A)~~ (2) For a new executive officer, the first three-year period begins on January 1  
30 of the year following completion of the required education for new executive  
31 officers.  
32

33 ~~(B)~~ ~~For all other executive officers, the first three-year period began on~~  
34 ~~January 1, 2007.~~

35 ~~(2)~~ (3) The following education applies toward the required 30 hours of continuing  
36 education:  
37

38 (A) Any education offered by an approved provider (see rule 10.481(a)) and  
39 any other education, including education taken to satisfy a statutory or  
40 other education requirement, approved by the presiding judge as meeting  
41 the criteria listed in rule 10.481(b).

1 (B) Each hour of participation in traditional (live, face-to-face) education;  
2 distance education such as broadcasts, videoconferences, and online  
3 coursework; self-directed study; and faculty service counts toward the  
4 requirement on an hour-for-hour basis. ~~Each court executive officer must~~  
5 ~~complete at least half of his or her continuing education hours requirement~~  
6 ~~as a participant in traditional (live, face-to-face) education. The court~~  
7 ~~executive officer may complete the balance of his or her education hours~~  
8 ~~requirement through any other means with no limitation on any particular~~  
9 ~~type of education. The presiding judge has discretion to determine the~~  
10 number of hours, if any, of traditional (live, face-to-face) education  
11 required to meet the continuing education requirement.  
12

13 (C) A court executive officer who serves as faculty by teaching legal or  
14 judicial education to a legal or judicial audience may apply education  
15 hours as faculty service. Credit for faculty service counts toward the  
16 continuing education requirement in the same manner as all other types of  
17 education—on an hour-for-hour basis.  
18

19 **(d) Extension of time**

- 20 (1) For good cause, a presiding judge may grant a one-year extension of time to  
21 complete the education requirements in (b) and (c).  
22  
23 (2) If the presiding judge grants a request for an extension of time, the executive  
24 officer, in consultation with the presiding judge, must also pursue interim means  
25 of obtaining relevant educational content.  
26  
27 (3) An extension of time to complete the hours-based requirement does not affect the  
28 timing of the executive officer's next three-year period.  
29

30 **(e) Record of participation; statement of completion**

31 Each executive officer is responsible for:  
32  
33

- 34 (1) Tracking his or her own participation in education and keeping a record of  
35 participation for three years after each course or activity that is applied toward the  
36 requirements;  
37  
38 (2) At the end of each year, giving the presiding judge a copy of his or her record of  
39 participation in education for that year; and

- 1
  - 2
- (3) At the end of each three-year period, giving the presiding judge a signed statement of completion for that three-year period.



**W15-04**

## Judicial Branch Education: Court Executive Officers Education

Amend Cal. Rules of Court, rule 10.473

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>[Proposed] Committee Response</b>
1.	Superior Court of Los Angeles County Los Angeles, CA	A	No specific comment.	No specific response is required.
2.	By Kim Turner, CEO Superior Court of Marin County Marin, CA	A	I support this proposal, as flexibility is important, given the dire financial circumstances facing many courts.	The commentator's support is noted.
3.	By Mike Roddy, CEO Superior Court of San Diego County San Diego, CA	A	No specific comment.	No specific response is required.
4.	Hon. Lisa Novak Superior Court of San Mateo County San Mateo, CA	N	The argument by Court Executive Officers that deleting required training will reduce training costs for the trial courts is specious at best. No one can persuasively argue that the cost of training a single court executive burdens any one trial court to any significant degree. This is an obvious attempt to simply avoid what seems like a necessary requirement of the position: making sure one is qualified to run the courts of a county. Ongoing education benefits all, whether it is for attorneys, judges, or Court Executive Officers. They are responsible for managing a complex system with a multitude of demands, and	The proposal does not change the number of continuing education hours required of court executive officers, but merely gives the presiding judge of a court discretion as to how many of those hours must be in live, face-to-face education. This is consistent with the recently amended continuing education requirements for trial court staff under rule 10.474, which allows the court executive officer discretion as to the number of hours of live education required, and for Judicial Council employees under rule 10.491, which allows the Administrative Director discretion as to the number of hours of live education required. Some court executive officers have

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>[Proposed] Committee Response</b>
			<p>their ability to do so effectively is certainly tied to constantly improving their skill set and staying up on changing laws and demands. I think it is shameful that they, along with the support of the Presiding Judges, and tried to finagle a way out of this requirement.</p>	<p>suggested that this flexibility will create cost savings while the court executive officers and their courts will benefit from them receiving the most appropriate continuing education.</p>

**RUPRO ACTION REQUEST FORM****RUPRO action requested:** Recommend JC approval (has circulated for comment)**RUPRO Meeting:** March 20, 2015**Title of proposal:****Trial Courts: Reporting of Reciprocal Assignment Orders**

Committee or other entity submitting the proposal:

Trial Court Presiding Judges Advisory Committee (TCPJAC) and Court Executives Advisory Committee (CEAC)

Staff contact (Name, phone and e-mail):

Claudia Ortega, 415-865-7623, claudia.ortega@jud.ca.gov

Katherine Sher, 415-865-8031, katherine.sher@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

2015 TCPJAC &amp; CEAC Annual Agendas:

Review Rule 10.630 (Reporting of Reciprocal Assignment Orders) – The proposed rule change was referred to the TCPJAC/CEAC Joint Rules Subcommittee for review and vetting in 2014. In October and November 2014, the TCPJAC and CEAC reviewed and approved the proposed amendments to this rule as developed by the Joint Rules Subcommittee. It is anticipated that this rule proposal will be included in the Winter rule proposal cycle and the amendments will become effective on July 1, 2015.

If requesting July 1 or out of cycle, explain:

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)



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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 17, 2015

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Title	Agenda Item Type
Trial Courts: Reporting of Reciprocal Assignment Orders	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 10.630	July 1, 2015
Recommended by	Date of Report
Trial Court Presiding Judges Advisory Committee	March 6, 2015
Hon. Marsha G. Slough, Chair	Contact
Court Executives Advisory Committee	Claudia Ortega, 415-865-7623
Ms. Mary Beth Todd, Chair	<a href="mailto:claudia.ortega@jud.ca.gov">claudia.ortega@jud.ca.gov</a>
	Katherine Sher, 415-865-8031
	<a href="mailto:katherine.sher@jud.ca.gov">katherine.sher@jud.ca.gov</a>

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### Executive Summary

The Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee recommend the amendment of rule 10.630 of the California Rules of Court that addresses the reporting of reciprocal assignment orders. It defines a reciprocal assignment order as “an order issued by the Chief Justice that permits judges in courts of different counties to serve in each other’s courts.” (Cal. Rules of Court, rule 10.630.) The rule also requires the trial courts to report monthly to the Judicial Council each assignment of a judge from another county to its court under a reciprocal assignment order. The proposed amendment would remove the reporting requirement, while leaving the definition unchanged.

### Recommendation

The Trial Court Presiding Judges Advisory Committee (TCPJAC) and Court Executives Advisory Committee (CEAC) recommend that rule 10.630 of the California Rules of Court be

amended to eliminate the requirement that trial courts report reciprocal assignment orders to the Judicial Council, effective July 1, 2015. The text of the amended rule is attached at page 4.

### **Previous Council Action**

The Judicial Council adopted rule 10.630 as rule 813 effective July 1, 1990. The council subsequently amended and renumbered this rule effective January 1, 2007.

### **Rationale for Recommendation**

When rule 10.630 was adopted (as rule 813) in 1990, the use of reciprocal assignments had funding implications that made it necessary to track those assignments. Under the current funding structure for assigned judges, there is no longer a purpose to collecting reciprocal assignment data. Discontinuing the monthly reporting requirement will allow court staff to dedicate their time and energy toward more critical functions.

Effective July 1, 1990, the council adopted this rule (then numbered as rule 813) to define *reciprocal agreement* and *exchange assignment* for purposes of waiving a certain reimbursement requirement that was previously required by Government Code section 68541.5. Section 68541.5 provided an exception to what was then known as the “50/10 rule” in certain circumstances, including if a judge was serving under a reciprocal agreement or exchange order. The 50/10 rule served a particular purpose relating to how active assigned judges were funded. In short, the law required the receiving county to pay the state 50 percent of an assigned judge’s full salary for the time the judge served in the receiving court. The state would then reimburse the “lending” county 10 percent of the judge’s salary. The council adopted rule 813, as directed by the statute, to define *reciprocal agreement* or *exchange order* and to provide for the reporting requirement so that the waiver of the 50/10 rule could be applied. These legislative and rule actions took place before trial court funding and the current funding structure for assigned judges. Section 68541.5 was repealed in 1993; this funding approach was likely abandoned even before trial court funding.

At the August 30, 2013, business meeting of the Court Executives Advisory Committee (CEAC), the committee members discussed the monthly reporting requirement mandated by rule 10.630 and agreed that because this reporting requirement appears to serve no beneficial purpose and is unnecessarily burdensome to the courts, the rule should be reviewed for possible amendment or repeal. After careful review, the Trial Court Presiding Judges Advisory Committee (TCPJAC) and CEAC jointly propose amending rule 10.630 to achieve efficiencies and cost savings.

Both committees find the reporting requirement of rule 10.630 to be of no use or benefit to their courts’ operations. Instead, they have concluded that it requires the courts to direct to this endeavor critical staff resources that could be used on more essential tasks.

The Judicial Council’s Office of Court Research has also verified that the information required in rule 10.630 is not of significant value. Reportedly, it has been used (along with assigned judge

usage and pro tem usage) for calculating the judicial position equivalent (JPE), which is used for the *Court Statistics Report* and—along with the authorized judicial positions (AJPs)—to obtain a clearer picture of actual judicial officer usage and need in a court. However, the data mandated by this rule has only minor value as a small part of the JPE calculations. More important, JPE is not used in any of the Office of Court Research’s workload models or in the new Workload Allocation Funding Methodology (WAFM). Instead, AJPs are used and they are not affected by reciprocal assignments.

Thus, the continued collection and reporting of data on reciprocal assignments is no longer useful to the courts or council.

### **Comments, Alternatives Considered, and Policy Implications**

An Invitation to Comment on this proposal was circulated for public comment from December 12, 2014, through January 23, 2015. All three of the commentators agreed with the proposed change. In support of the proposal, the Superior Court of Los Angeles County states that “[t]he reporting requirement creates unnecessary work for court staff, which is already overburdened, and their time and energy should be directed to other areas that would benefit the court and public.”

The TCPJAC and CEAC considered not recommending the amendment of rule 10.630 but concluded that inaction would provide no relief to the courts and would leave an outdated and unnecessary reporting requirement in the California Rules of Court.

### **Implementation Requirements, Costs, and Operational Impacts**

The amendment of rule 10.630 would result in cost savings to the courts because they would be able to direct staff resources to more necessary functions. Implementation requirements and negative operational impacts are unlikely as a result of amendment of this rule.

### **Attachments and Links**

1. Cal. Rules of Court, rule 10.630, at page 4
2. Chart of comments, at pages 5–6

Rule 10.630 of the California Rules of Court is amended, effective July 1, 2015, to read:

1 **Rule 10.630. ~~Reporting of~~ Reciprocal assignment orders**

2

3 A “reciprocal assignment order” is an order issued by the Chief Justice that permits judges in  
4 courts of different counties to serve in each other’s courts. ~~A court must report to the~~  
5 ~~Administrative Office of the Courts, on a monthly basis, each assignment of a judge from~~  
6 ~~another county to its court under a reciprocal assignment order.~~

**W15-05**

## Trial Courts: Reporting of Reciprocal Assignment Orders

Amend Cal. Rules of Court, rule 10.630

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Superior Court of Los Angeles County Los Angeles, CA	A	Agree with the proposed changes and the changes adequately address the stated purpose. Keeping the definition of reciprocal assignment order is useful and necessary because the phrase is not defined anywhere else in the California Rules of Court (CRC). The deletion of the requirement for a monthly report to the AOC, of each assignment of a judge from another county to its court under a reciprocal assignment order, is appropriate because the requirement is of no use or benefit to court operations. In addition, the reporting requirement has no significant value to the Judicial Council's Office of Court Research and has no value to the Los Angeles County Superior Court. The reporting requirement creates unnecessary work for court staff, which is already overburdened, and their time and energy should be directed to other areas that would benefit the court and public. Given the need for courts to be more efficient and to use resources reasonably and wisely, the reporting requirement cannot be justified.	The commentator's support for the proposal is noted.



**W15-05**

## Trial Courts: Reporting of Reciprocal Assignment Orders

Amend Cal. Rules of Court, rule 10.630

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
2.	Superior Court of Marin County By Kim Turner, CEO Marin, CA	A	I support this change for the reasons stated by CEAC.	The commentator's support for the proposal is noted.
3.	Superior Court of San Diego County By Mike Roddy, CEO San Diego, CA	A	No specific comment.	No specific response required.



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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 17, 2015

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Title	Agenda Item Type
Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges	Action Required
	Effective Date
	July 1, 2015
Rules, Forms, Standards, or Statutes Affected	Date of Report
Amend Cal. Rules of Court, rules 2.810 and 10.742	March 16, 2015
Recommended by	Contact
Trial Court Presiding Judges Advisory Committee	Claudia Ortega, 415-865-7623 <a href="mailto:claudia.ortega@jud.ca.gov">claudia.ortega@jud.ca.gov</a>
Hon. Marsha G. Slough, Chair	
	Katherine Sher, 415-865-8031 <a href="mailto:katherine.sher@jud.ca.gov">katherine.sher@jud.ca.gov</a>
Court Executives Advisory Committee	
Ms. Mary Beth Todd, Chair	

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### **Executive Summary**

The Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) recommend (1) the amendment of California Rules of Court, rule 10.742, to eliminate that rule's reporting requirements concerning the use of court-appointed temporary judges and (2) the amendment of subdivision (d) of rule 2.810 to delete the related reference to this reporting requirement.

Rule 10.742 governs the use of attorneys as court-appointed temporary judges. Subdivision (c) of the rule requires each trial court that uses attorneys as temporary judges to report quarterly to the Judicial Council the number of attorneys used as temporary judges each month, the number and types of cases on which they were used, and whether any of the appointments were made under the exception in rule 2.810(d). This exception allows, in extraordinary circumstances, for

appointment of an attorney as a temporary judge who has not met all of the requirements for such appointment.

TCPJAC and CEAC recommend these changes because the information that rule 10.742(c) requires courts to report on is in part duplicative of information collected and reported to the council in other reports, and thus the rule places an unnecessary burden on the courts.

## **Recommendation**

The TCPJAC and CEAC recommend that the Judicial Council:

1. Amend subdivision (c) of rule 10.742 of the California Rules of Court to eliminate the reporting requirements concerning the use of court-appointed temporary judges; and
2. Amend subdivision (d) of rule 2.810, which addresses certain appointments made under extraordinary circumstances, to eliminate the reference to the reporting requirements in rule 10.742(c).

The text of the proposed amended rules is attached at pages 5–6.

## **Previous Council Action**

Rule 10.742 concerning the use of attorneys as court-appointed temporary judges and related rule 2.810(d) were adopted by the Judicial Council, effective July 1, 2006, as part of the comprehensive set of rules on temporary judges. These rules were renumbered with their current numbers effective January 1, 2007.

## **Rationale for Recommendation**

In June 2012, the Judicial Council’s Rules and Projects Committee (RUPRO) asked advisory committees to suggest changes to rules and forms that could result in cost savings or efficiencies for the courts. As part of that process, a trial court executive officer suggested that the reporting requirements in subdivision (c) of rule 10.742 be eliminated because neither the council nor trial courts utilize the data collected under this rule. In November 2012, RUPRO referred this proposal to the TCPJAC and CEAC for future consideration and action. The committees jointly propose amending subdivision (c) of rule 10.742 and amending rule 2.810(d) to achieve efficiencies and cost savings.

Currently, subdivision (c) of rule 10.742 requires each trial court that uses attorneys as temporary judges to record and report to council staff the following information on a quarterly basis:

1. The number of attorneys used as temporary judges by that court each month;
2. The number and types of cases, and the amount of time, on which the temporary judges were used each month; and
3. Whether any of the appointments of temporary judges were made under the exception in rule 2.810(d) and, if so, the number of and reasons for these appointments.

The Advisory Committee Comment for subdivision (c) of rule 10.742 states that the regular reporting of the above-mentioned information assists the courts in monitoring and managing their use of temporary judges and that the information is important for establishing the need for additional judicial positions. The members of both the TCPJAC and CEAC have reviewed the requirements of subdivision (c), and no court has found that the quarterly reporting requirements of this rule have assisted them with monitoring and managing their use of temporary judges. In contrast, trial court leadership has conveyed that these reporting requirements do not assist the courts and, instead, require the courts to direct critical staff resources to this endeavor when they could be used on more essential tasks. The web-based survey that was conducted under rule 10.742(c) was discontinued in early 2013 due to staff losses at the Judicial Council and a lack of data received from the courts. In short, the repeal of these reporting requirements would eliminate the courts' need to dedicate court staff to track information for each courtroom, compile that information, and prepare the mandated reports.

The council's Office of Court Research has also verified that the information required in subdivision (c) is not used to establish the need for additional judicial positions. Similar information on the use of temporary judges (as well as part-time "nonauthorized" commissioners and referees) is separately collected by the trial courts and reported to the council quarterly in the report titled *Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers*. Data for this report is collected by the Office of Court Research via an Excel spreadsheet. This report will continue to be submitted if rule 10.742 is amended as proposed.

### **Comments, Alternatives Considered, and Policy Implications**

An Invitation to Comment on this proposal was circulated for public comment from December 12, 2014, through January 23, 2015. Ten comments were received (two from one individual). Four supported the change, three suggested modifications, and three disagreed with the proposal entirely.

One court commissioner who wrote in opposition to the proposed change commented that it is premature to eliminate the reporting requirement before the statistics compiled from the information reported have been distributed and any benefits from collecting the information assessed. The two comments received from a member of the public (both from the same person) took issue with the use of temporary judges in general, and did not specifically address the reporting requirement.

Three commentators suggested modification of the reporting requirement, rather than eliminating it entirely. One court commissioner noted that information on the use of temporary judges must be tracked for other purposes, and that this information may be important to foster transparency and assess the need for additional judicial officers. This commentator suggested that perhaps the burden of reporting could be reduced by asking for less detailed information and requiring reporting annually rather than quarterly. A superior court judge similarly noted that information on the use of temporary judges is already collected and is useful for workload assessments, and

also suggested reducing the reporting requirement to an annual report. The California Court Commissioners Association also suggested that reducing the requirement to an annual report on the number and use of temporary judges could reduce the burden on trial court staff while making sure information is available for assessment of judicial officer needs.

The TCPJAC and CEAC note, in response, that information on the number of days of temporary judge time for each trial court is collected for the quarterly *Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers* report, which is submitted to the council separately from the data submitted pursuant to the requirements of rule 10.742. The TCPJAC and CEAC, in considering this alternative, have concluded that reducing the reporting requirement to an annual report, although it would reduce the burden on trial court staff, would leave staff doing duplicative data collection and reporting on the use of temporary judges. The elimination of the reporting requirement is preferable, as the essential data on the use of temporary judges will still be collected and reported without the necessity for duplicative reporting.

### **Implementation Requirements, Costs, and Operational Impacts**

The amendment of rule 10.742 would result in cost savings to the courts because they would be able to direct staff resources to more necessary functions. Implementation requirements and negative operational impacts are unlikely as a result of amendment of this rule.

### **Attachments and Links**

1. Cal. Rules of Court, rules 2.810 and 10.742, at pages 5–6
2. Chart of comments, at pages 7–19

Rules 2.810 and 10.742 of the California Rules of Court are amended, effective July 1, 2015, to read:

1 **Rule 2.810. Temporary judges appointed by the trial courts**

2  
3 (a)–(c) \* \* \*

4  
5 **(d) Exception for extraordinary circumstances**

6  
7 A presiding judge may appoint an attorney who is qualified under rule 2.812(a), but who  
8 has not satisfied the other requirements of that rule, only in case of extraordinary  
9 circumstances. Any appointment under this subdivision based on extraordinary  
10 circumstances must be made before the attorney serves as a temporary judge, ~~must be~~  
11 ~~recorded for reporting purposes under rule 10.742(e)(3)~~, and must not last more than 10  
12 court days in a three-year period.

13  
14 **Rule 10.742. Use of attorneys as court-appointed temporary judges**

15  
16 (a)–(b) \* \* \*

17  
18 **(e) ~~Record and report of uses~~**

19  
20 ~~Each trial court that uses attorneys as temporary judges must record and report to the~~  
21 ~~Administrative Office of the Courts on a quarterly basis information concerning its use of~~  
22 ~~them. The report must state:~~

- 23  
24 (1) ~~The number of attorneys used as temporary judges by that court each month;~~  
25  
26 (2) ~~The number and types of cases, and the amount of time, on which the temporary~~  
27 ~~judges were used each month; and~~  
28  
29 (3) ~~Whether any of the appointments of temporary judges were made under the~~  
30 ~~exception in rule 2.810(d) and, if so, the number of and reasons for these~~  
31 ~~appointments.~~

32  
33 **Advisory Committee Comment**

34  
35 **Subdivisions (a)–(b).** These subdivisions provide that the presiding judge in each court is responsible for  
36 determining whether court-appointed temporary judges need to be used in that court, and these  
37 subdivisions furnish the criteria for determining when their use is proper. Under (b)(1), the use and  
38 appointment of court-appointed temporary judges must be based on judicial needs. Under (b)(3), an  
39 attorney serving as a temporary judge would have a conflict of interest if the disqualifying factors in the  
40 Code of Judicial Ethics exist. Under (b)(4), the test for the appearance of impropriety is whether a person  
41 aware of the facts might entertain a doubt that the judge would be able to act with integrity, impartiality,  
42 and competence. In addition to the disqualifying factors listed in the Code of Judicial Ethics, an

1 appearance of impropriety would be generated if any of the limitations in family law, unlawful detainer,  
2 and other cases identified in the Code of Judicial Ethics are present.

3

4 ~~**Subdivision (c).** Regular recording and reporting of information concerning each court's use of~~  
5 ~~temporary judges assists the courts in monitoring and managing their use of temporary judges. This~~  
6 ~~information is also important for establishing the need for additional judicial positions.~~

7

**W15-06**

Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges  
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Court Commissioners Association By Jeri M. Hamlin President	AM	<p>CCCA is concerned with the proposal, due to the fact that no reasonable alternatives were considered to reduce the burden on trial courts for the reporting of information that clearly should be utilized and evaluated in assessing judicial officer needs in the judicial branch.</p> <p>Trial courts are already required to keep track of names and training requirements of JPTs, and logistically have to track scheduling/assignments of JPTs within their respective courts, so the information is there.</p> <p>Reducing the reporting requirement to an annual reporting of the number and use of JPTs, <i>and making sure that information is utilized in future assessments</i>, would better serve the branch as a whole.</p>	<p>The committees appreciate the concern that the use of temporary judges continues to be tracked, and used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the use of temporary judges; this information is tracked by the courts for other purposes. Nor will it end the reporting of data on the use of temporary judges to the Judicial Council. Data on the number of days of temporary judge use in each court will continue to be reported to the council as part of the quarterly report titled <i>Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers</i>. Thus even if the reporting requirements under rule 10.742 were streamlined and the data was required only once a year, it would still involve some duplication of work otherwise being done.</p>



**W15-06**

Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges  
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
2.	Charmaine Leorna Orangevale, CA	N	There is a shortage of Judges...the problem is the Judge and Attorney World is a very small world and the PRO TEM judges are mainly practicing attorneys for Profits and they are deciding the cases based on friendships, BIAS, and what is not a fair and Judicial process. Instead they accept payoffs for deciding cases in a biased manner and should not sit in a PRO TEM position knowing the cases via other Law Firms and though "friendships" the system is SICK and VERY flawed. I can guarantee that it is sick and actually costs the "PEOPLE" pain suffering and presents a FALSE portrayal of "justice" and actually makes more money for attorneys and PRO TEM Judges. There will be NO MONETARY burden if the change is handled correctly...Peter principle tactics created by greedy attorneys in an EXTREMELY WEALTHY STATE!	This comment is directed at perceived problems with the use of attorneys as temporary judges. The proposed change does not affect the requirements applicable when attorneys are appointed as temporary judges, but only eliminates the requirement for quarterly reporting of such appointments to the Judicial Council.
3.	Charmaine Leorna Orangevale, CA	N	I have submitted a short comment on the other link...I may still be able to write some expansion on REPORTING ON USE OF ATTORNEYS AS COURT-APPOINTED TEMPORARY JUDGES. I am so BURDENED by court filings and answers	This comment is directed at perceived problems with the use of attorneys as temporary judges. The proposed change does not affect the requirements applicable when attorneys are appointed as

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>that I cannot make a correct full accounted and substantiated objective comment for “THE PEOPLE”.</p> <p>#1. I just happen to stumble upon this “AMENDMENT” I will gurantee the Judicial Council that this will comeback to bite....</p> <p>#2. Do not fool yourself into thinking it will save money....It NEVER worked to begin with and whatever modifications are made, are made to support JUDGES/ATTORNEYS/POLITICIANS/CALBAR and people like you who are paid to support and modify for the sake of padding pockets of the tight circle of unjust “lawmakers/liars” of the Golden State of California. This is not designed for “PEOPLE” like me to comment on. I can guarantee you Ms. Ortega PRO TEM is a sick and EVIL SCAM. There will soon come a day when I will prove the “SCAM” beyond a reasonable doubt in several Superior Court “BRANCHES”. Best Wishes with whatever it is you believe you are accomplishing, Ms Ortega and Ms. Sher. Perhaps it is in some obscure low populated county that ultimately it does not</p>	<p>temporary judges, but only eliminates the requirement for quarterly reporting of such appointments to the Judicial Council.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			matter....FRESNO maybe?	
4.	Superior Court of Los Angeles County Los Angeles, CA	AM	The proposal appropriately addresses the stated purpose and we support these amendments to CRC, Rules 2.810 and 10.742 unequivocally. These reporting requirements have required the utilization of precious staff resources throughout the LASC that could be expended in more essential court functions. An amendment to Subdivision (c) of Rule 10.742 would provide savings to the LASC by eliminating the court's need to dedicate staff to the time-consuming collection of data and compilation of these reports. The LASC's dedication to the administration of its rules compliant Temporary Judge Program will continue and we welcome this modest change to the current requirements.	The commentator's support for the proposal is noted.  Note: Although the response form is marked "Agree with proposed changes only if modified," it is clear from the text of the comment that the Superior Court of Los Angeles County supports the proposal without modification and, in its own words, "unequivocally."
5.	Superior Court of Marin County By Kim Turner, CEO Marin, CA	A	I strongly agree that this requirement should be repealed. It creates unnecessary workload for the courts and appears to serve no real purpose.	The commentator's support for the proposal is noted.
6.	Philip Pimentel Court Commissioner Hughson, CA	N	I have reviewed the pertinent provisions of Rules 10.742 (c) and 2.810 (d). I also reviewed the comments made at the time of	The committees appreciate the concern that the use of temporary judges continues to be tracked and

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			the enactment of these two provisions. The stated purposes and benefits of the Rules cannot be assessed accurately without seeing the statistics compiled consistent with these Rules. I would request the proposal to eliminate these reporting provisions be tabled until such time as the statistics can be distributed for further comment. Thank you.	used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the use of temporary judges; this information is tracked by the courts for other purposes. Nor will it end the reporting of data on the use of temporary judges to the Judicial Council. Data on the number of days of temporary judge use in each court will continue to be reported to the council as part of the quarterly report titled <i>Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers</i> . Thus even if the reporting requirements under rule 10.742 were streamlined and the data was required only once a year, it would still involve some duplication work otherwise being done.
7.	Superior Court of Riverside County By Marita Ford	A	No specific comment.	No specific response required.

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	Senior Management Analyst Riverside, CA			
8.	Superior Court of San Diego County By Mike Roddy, CEO San Diego, CA	A	No specific comment.	No specific response required.
9.	Rebecca Wightman Commissioner of the Superior Court of the County of San Francisco San Francisco, CA	AM	<p>Thank you for the opportunity to comment. I disagree with the proposal as submitted, but agree that a <i>modified proposal</i> should go forward that both (1) lessens any burden on trial courts, and (2) preserves important information that can and should be used in both assessing judicial needs of the courts, as well as maintaining quality access to the courts, and preserving the public’s trust and confidence in the courts.</p> <p>The purpose of having a system where presiding judges may appoint experienced attorneys (aka Judge Pro Tems or JPTs) is set forth in Rule 2.811: “The purpose of court appointment of attorneys as temporary judges is to assist the public by providing the court with a panel of trained, qualified, and experienced attorneys who may serve as temporary judges at the discretion of the court <b>if the court needs judicial assistance</b></p>	The committees appreciate the concern that the use of temporary judges continues to be tracked, and used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the use of temporary judges; this information is tracked by the courts for other purposes. Nor will it end the reporting of data on the use of temporary judges to the Judicial Council. Data on the number of days of temporary judge use in each court will continue to be reported to the council as part of the quarterly report titled <i>Use of Temporary Judges, Part-time Commissioners,</i>

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	Commentator	Position	Comment	Committee Response
			<p><b>that it cannot provide using its full-time judicial officers.”</b> [Emphasis added]</p> <p><b>1. Query:</b> If trial courts are consistently utilizing JPTs to the tune of being the equivalent of <b>many FTEs</b> (full-time equivalent) in judicial service, isn't that information important in terms of the judicial needs of the trial courts? The information of the extent and use of JPTs is no less important than it was when the system of use of JPTs was put in place.</p> <p><b>2.</b> The fact that the information that has been reported to date has not been used does <u>not</u> automatically mean the information is not useful or that keeping or reporting such information should be <i>eliminated</i>; rather, that fact begs the following questions:</p> <p>A. <b>WHY hasn't this information been used?</b> This should be investigated prior to the complete elimination as proposed. Is it possible it was not brought to the attention of other individuals working on reports (mandated or otherwise) where such information could indeed be useful? The information on the use and extent of use of JPTs <i>should</i> be used to help determine the judicial needs of the courts, as well as</p>	<p><i>Part-time Referees, and Part-time Hearing Officers.</i> Thus even if the reporting requirements under rule 10.742 were streamlined and the data was required only once a year, it would still involve some duplication of work otherwise being done.</p>

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			<p>preserve the integrity of the courts. <b>Chronic use of JPTs -- especially if concentrated in particular areas/case types – can be an indication of not only of a persistent judicial need, but also negatively impact the public’s perception of the courts, as well as the public’s access to a proper compliment of qualified elected or appointed judicial officers (vs. a panel of attorneys who have simply received demeanor training and 3 hours of substantive training).</b></p> <p><b>B. Has anyone analyzed the reported information, and reported to the Judicial Council as to its usefulness (or otherwise)?</b> It is <i>premature</i> to simply eliminate the reporting of such information – which a prior Advisory Committee comment found would be “important for establishing the need for additional judicial positions” – if the information has not been meaningfully analyzed to understand its usefulness and/or importance. <b>This analysis should be done prior to any complete elimination as proposed.</b></p> <p><b>3.</b> Recordkeeping in and of itself is a chore; however, trial courts are already required to</p>	

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			<p>keep track of information regarding JPTs, and certainly must keep track within their own courts of when judges, SJOs or certain Depts. or calendars need to be covered and whether such coverage will be provided by a JPT (given the need to schedule JPTs for coverage, post calendars, etc.). In this day and age of communication, information recording, excel, scheduling systems, etc., <b>it cannot be that difficult to keep track of the extent and use of JPTs, such that an annual report or other type of report could not be generated fairly easily for reporting.</b> [Currently, courts must track applications, training (Rule 2.812), and many have a designated individual to track and manage the use of Temporary Judges under Rule 10.743, including 10.743(10) to assist in identifying judicial needs that require use of JPTs and addressing those needs. Again, by necessity, there has to be a system of scheduling for the use of JPTs, so the information is already there. Some courts even put their information online.] There is insufficient evidence that elimination of the reporting requirement would provide any great cost savings to the</p>	



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			<p>courts give the above. Rather than <i>eliminating</i> the requirement, ways should be explored to make it easier to track and report on a less frequent basis.</p> <p><b>4. Viable alternatives were not considered in this proposal.</b> The “alternative” listed in the Invitation to Comment document was a non-alternative (“The committee considered not recommending the repeal...”). If the current quarterly reporting requirement is burdensome, then why aren’t other, less burdensome, alternatives considered – such as reporting on a less frequent basis (e.g. annually), and considering reporting less detailed information (enabling a simple report to be generated on numbers of JPTs, areas of service, and half/whole days of service vs. actual time, or any other simpler pieces of information already kept by trial courts)?</p> <p><b>5. Without adequate tracking of information on the use of JPTs, by eliminating the reporting requirement altogether, the Judicial Council and the trial courts are not fostering transparency, cannot fully assess the true</b></p>	

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			<p><b>judicial needs of the branch, and will lose information that may help in understanding the public’s trust and confidence in the courts.</b> It should be noted that since courts have been closing courtrooms and cutting staff, the use of JPTs have increased; in other courts, JPTs were already heavily used. (See, e.g. the Business Journal article in 2012 in Fresno which stated that “[w]ith larger caseloads following the recent closure of seven rural branch courts, the Fresno Superior Court is now seeking to expand its temporary judge program.” Also, a recent article in one of the legal journals in 2014 reported on the uptick in the use of JPTs across the state, and noted some of the associated complaints.</p> <p><b>6. Bottom Line: The Judicial Council (and trial courts themselves) should be keeping track of this information, and it should be reported on an annual basis. The information should be used to inform the courts and the Judicial Council in the efficient administration of justice and access to the courts.</b></p> <p>Thank you very much for the opportunity to</p>	

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			comment. This is my individual comment, and not on behalf of anyone or any organization.	
10.	Hon. Monica F. Wiley Judge of the San Francisco Superior Court San Francisco, CA	AM	I strongly urge the committee to continue to formally track the use of Judge Pro Tems (JPTs) by the Courts in the State of California. This tracking requirement is necessary to ensure consistency within our courts and to maintain transparency in our justice system. Courts in this State are already required to maintain a list of the names and training of JPTs and also have available daily calendars for scheduling and assignment of JPTs within their courts. As a result, this information is already being gathered and maintaining the reporting requirement does not place an undue burden on the court system. Reducing the reporting requirement to an annual report would ensure that this information is utilized in future Judicial Council workload assessments and continue to greatly benefits our court system.	The committees appreciate the concern that the use of temporary judges continues to be tracked, and used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the use of temporary judges; this information is tracked by the courts for other purposes. Nor will it end the reporting of data on the use of temporary judges to the Judicial Council. Data on the number of days of temporary judge use in each court will continue to be reported to the council as part of the quarterly report titled <i>Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers</i> . Thus even if the

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1				reporting requirements under rule 10.742 were streamlined and the data was required only once a year, it would still involve some duplication of work otherwise being done.

**RUPRO ACTION REQUEST FORM****RUPRO action requested:** Recommend JC approval (has circulated for comment)**RUPRO Meeting:** March 20, 2015**Title of proposal:****Subordinate Judicial Officers: Complaints and Notice Requirements**Committee or other entity submitting the proposal:  
Trial Court Presiding Judges Advisory CommitteeStaff contact (Name, phone and e-mail):  
Mark Jacobson, 415-865-7898, mark.jacobson@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by E &amp; P: 2015 (approved on 12/11/14)

Project description from annual agenda: Proposed revisions to California Rules of Court rule 10.703 (Subordinate judicial officers: complaints and notice requirements) that would (1) simplify the procedures a presiding judge must follow while reviewing and investigating complaints against subordinate judicial officers, and (2) afford a presiding judge greater discretion in conducting an investigation and determining appropriate action.

If requesting July 1 or out of cycle, explain:

The committee recommends an effective date of Jan. 1, 2016 to give the courts time to develop and offer trainings on amendments to the rule and to revise their manuals on handling complaints about subordinate judicial officers.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

This is the fourth time RUPRO has reviewed this proposal. In September 2013, at the request of the California Court Commissioners Association (CCCA), RUPRO agreed to defer consideration of the proposed amendments pending a discussion between representatives of the TCPJAC and representatives of the CCCA. The two groups met twice by conference call and the presiding judges agreed to modify two aspects of the proposals objected to by the CCCA.

RUPRO reviewed it again in April 2014 and agreed to send it to the Judicial Council with a recommendation that it be placed on the discussion agenda in October 2014. In September 2014, Justice Miller received a letter from attorney Edith Matthai, who was asked by the CCCA to review the proposal and submit comments. The letter proposed revisions to three subdivisions of the rule. The Trial Court Presiding Judges Advisory Committee (TCPJAC) voted to adopt Ms. Matthai's proposed revisions with some minor modifications.

RUPRO reviewed the revised proposal again on November 5, 2014. After being informed that the CCCA still opposed the proposal, RUPRO voted to defer action and refer the matter back to the TCPJAC for further consideration.

The CCCA wrote to TCPJAC Chair Judge Slough on November 20, 2014, setting forth four provisions of the proposal with which they disagreed. Representatives of the TCPJAC met with representatives of the CCCA in person on January 29, 2015, and reached consensus on the remaining issues. The CCCA agreed to submit a letter stating that they do not object to the proposed revisions to the rule, as modified.

The portions of the report highlighted in yellow are those that are different from the report reviewed by RUPRO in November 2014.



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on **April 17, 2015**

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**Title**

Subordinate Judicial Officers: Complaints and Notice Requirements

**Agenda Item Type**

Action Required

**Effective Date**

**January 1, 2016**

**Rules, Forms, Standards, or Statutes Affected**

Amend Cal. Rules of Court, rules 10.603 and 10.703

**Date of Report**

**March 4, 2015**

**Recommended by**

Trial Court Presiding Judges Advisory Committee  
Hon. Marsha G. Slough, Chair

**Contact**

Mark Jacobson, 415-865-7898  
[mark.jacobson@jud.ca.gov](mailto:mark.jacobson@jud.ca.gov)

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### Executive Summary

The Trial Court Presiding Judges Advisory Committee recommends amending rules 10.603 and 10.703 of the California Rules of Court to (1) simplify the procedures a presiding judge must follow while reviewing and investigating complaints against subordinate judicial officers (SJOs); (2) clarify a presiding judge's authority in conducting an investigation and determining the appropriate action to be taken; and (3) clarify the circumstances under which discipline against an SJO must be reported to the Commission on Judicial Performance (CJP). The proposed amendments were prompted in part by a suggestion from Victoria B. Henley, Director–Chief Counsel of the CJP, that the rule be amended to address ambiguity as to what types of disciplinary action a presiding judge can impose after an investigation and what types of action must be reported to the CJP.

### Recommendation

The Trial Court Presiding Judges Advisory Committee recommends that the Judicial Council, effective **January 1, 2016**, amend rule 10.703 of the California Rules of Court to:

1. Replace the two-tier investigation process in subdivisions (i) and (j) with one investigation;

2. Delete from subdivision (j)(3) the list of possible actions available to the presiding judge and replace it with a provision (proposed subdivision (i)(4)) that a presiding judge must, in his or her discretion, close the complaint, impose discipline, or take other appropriate corrective action, which may include oral counseling, oral reprimand, or warning;
3. Add new subdivision (f)(3) to provide that a presiding judge has discretion to investigate anonymous complaints;
4. Amend subdivision (h)(3) to provide that when a presiding judge closes a complaint after initial review under subdivision (h)(1) without having contacted the SJO, it is optional to advise the SJO in writing of the disposition;
5. Add subdivision (i)(5) to clarify that when a presiding judge closes a complaint after investigation without having contacted the SJO, the presiding judge must give the SJO written notice of the final action taken on the complaint only if the presiding judge is aware that the SJO knows about the complaint;
6. Delete from subdivision (j)(2)(B) the phrase “sufficient to allow a meaningful response to the allegations” because at that stage of the process, the SJO is responding only to the proposed discipline, not to the allegations;
7. Add to subdivision (j)(4)(A) the phrase “to the intended final action” to clarify that, at that stage of the process, the SJO is responding to the intended final action, not to the allegations;
8. Amend subdivision (j)(5) to provide that if the SJO requests an opportunity to respond to the intended final action, the presiding judge “must” (rather than “should”) allow the SJO an opportunity to respond during the investigation, and amend subdivision (j)(7) to eliminate the reference to denying the SJO an opportunity to respond;
9. Amend subdivisions (g)(1) and (3) to provide that in exceptional circumstances, a presiding judge may ask the presiding judge of another court to investigate a complaint and provide the results of the investigation to the court for adjudication;
10. Add a provision as new subdivision (a)(4) stating that the procedures in the rule do not restrict the discretion of the presiding judge in taking appropriate corrective action;
11. Add a definition of “written reprimand” as new subdivision (b)(4);
12. Amend subdivisions (f)(4) and (l)(1) to clarify that a presiding judge must give written notice to the complainant of receipt of the complaint and the final court action only if the complainant is known;

13. Add “hearing officer” to the definition of “subordinate judicial officer” in subdivision (b)(1);
14. Delete from subdivision (l)(1) the words “and the subordinate judicial officer” because the requirement that the presiding judge notify the SJO of the final court action is also stated in subdivisions (i)(5) and (j)(6).

The Trial Court Presiding Judges Advisory Committee also recommends that the council, effective January 1, 2016, amend rule 10.603(c)(4)(C)(ii) to modify the cross-reference to rule 10.703(k) to reflect the renumbering of that subdivision as rule 10.703(j).

The committee recommends setting the effective date of the amendments to January 1, 2016, to give presiding judges, SJOs, and court administrators time to adjust to the new procedures in the rule. Courts may wish to schedule trainings on the revised procedures, and courts that have developed manuals on handling SJO complaints will need to revise those materials.

The text of amended rules 10.603 and 10.703 is attached at pages 13–20.

### **Previous Council Action**

At its April 23, 2010 meeting, the Judicial Council amended rule 10.703 to clarify the circumstances under which a report to the CJP must be made by the presiding judge.

### **Rationale for Recommendation**

The amendments to rules 10.603 and 10.703 simplify the procedures a presiding judge must follow while reviewing and investigating complaints against SJOs. They also clarify (1) a presiding judge’s authority and options in investigating and resolving a complaint, and (2) the circumstances under which a report must be filed with the CJP. Finally, some of the proposed amendments would make the procedures consistent with those used by the CJP in processing complaints about judges.

### **Replacing two-tier investigation process with one investigation**

The current rule requires a presiding judge to review each complaint to determine whether it should be closed or investigated further. The rule provides that if initial review by the presiding judge shows that a basis for further investigation exists, the presiding judge must conduct a preliminary investigation. (Rule 10.703(i).) If the presiding judge, after conducting the preliminary investigation, “finds a basis for proceeding with the investigation,” he or she must then conduct a formal investigation. (Rule 10.703(j).)

Under the proposed amendments, there would be just one investigation if the presiding judge determines after initial review that there is a basis for an investigation. As with subdivision (i)(3), the presiding judge would be required to give the SJO an opportunity to respond to the allegations before the presiding judge takes any disciplinary action. After reviewing the response and completing the investigation, the presiding judge would close the matter, impose discipline,



or take any other appropriate action. The actual investigation procedure would not change except that there would be one investigation instead of two.

### **Clarifying the presiding judge's authority and options in resolving complaints**

The rule as it is currently written is unnecessarily complicated. It provides that after a preliminary investigation, the presiding judge may close the matter, proceed to a formal investigation, or take “appropriate informal action, which may include a reprimand or warning . . . .” (Rule 10.703(i)(4).) After a formal investigation, if the presiding judge decides to take action, the rule lists various types of final action a presiding judge may take, including no action, an oral or written warning, a private or public reprimand, suspension, termination, or any other action the court deems appropriate. (Rule 10.703(j)(3).)

To simplify the rule and clarify the presiding judge's authority in determining the appropriate action, the amendments eliminate the list of possible actions available to the presiding judge. Instead, the amended rule simply provides that after an investigation, the presiding judge “must, in his or her discretion: [¶] (A) Close action on the complaint if the presiding judge finds the complaint lacks merit; [¶] (B) Impose discipline; or [¶] (C) Take other appropriate corrective action, which may include, but is not limited to, oral counseling, oral reprimand, or warning of the subordinate judicial officer.” (Rule 10.703(i)(4).) This change would diminish the perception that a presiding judge is limited by the list of possible actions or that the SJO is entitled to progressive discipline.

### **Investigating anonymous complaints**

The amendments also add a provision specifying that a presiding judge has discretion to investigate complaints that are anonymous. (Rule 10.703(f)(3).) This new provision does not alter a presiding judge's obligation to investigate allegations of serious misconduct brought to his or her attention. Rather, it clarifies the notion that a presiding judge is not required to investigate an anonymous complaint that provides insufficient facts to launch an investigation or that does not allege conduct that violates any ethical principles. This amendment is consistent with the CJP policy regarding anonymous complaints.

### **Advising SJO of the disposition of the complaint**

When a presiding judge closes a complaint after initial review under subdivision (h)(1) without having contacted the SJO, subdivision (h)(3) provides that the presiding judge “must advise the subordinate judicial officer in writing of the disposition.” Under the current rule, a presiding judge is required to notify an SJO that a complaint has been filed only if the presiding judge intends to take some type of “informal action” or to impose discipline. (Rules 10.703(i)(3) and (j)(1)(B).) Therefore, an SJO may not even know a complaint has been filed until the presiding judge advises the SJO that the matter has been closed—for example, when the essence of a complaint is that the SJO ruled against the complainant and the presiding judge closes the matter without contacting the SJO. Similarly, a presiding judge could investigate a complaint and close the matter without asking the SJO to respond to the allegations. For example, the presiding judge could listen to a recording of a hearing and determine, without contacting the SJO, that an

allegation of poor demeanor was unmeritorious. In both examples, the committee's view is that the presiding judge should not be required to advise the SJO of the disposition of the complaint.

This proposed revision eliminates the requirement in subdivision (h)(3) that a presiding judge *must* advise the SJO in writing of the disposition and instead gives the presiding judge discretion to notify the SJO. The committee also recommends amending subdivision (j)(2) (proposed subdivision (i)(6)) and adding a new subdivision (i)(5) to require a presiding judge to give to the SJO written notice of the final action taken only if the presiding judge is aware that the SJO knows about the complaint. These amendments are consistent with the CJP policies regarding notifying judges of complaints filed against them. If a complaint to the CJP does not result in an investigation, or if the investigation reveals facts that warrant dismissal of the complaint without contacting the judge, the CJP does not inform judges about those complaints.

### **Allowing opportunity to respond to intended final action**

The rule provides that within 10 days or as soon as reasonably possible after completion of the investigation, the presiding judge must give the SJO notice of the intended final action on the complaint and must advise the SJO that he or she may request an opportunity to respond to the intended final action. (Rule 10.703(j)(2), (4), and (5).) Subdivision (j)(5) currently states that if the SJO requests an opportunity to respond to the intended final action, the presiding judge “should” allow it. The committee recommends changing “should” to “must” to make subdivision (j)(5) consistent with subdivision (j)(7). Otherwise, a presiding judge could deny an opportunity to respond after advising the SJO that he or she may request such an opportunity. This amendment also necessitates removal of the phrase “or has not been given” in subdivision (j)(7). That subdivision directs a presiding judge to give written notice of the final action to the complainant if the SJO “does not request or has not been given an opportunity to respond.”

### **Asking CJP to investigate and adjudicate complaints**

Current subdivision (g)(3) states: “In exceptional circumstances a presiding judge may request the commission to investigate a complaint on behalf of the court and provide the results of the investigation to the court for action.” The amendment allows a presiding judge the option of asking a presiding judge of another court to investigate a complaint on behalf of the court and providing the results of the investigation to the court for adjudication. This amendment permits a presiding judge to ask for another court's help if, for example, the court lacks the resources to conduct an investigation. Allowing a presiding judge the option of asking another court, rather than the CJP, to handle the investigation avoids unnecessary involvement by the CJP.

### **Other amendments**

The proposed amendments add several other provisions to the rule. First, subdivision (a)(4) states specifically that the procedure for addressing complaints does not **restrict the discretion of the presiding judge in taking appropriate corrective action.**

Second, the proposed amendments add a definition of “written reprimand” to the rule. (Proposed rule 10.703(b)(4).) That term is used currently in subdivision (k)(1), which requires a presiding

judge to report an SJO to the commission when the presiding judge disciplines the SJO by written reprimand, suspension, or removal.

Third, current subdivision (*l*), which states what the presiding judge must tell the complainant and the SJO after the matter is resolved, is amended to state that if the complainant is unknown, either because the matter did not come to the attention of the presiding judge as a result of a complaint or because the complainant is anonymous, the presiding judge need not notify the complainant. A similar revision is added to proposed subdivision (f)(4), which requires written notice to a complainant of receipt of a complaint. The revision adds the words “if known” to clarify that notice is required only if the complainant is known.

Fourth, subdivision (b)(1) defines “subordinate judicial officer” as an attorney employed by a court to serve as a commissioner or referee. The amendments add “hearing officer” to that definition. (See Cal. Rules of Court, rule 10.701(a).)

Fifth, subdivision (j)(2)(B) provides that a presiding judge who has completed an investigation and has decided to take disciplinary action must give the SJO, in writing, “[t]he facts and other information forming the basis for the proposed action and the source of the facts and information, sufficient to allow a meaningful response to the allegations.” The committee recommends deleting the phrase “sufficient to allow a meaningful response to the allegations” because at this stage of the process, the SJO is being given an opportunity to respond to the proposed discipline; the SJO has already had an opportunity to respond to the allegations of misconduct. For the same reason, the committee proposes clarifying in subdivision (j)(4)(A) that this is an opportunity to respond “to the intended final action.”

Sixth, subdivision (i)(3) provides that a presiding judge may give the SJO a copy of a complaint or a summary of its allegations and allow the SJO to respond. The committee recommends adding the phrase “to the allegations during the investigation” to clarify that the SJO has an opportunity to respond to the allegations while the investigation is pending.

Seventh, subdivision (i)(3) also provides that the presiding judge *must* give the SJO an opportunity to respond to the allegations before taking any disciplinary action. The committee recommends adding the phrase “decides to” before “take any disciplinary action” to clarify that a presiding judge must give the SJO an opportunity to provide his or her explanation of what occurred before the presiding judge decides to take any disciplinary action.

Finally, in subdivision (*l*)(1), the amendments delete the phrase “and the subordinate judicial officer” so that the presiding judge would be required to notify only the complainant, not the SJO, of the final court action. This notification to the SJO in this provision is duplicative because subdivision (j)(6) (proposed subdivision (i)(9)) and new subdivision (i)(5) already require such notification to the SJO.

### **Rule 10.603**

Rule 10.603 of the California Rules of Court—Authority and duties of presiding judge—contains two cross-references to rule 10.703. Subdivision (c)(4)(C)(ii) requires a presiding judge to notify the CJP if an SJO “is disciplined or resigns, consistent with rule 10.703(k).” If the Judicial Council adopts the proposed amendments to rule 10.703, subdivision (k) would be renumbered as subdivision (j). Therefore, the Trial Court Presiding Judges Advisory Committee (TCPJAC) recommends that the council amend rule 10.603(c)(4)(C)(ii) to conform to the amendments of rule 10.703. The cross-reference to rule 10.703(k) is amended to reflect the renumbering of that subdivision as rule 10.703(j).

In addition, there are several references in rule 10.603 to the “Administrative Office of the Courts” and to the “Administrative Director of the Courts.” Because the name of the organization and the title of the director have been changed, those references in rule 10.603 are amended to refer to the “Judicial Council” and the “Administrative Director.”

### **Comments, Alternatives Considered, and Policy Implications**

This proposal was circulated for comment as part of the spring 2013 invitation-to-comment cycle. Twenty-six individuals or organizations submitted comments.<sup>1</sup> Eighteen of those commentators are court commissioners who objected to the proposed revisions. (One commissioner, Rebecca Wightman, commented twice.) Several of those commissioners merely indicated support for the positions taken in the comment from the California Court Commissioners Association (CCCA), submitted by then-President Matthew C. St. George. Others reiterated comments in the CCCA response (discussed below). In addition to the comments from the CCCA, attorney Edith Matthai was asked by the CCCA to review and comment on the proposed revisions. She submitted a comment on September 25, 2014, after the comment period closed. Ms. Matthai’s remarks are included in the comment chart. In response to her letter, the committee agreed to rescind one proposed amendment and revert to the original language. That proposal is discussed below as an alternative considered by the committee. The committee also agreed to recommend adoption of other language proposed by Ms. Matthai.

The CCCA submitted another comment, dated November 20, 2014, after Ms. Matthai submitted her comment. This comment, written by President Jeri Hamlin, is discussed below and is included in the comment chart. The committee agreed to recommend additional revisions based on the letter from Commissioner Hamlin.

One commentator—Presiding Judge Colette M. Humphrey, Superior Court of Kern County—also disagreed with the proposed amendments. She reiterated comments in the CCCA response (discussed below).

Three superior courts (from Los Angeles, San Diego, and Tulare Counties) submitted comments indicating support for the proposed amendments.

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<sup>1</sup> A chart providing the full text of the comments and the committee responses is attached at pages 21–57.

Finally, two members of the public submitted comments that did not address proposed amendments to rule 10.703. The committee did not consider those comments.

In its first comment, the CCCA addressed several aspects of the proposed amendments. All of the concerns raised by the other commentators are addressed in the CCCA response to some extent. Therefore, this section discusses the objections of the CCCA with additional reference to specific comments from other commentators. The CCCA also drafted its own version of the rule that reflects its concerns. The CCCA version of the rule is attached to the comment chart.

### **General comments**

First, the CCCA expressed disappointment that it was not asked to participate in the discussions leading to the proposed amendments to rule 10.703. In response to this comment, the Rules and Projects Committee (RUPRO) deferred action on the proposal at its September 9, 2013 meeting pending a discussion between a subcommittee of TCPJAC and representatives of the CCCA. Representatives of the two groups met twice by conference call to discuss the CCCA's concerns. RUPRO deferred action again on November 5, 2014, referring the matter back to the Trial Court Presiding Judges Advisory Committee for further consideration. Representatives of the two groups met in person for two hours on January 29, 2015, and reached agreement on proposed language.<sup>2</sup> The committee's representatives appearing at the meeting in person were Presiding Judge Marsha G. Slough, chair, and former Presiding Judge Brian J. Back. Presiding Judge Brian L. McCabe participated by telephone. The CCCA was represented by Commissioner Glen Mondo, president-elect of the CCCA; Commissioner Matthew C. St. George, past president of the CCCA; and Commissioner Rebecca L. Wightman.

Second, the CCCA asserted, and many individual commentators agreed, that the current procedure for handling complaints about SJOs works well, so there is no need to amend the rule. (Several commentators used the maxim, "If it ain't broke, don't fix it.") They suggested that there is no evidence that the rule is confusing or complicated for presiding judges, so the proposed revisions are unnecessary. The committee's response was that just because a rule may be working does not mean it cannot be improved.

Third, the CCCA and some other commentators contended that the proposed revisions go beyond both the scope of the original request for a rule amendment by the CJP<sup>3</sup> and the intent of the proposal as stated in the invitation to comment, i.e., to "(1) simplify the procedures a presiding judge must follow while reviewing and investigating complaints against [SJOs]; (2) clarify a presiding judge's authority in conducting an investigation and determining the appropriate action

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<sup>2</sup> The CCCA submitted a letter in support of the proposed amendments to the rule (see Attachment A). Even though the two groups have reached consensus on the proposed revisions, this report addresses the comments submitted by the CCCA before the January 29, 2015 meeting.

<sup>3</sup> In March 2010, Victoria B. Henley, Director–Chief Counsel of the CJP, sent a letter to then–Administrative Director of the Courts William C. Vickrey suggesting that rule 10.703 be amended to address an ambiguity in the rule as to what types of disciplinary action a presiding judge can impose after a preliminary and a formal investigation and what types of action must be reported to the CJP.

to be taken; and (3) clarify the circumstances under which discipline against an SJO must be reported to the [CJP].” The committee’s response was that its review of rule 10.703 is not limited to the scope of the issues raised by the CJP. In addition, the committee believes the amendments advance the goals of simplifying the procedures and clarifying a presiding judge’s authority and options in handling complaints about SJOs.

### **Notifying SJO of closed complaints**

One proposed amendment that generated substantial opposition was the deletion of the requirements that when a presiding judge closes a complaint after initial review (subdivision (h)(3)) or a preliminary investigation (subdivision (i)(5)(B)) without having contacted the SJO, the presiding judge “must advise the subordinate judicial officer in writing of the disposition.” Because the current rule does not require the presiding judge to notify an SJO of a complaint unless the presiding judge intends to take some type of disciplinary action, the proposed amendments would give the presiding judge discretion to advise the SJO of the decision to close the matter rather than requiring it.

The CCCA, joined by several commissioners, objected to the elimination of this requirement because a complainant is entitled to ask the CJP to review the court’s disposition of the complaint, and if the SJO is unaware of the complaint, the SJO “would lose the opportunity to make notes or otherwise preserve relevant testimony or documents should the SJO be required to respond to a CJP inquiry.” Presiding Judge Colette Humphrey added:

[I]f there really is a basis for some action, the SJO should have the opportunity to correct the conduct as needed. For example, when an SJO receives a complaint that a judgment was pending signature for far too long, the complaint may be justified, and the SJO has an opportunity to alter procedures to avoid a recurrence.

Commissioner Vincent T. Lechowick agreed with the CCCA and specified the types of evidence that may be lost if the presiding judge does not inform the SJO about the closed complaint: exhibits returned to the parties or lost or destroyed, deleted tape or video recordings, erased hard drives, employees who no longer work for the court, and loss of memories by the SJOs, clerks, and bailiffs.

As noted in Commissioner Wightman’s comments, of the complaints reviewed by the CJP after disposition by the presiding judge, more than 95 percent are closed without further action because the presiding judge’s action is deemed adequate. That statistic plus the fact that a complainant must seek review by the CJP within 30 days of the presiding judge’s resolution of the complaint led the committee to conclude that the CJP would rarely open an investigation in which the SJO would have destroyed or returned evidence needed to refute the allegations. In addition, the committee observed that to notify an SJO in writing every time a complaint is closed would be burdensome, particularly in large courts that receive many complaints,. The committee also noted that the proposed amendment would give the presiding judge discretion to notify the SJO of the closed complaint. Finally, this change would be consistent with the CJP’s

practice of not informing judges about complaints that are closed without contacting the judge who is the subject of the complaint.

Representatives of the CCCA and the committee discussed this issue at the January 29, 2015 meeting and agreed that this amendment is acceptable.

### **Elimination of two-tiered investigation**

Another concern was the proposed elimination of the two-tiered investigation model. The CCCA contended that the proposed revisions would require a formal investigation once the decision is made to investigate. In agreement, Commissioner Diana Baker stated that “[m]any complaints may be resolved by an informal preliminary investigation saving everyone a lot of time. The option of conducting an informal preliminary investigation should be left to the sound discretion of the Presiding Judge.” She contended that the proposed change to a single investigation “results in one less option for the Presiding Judge. We should preserve the Presiding Judge’s flexibility in dealing with a complaint by preliminary investigation if that is his or her choice.” Commissioner Ronald Creighton also objected, stating that the proposed amendment “takes away discretion and flexibility from the presiding judge by requiring a formal investigation once a decision to investigate is made.” And Commissioner Wightman asserted that “by collapsing the existing, orderly process (initial review, preliminary investigation if needed, or formal investigation as needed), the proposed rule will actually limit presiding judges’ discretion and authority to treat and resolve the complaint at the level it deserves.”

The proposed revisions do not limit a presiding judge’s options. Rather, the presiding judge will be able to conduct any type of investigation he or she deems appropriate to resolve the complaint. The revised rule does not require the presiding judge to conduct a “formal investigation.”

### **Asking CJP to investigate and adjudicate complaints**

The committee originally proposed amending subdivision (g)(2) and (3) to expand the circumstances under which a presiding judge may ask the CJP to investigate and adjudicate a complaint about an SJO. The CCCA objected to the proposed amendments as unnecessary and “beyond the scope of the proposal (which is to clarify the type of disciplinary action a presiding judge may impose and what types of action must be reported to the CJP) . . . .” Commissioner Wightman added that the proposed amendment “actually *takes away* the PJ’s authority to adjudicate if they turn it over entirely to the CJP (and may very well lead to disparate results if some counties routinely turn over to the CJP to adjudicate while others keep their investigations and dispositions in house).” (Emphasis original.)

In response to the CCCA’s concerns, the committee proposed amending subdivisions (g)(1)(C) and (g)(2) to allow a presiding judge to ask a presiding judge of another court to investigate and adjudicate a complaint or to investigate and turn the results over to the referring court for disposition. In the November 20, 2014 letter from Commissioner Hamlin, the CCCA questioned whether a presiding judge has the authority to refer a personnel matter regarding a court



employee to another court for investigation and/or disposition. Although the committee concluded that a presiding judge does have such authority, the committee agreed to revert to the existing language in subdivision (g)(2), which provides that a presiding judge may request that the CJP investigate and adjudicate a complaint “if a local conflict of interest or disqualification prevents the court from acting on the complaint.” In subdivision (g)(3), which provides that in exceptional circumstances, a presiding judge may request the CJP to investigate a complaint on behalf of the court and provide the results of the investigation to the court for adjudication, the committee proposes adding the presiding judge of another court as an alternative to the presiding judge asking the CJP to do the investigation.

### **Elimination of progressive discipline**

The committee originally proposed adding to subdivision (a) a statement that the procedures in rule 10.703 do not “[e]ntitle a subordinate judicial officer to receive progressive levels of discipline.” The CCCA opposed this revision as “unnecessary” and commented that the association “strenuously object[s] to the abandonment of the concept of progressive discipline when considering prospective discipline of a SJO.” The comment states: “[O]ne must question why there is any need to completely eliminate the concept of progressive discipline as it currently exists in this rule.” The CCCA suggested replacing the proposed language with a statement that the procedures in the rule do not “[r]estrict the discretion of the presiding judge in taking appropriate informal or formal action.” The committee agreed to modify its proposal by adopting the suggested language with one revision. Hence, rule 10.703(a) now provides that the procedures in the rule do not “[r]estrict the presiding judge in taking appropriate corrective action.” The CCCA accepts this amendment.

### **Mission creep**

Finally, the CCCA expressed concern that the amendments would lead to “‘mission creep,’ which would unnecessarily expand the nature and number of proceedings which fall within the jurisdiction of the CJP.” The association added:

The SJOs who comprise the CCCA share all the same concerns which judges have recently expressed through recent written correspondence by the CJA and ACJ [Alliance of California Judges] regarding CJP positions on issues such as the expansion of defined misconduct (including legal error) and procedural fairness issues such as discovery.

It is unclear how the proposed amendments to rule 10.703 would fuel any concern the CCCA has about perceived overreaching by the CJP.

### **Alternatives Considered**

The committee considered eliminating entirely the provisions in subdivisions (j)(2), (4), and (5) providing that within 10 days after the completion of the investigation, the presiding judge must give the SJO notice of the intended final action on the complaint and must advise the SJO that he or she may request an opportunity to respond to the proposed discipline. The committee



originally recommended eliminating this opportunity to respond because, as at-will employees, SJOs have no right to respond to proposed discipline. (Gov. Code, § 71650(d)(1).) In addition, removing this provision would streamline the complaint review process.

The CCCA and many other commentators, including several commissioners and the presiding judge from Kern County, argued that the elimination of this important due process provision is unwarranted. One commentator, Commissioner Rebecca Wightman, stated:

With PJs rotating in counties every two years, there may very well be instances in which a discussion or an opportunity to respond to an intended final action (whether the action to be taken is informal or formal) can assist the PJ in reaching a better solution, or in making sure that similar cases in the past (when the person was not PJ) are dealt with similarly, for example.

After discussion of this issue with representatives of the CCCA, the committee agreed to recommend retention of the provision, but to limit the SJO's response to seeking correction of an error of fact or law or both. The commissioners expressed opposition to this limiting language, contending that it eviscerates the provision allowing SJOs an opportunity to respond. After receiving a letter from attorney Edith Matthai explaining the commissioners' position, the committee agreed to rescind its proposal and to retain the existing language.

The committee also considered and rejected a suggestion by CJP Director–Chief Counsel Henley that the rule be amended to specifically permit courts to commence an investigation based on oral complaints. The committee noted that if an oral complaint alleges conduct that constitutes a violation of the California Code of Judicial Ethics, a presiding judge would be obligated under canon 3D(1) of the code to investigate the complaint and take appropriate corrective action if the presiding judge has reliable information that the SJO violated any provision of the code. Therefore, an amendment “permitting” a presiding judge to consider an oral complaint is unnecessary.

### **Implementation Requirements, Costs, and Operational Impacts**

The amendments will result in slight operational costs because courts that have developed manuals on handling complaints about SJOs will need to revise those manuals. Replacing the current two-tiered investigation with a single investigation will reduce the burden on presiding judges.

### **Attachments**

1. Cal. Rules of Court, rules 10.603 and 10.703, at pages 13–20
2. Comment chart, at pages 21–57
3. Attachment A: Letter dated February 23, 2015, from Jeri Hamlin, President, CCCA

Rules 10.603 and 10.703 of the California Rules of Court are amended, effective January 1, 2016, to read:

1 **Rule 10.603. Authority and duties of presiding judge**

2  
3 (a)–(b) \* \* \*

4  
5 (c) **Duties**

6  
7 (1)–(2) \* \* \*

8  
9 (3) *Submitted cases*

10  
11 The presiding judge must supervise and monitor the number of causes under submission  
12 before the judges of the court and ensure that no cause under submission remains undecided and  
13 pending for longer than 90 days. As an aid in accomplishing this goal, the presiding judge must:

14  
15 (A)–(E) \* \* \*

16  
17 (F) Consider requesting the services of ~~the Administrative Office of the Courts~~ Judicial  
18 Council staff to review the court’s calendar management procedures and make recommendations  
19 whenever either of the following condition exists in the court for the most recent three months:

20  
21 (i)–(ii) \* \* \*

22  
23 (4) *Oversight of judicial officers*

24  
25 The presiding judge must:

26  
27 (A)–(B) \* \* \*

28  
29 (C) *Commissioners*

30  
31 (i) Prepare and submit to the judges for consideration and adoption procedures for receiving,  
32 inquiring into, and resolving complaints lodged against ~~court commissioners and referees~~  
33 subordinate judicial officers, consistent with rule 10.703; and

34  
35 (ii) Notify the Commission on Judicial Performance if a ~~commissioner or referee~~ subordinate  
36 judicial officer is disciplined or resigns, consistent with rule 10.703(k)(j).

37  
38 (D) \* \* \*

39  
40 (E) *Assigned judges*

1 For each assigned retired judge:

2

3 (i) Complete a confidential evaluation form;

4

5 (ii) Submit the form annually to the Administrative Director ~~of the Courts~~;

6

7 (iii) Direct complaints against the assigned judge to the Chief Justice, by forwarding them to  
8 the attention of the Administrative Director ~~of the Courts~~, and provide requested information in  
9 writing to the Administrative Director ~~of the Courts~~ in a timely manner; and

10

11 (iv) Assist the Administrative Director in the process of investigating, evaluating, and making  
12 recommendations to the Chief Justice regarding complaints against retired judges who serve on  
13 assignment.

14

15 (5)–(7) \* \* \*

16

17 (8) *Liaison*

18

19 The presiding judge must:

20

21 (A) Provide for liaison between the court and the Judicial Council, ~~the Administrative Office~~  
22 ~~of the Courts~~ Judicial Council staff, and other governmental and civic agencies;

23

24 (B)–(C) \* \* \*

25

26 (d) \* \* \*

1 **Rule 10.703. Subordinate judicial officers: complaints and notice requirements**

2  
3 **(a) Intent**

4  
5 The procedures in this rule for processing complaints against subordinate judicial officers  
6 do not:

- 7  
8 (1) Create a contract of employment;  
9  
10 (2) Change the existing employee-employer relationship between the subordinate  
11 judicial officer and the court; ~~or~~  
12  
13 (3) Change the status of a subordinate judicial officer from an employee terminable at  
14 will to an employee terminable only for cause; or

15  
16 **(4) Restrict the discretion of the presiding judge in taking appropriate corrective action.**

17  
18 **(b) Definitions**

19  
20 Unless the context requires otherwise, the following definitions apply to this rule:

21  
22 (1) “Subordinate judicial officer” means an attorney employed by a court to serve as a  
23 commissioner, ~~or~~ referee, or hearing officer, whether the attorney is acting as a  
24 commissioner, referee, hearing officer, or temporary judge. The term does not  
25 include any other attorney acting as a temporary judge.

26  
27 (2)–(3) \* \* \*

28  
29 (4) “Written reprimand” means written disciplinary action that is warranted either  
30 because of the seriousness of the misconduct or because previous corrective action  
31 has been ineffective.  
32

33 **(c) Application**

34  
35 (1) \* \* \*

36  
37 (2) If a complaint against a subordinate judicial officer as described in (f) does not allege  
38 conduct that would be within the jurisdiction of the commission, the ~~court must~~  
39 ~~process the complaint following~~ local procedures adopted under rule 10.603(c)(4)(C)  
40 apply. The local process may include any procedures from this rule for the court’s  
41 adjudication of the complaint other than the provisions for referring the matter to the  
42 commission under (g) or giving notice of commission review under ~~(h)~~(k)(2)(B).

1 (3) \* \* \*

2  
3 (d)–(e) \* \* \*

4  
5 (f) **Written complaints to presiding judge**

6  
7 (1) A complaint about the conduct of a subordinate judicial officer must be in writing  
8 and must be submitted to the presiding judge.

9  
10 (2) \* \* \*

11  
12 (3) The presiding judge has discretion to investigate complaints that are anonymous.

13  
14 (4) The presiding judge must give written notice of receipt of the complaint to the  
15 complainant, if known.

16  
17 (g) **Initial review of the complaint**

18  
19 (1) The presiding judge must review each complaint and determine if the complaint:

20  
21 (A) May be closed after initial review;

22  
23 (B) ~~Needs preliminary investigation~~ Requires investigation by the presiding judge;  
24 or

25  
26 (C) ~~Requires formal investigation~~ Should be referred to the commission or to the  
27 presiding judge of another court for investigation or for investigation and  
28 adjudication.

29  
30 (2) A presiding judge may request that the commission investigate and adjudicate the  
31 complaint if a local conflict of interest or disqualification prevents the court from  
32 acting on the complaint.

33  
34 (3) In exceptional circumstances, a presiding judge may request the commission or the  
35 presiding judge of another court to investigate a complaint on behalf of the court and  
36 provide the results of the investigation to the court for ~~action~~ adjudication.

37  
38 (4) \* \* \*

39  
40 (h) **Closing a complaint after initial review**

41  
42 (1) After an ~~preliminary~~ initial review, the presiding judge may close without further  
43 action any complaint that:

1 (A)–(B) \* \* \*

- 2
- 3 (2) If the presiding judge decides to close the complaint under (h)(1), the presiding judge  
4 must notify the complainant in writing of the decision to close ~~the investigation on~~  
5 the complaint. The notice must include the information required under ~~(k)~~.
- 6
- 7 (3) The presiding judge ~~must~~ may, in his or her discretion, advise the subordinate  
8 judicial officer in writing of the ~~disposition~~ decision to close the complaint.
- 9

10 (i) **Complaints requiring preliminary investigation**

- 11
- 12 (1) If after an initial review of the complaint the presiding judge finds a basis for further  
13 inquiry, the presiding judge must conduct an preliminary investigation appropriate to  
14 the nature of the complaint.
- 15
- 16 (2) \* \* \*
- 17
- 18 (3) The presiding judge may give the subordinate judicial officer a copy of the complaint  
19 or a summary of its allegations and allow him or her an opportunity to respond to the  
20 allegations during the investigation. The presiding judge must give the subordinate  
21 judicial officer a copy of the complaint or a summary of its allegations and allow the  
22 subordinate judicial officer an opportunity to respond to the allegations before the  
23 presiding judge decides to ~~takes appropriate informal~~ any disciplinary action as  
24 ~~described in (i)(4)(B)~~ against the subordinate judicial officer.
- 25
- 26 (4) After completing the preliminary investigation, the presiding judge must, in his or  
27 her discretion:
- 28
- 29 (A) ~~Terminate the investigation and~~ Close action on the complaint if the presiding  
30 judge finds the complaint lacks merit; or
- 31
- 32 (B) ~~Terminate the investigation and close action on the complaint by taking~~  
33 ~~appropriate informal action, which may include a reprimand or warning to the~~  
34 ~~subordinate judicial officer, if the presiding judge finds a basis for taking~~  
35 ~~informal action~~ Impose discipline; or
- 36
- 37 (C) ~~Proceed with a formal investigation under (j) if the presiding judge finds a~~  
38 ~~basis for proceeding further. Take other appropriate corrective action, which~~  
39 ~~may include, but is not limited to,~~ oral counseling, oral reprimand, or warning  
40 of the subordinate judicial officer.
- 41 (5) ~~If the presiding judge terminates the investigation and closes action on the complaint,~~  
42 ~~the presiding judge must:~~

- 1 (A) Notify the complainant in writing of the decision to close the investigation on  
2 the complaint. The notice must include the information required under (I); and  
3  
4 (B) Advise the subordinate judicial officer in writing of the disposition.  
5

6 (j) **Complaints requiring formal investigation**  
7

8 (1) ~~If after a preliminary investigation the presiding judge finds a basis for proceeding~~  
9 ~~with the investigation, the presiding judge must conduct a formal investigation~~  
10 ~~appropriate to the nature of the complaint.~~  
11

12 (A) ~~The investigation may include interviews of witnesses and a review of court~~  
13 ~~records.~~  
14

15 (B) ~~As soon as practicable, the presiding judge must give the subordinate judicial~~  
16 ~~officer a copy of the complaint or a summary of its allegations and allow the~~  
17 ~~subordinate judicial officer an opportunity to respond.~~  
18

19 (5) If the presiding judge closes action on the complaint under (i)(4)(A) and the presiding  
20 judge is aware that the subordinate judicial officer knows of the complaint, the  
21 presiding judge must give the subordinate judicial officer written notice of the final  
22 action taken on the complaint.  
23

24 ~~(2)~~(6) If the presiding judge decides to impose discipline or take other appropriate  
25 corrective action under (i)(4)(B) or (C), within 10 days after the completion of the  
26 investigation or as soon thereafter as is reasonably possible, the presiding judge must  
27 give the subordinate judicial officer the following in writing:  
28

29 (A) Notice of the intended final action on the complaint; and  
30

31 (B) The facts and other information forming the basis for the proposed action and  
32 the source of the facts and information, ~~sufficient to allow a meaningful~~  
33 ~~response to the allegations.~~  
34

35 (3) ~~Final action on the complaint may include:~~  
36

37 (A) ~~A finding that no further action need be taken on the complaint;~~  
38

39 (B) ~~An oral or written warning to the subordinate judicial officer;~~  
40

41 (C) ~~A private written reprimand to the subordinate judicial officer;~~  
42

43 (D) ~~A public written reprimand to the subordinate judicial officer;~~

- (E) ~~Suspension of the subordinate judicial officer;~~
- (F) ~~Termination of the subordinate judicial officer; and~~
- (G) ~~Any other action the court may deem appropriate.~~

~~(4)(7)~~ The notice of the intended final action on the complaint in ~~(j)(2)(i)(6)(A)~~ must include the following advice:

- (A) The subordinate judicial officer may request an opportunity to respond to the intended final action within 10 days after service of the notice; and
- (B) If the subordinate judicial officer does not request an opportunity to respond within 10 days after service of the notice, the proposed action will become final.

~~(5)(8)~~ If the subordinate judicial officer requests an opportunity to respond, the presiding judge ~~should~~ must allow the subordinate judicial officer an opportunity to respond to the notice of the intended final action, either orally or in writing as specified by the presiding judge, in accordance with local rules.

~~(6)(9)~~ Within 10 days after the subordinate judicial officer has responded, the presiding judge must give the subordinate judicial officer ~~and the complainant~~ written notice of the final action taken on the complaint. ~~The notice to the complainant must include the information required under (l).~~

~~(7)(10)~~ If the subordinate judicial officer does not request ~~or has not been given~~ an opportunity to respond, the presiding judge must promptly give written notice of the final action to the complainant. The notice must include the information required under ~~(l)~~ (k).

~~(k)(j)~~ **Notice to the Commission on Judicial Performance**

(1) If a court disciplines a subordinate judicial officer by written reprimand ~~under (i)(4)(B) or (j)(3)(C) or (D)~~, suspension, or ~~removal~~ termination for conduct that, if alleged against a judge, would be within the jurisdiction of the commission under article VI, section 18 of the California Constitution, the presiding judge must promptly forward to the commission a copy of the portions of the court file that reasonably reflect the basis of the action taken by the court, including the complaint or allegations of misconduct and the subordinate judicial officer's response. This provision is applicable even when the disciplinary action does not result from a written complaint.



1 (2) If a subordinate judicial officer resigns (A) while an ~~preliminary or formal~~  
2 investigation under (i) ~~or (j)~~ is pending concerning conduct that, if alleged against a  
3 judge, would be within the jurisdiction of the commission under article VI, section  
4 18 of the California Constitution, or (B) under circumstances that would lead a  
5 reasonable person to conclude that the resignation was due, at least in part, to a  
6 complaint or allegation of misconduct that, if alleged against a judge, would be  
7 within the jurisdiction of the commission under article VI, section 18 of the  
8 California Constitution, the presiding judge must, within 15 days of the resignation  
9 or as soon thereafter as is reasonably possible, forward to the commission the entire  
10 court file on any pending complaint about or allegation of misconduct committed by  
11 the subordinate judicial officer.

12  
13 (3) \* \* \*

14  
15 **(k) Notice of final court action**

16  
17 (1) When the court has completed its action on a complaint, the presiding judge must  
18 promptly notify the complainant, if known, and the subordinate judicial officer of the  
19 final court action.

20  
21 (2) \* \* \*

**SPR13-31****Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

All comments are verbatim unless indicated by an asterisk (\*).

<b>List of All Commentators, Overall Positions on the Proposal, and General Comments</b>				
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1.	Abby Abinanti Former Commissioner San Francisco, CA	N	No further comment.	No response necessary.
2.	Trilla Bahrke Commissioner Tahoe City, CA	N	I would like to add my endorsement to the letter written by Commissioner St. George on behalf of our organization. It appears that this proposed modified rule of court is attempting to fix a system that is not broken but is actually working extremely efficiently. I would object to the proposed changes. They are unfair to subordinate judicial officers and, frankly, unnecessary.	See response to comments by the California Court Commissioners Association.
3.	Diana C. Baker Commissioner Marina, CA	N	<p>I have been a Superior Court Commissioner since 1998. I am writing to oppose the proposed change to the court’s initial review of a complaint about an SJO. Many complaints may be resolved by an informal preliminary investigation saving everyone a lot of time. The option of conducting an informal preliminary investigation should be left to the sound discretion of the Presiding Judge.</p> <p>Since 2008 (not including 2010), the CJP approved the Presiding Judge’s handling of SJO complaints 96.42% of the time. There is no reason to change the current procedure – especially since it results in one less option for the Presiding Judge. We should preserve the Presiding Judge’s flexibility in dealing with a complaint by preliminary investigation if that is</p>	The amended rule would allow a presiding judge to conduct any type of investigation he or she deems appropriate to resolve the complaint. But it would not require two different investigations “[i]f after a preliminary investigation the presiding judge finds a basis for proceeding with the investigation.”

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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			his or her choice.  I urge you not to adopt this unnecessary change.	
4.	California Court Commissioners Association by Matthew St. George President Santa Monica, CA	N	<p>On behalf of the Board of the California Court Commissioners Association (CCCA), I am providing the following comments on the proposed amendments to CRC 10.703. This public comment letter was reviewed and endorsed unanimously at our June 12, 2013 Board meeting.</p> <p>As a preliminary matter, I must relay the concern and disappointment expressed by my membership that the CCCA was not requested to participate earlier in the process as the proposed amendments would substantially alter the procedural and substantive rights of every subordinate judicial officer in the State. As requested in the invitation to comment circulated by your committee, the CCCA has focused its comments on the question of “Does the proposal reasonably achieve the stated purpose?” For the reasons set forth below, we believe that in several significant respects it does not.</p> <p><b>OVERREACH</b> As stated in your committee’s invitation to comment, the genesis of the proposed amendments was a letter from Victoria Henley of the CJP to William Vickery of the AOC</p>	<p>Consideration of the rule proposal was deferred pending a meeting between the Trial Court Presiding Judges Advisory Committee and representatives of the CCCA. The two groups then met twice by telephone conference call <b>and once in person.</b></p> <p>The committee, in its review of rule 10.703, is not limited by the scope of the issues addressed by the Commission on Judicial Performance. The committee believes the proposed amendments</p>

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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			<p>suggesting that Rule 10.703 be amended “<i>to address an ambiguity in the rule as to what types of disciplinary action a presiding judge can impose after a preliminary hearing and a formal investigation and what types of action must be reported to the CJP</i>” (emphasis added). As also stated in your committee’s invitation to comment, the Trial Court Presiding Judges Advisory Committee concluded that it could address this issue “<i>by eliminating the current two-tiered preliminary/formal investigation process and replacing it with one investigation</i>” (emphasis added). Despite the limited scope of the conceptual amendments summarized above, and the limited scope of the proposed revisions as summarized in the invitation to comment, the CCCA and its membership are surprised and greatly concerned by the actual language proposed. The proposal as stated in the invitation to comment is to “simplify the procedures a presiding judge must follow while reviewing and investigating complaints against SJO’s” and to “clarify a presiding judge’s authority and options in investigating and resolving a complaint” and to “clarify under what circumstances a report must be filed with the CJP.” However, several of the proposed amendments are far outside the scope of the proposal or are simply unnecessary given the present language of the rule.</p> <p>The two key points we wish to stress are 1) SJO discipline under the current rule is working as</p>	<p>advance the goals of simplifying the procedures and clarifying a presiding judge’s authority and options in handling complaints about SJOs.</p> <p>The committee believes that although the rule may be working, there is room for improvement</p>

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		<p>shown by the CJP’s own statistics (If it ain’t broke, don’t fix it!), and 2) the proposed amendments will deprive presiding judges of discretion and flexibility in the imposition of discipline by requiring a formal investigation once the decision is made to investigate.</p> <p><b>NOTICE TO SJO OF COMPLAINT</b> Specifically, the CCCA strongly objects to the proposed deletion of the current requirement that the presiding judge must give the SJO notice of the intended final action on the complaint and an opportunity to respond (Rule 10.703(j)(2), (4) and (5)). While it is true the SJO would still have the opportunity under subdivision (i)(3) to respond to the alleged misconduct, this addresses a completely different issue: whether the punishment fits the conduct as opposed to whether there was misconduct. The proposal to move from a two-tier investigation to a single investigation simply does not require and should not include the loss or removal of this right.</p> <p><b>AUTHORITY OF PRESIDING JUDGE</b> The CCCA also believes that the deletion of subdivision (g)(2) and the amendment of (g)(3) are both unnecessary and beyond the scope of the proposal. These subdivisions currently grant the authority to a presiding judge to request the CJP investigate and adjudicate a complaint against an SJO in the event of conflict of interest, disqualification, or other exceptional</p>	<p>through amending the rule.</p> <p>The proposed amendments do not require a formal investigation once a decision is made to investigate. The amended rule would allow a presiding judge to conduct any type of investigation he or she deems appropriate to resolve the complaint. But it would not require two different investigations “[i]f after a preliminary investigation the presiding judge finds a basis for proceeding with the investigation.”</p> <p>The committee agreed that the provision requiring a presiding judge to advise the SJO that he or she may request an opportunity to respond to the intended final action should be retained.</p>	<p>The committee agreed to retain the language of subdivision (g)(2). In subdivision (g)(3), which requires “exceptional circumstances,” the committee added an alternative under which a presiding judge may ask a presiding judge of another court to investigate a complaint on behalf of the court and provide the results of the investigation to the court for adjudication.</p>

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			<p>circumstances. The sole example of circumstances put forth in the invitation to comment which might lead a presiding judge to exercise the discretion to refer the matter to the CJP under the proposed amendment to the rule is if a court lacks the resources to conduct an investigation. Obviously, the entire judicial branch is currently under tremendous financial pressure. However, that is exactly the sort of “exceptional circumstance” under which a presiding judge could refer a matter to the CJP under the present rule. The proposed amendment is both beyond the scope of the proposal (which is to clarify the type of disciplinary action a presiding judge may impose and what types of action must be reported to the CJP) and, as clarified above, unnecessary.</p> <p><b>NOTICE OF CLOSED INVESTIGATION</b>                      The CCCA also objects to the proposed amendment to subdivision (h)(3) removing the requirement that a presiding judge advise an SJO in writing of the decision to close an investigation, instead granting discretion to the presiding judge as to whether to do so. The CCCA’s concern with this proposed amendment is that any complainant who is dissatisfied with the action by the presiding judge has the right to then demand redress from the CJP, and subdivision (l) requires the presiding judge to so advise the complainant. Absent notification by the presiding judge, the SJO would not be aware</p>	<p>The CJP opens investigations on very few complaints about SJOs and the time frame for a complainant to seek review by the CJP is very limited. Therefore, the risk of evidence being lost is minimal. This amendment is consistent with the CJP’s practice regarding complaints about judges that are closed without contacting the judge.</p>

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		<p>of the complaint, and would lose the opportunity to make notes or otherwise preserve relevant testimony or documents should the SJO be required to respond to a CJP inquiry.</p> <p><b>ELIMINATION OF PROGRESSIVE DISCIPLINE</b></p> <p>Another unnecessary proposed change to Rule 10.703 is to place within subdivision (a), which delineates the intent of the rule, an additional line stating that nothing in this rule would “[e]ntitle a subordinate judicial officer to receive progressive levels of discipline”. Other proposed changes within the current rule would eliminate any language stating the types of discipline which could be progressively imposed should disciplinary action be taken. Nowhere was this substantive change mentioned previously. At no time was its proposed implementation discussed with those individuals whom would be impacted by the change. All SJOs are painfully aware that our employment is at will, as recent events have demonstrated. However, one must question why there is any need to completely eliminate the concept of progressive discipline as it currently exists in this rule. As our numbers diminish due to budget constraints, there is all the more reason to retain the experience and expertise of those who remain. Consider the many hours spent with judicial colleagues at New Judges Orientation, Judges College, and subsequent CLE and substantive law courses as the major</p>	<p>The committee agreed to replace its proposed language with the CCCA’s suggested provision that the procedures in the rule do not “[r]estrict the discretion of the presiding judge in taking appropriate corrective action.”.</p>	

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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			<p>investment they represent in developing a SJO into a capable and competent member of the judiciary. As an institution, our rules of conduct should encourage presiding judges to cultivate and mentor SJOs in our mission to provide equal justice without prejudice to the citizens of our State. The concept of progressive discipline, long established in procedure and practice, is designed to accomplish just that. Nothing in the current rule prohibits imposition of a level of discipline equal to the misconduct committed by a SJO which requires it. The CCCA would not object to additional language in the appropriate section of the rule which would make this clear. However, we strenuously object to the abandonment of the concept of progressive discipline when considering prospective discipline of a SJO.</p> <p><b>ROLE OF THE CJP</b>                      Last but not least, much of the CCCA membership also belongs to the CJA, the ACJ or both. The CCCA (like the CJA and the ACJ) is concerned with “mission creep,” which would unnecessarily expand the nature and number of proceedings which fall within the jurisdiction of the CJP. The SJOs who comprise the CCCA share all the same concerns which judges have recently expressed through recent written correspondence by the CJA and ACJ regarding CJP positions on issues such as the expansion of defined misconduct (including legal error) and procedural fairness issues such as discovery.</p>	<p>It is not clear how the proposed amendments to rule 10.703 would fuel any concern the CCCA has about perceived overreaching by the CJP.</p>



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			<p>In summary, the CCCA questions the scope and necessity of many of the proposed amendments. Rather than approve and forward the proposed amendments to the Judicial Council for implementation on January 1, 2014, the CCCA implores the Trial Court Presiding Judges Advisory Committee to reject the above-referenced proposed amendments or, alternatively, send them back to committee for further review and discussion. In furtherance of this goal, an alternative version of an amended rule 10.703, which incorporates some revisions, but which leaves the rule as currently stated largely intact, is attached. The CCCA would be pleased to participate in such a discussion, and would happily have done so had its input been requested earlier.</p> <p>[Proposed revisions by the CCCA are attached to this comment chart]</p>	
5.	<p>California Court Commissioners Association by Jeri Hamlin President Red Bluff, CA</p>	AM	<p>I am the President of the California Court Commissioner’s Association (CCCA), and am writing on behalf of our Association regarding proposed revisions to Rule 10.703. The CCCA represents all commissioners and other SJO’s in California. The CCCA was disappointed, to say the least, when it was not consulted initially regarding this proposed rule change, especially since it not only directly affects our members, but also because it affects <u>only</u> our members.. We were pleased and grateful when, at our September board meeting, the Chief Justice and</p>	<p>Consideration of the rule proposal was deferred pending a meeting between the Trial Court Presiding Judges Advisory Committee and representatives of the CCCA. The two groups then met twice by telephone conference call and once in person.</p>

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			<p>Justice Miller acknowledged that we deserved to be involved in the process, beyond that of merely being given an opportunity to respond to a request for public comment. We also greatly appreciate that, after the Chief met with us, some revisions were made to the proposed rule. Unfortunately, our membership was again disappointed that we had no opportunity to discuss the most recent version of the proposed rule, or the reason why some proposed revisions were not adopted, before the matter was set for the RUPRO agenda.</p> <p>We understand from your conversation with CCCA’s former President, David Gunn, that SJO’s were intended to be included in the process prior to the proposed rule change going forward; and that, toward that end, you are willing to meet with a subcommittee of our Board. We are anxious to do so, and appreciate your willingness to make the time to hear and consider our comments and concerns. We understand that reasonable minds may differ on the final wording of the proposed changes, but cannot emphasize strongly enough our belief that when a proposed action directly affects our colleagues on the bench, we deserve to be involved in the process and heard just as much as judges would expect to be involved (through the CJA or Alliance), if a proposed action directly affected the interests of judges.</p> <p>As previously stated, we appreciate the most</p>	

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		<p>recent revisions to the proposed rule. However, we look forward to discussing additional items, two of which were addressed in Edith Matthai’s letter, which was coordinated with the CCCA.</p> <p>FIRST, in paragraph 1(a) regarding intent, we propose subparagraph 4 state: “<i>The procedures in this rule for processing complaints . . . do not (4) Restrict the discretion of the presiding judge in taking appropriate informal or formal action.</i>” This language gives to the PJ full and unrestricted authority to take appropriate action. There is some concern that the existing proposed language may be misconstrued, and potentially cause an unintended conflict with local trial court contracts.</p> <p>SECOND, as the language in the new (i)(3) (relating to complaints requiring further investigation) we are not sure why some, but not all, of Ms. Matthai’s proposed changes were adopted. Her proposal was to include the phrase “<i>at the beginning of the investigation</i>” which we felt did not unduly restrict the PJ given the “may” language in the first sentence. As an alternative, the phrase “<i>during the investigation</i>” could be added to the first sentence, which would serve to recognize that a PJ may want further investigation that might resolve the matter, short of having to get the SJO’s input “at the beginning.”</p>	<p>The committee agreed to replace its proposed language with the CCCA’s suggested provision, with one minor revision, so that the rule provides that the procedures in the rule do not “[r]estrict the discretion of the presiding judge in taking appropriate corrective action.”</p> <p>The committee agreed to add the phrase “during the investigation” to subdivision (i)(3), as suggested by the CCCA.</p>	

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		<p>THIRD, as to the language in the new (i)(4), for unknown reasons, Ms. Matthai’s language describing potential corrective action was not adopted. We believe the resulting singular example could be considered misleading or unclear. To make clear the full range of a PJ’s discretion, we suggest utilizing some existing language from the current rule, modified to state: “<i>which may include, but is not limited to, oral counseling, oral reprimand, or warning to the subordinate judicial officer.</i>”</p> <p>FOURTH, we believe further discussion and consideration is appropriate on the proposal in (g)(1)(C) and (g)(2) regarding a PJ being able to transfer the matter to the PJ of another county. While we see potential pluses and minuses to this proposal, we are not sure the significant underlying issue of jurisdiction has been addressed. I.e., regardless of this rule, does a PJ have the authority to refer a personnel matter of an individual employed in one county, to the jurisdiction of a different county? We would be interested to know if the Judicial Council staff has researched this issue.</p> <p>As a point of privilege, many of our board members have asked me to pass along how offended they were by the statement in the Judicial Council Staff’s report that it is unknown if CCCA still opposes the proposed rule change. If staff did not know, it is because no one contacted the CCCA to ask.</p>	<p>The committee agreed to add the suggested language.</p> <p>The committee agreed to retain the language of subdivision (g)(2). In subdivision (g)(3), which requires “exceptional circumstances,” the committee added an alternative under which a presiding judge may ask a presiding judge of another court to investigate a complaint on behalf of the court and provide the results of the investigation to the court for adjudication.</p>

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			<p>Unfortunately, the Staff has historically failed to include consulting with CCCA, even in matters directly affecting our segment of the judiciary.</p> <p>[Details concerning meeting logistics are not included.]</p>	
6.	Benjamin R. Campos Commissioner Los Angeles, CA	N	I join in the position outlined by Commissioner St. George, president of CCCA. Thank you for your consideration.	See response to comments by the California Court Commissioners Association.
7.	Ronald Creighton Commissioner Walnut Creek, CA	N	The proposed rule change takes away discretion and flexibility from the presiding judge by requiring a formal investigation once a decision to investigate is made. More importantly, the Rule as currently written is working fine. The CJP's own statistics show an overwhelming approval of how the presiding judges have conducted their investigations and impose discipline by simply closing each SJO disciplinary action reported to them with rare exception.	<p>The proposed amendments do not require a formal investigation once a decision is made to investigate. The amended rule would allow a presiding judge to conduct any type of investigation he or she deems appropriate to resolve the complaint. But it would not require two different investigations "[i]f after a preliminary investigation the presiding judge finds a basis for proceeding with the investigation."</p> <p>See response to comments by the California Court Commissioners Association.</p>
8.	J. F. DeMelo Commissioner Visalia, CA	N	The current SJO discipline method works well. The proposed changes are unnecessary.	See response to comments by the California Court Commissioners Association.
9.	William D. Dodson Commissioner Los Angeles, CA	N	As I understand it, the current rule gives an SJO the right to notice and an opportunity to respond to a court's intended final action. As far as I can	The committee agreed that the provision requiring a presiding judge to advise the SJO that he or she may request an opportunity to respond

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			<p>tell, the new rule would eliminate this guarantee, which would eliminate the officer's right to be heard on a very critical issue. Such a change does not seem prudent.</p> <p>In reference to the proposed changes, it seems to me that there has not been a sufficient showing that any changes in the existing procedures are really desirable. When described as a change to simplify or clarify the procedures, the proposal sounds good in the abstract, but I do not see any real confusion or unnecessary complexity that would make the change desirable in practice.</p> <p>Thank you for the opportunity to comment.</p>	<p>to the intended final action should be retained.</p> <p>See response to comments by the California Court Commissioners Association.</p>
10.	Carol J. Hallowitz Commissioner Los Angeles, CA	N	I tend to believe in the old adage "If it ain't broke, don't fix it." The system we now have in place appears to be working just fine. If there are to be changes, I endorse the proposals submitted by the California Court Commissioners Association.	See response to comments by the California Court Commissioners Association.
11.	Jeffrey M. Harkavy Commissioner Chatsworth, CA	N	After having reviewed the proposed changes, I concur in the concerns and recommendations made by Commissioner Matthew St. George on behalf of the CCCA.	See response to comments by the California Court Commissioners Association.
12.	Colette M. Humphrey Presiding Judge Superior Court of Kern County	N	I would like to express my opposition to the proposed revision to Rule 10.703. While it seems intended to "streamline" the complaint	

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Bakersfield, CA		<p>process, it also creates a situation that may deprive SJOs of the opportunity to respond to complaints. Under the current rule, the SJO has a right to notice and an opportunity to respond to a court’s intended final action. The revision requires only that the SJO be notified AFTER the action is taken. The proposed revision also removes the requirement that the SJO be advised of the disposition when a complaint is closed. This is not helpful for at least two reasons. First, if there really is a basis for some action, the SJO should have the opportunity to correct the conduct as needed. For example, when an SJO receives a complaint that a judgment was pending signature for far too long, the complaint may be justified, and the SJO has an opportunity to alter procedures to avoid a recurrence. Secondly, since a large portion of the complaints are not justified and since SJOs tend to have a lot of “repeat customers,” if the SJO is unaware of a disposition, they won’t know to keep records that might serve to refute future claims by the same litigant. The procedure that has been in place to address complaints regarding SJOs has remained virtually unchanged for 10 years, and it seems to have worked adequately for the benefit of the court, the public and the SJOs. The proposed revision does not seem designed to help SJOs do the right thing, but rather makes it harder for them to modify their conduct if needed. Thank you for your consideration of my thoughts.</p>	<p>The committee agreed that the provision requiring a presiding judge to advise the SJO that he or she may request an opportunity to respond to the intended final action should be retained.</p> <p>See response to comments by the California Court Commissioners Association.</p>

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13.	Patricia M. Ito Commissioner Lancaster, CA	N	I concur with the position taken by the California Court Commissioners Association.	See response to comments by the California Court Commissioners Association.
14.	Vince Lechowick Commissioner Lakeport, CA	N	Further points on the loss of due process from lack of timely notice of a pending complaint (beyond even the simple preservation of judicial notes) include: Exhibits returned to the parties (or otherwise made unavailable, lost or destroyed); Erasures or deletions of tape recordings, videos or hard drives (routine, accidental or otherwise); Retiring and exiting employees from court staffs (who may have favorable observations to add); Loss of memories of the specifics of the case by the Commissioners, clerks, bailiffs and others involved as they move on to many other days of high volume pro per calendars, etc.  “Streamlined” sounds more like “taking the easy way out” rather than doing justice or providing defense of SJOs’ work. Remember, discipline can now extend to simple “errors” (“should have known or so decided”), and adequate defense of decisions can require basically a “retrial.”	See response to comments by the California Court Commissioners Association.
15.	Chris Martin Commissioner Salinas, CA	N	The appropriate changes, if any, that should be made are listed in Matt St. George’s posted comment, which reflects the well-thought out and well-reasoned position of the CCCA. An	See response to comments by the California Court Commissioners Association.



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			alternate Amended Rule 10.703 is also attached to Mr. St. George’s comment. I speak on my behalf only and not on behalf of the Superior Court.	
16.	Edith R. Matthai Robie & Matthai Los Angeles, CA	N	<p>I have been asked by the California Court Commissioner's Association to review and comment on the proposed changes to Rule 10.703.</p> <p>It is my opinion that further limited revisions need to be made to the currently proposed version of the rule. The changes will clarify the process both for the protection of the presiding judges charged with the obligation to administer the rule, and the subordinate judicial officers who may face investigations under the rule. I greatly appreciate the tremendous amount of work that has been done, to date, by the Presiding Judges and others who have crafted the proposed new rule and certainly do not intend my comments to be critical of those efforts. It simply appears that in the laudatory effort to streamline and simplify the process, there were a few areas in which the resulting proposal is either unclear or resulted in an unintended consequence.</p> <p>The California Commissioner's Association now agrees that streamlining the process by eliminating the two levels of a preliminary and a formal investigation is appropriate if adopted in</p>	

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			<p>combination with the recommended changes in this letter. [T]he following changes would resolve areas in which the new rule as written is unclear. I have underlined the proposed additional language below.</p> <p>• (i) <b>Complaints requiring further investigation</b></p> <p>(3) The presiding judge may give the subordinate judicial officer a copy of the complaint or a summary of its allegations and allow him or her an opportunity to respond to the allegations <u>at the beginning of the investigation</u>. The presiding judge must give the subordinate judicial officer a copy of the complaint or a summary of its allegations and allow the subordinate judicial officer an opportunity to respond to the allegations before the presiding judge <u>decides to</u> takes any disciplinary action against the subordinate judicial officer.</p> <p>This change in language would clarify that no judge should decide to take disciplinary action until the subordinate judicial officer has had an opportunity to provide his or her explanation of what occurred. The section would still allow the presiding judge to begin an investigation, decide that discipline was not warranted and close the matter without notifying the subordinate judicial officer of the investigation.</p>	<p>The committee disagreed with the proposed addition of the phrase “at the beginning of the investigation” but agreed with the proposed addition of the phrase “decides to.” The committee also agreed to add the phrase “during the investigation” instead of “at the beginning of the investigation.”</p>

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

All comments are verbatim unless indicated by an asterisk (\*).

List of All Commentators, Overall Positions on the Proposal, and General Comments				
Commentator	Position	Comment	Committee Response	
		<p>• (i) <b>Complaints requiring further investigation</b></p> <p>(4) After completing the investigation, the presiding judge must, in his or her discretion:</p> <p>(C) Take other appropriate <u>corrective</u> action, <u>which may include, but is not limited to, an oral reprimand or counseling of the subordinate judicial officer.</u></p> <p>This language makes it clear that a presiding judge may in appropriate circumstances, decline to impose written discipline and instead counsel or verbally reprimand the subordinate judicial officer.</p> <p>Of additional concern is that the limitation in Section (i)(8) of the SJO's response to a Notice of Intended Final Action to matters "based on correction of an error of fact or law or both" eliminates the ability of an SJO to address the appropriate level of discipline that should be imposed.</p> <p>It is presumed that the language "based on correction of an error of fact or law or both" was intended to mirror the language of Rule 111.5 of the Rules of the Commission on Judicial Performance. However that Rule applies only to advisory letters, the lowest level of discipline issued by the commission. When an advisory letter has been issued, the level of</p>	<p>The committee agreed with the proposed revision as proposed in the CCCA's November 20, 2014 letter. The committee proposes amending the provision as follows: "Take other appropriate corrective action, which may include, but is not limited to, oral counseling, oral reprimand, or warning of the subordinate judicial officer."</p>	<p>The committee agreed to recommend retaining this provision, but rejected the proposed language. Instead the committee recommends reverting to the existing language in subdivision (i)(5), which will be renumbered (j)(8).</p>

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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		<p>discipline has been set at the lowest level available if discipline is to be imposed.</p> <p>The limitation of the SJO's response in proposed Rule 10.703(i)(8) applies no matter what level of discipline the presiding judge has imposed, which eliminates the ability of the SJO to address the appropriate level of discipline.</p> <p>Although the SJO is able to give an initial response under (i)(3), that response would address the facts and circumstances surrounding the allegations. It is anticipated that in most circumstances the SJO will ask that discipline not be imposed for the reasons set forth in that response and would not address the level of discipline to be imposed.</p> <p>The change requested below should not be viewed as a desire to reargue or reiterate the response previously provided under (i)(3). I would suggest that the language be changed to read:</p> <p>“but the response to the intended final action must be based on new matter, which the SJO could have not known at the time a response was submitted pursuant to (i)(3) or to a statement objecting to the level of discipline or to a correction of an error of fact or law or both.”</p> <p>Finally, in what I understood to be the currently</p>	

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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			<p>proposed version of the rule, Section (i)(10) states: “The notice must include the information required under (1).” “(1)” should be changed to “(k)” since there is no longer a section (1) in the rule.</p> <p>Both the California Commissioner's Association and I appreciate your attention to these requested changes. If you have any changes or would like to discuss this matter further, please do not hesitate to contact me.</p>	
17.	Elizabeth Munisoglu Commissioner Los Angeles, CA	N	<p>I agree wholeheartedly with the comment and suggestions proposed and posted by the CCCA in behalf of all subordinate judicial officers.</p> <p>The proposed changes, both facially and substantively, seem to presume that SJOs are inherently less deserving of the same procedural due process as are judges. There is NO evidence that the current system is flawed, nor is there any evidence that any County’s Presiding Judge has been, or in the future would be, unable to effectively implement the existing disciplinary processes.</p> <p>I strongly urge that, if any changes are made, they be limited to the sensible suggestions offered by the CCCA.</p>	See response to comments by the California Court Commissioners Association.
18.	Ronald Pierce Squaw Valley, CA	N/A		Comment does not address proposed amendments to rule 10.703.

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19.	Scott Retired Investigator San Luis Obispo, CA	N/A		Comment does not address proposed amendments to rule 10.703.
20.	Phyllis Shibata Commissioner Pomona, CA	N	There is no need for these changes.	See response to comments by the California Court Commissioners Association.
21.	Superior Court of Los Angeles County Los Angeles, CA [Comment on behalf of the court]	A	Rule 10.703 requires revision. In broad terms, it seeks to create a process by which courts respond to external complaints about its subordinate judicial officers (SJOs). However, the existing process is duplicative and imposes unnecessary work on presiding judges. To the extent the proposed changes streamline the process of investigating external complaints against SJOs, they are useful.	No response necessary.
22.	Superior Court of San Diego County by Mike Roddy Executive Officer San Diego, CA [Comment on behalf of the court]	A	No further comment.	No response necessary.
23.	Superior Court of Tulare County by Sherry Pacillas Court Operations Manager Visalia, CA [Comment on behalf of the court]	A	In agreement with the proposed updated policies and Judicial Council forms.	No response necessary.
24.	Rebecca Wightman	N	I am submitting this comment as an individual	See response to comments by the California

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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	Commissioner San Francisco, CA		<p>who, by virtue of my position, is subject to discipline under existing CRC Rule 10.703. I also agree with the comments previously submitted by the CCCA, as well as the CCCA’s alternative suggested rule revision to address any and all concerns previously identified by the CJP letter referenced in the write up to the original proposed rule change.</p> <p><b>Does the proposal reasonably achieve the stated purpose? Answer: NO, for all of the reasons and comments stated below, including, but not limited to the fact that there appears to be no credible data that PJs are confused or feel constrained, or that there is a need to “simplify” the existing process that has been in place for years, and there appears to be no credible reason for eliminating a perfectly good model (which is successfully used by CJP), including elimination of due process provisions regarding notification to SJOs.</b></p> <p><u>Comments</u> The background to the proposed rule change – the letter from the CJP (Victoria Henley) – identified two very specific, limited, concerns: one regarding consideration of oral complaints, the other regarding clarifying that the informal actions that can be taken after a preliminary investigation regarding “a reprimand or warning” are <i>oral</i> warnings and <i>oral</i> reprimands. The proposed rule revision goes WAY BEYOND addressing such concerns,</p>	Court Commissioners Association.

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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			<p>claiming – without actual evidence or clear justification – that the existing rule is “unnecessarily complicated” and/or somehow limits the discretion of presiding judges.</p> <p>A review of public data regarding complaints against SJOs from CJP’s own annual reports reveals that presiding judges do not seem to be having any problems in utilizing the existing procedures in Rule 10.703, and further, that they are adequately addressing complaints against the SJOs in their respective counties. The CJP’s annual reports that I examined revealed the following astonishing information:</p> <ul style="list-style-type: none"> <li>o <b>2009</b> – 153 new complaints; CJP reviewed <b>154</b> (incl. from prior year): a whopping <b>149</b> were closed after initial review [that’s 96.7%] – to use the <u>CJP’s own words</u> in its annual report: “...because it determined that <b>the superior court’s handling and disposition of the complaints were adequate and that no further proceedings were warranted.</b>” And, of the remaining five, three were closed without discipline following CJP’s investigation, one concluded with an advisory letter, and one concluded with a public censure (this latter one was for an SJO who failed to complete submitted matters in a timely fashion).</li> </ul>	



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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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			<ul style="list-style-type: none"> <li>○ <b>2010 (I didn't have the report handy)</b></li> <li>○ <b>2011</b> – 163 new complaints; CJP reviewed <b>162</b>: a whopping <b>157</b> were closed after initial review [that's 96.9%] – to use the <u>CJP's own words</u> in its annual report: <b>"...because it determined that the superior court's handling and disposition of the complaints were adequate and that no further proceedings were warranted."</b> And, of the remaining five, four of them were closed without discipline following CJP's investigation; one closed when the SJO resigned with an agreement not to serve in a judicial capacity.</li> <li>○ <b>2012</b> – 160 new complaints; CJP reviewed <b>161</b> (incl. one from prior year): and a whopping <b>152</b> were closed after initial review [that's 95% or 94.4% if you incl. case from prior year] – to use the <u>CJP's own words</u> in its annual report: <b>"...because it determined that the superior court's handling and disposition of the complaints were adequate and that no further proceedings were warranted."</b> And, of the remaining nine, three were closed without discipline following CJP's investigation; one was closed where SJO resigned and agreed not to serve in a judicial capacity; one led to a public</li> </ul>	

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**Subordinate Judicial Officers: Complaints and Notice Requirements** (Amend Cal. Rules of Court, rules 10.603 and 10.703)

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			<p>admonishment, and four led to issuance of advisory letters.</p> <ul style="list-style-type: none"> <li>○ I even found a CJP annual report from <b>2005</b>: 155 new complaints; CJP reviewed <b>154</b>: a whopping <b>153</b> were closed after initial review!!</li> </ul> <p><b>This data appears to contradict any unsubstantiated statement that the current CRC Rule 10.703 is unnecessarily complicated and/or needs to be simplified. Indeed, PJs appear to be quite successfully following the procedures in the current rule.</b> This raises the age-old question: “If it ain’t broke, why “fix” it?”</p> <p>SUGGESTION: If, indeed, there is any concern regarding either the need to clarify that the phrase in subdivision (i) pertaining to “a reprimand or warning”, then by all means, let’s clarify it by inserting the word “oral” in front of both “reprimand” and “warning.”</p> <p>The proposed rule also simply makes the unsubstantiated statement that the existing rule somehow restricts presiding judges’ discretion. This is simply an incorrect <i>opinion</i>. Indeed, it is my opinion that by collapsing the existing, orderly process (initial review, preliminary investigation if needed, or formal investigation as needed), the proposed rule will actually limit presiding judges’ discretion and authority to</p>	

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			<p>treat and resolve the complaint at the level it deserves.</p> <p>SUGGESTION: To the extent there is any conception or belief that the existing rule somehow limits a presiding judges’ discretion, then a simple added provision to explicitly state that the rule does no such thing would be sufficient to address any such concern. This would include removing any barriers to the discretion of a PJ to refer the matter to the CJP for investigation and report back to the PJ.</p> <p>Finally, there are indeed impacts from the proposed rule – proposed eliminations of certain provisions – that are not justified or adequately explained. The most glaring one has to do with the elimination of due process provisions in the existing rule regarding notifications to SJOs. The elimination – without any good reason – appears to be “overkill” under the guise of trying to “simplify” the rule. Why is elimination of such an important provision necessary????? It isn’t, and should be restored. In sum, the alternative suggested revisions that were submitted by the CCCA are ones that I believe would adequately address any real concerns with the existing rule.</p> <p>Please take the time to reconsider the need for such a drastic revision to a rule that PJs have been quite successfully navigating for years. Minor changes, if any, will more than</p>	

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			adequately address any true concerns.	
75	Rebecca Wightman Commissioner San Francisco, CA	N	<p>I previously submitted some comments, along with indicating my support for the alternative proposed revision of CRC 10.703; however, I realized that perhaps some of my comments were not specific enough – i.e., I alluded to the problematic due process issues, but did not mention specific provisions. Please consider the following additional comments as an augmentation to my prior comments.</p> <p><b>There is at least one very critical due process provision that was completely removed in the “streamlining” attempt for absolutely no stated good reason:</b></p> <ul style="list-style-type: none"> <li>• In the current rule, an SJO has the right to notice and an opportunity to respond to a court’s intended final action – see (j)(2), with specific advice required in the notice – see (j)(4). <ul style="list-style-type: none"> <li>○ The “streamlined” proposed rule <u>COMPLETELY ELIMINATES this due process procedure</u>, and merely states that if the PJ is aware that the SJO knows of the complaint (and who knows how someone will keep track of that), then the PJ must give the SJO written notice of the final action taken—i.e., after it is a done deal.</li> </ul> </li> </ul>	The committee agreed to retain this provision.

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			<ul style="list-style-type: none"> <li>○ If adopted, SJOs will no longer have an opportunity to address concerns regarding any proposed intended final action. With PJs rotating in counties every two years, there may very well be instances in which a discussion or an opportunity to respond to an intended final action (whether the action to be taken is informal or formal) can assist the PJ in reaching a better solution, or in making sure that similar cases in the past (when the person was not PJ) are dealt with similarly, for example.</li> <li>○ Why was this provision taken out?? If there is no good reason, then it should at the very least be added back in to any revised rule.</li> </ul> <p>There are other changes that put an SJO at a disadvantage (particularly with regard to difficult pro pers who file multiple complaints), and may wind up causing problems and inconsistencies in treatment for SJOs down the road, including causing problems for CJP if the case is refiled with the CJP down the road:</p> <ul style="list-style-type: none"> <li>• The “streamlined” rule removes the mandate currently in (h)(3) [and also currently in (i)(5)(B)] that the PJ advise the SJO of the disposition when closing</li> </ul>	<p>The CJP opens investigations on very few complaints about SJOs and the time frame for a complainant to seek review by the CJP is very limited. Therefore, the risk of evidence being lost is minimal. This amendment is consistent with</p>

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			<p>a complaint. This provision currently puts an SJO on notice that there may be a need to keep notes (or jot some down) should the litigant refile with the CJP and/or raise the same or similar complaints (as we all know that can happen) with the court down the road.</p> <ul style="list-style-type: none"> <li>○ By <u>removing</u> the mandate, and making it “discretionary,” the SJO may never know about a complaint, and may not therefore save any notes, etc., related to a litigant where the PJ decided not to advise. This change is not a “matter of semantics.”</li> <li>○ If SJOs are not consistently (mandatorily) given notice of the closure of a complaint, irrespective of at what stage of investigation it closes, not only may notes not get preserved, but recordings may get erased, and other evidence may not be preserved (including other witnesses, court staff that may move on) – which evidence and information may be very helpful to both SJOs and the CJP should a litigant decide to pursue the matter further by filing a complaint with the CJP.</li> <li>○ By making it “discretionary” there will be a disparate effect throughout the state, with some SJOs and the</li> </ul>	<p>the CJP’s practice regarding complaints about judges that are closed without contacting the judge.</p>

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			<p>CJP having a better record to work with, depending upon which county/PJs decide to give notice upon closing a complaint.</p> <ul style="list-style-type: none"> <li>• <b>The “streamlined” rule radically changes the nature of who initially not only investigates, but also who adjudicates local complaints against SJOs:</b> <ul style="list-style-type: none"> <li>○ In the current rule, subdivision (g)(2), trial courts/PJs can seek the assistance of the CJP if there is a conflict, or if, in exceptional circumstances, the PJ wants CJP to investigate and provide the results back to the trial court.</li> <li>○ HOWEVER, by “collapsing” (g)(2) and (g)(3) into a new (g)(3), and adding the words “<u>and adjudicate</u>” – this changes the nature of the existing process tremendously – and actually <i>takes away</i> the PJs authority to adjudicate if they turn it over entirely to the CJP (and may very well lead to disparate results if some counties routinely turn over to the CJP to adjudicate while others keep their investigations and dispositions in house).                             <ul style="list-style-type: none"> <li>▪ The suggested alternative put forth by the CCCA was to</li> </ul> </li> </ul> </li> </ul>	<p>The committee agreed to retain the language of subdivision (g)(2). In subdivision (g)(3), which requires “exceptional circumstances,” the committee added an alternative under which a presiding judge may ask a presiding judge of another court to investigate a complaint on behalf of the court and provide the results of the investigation to the court for adjudication.</p>

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			<p>simply remove the “exception circumstance” phrase, so that PJs can freely refer to CJP for investigation, <b>but there is absolutely no reason to allow CJP to adjudicate local complaints that would never arise to the level of CJP reporting.</b> In some respects, the proposed provision – without clarification or if not eliminated – may very well interfere with existing employer/employee processes in existence in the various counties.</p> <p>Bottom line: <u>Courts – and their respective HR divisions – have for years operated under the existing process and procedures without any problems.</u> (I previously sent in some statistics on this aspect of complaint resolution). The proposed “overhaul” is simply unnecessary and not just a matter of semantics. Please consider the alternative proposed revisions submitted by CCCA, <u>or at a minimum</u> put back the various due process notice provisions (both regarding final intended action, and closures), and take out the “adjudicate” provision of the new proposed rule.</p> <p>I do not support the rule as proposed for the reasons above.</p>	



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			Thank you for considering these comments, which are my own, and not on behalf of any organization.	
26.	Cynthia A. Zuzga Commissioner Los Angeles, CA	N	Please maintain the current investigative model to afford all parties involved a complete and fair process. I urge the advisory committee to adopt the recommendations of the California Commissioners Court Association.	See response to comments by the California Court Commissioners Association.

1 **PROPOSED RULE CHANGES BY CCCA**

2  
3 **Rule 10.703. Subordinate judicial officers: complaints and notice requirements**

4  
5 **(a) Intent**

6  
7 The procedures in this rule for processing complaints against subordinate judicial  
8 officers do not:

- 9  
10 (1) Create a contract of employment;
- 11  
12 (2) Change the existing employee-employer relationship between the subordinate  
13 judicial officer and the court; or
- 14  
15 (3) Change the status of a subordinate judicial officer from an employee terminable at  
16 will to an employee terminable only for cause; or
- 17  
18 (4) Restrict the discretion of the presiding judge in taking appropriate informal or  
19 formal action.

20  
21 **(b) Definitions**

22  
23 Unless the context requires otherwise, the following definitions apply to this rule:

- 24  
25 (1) "Subordinate judicial officer" means an attorney employed by a court to serve as a  
26 commissioner, ~~or~~ referee, or hearing officer, whether the attorney is acting as a  
27 commissioner, referee, hearing officer, or temporary judge. The term does not  
28 include any other attorney acting as a temporary judge.

29  
30 (2)-(3) \*\*\*

31  
32 **(c) Application**

33  
34 (1) \*\*\*

- 35  
36 (2) If a complaint against a subordinate judicial officer as described in (f) does not  
37 allege conduct that would be within the jurisdiction of the commission, the ~~court~~  
38 ~~must process the complaint following~~ local procedures adopted under rule  
39 10.603(c)(4)(C) apply. The local process may include any procedures from this  
40 rule for the court's adjudication of the complaint other than the provisions for  
41 referring the matter to the commission under (g) or giving notice of commission  
42 review under (l)(2)(B).

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(3) \*\*\*

~~(d)–(e)~~ \*\*\*

**(f) Written complaints to presiding judge**

(1) A complaint about the conduct of a subordinate judicial officer must be in writing and must be submitted to the presiding judge.

(2) \*\*\*

(3) The presiding judge has discretion to investigate complaints that are anonymous.

(4) The presiding judge must give written notice of receipt of the complaint to the complainant, if known.

**(g) Initial review of the complaint**

(1) The presiding judge must review each complaint and determine if the complaint:

(A) May be closed after initial review;

(B) Needs preliminary investigation; or

(C) Requires formal investigation.

(2) A presiding judge may request that the commission investigate and adjudicate the complaint if a local conflict of interest or disqualification prevents the court from acting on the complaint.

(3) In ~~exceptional circumstances~~ his or her discretion, a presiding judge may request the commission to investigate a complaint on behalf of the court and provide the results of the investigation to the court for action.

(4) The court must maintain a file on every complaint received, containing the following:

(A)–(D) \*\*\*

**(h) Closing a complaint after initial review**

1 (1) After a preliminary review the presiding judge may close without further action  
2 any complaint that:

3  
4 (A)-(B) \*\*\*  
5

6 (2) If the presiding judge decides to close the complaint after initial review, ~~the~~  
7 presiding judge must notify the complainant, if known, in writing of the decision  
8 to close the complaint. The notice must include the information required under  
9 (l).

10  
11 (3) The presiding judge must advise the subordinate judicial officer in writing of the  
12 ~~disposition~~ decision to close the complaint.

13  
14 **(i) Complaints requiring preliminary investigation**

15  
16 (1)-(2) \*\*\*  
17

18 (3) The presiding judge may give the subordinate judicial officer a copy of the  
19 complaint or a summary of its allegations and allow him or her an opportunity to  
20 respond to the allegations. The presiding judge must give the subordinate judicial  
21 officer a copy of the complaint or a summary of its allegations and allow the  
22 subordinate judicial officer an opportunity to respond to the allegations before the  
23 presiding judge takes appropriate informal action as described in (i)(4)(B).  
24

25 (4) After completing the preliminary investigation, the presiding judge must, in his or  
26 her discretion:

27 (A) Terminate the investigation and close action on the complaint if the  
28 presiding judge finds the complaint lacks merit; or

29 (B) Terminate the investigation and close action on the complaint by taking  
30 appropriate informal action, which may include an oral reprimand or oral  
31 warning to the subordinate judicial officer, if the presiding judge finds a  
32 basis for taking informal action; or  
33  
34  
35

- 1 (A) The subordinate judicial officer may request an opportunity to respond  
2 within 10 days after service of the notice; and  
3  
4 (B) If the subordinate judicial officer does not request an opportunity to  
5 respond within 10 days after service of the notice, the proposed action  
6 will become final.  
7  
8 (5) If the subordinate judicial officer requests an opportunity to respond, the presiding  
9 judge should allow the subordinate judicial officer an opportunity to respond to  
10 the notice of the intended final action, either orally or in writing as specified by  
11 the presiding judge, in accordance with local rules.  
12  
13 (6) Within 10 days after the subordinate judicial officer has responded, the presiding  
14 judge must give the subordinate judicial officer and the complainant if known,  
15 written notice of the final action taken on the complaint. The notice to the  
16 complainant must include the information required under (l).  
17  
18 (7) If the subordinate judicial officer does not request or has not been given an  
19 opportunity to respond, the presiding judge must promptly give written notice of  
20 the final action to the complainant if known. The notice must include the  
21 information required under (l).  
22

23 **(k) Notice to the Commission on Judicial Performance**  
24

- 25 (1) If a court disciplines a subordinate judicial officer by written reprimand under  
26 (i)(4)(B) or (j)(3)(C) or (D), suspension, or ~~removal~~ termination for conduct that,  
27 if alleged against a judge, would be within the jurisdiction of the commission  
28 under article VI, section 18 of the California Constitution, the presiding judge  
29 must promptly forward to the commission a copy of the portions of the court file  
30 that reasonably reflect the basis of the action taken by the court, including the  
31 complaint or allegations of misconduct and the subordinate judicial officer's  
32 response. This provision is applicable even when the disciplinary action does not  
33 result from a written complaint.  
34  
35 (2) If a subordinate judicial officer resigns either (A) while a preliminary or formal  
36 investigation under (i) or (j) is pending concerning conduct that, if alleged against a  
37 judge, would be within the jurisdiction of the commission under article VI, section 18  
38 of the California Constitution, or (B) under circumstances that would lead a  
39 reasonable person to conclude that the resignation was due, at least in part, to a  
40 complaint or allegation of misconduct that, if alleged against a judge, would be  
41 within the jurisdiction of the commission under article VI, section 18 of the  
42 California Constitution, then the presiding judge must, within 15 days of the  
43 resignation or as soon thereafter as is reasonably possible, forward to the commission

1 the entire court file on any pending complaint about or allegation of misconduct  
2 committed by the subordinate judicial officer.

3  
4 (3) \*\*\*

5  
6 **(I) Notice of final court action**

7  
8 (1) When the court has completed its action on a complaint, the presiding judge must  
9 promptly notify the complainant, if known, and the subordinate judicial officer of  
10 the final court action.

11  
12 (2) \*\*\*

13  
14  
15



## California Court Commissioners Association

JERI M. HAMLIN

President

**Tehama Superior Court  
633 Washington St, PO Box 278  
Red Bluff, CA 95080  
530-515-3560  
Hamlin@snowcrest.net**

SENT BY EMAIL TO AVOID DELAY

February 23, 2015

Judge Marsha Slough  
Chair, TCPJAC

Re: Letter of support for proposed revision to Rule 10.703 (version revised 1-29-15)

Dear Judge Slough:

Our organization would like to take this opportunity to sincerely thank you for providing a meaningful opportunity to participate in discussions to further modify the pending proposed revisions to California Rules of Court, Rule 10.703. We consider the January 28, 2015 meeting between our CCCA subcommittee members and yourself, along with your TCPJAC subcommittee members, to have been pivotal in making a positive difference as to CCCA's position on the Rule change.

We continue to believe that, had we been included at the very outset, in discussions about a rule that only affects subordinate judicial officers, the result would have been a different, and even better rule. However, under the circumstances of how long it took to get this far, and particularly as a result of the meeting you facilitated on January 28<sup>th</sup>, CCCA now wishes to provide this letter of support.

The further revised proposed Rule (revised 1-29-15, after our joint TCPJAC/CCCA meeting on 1-28-15) that we understand will go to the Judicial Council at its April 17, 2015 meeting (after passing review through RUPRO), contains changes that essentially address many of the concerns we had raised when submitting comments to the original proposal. As a result, we believe that this matter, once approved by RUPRO, can be placed on the Judicial Council's consent Agenda with our support.

Thank you again for your assistance in this matter. Please let us know if our organization can be of assistance in any other matters affecting our membership or the work that we do in the courts.

Sincerely,

Jeri Hamlin  
President, CCCA

**RUPRO ACTION REQUEST FORM****RUPRO action requested:** Recommend JC approval (has circulated for comment)**RUPRO Meeting:** March 20, 2015**Title of proposal:****Proposed revision to Notification of Military Status (form MIL-100)**Committee or other entity submitting the proposal:  
Collaborative Justice Courts Advisory Committee

Staff contact (Name, phone and e-mail):

Adrienne Toomey, Attorney

415-865-7977

Adrienne.Toomey@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: 2014

Project description from annual agenda: Make recommendations for implementing broad use of the form MIL-100, Notification of Military Status, to assist the courts in the identification of veterans involved in cases within the court system.

If requesting July 1 or out of cycle, explain:

At the recommendation of the Collaborative Justice Courts Advisory Committee, the Judicial Council adopted revisions to the optional Notification of Military Status (form MIL-100), effective January 1, 2015. These revisions responded to recent legislation directing courts to (1) inform criminal defendants at arraignment that there are provisions of law designed for former or current military service members who have been charged with a crime and (2) that the defendant may request a copy of the Judicial Council military form explaining those rights. The legislation directed the Judicial Council to revise the form accordingly.

To ensure the revised form was available to courts when the legislative changes took effect, January 1, 2015, the committee sought and received Judicial Council approval of the proposed revisions prior to circulating the proposed revisions for public comment. The committee has since circulated the revised form for public comment and recommends additional revision to the form to be effective July 1, 2015.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)





## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 16–17, 2015

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Title	Effective Date
Military Service: Notification of Military Status	July 1, 2015
Rules, Forms, Standards, or Statutes Affected	Date of Report
Revise form MIL-100	February 26, 2015
Recommended by	Contact
Collaborative Justice Courts Advisory Committee	Adrienne Toomey, Attorney
Hon. Richard Vlavianos, Chair	415-865-7977 <a href="mailto:Adrienne.Toomey@jud.ca.gov">Adrienne.Toomey@jud.ca.gov</a>
Agenda Item Type	Carrie Zoller, Supervising Attorney
Action Required	415-865-8829 <a href="mailto:Carrie.Zoller@jud.ca.gov">Carrie.Zoller@jud.ca.gov</a>

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### Executive Summary

The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council revise the optional *Notification of Military Status* (form MIL-100) to ensure the language is consistent throughout the form and that all relevant statutory provisions are referenced. The form was previously revised effective January 1, 2015, in response to legislative changes that became effective on that same date. The short time available for that revision did not allow for a period of public comment prior to the council's action in approving the revisions. The January 1, 2015, version of the form has since been circulated for public comment and is submitted for further revision.

## **Recommendation**

The Collaborative Justice Courts Advisory Committee recommends that the Judicial Council, effective July 1, 2015, revise the optional *Notification of Military Status* (form MIL-100) as follows:

1. Add reference to Penal Code section 858 to the right footer of page 1.
2. Add “possibly” following “Rights include” under “California Penal Code 1001.80: Diversion in misdemeanor cases” on page 2 to achieve consistency with preceding language describing Penal Code 1170.9.
3. Add “Eligible for diversion and court orders diversion” under the “Requirements include” section under “California Penal Code 1001.80: Diversion in misdemeanor cases” on page 2 to achieve consistency with preceding language describing Penal Code section 1170.9.
4. Combine the language from two currently distinct bullet points stating “Waiver of the right to speedy trial” and “Consent to diversion” under the “Requirements include” section under “California Penal Code 1001.80: Diversion in misdemeanor cases” on page 2 into one bullet point to read “Waiver of the right to speedy trial and consent to diversion.”

## **Previous Council Action**

The Judicial Council adopted form MIL-100 effective January 1, 2014, at the recommendation of the Collaborative Justice Courts Advisory Committee. The committee recommended adoption of the form to facilitate courts’ ability to address legal issues implicated by a party’s military service status and to comply with alternative criminal sentencing considerations for current and former military service members under Penal Code section 1170.9.

At the recommendation of the Collaborative Justice Courts Advisory Committee, the Judicial Council adopted revisions to the optional *Notification of Military Status* (form MIL-100), effective January 1, 2015. These revisions responded to recent legislation directing courts to (1) inform criminal defendants at arraignment that there are provisions of law designed for former or current military service members who have been charged with a crime and (2) that the defendant may request a copy of the Judicial Council military form explaining those rights. The legislation directed the Judicial Council to revise the form accordingly.

To ensure the revised form was available to courts when the legislative changes took effect, January 1, 2015, the committee sought and received Judicial Council approval of the proposed revisions prior to circulating the proposed revisions for public comment. The revised form was circulated for public comment from December 12, 2014 to January 23, 2015, and recommends additional revision to the form to be effective July 1, 2015.

## Rationale for Recommendation

The committee recommends specified changes to the form to ensure the language is consistent throughout the form and that all relevant statutory provisions are referenced. The recommended changes are based on the committee's own review and are not based on comments received.

## Comments, Alternatives Considered, and Policy Implications

The form as revised effective January 1, 2015, was circulated during the winter public comment cycle. The committee received six comments: five agreed with the proposal, including the Superior Courts of Los Angeles, Sacramento, and Marin Counties and the State Bar of California, and one agreed with the proposal if modified. Some commentators in agreement with the proposal nonetheless suggested further revision to the form (Superior Courts of Sacramento and Los Angeles Counties). A chart with all comments received is attached.

### Alternatives considered

The committee considered the following alternatives:

- ***Including a space on form for the county veterans services officer to indicate confirmation of military status and return form to court:*** The recent legislative amendments to Penal Code section 858 direct that when a criminal defendant acknowledges his or her military status and submits the optional *Notification of Military Status* form to the court, the court must transmit a copy of the form to the county veterans service officer for confirmation of the defendant's military service and must also transmit a copy of the form to the Department of Veterans Affairs. Two commentators suggested including a separate space on the form for the county veterans services officer to include a response back to the court regarding military status. The committee declined to recommend this suggested revision, recognizing that there may be various county-specific practices for communicating veteran status information from the veterans services officer to the court and that courts should be able to determine the best procedure for their court.
- ***Including space for party's social security number and date of birth:*** A commentator suggested including a space to include the party's social security number and date of birth on the form. The committee declined to recommend these suggested revisions, recognizing that including this information on otherwise public court documents would implicate privacy concerns that could not only discourage parties with military status from submitting the form, but also implicate burdensome redaction procedures (see Cal. Rules of Ct., rule 1.20(b)) and other court processes. Moreover, courts will only transmit these forms to veterans services officers for service confirmation in criminal cases where the defendant acknowledges their veteran status and submits the form to the court. Committee members with experience with Veterans Court programs indicated that

veterans services officers do not require a complete social security number to confirm a veteran's status, and that in those limited cases where the veterans services officer is unable to confirm veteran status based on the information already on the form, the court, party, and the party's defense counsel can provide additional information to the veterans services officer on a case-by-case basis and in a manner that works best in each county and court.

### **Implementation Requirements, Costs, and Operational Impacts**

Although courts may experience operational impacts resulting from new legislative arraignment admonition requirements, the present proposal to make the specified language changes to the form will not cause additional operational costs.

### **Attachments**

1. Form MIL-100, at pages 5–6
2. Comment Chart, at pages 7–9

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):  TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>   <b>DRAFT</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
<b>CASE NAME:</b> _____	
<b>NOTIFICATION OF MILITARY STATUS</b>	CASE NUMBER: _____

**Consult your attorney before submitting this form. You may decline to submit this form to the court without penalty.**

I (*name*): \_\_\_\_\_ declare as follows:

1.  I am a party in a superior court case.
2.  I am currently a member of the state or federal armed services or reserves. My entry date is: \_\_\_\_\_, and I
  - a.  am on active duty service.
  - b.  have been called or ordered into active duty service.
  - c.  am not on active duty service.
  - d.  other (*please explain*): \_\_\_\_\_
3.  I used to serve in the state or federal armed services or reserves. I was discharged on (*date*): \_\_\_\_\_
4.  I understand that if I submit this form to the court as a defendant in a criminal case, the court will send copies of the form to the county veterans service officer and the Department of Veterans Affairs.
5.  I am filing this form on behalf of \_\_\_\_\_, a party to the above entitled case, whom I am informed and believe is a  member  veteran of the state or federal armed services. I am the  attorney  other (*specify*): \_\_\_\_\_ of this party. My contact information  is provided at the top of this form  follows: Name: \_\_\_\_\_ Address: \_\_\_\_\_ Telephone number: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
(TYPE OR PRINT NAME) SIGNATURE

Local County Veterans Services Office Information (to be provided by local court):	
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**NOTICE**

**Certain provisions of California law apply to current and former members of the U.S. Military who have been charged with a crime when certain conditions are met. Please see the back of this form for more information. To submit this form as a party in a criminal case you must file it with the court and serve it on the prosecuting attorney and defense counsel. Filing of this notification form does not substitute for filing of other forms or petitions that are required by your court case.** If you are requesting consideration or restorative relief under Penal Code section 1170.9, this form alone will not meet the requirement that you assert to the court that the crime you were charged with was a result of a condition caused by your military service. If you are filing for relief from financial obligation during military service, a notification of military deployment and request to modify a support order, or other relief under the Service Members' Civil Relief Act (50 App. U.S.C. §§ 501-597(b)), you must complete the appropriate forms, and completion of this form is not required. Please see form MIL-010 (*Notice of Petition and Petition for Relief From Financial Obligations During Military Service*) and form FL-398 (*Notice of Activation of Military Service and Deployment and Request to Modify a Support Order*).

**YOU SHOULD CONSULT WITH YOUR ATTORNEY ABOUT THE FOLLOWING INFORMATION  
AND BEFORE SUBMITTING THIS FORM.**

If you are a current or former member of any branch of the U.S. Military who may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of your military service and charged with a crime, you may be entitled to certain rights under some California laws. Below are brief explanations of some of those laws. You should consult with your attorney to discuss how these and/or other laws may apply to you.

You are not required to have an honorable discharge, to have combat service, or to be accepted into a Veterans Court to be eligible for the rights described in the following statutes.

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**California Penal Code 1170.9:** Consideration for alternative sentencing and restorative relief.

Rights include possibly:

- Receiving treatment instead of prison or jail time for certain crimes
- Having a greater chance of receiving probation
- Having conditions of probation deemed satisfied early, other than any victim restitution ordered, and probation terminated early
- Having some felonies reduced to misdemeanors
- Having the court restore rights, dismiss penalties, and/or set aside conviction for certain crimes

Requirements include:

- For consideration for alternative sentencing:
  - Convicted of certain criminal offenses (some crimes do not qualify)
  - Eligible for probation and court orders probation
- For restorative relief following order of probation:
  - In substantial compliance with conditions of probation
  - A successful participant in and demonstration of significant benefits from treatment and services
  - No danger to the health and safety of others

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**California Penal Code 1001.80:** Diversion in misdemeanor cases.

Rights include possibly:

- *Pretrial* diversion program instead of trial and potential conviction and incarceration
- Dismissal of eligible criminal charges following satisfactory performance in program
- Arrest is deemed to have “never occurred” for most purposes following successful completion of program

Requirements include:

- Application to misdemeanors only, *not* felonies
- Eligible for diversion and court orders diversion
- Waiver of right to speedy trial and consent to diversion
- Satisfactory performance in program

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**California Penal Code 1170.91:** Mitigating factor in felony sentencing.

- The court shall consider these circumstances from which the defendant may be suffering as a result of military service as a factor in mitigation during felony sentencing, which could mean a more lenient sentence.

## MIL-100

### Notification of Military Status

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
1.	Kim Turner, CEO on behalf of the Superior Court of Marin County	A	I strongly support this proposal, as there is great confusion and misinformation about how to best serve veterans. Any information that can assist them in understanding their post-judgment options will be very helpful.	No response required.
2.	Ashleigh E. Aitken, President commenting on behalf of Orange County Bar Association	A		
3.	Mike Roddy, Executive Officer commenting on behalf of the Superior Court of San Diego County	AM	If a MIL-100 is filed, the court is required to send a copy of the form to the county veterans service officer for confirmation of the defendant's military service. (PC 858(e).) San Diego would like to have a separate section under the "Notice" for the county veterans service officer to fill out and sign to confirm or deny the defendant's military status (and then they could return that form to the court).	The committee declines the suggestion as unnecessary, recognizing that there may be various county-specific practices for communicating veteran status information from the veterans services officer to the court and that courts should be able to determine the best procedure for the individual court.
4.	Superior Court of Los Angeles County	A	<p>Paragraph 2: Add a subparagraph: am a member Ready Reserve. (*Inactive National Guard, Individual Ready Reserve and Selected Reserve)</p> <p>The present *form assumes the military service member served on active duty currently or in the past. There are thousands of active reservists and members of the National Guard who were never mobilized or deployed on active duty. This distinction is important because members of the Ready Reserve may still be eligible for some health benefits for substance abuse and mental health through the Veteran's Administration.</p>	The committee declines the suggestion as unnecessary. The committee believes that the information called for in question 2 on page 1 of the form captures reserve service information.

## MIL-100

### Notification of Military Status

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
5.	The State Bar of California Sharon Nhim on behalf of Maria C. Livingston, Chair, Standing Committee on the Delivery of Legal Services	A	SCDLS supports the proposed changes to MIL-100. The added language in the Notice box on page 1 informing current and former military personnel about their statutory rights in criminal cases, as well as in certain civil and family law cases, helps ensure that the party is informed of essential information, and will be especially helpful if the party is a low- or moderate-income self-represented litigant.	No response required.
6.	Brenda Brower, Criminal Division Analyst commenting on behalf of the Superior Court of Sacramento County	A	<p>[Questions from Invitation to Comment are in italics]</p> <p><i>Do the recent revisions to the form appropriately address the stated purpose?</i> Yes</p> <p><i>Are any additional revisions recommended?</i> Yes</p> <ul style="list-style-type: none"> <li>• Add field for Date of Birth</li> <li>• Add field for Social Security Number</li> <li>• Add section for Dept. of Veteran’s Affairs <ul style="list-style-type: none"> <li>○ Per our contacts at the Public Defender’s Office, they County VA Services Office and the Department of Veteran’s Affairs cannot verify status without this information.</li> </ul> </li> <li>• Add section on second page for response back to court from County VA Services Office and Veteran’s Affairs.</li> </ul> <p><i>The advisory committee also seeks comments from courts on the following cost and implementation matters:</i> <i>Would the proposal provide cost savings? If so</i></p>	<p><b><i>Including space for party’s social security number and date of birth:</i></b> The committee declines to recommend the suggested revisions. Including this information on otherwise public court documents would implicate privacy concerns that could not only discourage parties with military status from submitting the form, but also implicate burdensome redaction procedures (see Cal. Rules of Ct., rule 1.20(b)) and other court processes. Moreover, courts will only transmit these forms to veterans services officers for service confirmation in criminal cases where the defendant him or herself acknowledges their veteran status and submits the form to the court. In those limited cases where the veterans services officer is unable to confirm veteran status based on the information already on the form, the court, party, and the party’s defense counsel can provide additional information to the veterans services on a case-by-case basis.</p> <p><b><i>Including a space on form for the county veterans services officer to indicate confirmation of military status and return form to court:</i></b></p>



# MIL-100

## Notification of Military Status

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p><i>please quantify.</i></p> <p>No, in fact costs may increase as additional monitoring of court cases will be required for those that may qualify for services.</p> <p><i>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</i></p> <p>Affected staff are Judges, Courtroom Clerks, and other Support Staff. We are already in the process of updating procedures for court staff and advisement scripts for Judges. Approximately four to eight hours of training and procedure / script updating.</p> <p>No additional docket codes for our case management system are planned at this time. This may change in the future based on volume. however hard copy files will need to be flagged and marked differently to identify those that qualify for veteran services.</p> <p><i>How well would this proposal work in courts of different sizes?</i></p> <p>Courts with a larger population of veterans may have a greater number of filings and a larger workload association with monitoring of diversion programs.</p>	Please see committee response in row 3 above.

**RUPRO ACTION REQUEST FORM****RUPRO action requested:** Submit to JC (without circulating for comment)**RUPRO Meeting:** March 20, 2015**Title of proposal:****Domestic Violence and Family Law: Technical Changes to Forms**Committee or other entity submitting the proposal:  
Family and Juvenile Law Advisory Committee

Staff contact (Name, phone and e-mail):

Gabrielle D. Selden, Attorney  
415-865-8085  
Gabrielle.Selden@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Project #8: FL-800 Joint Petition for Summary Dissolution Update to reflect change in cost of living per Family Code section 2400(b) as a technical change.

If requesting July 1 or out of cycle, explain:

Family Code section 2400(b) requires that the Judicial Council adjust the published dollar limitations for summary dissolution actions each odd-numbered year based on the figures provided in the California Consumer Price Index. Based on a change in the value of the dollar, forms FL-800 and FL-810 need to be revised to reflect an increase in the published limits for community and separate property assets from \$40,000 to \$41,000. In addition, the revisions to form DV-600 will allow the Judicial Council to correct technical errors to the form and implement a minor change recommended by the Department of Justice.

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

None.



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: April 17, 2015

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Title	Agenda Item Type
Domestic Violence and Family Law: Technical Changes to Forms	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms DV-600, FL-800, FL-810, and FL-830	July 1, 2015
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee	February 27, 2015
Hon. Jerilyn L. Borack, Cochair Hon. Mark A. Juhas, Cochair	Contact
	Gabrielle D. Selden, 415-865-8085 <a href="mailto:gabrielle.selden@jud.ca.gov">gabrielle.selden@jud.ca.gov</a>

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### **Executive Summary**

The Family and Juvenile Law Advisory Committee recommends making technical revisions to one domestic violence form and three family law forms. The revision to the domestic violence form was suggested by court staff to avoid the perception that a court hearing is required before obtaining a judge's signature on the form. The technical changes to the two family law summary dissolution forms are mandated by Family Code section 2400 to reflect an increase in the California Consumer Price Index. The third summary dissolution form is updated to remove a citation to a recently revoked form and update the title of the mandatory form used to initiate an action for dissolution of a marriage or domestic partnership.

### **Recommendation**

The Family and Juvenile Law Advisory Committee, recommends that the Judicial Council, effective July 1, 2015:

1. Revise *Order to Register Out-of-State or Tribal Court Protective/Restraining Order (CLETS)* (form DV-600) by: (a) replacing “(CLETS)” in the form’s title with “(CLETS-OOS),” as requested by the Department of Justice; and (b) deleting the incorrect reference to “*Notice of Court Hearing*” in the Clerk’s Certificate and replacing it with the correct form title “*Order to Register Out-of-State or Tribal Court Protective/Restraining Order,*” as approved by the Department of Justice;
2. Approve and adopt the calculations attached at page 5, which result in the maximum dollar amounts for community and separate property assets that parties can have to proceed by summary dissolution;
3. Revise summary dissolution forms FL-800 and FL-810 to reflect an increase in the maximum limits for community and separate property assets under Family Code section 2400(a)(7) <sup>1</sup> from \$40,000 to \$41,000; and
4. Revise form FL-830 to delete the reference to revoked form FL-103, and update the title of form FL-100.

The revised forms are attached at pages 6–32.

### **Previous Council Action**

Effective January 1, 2012, the Judicial Council revised *Order to Register Out-of-State or Tribal Court Protective/Restraining Order* (form DV-600) to include information for the court clerk about how to seal the order, as provided in Family Code section 6404. The title of the form was also revised to include a reference to tribal court orders.

Effective July 1, 2013, the Judicial Council revised forms FL-800 and FL-810 to reflect an increase solely in the maximum limits for community and separate property assets under Family Code section 2400(a)(7), from \$38,000 to \$40,000.

Effective July 1, 2014, the Judicial Council revoked *Petition—Domestic Partnership/Marriage* (form FL-103) and *Response—Domestic Partnership/Marriage* (form FL-123).

### **Rationale for Recommendation**

#### **Domestic Violence form DV-600**

When the Judicial Council adopted revisions to form DV-600, effective January 1, 2012, the Clerk’s Certificate portion of the form included an erroneous reference to another form—*Notice of Hearing* rather than the title of form DV-600.

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<sup>1</sup> The total fair market value of community property and separate property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan.

The reference to a notice of hearing on the form caused confusion to courts because it gave the impression that a hearing was needed before a judicial officer could sign form DV-600 and register an out-of-state or tribal court protective or restraining order. The Family Code, however, does not require a hearing on a request to register the order.

The committee proposed changing form DV-600 by deleting the incorrect reference to “Notice of Hearing” and replacing it with the correct form title “*Order to Register Out-of-State or Tribal Court Protective/Restraining Order*. As required by Family Code section 6380(i), the committee submitted a proposed revised form DV-600 to the Department of Justice and obtained its approval on the proposed changes. In addition, the Department of Justice recommended amending the term “(CLETS)” in the form’s title to “(CLETS-OOS).” This change better identifies the correct order type for entry into CLETS.

### **Family Law summary dissolution forms**

Family Code section 2400(b) requires that on January 1 of each odd-numbered year, the dollar limitations on items indicated in Family Code section 2400(a)(6) and (a)(7) be adjusted to reflect any change in the value of the dollar.<sup>2</sup> Section 2400 (b) requires that the Judicial Council compute and publish the adjusted amounts. The adjustments are computed by multiplying the base amount by the percentage change in the California Consumer Price Index (the calculation is attached at page 5). The results are then rounded to the nearest thousand dollars and published in summary dissolution forms FL-800 and FL-810.

Based on the annual average of the 2014 California Consumer Price Index of 246.055, the adjusted limit of the total fair market value of community and separate property assets is \$41,326.87, which results in a \$1,000.00 increase in the current published limit. The adjusted limit of the maximum amount for unpaid community obligations is \$6,199.03, which results in no change to the current published limit when rounded to the nearest thousand dollars. To reflect this change:

- *Joint Petition for Summary Dissolution* (form FL-800) is modified to increase the limitation on assets from \$40,000 to \$41,000; and
- The instructional booklet titled *Summary Dissolution Information* (form FL-810) is modified to reflect the changes in form FL-800.<sup>3</sup> The Spanish translation of this booklet (form FL-810S) will also be updated.

In addition, the committee recommends revising *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) to delete the reference to *Petition—Domestic Partnership/Marriage*

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<sup>2</sup> Since the January 1 figures only become available in February, these bi-annual modifications are made for the July 1, forms cycle.

<sup>3</sup> The changes to form FL-810 are highlighted in this report on pages 10, 12, 14, and 16–20.

(form FL-103), which was revoked by the Judicial Council, effective July 1, 2014. Instead, form FL-830 would be revised to reflect the current title of form FL-100, *Petition—Marriage/Domestic Partnership*, which must be filed and served to commence all actions for dissolution, legal separation, or nullity of all marriages and domestic partnerships that do not meet the requirements for a summary dissolution.

### **Comments, Alternatives Considered, and Policy Implications**

This proposal was not circulated for comment. Under rule 10.22(d)(2) of the California Rules of Court, the modifications to form DV-600, the adjustments proposed to forms FL-800, FL-810, and the corrected reference on form FL-830 are minor substantive changes and are unlikely to create controversy. In addition, the adjustments to forms FL-800 and FL-810 are required by statute. Finally, if a court develops a forms packet, form DV-830 is normally included with forms FL-800 and FL-810, and it is now legally inaccurate.

Given the statutory requirement relating to the summary dissolution forms, no alternative actions were considered. With respect to form DV-600, the committee considered submitting the form in a separate cycle as its own technical report if the Department of Justice did not timely approve the changes. Implementation of the revisions will require courts to incur standard reproduction costs for the forms.

### **Attachments and Links**

1. Forms DV-600, FL-800, FL-810, and FL-830, at pages 6-32

**Asset and Debt Limits in Summary Dissolution Proceedings  
(Fam. Code, § 2400)**

**Formula**

Under Family Code section 2400(b), the dollar limits for community property debts and community and separate property assets in actions for Summary Dissolution shall be adjusted by multiplying the base amount by the percentage change in the California Consumer Price Index as compiled by the Department of Industrial Relations, with the result rounded to the nearest thousand dollars.

$$\text{Adjusted limit} = \left[ \frac{\text{CCPI(AA) 2014} - \text{CCPI(AA) 2012}}{\text{CCPI(AA) 2012}} + 1 \right] \times \text{Published limit}$$

**Definition**

*CCPI (AA)* is the California Consumer Price Index, Annual Average, as established by the California Department of Industrial Relations.

**January 1, 2015, calculation and adjustment for community debts**

Under Family Code section 2400(a)(6), effective July 1, 2015, there is no change to the maximum dollar amount for unpaid obligations incurred by either or both of the parties after their date of marriage, excluding the amount of any unpaid obligation with respect to an automobile community debts. The calculation is as follows:

$$\mathbf{\$6,199.03} = \left[ \frac{246.055 - 238.155}{238.155} + 1 \right] \times \$6,000.00$$

The adjusted limit under Family Code section 2400(b), when rounded to the nearest thousand dollars, remains the same as the current published limit at \$6,000.

**January 1, 2015, calculation and adjustment for community and separate property assets**

Under Family Code section 2400(a)(7), the total fair market value of community and separate property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, effective July 1, 2015, shall not exceed **\$41,000**.

The calculation is as follows:

$$\mathbf{\$41,326.87} = \left[ \frac{246.055 - 238.155}{238.155} + 1 \right] \times \$40,000.00$$

The adjusted limit under Family Code section 2400(b), when rounded to the nearest thousand dollars, results in a \$1,000.00 increase in the current published limit.

**DV-600**

**Order to Register Out-of-State or Tribal Court Protective/Restraining Order**

Clerk stamps date here when form is filed.  
  
**DRAFT**  
  
**NOT APPROVED BY THE JUDICIAL COUNCIL**

**1 Name of Protected Person:**

\_\_\_\_\_  
Your lawyer in this case (if you have one):  
Name: \_\_\_\_\_ State Bar No.: \_\_\_\_\_  
Firm Name: \_\_\_\_\_  
**Address** (If you have a lawyer for this case, give your lawyer's information. If you do not have a lawyer and want to keep your home address private, give a different mailing address instead. You do not have to give your telephone, fax, or e-mail.):  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_

Fill in court name and street address:  
**Superior Court of California, County of**  
\_\_\_\_\_  
\_\_\_\_\_

**2 Name of Restrained Person:**

**Description of restrained person:**

Sex:  M  F Height: \_\_\_\_\_ Weight: \_\_\_\_\_ Hair Color: \_\_\_\_\_ Eye Color: \_\_\_\_\_  
Race: \_\_\_\_\_ Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_  
Address (if known): \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Relationship to protected person: \_\_\_\_\_

Fill in case number:  
**Case Number:**  
\_\_\_\_\_  
\_\_\_\_\_

**3** I am protected by the attached protective/restraining order. The order was made by (name and address of court):  
\_\_\_\_\_

**4 The attached order:**

- Is a true and correct copy
- Is currently valid and in full force and effect
- Has not been changed, canceled, or replaced by any other order
- Was made in a different state, U.S. territory, Indian tribal court, the District of Columbia, Puerto Rico, US Virgin Islands, or in a military court
- Expires on (date) \_\_\_\_\_

**5** I ask that the attached order be registered with this court for entry into the California Law Enforcement and Telecommunication System (CLETS). My request is voluntary. I understand that registration of the order is not necessary for enforcement.

I declare under penalty of perjury under the laws of the State of California that the above information is true and correct.

Date: \_\_\_\_\_

\_\_\_\_\_  
Type or print your name

\_\_\_\_\_  
Sign your name

**This is a Court Order.**





Case Number:

The attached out-of-state restraining order is registered, valid, and enforceable in California, and can be entered into CLETS, unless it ends or is changed by the court that made it.

Date: \_\_\_\_\_

▶ \_\_\_\_\_  
*Judge (or Judicial Officer)*

**Court Clerk Must Seal This Form and Attached Foreign Protection Order**

This form sets forth the procedure to register a foreign protection order under Family Code section 6404. No court hearing is required to register the foreign protection order. This form and the attached foreign protection order must be sealed pursuant to Family Code section 6404(a). Access to the foreign protection order is allowed only to law enforcement, the person who registered the order upon written request with proof of identification, the defense after arraignment on criminal charges involving an alleged violation of the order, or upon further order of the court.

*(Clerk will fill out this part.)*

**—Clerk’s Certificate—**

*Clerk’s Certificate*  
*[seal]*

I certify that this *Order to Register Out-of-State or Tribal Court Protective/Restraining Order* is a true and correct copy of the original on file in the court.

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**This is a Court Order.**

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>name, State Bar number, and address</i> ):  TELEPHONE NO.: _____ FAX NO. : _____ E-MAIL ADDRESS: _____ ATTORNEY FOR ( <i>name</i> ): _____	<p><b>DRAFT</b></p> <p><b>NOT APPROVED BY THE JUDICIAL COUNCIL</b></p>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>MARRIAGE OR PARTNERSHIP OF</b> PETITIONER 1: PETITIONER 2:	
<b>JOINT PETITION FOR SUMMARY DISSOLUTION</b> <input type="checkbox"/> MARRIAGE <input type="checkbox"/> DOMESTIC PARTNERSHIP	CASE NUMBER:

**We petition for a summary dissolution of marriage, registered domestic partnership, or both** and declare that all the following conditions exist on the date this petition is filed with the court:

1. We have read and understand the *Summary Dissolution Information* booklet (form FL-810).
2. a.  We were married on (*date*):  
 b.  We registered as domestic partners on (*date*):
3.  We separated on (*date*):
4. Less than five years have passed between the date of our marriage and/or registration of our domestic partnership and the date of our separation.
5. a.  One of us has lived in California for at least six months and in the county of filing for at least the three months preceding the date of filing. Or we are only asking to end a domestic partnership registered in California.  
 b.  We are the same sex and were married in California but are not residents of California. Neither of us lives in a place that will allow us to divorce. We are filing this case in the county in which we married.
6. There are no minor children who were born of our relationship before or during our marriage or domestic partnership or adopted by us during our marriage or domestic partnership. Neither one of us, to our knowledge, is pregnant.
7. Neither of us has an interest in any real property anywhere. **(You may have a lease for a residence in which one of you lives. It must terminate within a year from the date of filing this petition. The lease must not include an option to purchase.)**
8. Except for obligations with respect to cars, on obligations incurred by either or both of us during our marriage or domestic partnership, we owe no more than \$6,000.
9. The total fair market value of community property assets, not including what we owe on those assets and not including cars, is less than \$41,000.
10. Neither of us has separate property assets, not including what we owe on those assets and not including cars, in excess of \$41,000.
11. We each have filled out and given the other an *Income and Expense Declaration* (form FL-150).
12. We have complied with the preliminary disclosure requirements as follows:
  - a. We each have disclosed information about the value and division of our property by filling out and giving each other copies of the documents listed in (1) or (2) below (specify):
    - (1)  The worksheets on pages 7, 9, and 11 of the *Summary Dissolution Information* booklet (form FL-810).
    - (2)  A *Declaration of Disclosure* (form FL-140), a *Schedule of Assets and Debts* (form FL-142), or *Property Declaration* (form FL-160), and all attachments to these forms.
  - b. We have told each other in writing about any investment, business, or other income-producing opportunities that came up after we were separated based on investments made or work done during the marriage or domestic partnership and before our separation.
  - c. We have exchanged all tax returns each of us has filed within the two years before disclosing the information described in 12a.

PETITIONER 1: PETITIONER 2:	CASE NUMBER:
--------------------------------	--------------

13. (Check whichever statement is true.)

- a.  We have no community assets or liabilities.
- b.  We have signed an agreement listing and dividing all our community assets and liabilities and have signed all the papers necessary to carry out our agreement. A copy of our agreement is attached to the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825).

14. Irreconcilable differences have caused the irremediable breakdown of our marriage and/or domestic partnership, and each of us wishes to have the court dissolve our marriage and/or domestic partnership without our appearing before a judge.

- 15. a.  Petitioner 1 desires to have his or her former name restored. That name is (specify):
- b.  Petitioner 2 desires to have his or her former name restored. That name is (specify):

16. We each give up our rights to appeal and to move for a new trial after the effective date of our *Judgment of Dissolution*.

17. **Each of us forever gives up any right to spousal or partner support from the other.**

18. We each agree to keep the court and each other informed of any change of mailing address or phone number occurring within six months from the filing of this joint petition using the *Notice of Change of Address or Other Contact Information* (form MC-040).

19. We are submitting the original and three copies of the proposed *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) and two stamped envelopes together with this petition. One envelope is addressed to Petitioner 1 and the other to Petitioner 2.

20. We agree that this matter may be determined by a commissioner sitting as a temporary judge.

21. **Mailing address of Petitioner 1**

22. **Mailing address of Petitioner 2**

Name:  
 Address:  
  
 City:  
 State:  
 Zip Code:

Name:  
 Address:  
  
 City:  
 State:  
 Zip Code:

23. Number of pages attached: \_\_\_\_\_

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attached documents are true and correct.

Date:

Date:

▶ \_\_\_\_\_

(SIGNATURE OF PETITIONER 1)

▶ \_\_\_\_\_

(SIGNATURE OF PETITIONER 2)

**NOTICES**

**Your marriage and/or domestic partnership will end six months from the date of filing this joint petition. Both petitioners will receive a stamped copy from the court of the *Judgment of Dissolution and Notice of Entry of Judgment* (from FL-825) stating the effective date of your dissolution. Until the effective date specified on form FL-825 for the dissolution of your marriage and/or domestic partnership, either one of you can stop this joint petition by filing a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830). If you stop this joint petition, you will STILL be married or in a domestic partnership.**

Dissolution may automatically cancel the rights of a spouse or domestic partner under the other spouse's or domestic partner's will, trust, retirement plan, power of attorney, pay-on-death bank account, transfer-on-death vehicle registration, survivorship rights to any property owned in joint tenancy, and any other similar instrument. It does not automatically cancel the rights of a spouse or domestic partner as beneficiary of the other spouse's or domestic partner's life insurance policy. You should review these matters, as well as any credit card accounts, other credit accounts, insurance policies, and credit reports to determine whether they should be changed or whether you should take any other actions. However, some changes may require the agreement of your spouse or domestic partner or a court order. (See Fam. Code, §§ 231–235.)

**DRAFT--NOT APPROVED BY THE JUDICIAL COUNCIL**

# **SUMMARY DISSOLUTION INFORMATION**

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This booklet is available in English and Spanish from the office of the court clerk in the superior court of each county in California, or at [www.courts.ca.gov/selfhelp.htm](http://www.courts.ca.gov/selfhelp.htm).

Este folleto puede obtenerse en inglés y en español en la Dirección de Registro Público del Condado (Office of the Court Clerk) o en la Corte Superior (Superior Court) de cada condado en el estado de California o en el sitio [www.sucorte.ca.gov](http://www.sucorte.ca.gov).

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## I. WHAT IS THIS BOOKLET ABOUT?

This booklet describes a way to end a marriage, a domestic partnership, or both through a kind of divorce called **summary dissolution**.

The official word for **divorce** in California is **dissolution**. There are two ways of getting a divorce, or dissolution, in California. The usual way is called a **regular dissolution**.

Summary dissolution is a shorter and easier way. But not everybody can use it. Briefly, a summary dissolution is possible for couples who

1. have no children together;
2. have been married and/or in a domestic partnership five years or less (this means that the time between the date you married or registered your domestic partnership and the date you separated from your spouse or partner is five years or less);
3. do not own very much;
4. do not owe very much;
5. do not want spousal or partner support from each other; and
6. have no disagreements about how their belongings and their debts are going to be divided up once they are no longer married to or in a domestic partnership with each other.

With this procedure, you will not have to appear in court. You may not need a lawyer, but it is in your best interest to see a lawyer about the ending of your marriage or domestic partnership. See page 19 for more details about how a lawyer can help you.

For a summary dissolution, you prepare and file a *Joint Petition for Summary Dissolution* (form FL-800), together with a property settlement agreement,\* with the superior court clerk in your county. You will also prepare and turn in a *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825). Your divorce, ending your marriage and/or your domestic partnership, will be final six months after you file your *Joint Petition for Summary Dissolution*. During the six months while you wait for your divorce to become final, either of you can stop the process of summary dissolution if you change your mind. One of you can file a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830), and that will stop the divorce. If either one of you still wants to get divorced, then that person will have to file for a regular dissolution with a *Petition—Marriage/Domestic Partnership* (form FL-100) unless you both agree to start a new summary dissolution process.

**IMPORTANT!** Domestic partners who qualify for a summary dissolution can choose to use the process described in this booklet OR a special summary dissolution for domestic partners through the California Secretary of State. You can find the California Secretary of State forms at [www.sos.ca.gov](http://www.sos.ca.gov). **There is no filing fee for this process.** If you choose to file to terminate your domestic partnership through the Secretary of State, do not use this guide.

This booklet will tell you

1. who can use the summary dissolution procedure;
2. what steps you must take to get a summary dissolution;
3. when it would help to see a lawyer; and
4. what risks you take when you use this procedure rather than the regular dissolution procedure.

If you wish to use the summary dissolution procedure, you must, at the time you file the joint petition, sign a statement that says you have read and understood this booklet. It is important for you to read the whole booklet very carefully.

Save this booklet for at least six months if you decide to start a summary dissolution. If you decide you want to stop the summary dissolution process and revoke your petition, it will tell you how to do that.

---

### SPECIAL WARNING

If you are an undocumented person who became a lawful permanent resident on the basis of your marriage to a U.S. citizen or to a lawful permanent resident, obtaining a dissolution within two years of your marriage may lead to your deportation. You should consult a lawyer before obtaining a divorce.

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\* A property settlement agreement is an agreement that the two of you write or have someone write for you after you fill out the worksheets in this booklet. The agreement spells out how you will divide what you own and what you owe.

## II. SOME TERMS YOU NEED TO KNOW

In the following pages, you will often see the terms *community property*, *separate property*, and *community obligations*. Those terms are explained in this section.

As a married couple or domestic partners, the two of you are, in the eyes of the law, a single unit. There are certain things that you **own together** rather than separately. And there may be certain debts that you **owe together**. If one of you borrows money or buys something on credit, the other one can be made to pay.

If your marriage or domestic partnership breaks up, you become two separate individuals again. Before that can happen, you have to decide what to do with the things you *own* as a couple and the money you *owe* as a couple.

The laws that cover these questions contain the terms *community property*, *separate property*, and *community obligations*. To understand what these terms mean, you should have a clear idea of the **length of time you lived together as spouses or domestic partners**. This is the period between the day you married or registered your domestic partnership and the day you separated.

It may not be easy to decide exactly when you separated. In most cases, the day of the separation is the day the couple stopped living together. However, you may want to choose the day when you definitely decided to get a divorce and took some action to show this (like telling your spouse or partner that you wanted a divorce).

### Community Property

Community property is everything spouses or registered domestic partners **own together**.

In most cases that includes

1. money you now have that either of you earned during the time you were living together as spouses or partners; and
2. anything either of you bought with money earned during that period. It does not matter if only one of you earned or spent the money.

### Separate Property

Separate property is everything spouses or registered domestic partners **own separately from each other**.

In most cases that includes

1. anything either of you owned before you got married or registered your domestic partnership;
2. anything either of you earned or received after your separation; and
3. anything either of you received, as a gift or by inheritance, at any time.

### Community Obligations

Community obligations are the debts spouses or registered domestic partners **owe together**.

In most cases that includes anything you still owe on any debts either of you acquired during the time you were living together as spouses or registered domestic partners. (For instance, if you bought furniture on credit while you were married or domestic partners and living together, the unpaid balance is a part of your community obligations.) It usually does not matter if the debt was in the name of one spouse or domestic partner only, like on a credit card.

**NOTE:** If you have any questions about your separation date or about your property, it would be good to see a lawyer as these issues can be complicated. Also, if you lived together before your marriage or domestic partnership, you may wish to see a lawyer about possible additional rights either of you may have.

### III. WHO CAN USE THE SUMMARY DISSOLUTION PROCEDURE?

You can use the summary dissolution procedure only if **all** of the following statements are true about you at the time you file the *Joint Petition for Summary Dissolution* (form FL-800). Check this list very carefully. If even *one* of these statements is not true for you, you cannot get a divorce in this way.

- \_\_\_ 1. We have both read this booklet, and we both understand it.
- \_\_\_ 2. We have been married or registered as domestic partners five years or less between the date that we got married and/or registered our domestic partnership and the date we separated. (*Note that if you are trying to end both a marriage AND a domestic partnership at the same time through a summary dissolution, both your marriage and domestic partnership must have lasted five years or less.*)
- \_\_\_ 3. No children were born to the two of us together before or during our marriage and/or domestic partnership.
- \_\_\_ 4. We have no adopted children under 18 years of age.
- \_\_\_ 5. Neither one of us is pregnant.
- \_\_\_ 6. Neither of us owns any part of any land or buildings.
- \_\_\_ 7. Our community property is not worth more than \$41,000. (Do not count cars in this total.)
- \_\_\_ 8. Neither of us has separate property worth more than \$41,000. (Do not count cars in this total.)
- \_\_\_ 9. The total of our community obligations (other than cars) is \$6,000 or less.\*\*

**For deciding on statements 7, 8, and 9, use the guide on pages 5–11.**

- \_\_\_ 10. a. At least one of us has lived in California for the past six months or longer *and* has lived in the county where we are filing for dissolution for the past three months or longer; or
- b. We are only asking to end a domestic partnership registered in California; or
- c. We are the same sex and were married in California but are not residents of California. Neither of us lives in a place that will allow us to divorce. We are filing this case in the county in which we married.
- \_\_\_ 11. We have prepared and signed an agreement that states how we want our possessions and debts to be divided between us (or states that we have no community property or community obligations).
- \_\_\_ 12. We have both signed the joint petition and all other papers needed to carry out this agreement.
- \_\_\_ 13. Together with the joint petition, we will turn in the judgment of dissolution forms and two self-addressed stamped envelopes to the superior court.
- \_\_\_ 14. We both want to end the marriage and/or domestic partnership because of serious, permanent differences.
- \_\_\_ 15. We have both agreed to use the summary dissolution procedure rather than the regular dissolution procedure.
- \_\_\_ 16. We are both aware of the following facts:
- a. There is a six-month waiting period, and either of us can stop the divorce at any time during this period.
- b. The date that appears on the *Judgment of Dissolution of Marriage and Notice of Entry of Judgment* (form FL-825) we receive from the court as the "effective date" of the dissolution is the date our divorce will be final, unless one of us has asked to stop the divorce prior to that effective date.
- c. After the dissolution becomes final, neither of us has any right to expect money or support from the other except that which is included in the property settlement agreement.
- d. By choosing the summary dissolution procedure, we give up certain legal rights that we would have if we had used the regular dissolution procedure. These rights are explained on page 4.



#### IV. AN IMPORTANT DIFFERENCE BETWEEN SUMMARY DISSOLUTION AND REGULAR DISSOLUTION

With a regular dissolution, either spouse or partner can ask for a court hearing or trial. And with a regular dissolution, if either spouse or partner is unhappy with the judge's final decision, it is possible to challenge that decision. This can be done, for example, by asking for a new trial. It is also possible to **appeal** the decision by taking the case to a higher court.

**With a summary dissolution, there is no trial or hearing.** Couples who choose this method of getting a divorce do not have the right to ask for a new trial (since there is no trial) or the right to appeal the case to a higher court.

There are, however, some cases in which a divorce agreement under a summary dissolution can be challenged. You will have to see a lawyer about this. The court *may* have the power to set aside the divorce if you can show that one of the following things happened:

**1. You were treated unfairly in the property settlement agreement.**

This is possible if you find out that the things you agreed to give your spouse or partner were much more valuable than you thought at the time of the dissolution.

**2. You went through the dissolution procedure against your will.**

This is possible if you can show that your spouse or partner used threats or other kinds of unfair pressure to get you to go along with the divorce.

**3. There are serious mistakes in the original agreement.**

Some kinds of mistakes can make the dissolution invalid, but you will have to go to court to prove the mistakes. It may be that one or both of you had a lot of property that you had forgotten about when you drew up the property settlement agreement. Or maybe a bank account mentioned in the agreement had much more money or much less money in it than your agreement states.

**4. Neither of you complied with preliminary disclosure requirements.**

California law requires that you fully share all information about your property and debts as well as your income. You have to share this information before you sign your property settlement agreement.

In summary dissolution cases, this means that you and your spouse or domestic partner must each complete and exchange: (1) an *Income and Expense Declaration* (form FL-150), (2) all tax returns you filed in the last two years, and (3) the property worksheets on pages 7, 9, and 11 (or a *Declaration of Disclosure* (form FL-140 and either a *Schedule of Assets and Debts* (form FL-142) or a *Property Declaration* (form FL-160)).

In addition, each spouse or domestic partner must complete and give to the other spouse or partner a written statement about any investment opportunity, business opportunity, or other income-producing opportunity that developed since the date you separated which was based on any investment made, significant business done, or other income-producing opportunity that was presented to you between the date you married or became domestic partners and the date you separated.

Correcting mistakes and unfairness in a summary dissolution proceeding can be expensive, time-consuming, and difficult. It is very important for both of you to be honest, cooperative, and careful when you or your lawyers do the paperwork for the dissolution.

## V. HOW DO YOU FIGURE OUT THE VALUE OF YOUR PROPERTY AND THE AMOUNT OF YOUR DEBTS?

Section III, page 3, lists statements that must be true if you want to use the summary dissolution procedure.

### **Statement 7 reads: “Our community property is not worth more than \$41,000.”**

Your community property is the money and things you own jointly as spouses or domestic partners. This was explained on page 2. The value of your community property is determined by adding together (1) the amount of **money** you have as community property and (2) the “fair market value” of the **possessions** you have as community property.

The **fair market value** is an estimate of the amount of money you could get if you sold these items to a stranger—for example, through a classified ad in the newspaper. It does **not** mean what you paid for it originally, and it does **not** mean how much it would cost you to replace it if you lost it.

One way of estimating the fair market value of your goods is to use prices for equivalent items in other people's classified ads for secondhand goods.

Three kinds of items go into figuring out your community property:

1. Money (as in bank accounts and credit union accounts);
2. Things you own outright (furniture that is already paid for, for example); and
3. Things you are buying on credit.

When you include things you still owe money on, subtract the amount of money you still owe on them from the fair market value.

You should not include the value of a car in this list.

### **Statement 8 reads: “Neither of us has separate property worth more than \$41,000.”**

Separate property is property that each spouse or partner owns separately. The term is explained on page 2. Separate property includes the same kinds of things used in determining community property. And again, you should not include cars in this list.

### **Statement 9 reads: “The total of our community obligations (other than cars) is \$6,000 or less.”**

Your community obligations are the debts that you and your spouse or partner owe jointly. The term is explained on page 2. List all the debts you have that you took on while you were living together as spouses or domestic partners. If you borrowed money before you got married or registered your domestic partnership, you do **not** have to include that in your community obligations. If you bought furniture on credit after you got married or registered your domestic partnership but before you separated, you **have to** include the amount of money you still owe on the furniture. If you bought a stereo after you separated, you do **not** have to include that.

Do not include car loans in this list.

**NOTICE:** The law for summary dissolution allows you to leave out cars when you figure out whether you are **eligible** for this kind of divorce. But if you do have cars as part of your community property, you still have to decide who is going to own them (and who is going to pay for them) after your divorce. You must include them in your property settlement agreement.

**Worksheets to help you figure out these amounts are found on pages 6–11.** You may use the following forms in this booklet to figure out the total of your community and separate property assets and obligations: (1) the worksheet on pages 7 (Value of Separate Property), (2) the worksheet on page 9 (Value and Division of Community Property), and (3) the worksheet on page 11 (Community Obligations and Their Division). Sample forms showing how to fill out those worksheets are on pages 6, 8, and 10.

PETITIONER 1: Pat  
 PETITIONER 2: Chris

CASE NUMBER:

## VI. SAMPLE WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY

This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **separate property of one spouse/partner** cannot be more than \$41,000. The total fair market value of the **separate property of the other spouse/partner** cannot be more than \$41,000. Separate property is anything that either of you owned or earned before you got married or registered your domestic partnership, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage or domestic partnership. Do not include cars.

*Note: The information on this form is for an imaginary couple, Pat and Chris, who are married. (When you fill out your worksheet, use your information.)*

<b>A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.</b>				<b>Pat's Property—Fair Market Value</b>	<b>Chris's Property—Fair Market Value</b>
Item					
Credit union savings—Pat (before marriage)				420	
Savings bonds—Chris (bought before marriage)					250
Pension plan benefits—Pat (before marriage and after separation)				1500	
Pension plan benefits—Chris (before marriage and after separation)					1300
<b>B. Items owned outright</b>					
Item					
Clothes—Pat (bought before marriage)				350	
Stocks—Pat (birthday present from father)				375	
Furniture—Pat (owned before marriage)				460	
Camera—Chris (owned before marriage)					229
Wristwatch—Chris (bought after separation)					142
Clothes—Chris (bought after separation)					250
<b>C. Items being bought on credit</b>					
Item	Fair Market Value	Minus What's Owed =			
TV set—Pat (after separation)	400	350		50	
Clothes—Pat (after separation)	220	170		50	
<b>GRAND TOTALS: Pat and Chris SEPARATE PROPERTY</b>				3205	2171

PETITIONER 1:  PETITIONER 2:	CASE NUMBER:
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**VI. WORKSHEET FOR DETERMINING VALUE OF SEPARATE PROPERTY**

This worksheet will help you determine whether you are eligible to use the summary dissolution procedure. The total fair market value of the **separate property of one spouse/partner** cannot be more than \$41,000. The total fair market value of the **separate property of the other spouse/partner** cannot be more than \$41,000. Separate property is anything that either of you owned or earned before you got married or registered your domestic partnership, anything you earned or bought after your separation, and anything that was given to just one of you as a gift during your marriage or domestic partnership. Do not include cars.

<b>A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.</b>	<b>PETITIONER 1 Property— Fair Market Value</b>	<b>PETITIONER 2 Property— Fair Market Value</b>
Item		
<b>B. Items owned outright</b>		
Item		
<b>C. Items being bought on credit</b>		
Item	Fair Market Value	Minus What's Owed =
<b>GRAND TOTALS: PETITIONER 1'S AND PETITIONER 2'S SEPARATE PROPERTY</b>		

PETITIONER 1: Pat PETITIONER 2: Chris	CASE NUMBER:
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### VI. SAMPLE WORKSHEET FOR DETERMINING VALUE AND DIVISION OF COMMUNITY PROPERTY

*Note: The information on this form is for an imaginary couple, Pat and Chris, who are married. (When you fill out your worksheet, use your information.)*

This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The grand total value of your community property cannot be more than \$41,000.

This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.					<b>Pat Receives</b>	<b>Chris Receives</b>
	Item		Amount			
	Savings account		150		150	
	Life insurance (cash value)		250		250	
	Pension plan—Pat		600		600	
	Pension plan—Chris		500			500
	Checking account		180			180
	<b>Subtotal A</b>		1680		1000	680
B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry; do not include cars)						
			Fair Market Value		Pat Receives	Chris Receives
	Furniture & furnishings— Pat’s apartment		775		775	
	Furniture & furnishings—Chris’s apartment		300			300
	Terriers season tickets		285			285
	Savings bonds		200		200	
	Jewelry—Pat		200		200	
	Pet parrot and cage		40			40
	<b>Subtotal B</b>		1800		1175	625
C. Items you are buying on credit (for example, stereo equipment, appliances, furniture, tools; do not include cars)						
		Fair Market Value	Minus Amount Owed	=	Net Fair Market Value	
	Stereo set	305	150		155	155
	Color television	400	100		300	300
	Golf clubs	350	50		300	300
	<b>Subtotal C</b>				755	755
<b>Grand total value of community property = A + B + C</b>					4235	2175 2060

PETITIONER 1:	CASE NUMBER:
PETITIONER 2:	

**VI. WORKSHEET FOR DETERMINING VALUE AND DIVISION OF COMMUNITY PROPERTY**

This side of the sheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The grand total value of your community property cannot be more than \$41,000.

This side of the sheet will help you decide on a fair division of your property. It will help you prepare your property settlement agreement.

A. Bank accounts, credit union accounts, retirement funds, cash value of insurance policies, etc.

Item	Amount	PETITIONER 1 Receives	PETITIONER 2 Receives
<b>Subtotal A</b>			

B. Items you own outright (for example, stocks and bonds, sports gear, furniture, household items, tools, interests in businesses, jewelry; do not include cars)

Item	Fair Market Value	PETITIONER 1 Receives	PETITIONER 2 Receives
<b>Subtotal B</b>			

C. Items you are buying on credit (for example, stereo equipment, appliances, furniture, tools; do not include cars)

Item	Fair Market Value	Minus Amount Owed	=	Net Fair Market Value	PETITIONER 1 Receives	PETITIONER 2 Receives
<b>Subtotal C</b>						

<b>Grand total value of community property = A + B + C</b>			
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PETITIONER 1: Pat PETITIONER 2: Chris	CASE NUMBER:
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**VI. SAMPLE WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION**

*Note: The information on this form is for an imaginary couple, Pat and Chris, who are married. (When you fill out your worksheet, use your information and make sure you indicate if you are married, in a domestic partnership, or both.*

This side of the worksheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The total amount of your community obligations (debts) cannot be more than \$6,000. Do not include car loans. Be sure you include any other debts you took on while you were living together as spouses or domestic partners. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property**. Then add all other debts and bills, including loans, charge accounts, medical bills, and taxes you owe.

This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement**.

Item	Amount Owed	Pat Will Pay	Chris Will Pay
Stereo set	150		150
Color TV	100		100
Golf clubs	50		50
Dr. R.C. Himple	74		74
Sam's Drugs	32		32
College loan	500		500
Cogwell's charge account	275	275	
Mister Charge account	68		68
Green's Furniture	123	123	
Dr. Irving Roberts	37	37	
Pat's parents	150	150	
<b>TOTAL</b>	1559	585	974

**Pat's Share  
of Community  
Obligations**

**Chris's Share  
of Community  
Obligations**

PETITIONER 1: PETITIONER 2:	CASE NUMBER:
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**VI. WORKSHEET FOR DETERMINING COMMUNITY OBLIGATIONS AND THEIR DIVISION**

This side of the worksheet will help you determine whether you are **eligible** to use the summary dissolution procedure. The total amount of your community obligations (debts) cannot be more than \$6,000. Do not include car loans. Be sure you include any other debts you took on while you were living together as spouses or domestic partners. List the amount you owe on the items from your **Worksheet for Determining Value and Division of Community Property**. Then add all other debts and bills, including loans, charge accounts, medical bills, and taxes you owe.

This side of the worksheet will help you decide on a fair way to divide up your community obligations. You will use this information in preparing a **property settlement agreement**.

	Amount Owed	Petitioner 1 Will Pay	Petitioner 2 Will Pay
<b>TOTAL</b>			

<b>Petitioner 1 Share of Community Obligations</b>	<b>Petitioner 2 Share of Community Obligations</b>
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## VII. WHAT SHOULD BE INCLUDED IN THE PROPERTY SETTLEMENT AGREEMENT?

A property settlement agreement should contain at least five parts:

### I. **Preliminary Statement**

This part identifies the spouses or domestic partners, states that the marriage and/or domestic partnership is being ended, and states that both spouses or partners agree on the details of the agreement.

### II. **Division of Community Property**

This part has two sections:

1. What the one spouse or partner receives; and
2. What the other spouse or partner receives.

### III. **Division of Community Obligations**

This part has two sections:

1. The amount one spouse or partner must pay and whom he or she must pay it to.
2. The amount the other spouse or partner must pay and whom he or she must pay it to.

### IV. **Waiver of Spousal Support**

This part states that each spouse or partner gives up all rights of financial support from the other.

### V. **Date and Signature**

Both spouses or partners must write the date and sign the agreement.

**An example of a property settlement agreement is found on pages 13–15.**

## VIII. SAMPLE PROPERTY SETTLEMENT AGREEMENT

Below is a sample of an acceptable **property settlement agreement**. You may use it as a model for your own agreement if you wish. You can find a fill-in-the-blanks version of this agreement at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp) in the section on summary dissolution.

- The parts that are underlined will fit most cases. You can copy these parts for your own agreement. Since many of the words have special meanings in the law, you may wish to talk to a lawyer if you want to change the words.
- The parts printed in regular type (not underlined) are based on an imaginary couple. You will need to replace these parts with items that apply to your situation.
- The numbered notes in *italics* in the right-hand column are **not** part of the agreement. They are there to help you understand it. (You will not need the small <sup>1</sup> and <sup>2</sup> in the sample for your agreement.)
- The sample below is for a married couple, so it refers to marriage. If you are ending a domestic partnership, you should say that in your agreement. If you are ending both a marriage and a domestic partnership with the same person, say both and write in the dates of both your marriage and the registration of your domestic partnership.

Remember, you can divide the items any way you want. As long as you both agree, the court will accept it. If you cannot agree about the division of your property and debts, you should file a regular dissolution.\*

### PROPERTY SETTLEMENT AGREEMENT

1. We are Chris P. Smedlap, hereafter called Chris,<sup>1</sup> and Pat T. Smedlap, hereafter called Pat.<sup>1</sup> We were married on October 7, 2009, and separated on December 5, 2010. Because irreconcilable differences<sup>2</sup> have caused the permanent breakdown of our marriage, we have made this agreement together to settle once and for all what we owe to each other and what we can expect from each other. Each of us states here that nothing has been held back and that we have honestly included everything we could think of in listing the money and goods that we own; and each of us states here that we believe the other has been open and honest in writing this agreement. Each of us agrees to sign and exchange any papers that might be needed to complete this agreement.

<sup>1</sup> *If you prefer, you can also write "hereafter called "Wife" or "Husband" or "Partner A" or "Partner B" whichever applies. Just make sure it is clear to whom you are referring.*

<sup>2</sup> *This means there are problems in your marriage or domestic partnership that you think can never be solved. **Irreconcilable differences** is the only legal grounds for getting a **summary dissolution**.*

\* At the trial in a regular dissolution, a judge would set a value on and divide community property and debts into two approximately equal parts as provided by California law.

Each of us also understands that even after a *Joint Petition for Summary Dissolution* is filed, this entire agreement will be canceled if either of us revokes the dissolution proceeding.<sup>3</sup>

<sup>3</sup> *This means that the property agreement is a part of the dissolution proceeding. If either of you decides to stop the dissolution proceeding by turning in a Notice of Revocation of Petition for Summary Dissolution (form FL-830) (see page 18), this entire agreement will be canceled.*

## II. Division of Community Property<sup>4</sup>

We divide our community property as follows:

<sup>4</sup> *Community property is property that you own as a couple (see page 2).*

### 1. Chris transfers to Pat as Pat's sole and separate property:

*If you have no community property, replace Part II with the simple statement "**We have no community property.**"*

- A. All household furniture and furnishings located at the apartment at 180 Needlepoint Way, San Francisco.<sup>5</sup>
- B. All rights to cash in savings account at Home Savings.
- C. All cash value in life insurance policy insuring life of Pat through Sun Valley Life Insurance.
- D. All retirement and pension plan benefits earned by Pat during marriage.
- E. Two U.S. Savings Bonds, Series E.
- F. Pat's jewelry.
- G. 2003 Chevrolet 4-door sedan.

<sup>5</sup> *If the furniture and household goods in one apartment are to be divided, they may have to be listed item by item.*

### 2. Pat transfers to Chris as Chris's sole and separate property:

- A. All household furniture and furnishings located at the apartment on 222 Bond Street, San Francisco.
- B. All retirement and pension plan benefits earned by Chris during marriage.
- C. Season tickets to Golden State Terriers basketball games.
- D. One stereo set.
- E. One set of Jock Nicklaus golf clubs.
- F. One RAC color television.
- G. 2003 Ford station wagon.
- H. One pet parrot named Arthur, plus cage and parrot food.
- I. All rights to cash in checking account in Bank of America.

III. Division of Community Property (Debts)<sup>6</sup>

1. Chris will pay the following debts and will not at any time hold Pat responsible for them:

- A. Mister Charge account.
- B. Debt to Dr. R.C. Himple.
- C. Debt to Sam's Drugs.
- D. Debt to UC Berkeley for college education loan to Chris.<sup>7</sup>
- E. Debt to Golf Store for golf clubs.
- F. Debt to Everything Electronics for color TV and stereo set.
- G. Debt to Used Ford Store for 2003 Ford.

2. Pat will pay the following debts and will not at any time hold Chris responsible for them:

- A. Cogwell's charge account.
- B. Debt to Pat's parents, Mr. and Mrs. Joseph Smith.
- C. Debt to Green's Furniture.
- D. Debt to Dr. Irving Roberts.
- E. Debt to Friendly Finance Company for 2003 Chevrolet 4-door Sedan.

IV. Waiver of Spousal/Partner Support<sup>8</sup>

Each of us waives any claim for spousal/partner support now and for all time.

V. Dated:

Dated:

\_\_\_\_\_  
Chris P. Smedlap

\_\_\_\_\_  
Pat T. Smedlap

<sup>6</sup> If you have no unpaid debts, replace Part III with the simple statement "**We have no unpaid community obligations.**"

<sup>7</sup> A general rule for dividing debts is to give the debt over to the person who benefited more from the item. In the sample agreement, because Chris received the education, Chris should pay off the loan.

<sup>8</sup> You each give up the right to have your spouse or partner support you.

## IX. WHAT STEPS DO YOU HAVE TO TAKE TO GET A SUMMARY DISSOLUTION?

If after reviewing the information in this booklet, you feel your marriage or your domestic partnership will qualify for a summary dissolution, you should carefully go through the following 15 steps. You can fill out the forms, worksheets, and agreements in the summary dissolution section

- online, for free, at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp);
- with a typewriter; or
- with neat printing.

1. \_\_\_\_ Complete and give your spouse or domestic partner a list of community and separate property assets and obligations. This information is needed to comply with the requirement to exchange a preliminary declaration of disclosure in summary dissolution cases. Use the forms listed below in 1a or 1b for this purpose.
  - a. \_\_\_\_ *A Declaration of Disclosure* (form FL-140) and a *Schedule of Assets and Debts* (form FL-142) (or a *Property Declaration* (form FL-160)). These forms are not included in this booklet. You may find them online at [www.courts.ca.gov/forms.htm](http://www.courts.ca.gov/forms.htm). Give one copy to your spouse or domestic partner and keep one for your records; or
  - b. \_\_\_\_ The worksheets in this booklet on pages 7, 9, and 11.
    - (1) \_\_\_\_ Turn to page 7 and complete the Worksheet for Determining Value of Separate Property. See page 6 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or partner and keep one for your records.
    - (2) \_\_\_\_ Turn to page 9 and complete the Worksheet for Determining Value and Division of Community Property. See page 8 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or partner and keep one for your records.
    - (3) \_\_\_\_ Turn to page 11 and complete the Worksheet for Determining Community Obligations and Their Division. See page 10 for an example. Make one extra copy of your worksheet after it has been completed. Give one copy to your spouse or partner and keep one for your records.
2. \_\_\_\_ Along with the documents listed in 1, give your spouse or domestic partner all tax returns you filed in the last two years. Give one copy to your spouse or domestic partner and keep one copy for your records.
3. \_\_\_\_ Fill out an *Income and Expense Declaration* (form FL-150). You each need to fill out this form and give it to your spouse or partner before you sign your property settlement agreement or complete your divorce. Make one extra copy of your form after it has been completed. Give one copy to your spouse or partner and keep one for your records.
4. \_\_\_\_ Complete a written statement about business and investments opportunities and give it to your spouse or partner before you sign a property settlement agreement or complete your divorce. Keep a copy for your records.
 

**Note:** The written statement must describe any investment opportunity, business opportunity, or other income-producing opportunity that developed since the date you separated which was based on any investment made, significant business done, or other income-producing opportunity that was presented to you between the date you married or became domestic partners and the date you separated (there is no specific form for this purpose).
5. \_\_\_\_ Type or print your property settlement agreement if you have any property or debts to divide. Both of you must date and sign it. Make two extra copies. See pages 12–15 for an example and instructions. You can also find a version that you can fill in online at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp) in the information on summary dissolution at <http://courts.ca.gov/1241.htm>.
6. \_\_\_\_ Fill out a *Joint Petition for Summary Dissolution* (form FL-800). Both of you must sign and date this petition. Make two extra copies of this form. (This is the form you need to **START** the process.)
 

**Note:** When signing your joint petition and your property settlement agreement, you are signing these documents under penalty of perjury under the laws of the State of California, which is the same as being sworn to testify in court.

**You may not sign each other's name.**

7. \_\_\_\_ Make three sets of forms that include copies of your property settlement agreement and a copy of your *Joint Petition for Summary Dissolution* (form FL-800). Staple each set together.
8. \_\_\_\_ Fill out the top portion of the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) and make three copies of it.
9. \_\_\_\_ Make one extra copy of a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) so each of you has one, and hold on to it. This is the form you would need to **STOP** the process. You may wish to use it during the waiting period if you change your mind and want to stop the process. You should keep one copy. See page 18 for more information.
- 10 \_\_\_\_ Take your *Joint Petition for Summary Dissolution* (form FL-800), *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825), and all of your copies to the superior court clerk's office together with two self-addressed, stamped envelopes (one addressed to each spouse or partner). The location of your superior court clerk's office can be found in the phone book or online at [www.courts.ca.gov/find-my-court.htm](http://www.courts.ca.gov/find-my-court.htm). The clerk will stamp the date on all copies, will keep one copy of each document, and will return the other two to you. One copy is for each spouse or partner.
11. \_\_\_\_ Pay the superior court clerk's filing fee. If you cannot afford to pay the filing fee, you may qualify for a fee waiver based on your income. If one of you qualifies for a fee waiver but the other one does not, the one who does not qualify will have to pay the filing fee. To request a fee waiver, see *Information Sheet on Waiver of Court Fees and Costs* (form FW-001-INFO). You will need to prepare a *Request to Waive Court Fees* (form FW-001) and an *Order on Court Fee Waiver* (form FW-003).
12. \_\_\_\_ The clerk will file your joint petition and return the copies to you and your spouse or partner. The court may also process the *Judgment of Dissolution* at that time, in the next few weeks, or after the six-month waiting period has expired and give or mail it to you and your spouse or partner. The *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) will have a date on which the dissolution ending your marriage, domestic partnership, or both will be final. That is the effective date of your dissolution and it will be six months from the date you file your joint petition. The six-month waiting period is mandated by law.
13. \_\_\_\_ Put your copies of all documents in a safe place.
14. \_\_\_\_ Wait for six months. If either one of you wants to stop the summary dissolution case, fill out and file a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) before the six months run out.
15. \_\_\_\_ On the day that appears on your *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) as the effective date of your dissolution:
  - a. Your marriage or domestic partnership (or both) is ended;
  - b. The agreements you made in your property settlement agreement are binding—you will then own the property assigned to you, and you will have to pay the bills assigned to you;
  - c. Except for those agreements, you and your spouse or partner have no further obligations to each other; and
  - d. You are legally free to remarry or register a new domestic partnership.

**REMEMBER:** Either of you can stop the process by filling out a *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) and bringing it to the superior court clerk during the six-month waiting period before the date your dissolution is effective according to the *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) that you received from the court.

## X. WHAT YOU SHOULD KNOW ABOUT REVOCATION

It is important to realize that the *Notice of Revocation of Petition for Summary Dissolution* (form FL-830) is not just another form you are supposed to fill out and turn in.

**Do not fill it out and do not bring it to the superior court clerk unless you want to stop the divorce!**

### What is the notice of revocation for?

This is the form you need if you want to stop the divorce. **Revoking** the agreement is canceling or stopping it.

### What reasons are there for revoking?

There are three reasons you might have for wanting to stop the summary dissolution:

1. You have decided to return to your spouse or partner and continue the marriage or domestic partnership;
2. You want to change over to the regular dissolution as a better way of getting your divorce; or
3. You learn that one of you is pregnant.

### Why might you want to change over to the regular dissolution?

You may come to believe that you will get a better settlement if you go to court than with the agreement you originally made with your spouse or partner. (Maybe, after thinking it over, you feel you are not receiving a fair share of the community property.)

### How do you do it?

At the time you picked up the joint petition forms, you and your spouse or partner also received a blank *Notice of Revocation of Petition for Summary Dissolution* (form FL-830). Fill out the form, sign it, make two copies, and bring them to the superior court clerk's office. You must also send a copy of form FL-830 to your spouse or domestic partner by first-class mail, postage prepaid, to his or her last known address. You can do this alone. This form does not need your spouse's or partner's signature.

If you do this at any time during the six-month waiting period, before the effective date of your dissolution, you will stop this divorce proceeding.

### Can the dissolution be stopped once the waiting period is over?

**NO.** After the date the court wrote on your *Judgment of Dissolution and Notice of Entry of Judgment* (form FL-825) as the date your marriage or domestic partnership is ended (the date the divorce is effective), you can no longer revoke the dissolution by filing the revocation form. You may have other legal options, but you will need to talk to a lawyer about them.

**If you change over to a regular dissolution, what happens to the part of the waiting period that has passed?** You can apply the amount of time you waited on the summary dissolution to your regular dissolution. For example, if four months went by before you decided to revoke the summary dissolution, the waiting period for the regular dissolution will be shortened by four months.

However, you can save this time **only** if you file for a regular dissolution within 90 days of revoking the summary dissolution.

## XI. SHOULD YOU SEE A LAWYER?

### **Must you have a lawyer to use the summary dissolution procedure?**

No. You can do the whole thing by yourselves. But it would be wise to see a lawyer before you decide to do it yourselves. You should not rely on this booklet only. It is not intended to take the place of a lawyer.

### **If you want legal advice, does that mean you have to hire a lawyer?**

No. You may hire a lawyer, of course, but you can also just visit a lawyer once or twice for advice on how to carry out the dissolution proceeding. Do not be afraid to ask the lawyer in advance what fee will be charged. It may be surprisingly inexpensive to have a lawyer handle your divorce.

### **Do you have to accept your lawyer's advice?**

No, you do not. And if you are not pleased with what one lawyer advises, you can feel free to go to another one.

### **How can a lawyer help you with the summary dissolution procedure?**

First, a lawyer can advise you, on the basis of your personal situation, whether you ought to use the regular dissolution procedure rather than the summary dissolution procedure.

Second, a lawyer can read your property settlement agreement to help you figure out if you have thought of everything you should have. (It is easy to forget things you do not see very often, such as savings bonds and safe deposit boxes.)

Third, in many situations it is not easy to figure out what should count as community property and what should count as separate property. Suppose one of you had money before the marriage and put it into a bank account in both of your names and then both of you used money from that account. It may not be easy to decide how the money remaining in that account should be divided. A lawyer can advise you on how to make these decisions.

Fourth, there may be special situations in which your property settlement is not covered by the sample agreement on pages 13–15.

A lawyer can help you put the agreement in words that are legally precise and cannot be challenged or misinterpreted later.

### **Where can you find a lawyer?**

You can locate organizations that can help you find a lawyer in the yellow pages of your telephone directory under "Attorneys," "Attorney Referral Service," or "Lawyer Referral Service." In many cases you will be able to find an attorney who will charge only a small fee for your first visit. You can get information about free or low-cost legal services through the county bar association in your county. You can find information about certified lawyer referral services at [www.courts.ca.gov/selfhelp](http://www.courts.ca.gov/selfhelp) or on the State Bar website at [www.calbar.ca.gov](http://www.calbar.ca.gov).



## XII. SOME GENERAL INFORMATION

### **What about income taxes?**

If you have filed a joint tax return, both of you will still be responsible for paying any unpaid taxes even after your divorce.

If you are receiving a tax refund, you should agree in the property settlement agreement on how it should be divided.

The amount of money that you will owe, or that will be taken out of your paycheck, for income taxes may be greater after you are single again. If that is the case, you should prepare yourself for a bigger tax obligation.

It would be a good idea to consult the Internal Revenue Service or a tax expert on how the divorce is going to affect your taxes. You should probably do this before you make your property settlement agreement.

### **What about bank accounts and credit cards?**

If you have a joint bank account, it may be a good idea to close it when you separate and get two individual bank accounts. That way it will be easier to keep your money separate.

If you have credit card accounts that you both have been using, you should destroy the cards and take out separate accounts.

### **What about cars?**

If both of your names are on a title to a car and you agree that one of you is going to own the car, you need to take action to change the ownership. You should call or visit the Department of Motor Vehicles to find out how to do that. You should also talk to the lender to get the debt into one person's name and change the insurance coverage after both the title and debt are transferred.

### **What if your spouse or domestic partner does not pay his or her debts?**

If your spouse or domestic partner does not pay a debt that is his or her responsibility, the person who loaned the money may be able to collect it from you. But then a court may order your spouse or partner to reimburse you. If you have any reason to worry about this, a lawyer can explain your rights to you.

### **Can you take back your former name?**

If you changed your name when you were married or registered your domestic partnership, you have the right to give up that name and get your former name back. You can do this by requesting it in the joint petition. If you do not request this in the joint petition, you can file a form called *Ex Parte Application for Restoration of Former Name After Entry of Judgment and Order* (form FL-395). Your spouse or partner cannot make you change your name.

### **What if I am not happy with my final judgment?**

When your divorce is final, all your rights and duties connected with your marriage or domestic partnership have ended and you cannot appeal. But if you decide later that you were cheated or pressured by your spouse or partner, or if you believe that a mistake was made in the paperwork connected with the divorce, the court may be able to set aside the divorce. A lawyer can explain your rights.

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>name, State Bar number, and address</i> ):  TELEPHONE NO.: _____ FAX NO. : _____ E-MAIL ADDRESS: _____ ATTORNEY FOR ( <i>name</i> ): _____	<b>FOR COURT USE ONLY</b>  <b>DRAFT</b>  <b>NOT APPROVED BY THE JUDICIAL COUNCIL</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
<b>MARRIAGE OR DOMESTIC PARTNERSHIP OF</b> Petitioner 1 Petitioner 2	
<b>NOTICE OF REVOCATION OF JOINT PETITION FOR SUMMARY DISSOLUTION</b>	CASE NUMBER: _____

Notice is given that the undersigned terminates the summary dissolution proceedings and revokes the *Joint Petition for Summary Dissolution* (form FL-800) filed on (*date*):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

\_\_\_\_\_ (TYPE OR PRINT NAME) \_\_\_\_\_ (SIGNATURE OF DECLARANT)

Complete this notice. Submit the original and two copies to the court clerk's office. If the effective date of the judgment has not yet occurred, the clerk will notify you that this notice of revocation has been filed by completing the certificate below.

Name and address of Petitioner 1	Name and address of Petitioner 2

**CLERK'S CERTIFICATE OF MAILING (For court use only)**

I certify that I am not a party to this cause and that a copy of the foregoing was mailed first class, postage fully prepaid, in a sealed envelope as shown above, and that the mailing of the foregoing and execution of this certificate occurred at

(*place*): \_\_\_\_\_ California, on \_\_\_\_\_  
 Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

**NOTICE**

If the clerk's certificate of mailing above has been dated and signed by the clerk, this summary dissolution case is ended. You are still married and/or domestic partners. If you still want to get divorced, you will have to file a regular divorce case using the *Petition—Marriage/Domestic Partnership* (form FL-100).

Item 11  
has been withdrawn  
by the committee

## RUPRO ACTION REQUEST FORM

**RUPRO action requested:** Submit to JC (without circulating for comment)

**RUPRO Meeting:** March 20, 2015

**Title of proposal:**

**Forms:** Miscellaneous Technical Changes

Committee or other entity submitting the proposal:

Judicial Council staff

Staff contact (Name, phone and e-mail):

Susan McMullan, 415-865-7990, susan.mcmullan@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

If requesting July 1 or out of cycle, explain:

**Additional Information:** (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)



## Judicial Council of California · Administrative Office of the Courts

455 Golden Gate Avenue · San Francisco, California 94102-3688

[www.courts.ca.gov](http://www.courts.ca.gov)

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 17, 2015

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Title	Agenda Item Type
Forms: Miscellaneous Technical Changes	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Revise forms CR-110/JV-790, CR-111/JV-791, CR-132, DE-305, FL-632, and GC-350	July 1, 2015
Recommended by	Date of Report
Judicial Council staff	February 26, 2015
Susan R. McMullan, Senior Attorney Legal Services	Contact
	Susan R. McMullan, 415-865-7990 <a href="mailto:susan.mcmullan@jud.ca.gov">susan.mcmullan@jud.ca.gov</a>

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### Executive Summary

Various Judicial Council advisory committee members, court personnel, members of the public, and Judicial Council staff have identified errors in forms resulting from inadvertent omissions, typographical errors, and changes resulting from legislation. The staff to the Judicial Council recommends making the necessary corrections to avoid confusing court users, clerks, and judicial officers.

### Recommendation

The staff to the Judicial Council recommends that the council, effective July 1, 2015:

1. Revise CR-110/JV-790 and CR-111/JV-791 to correct a reference in the footer from “§ 6774(a)(7)” and “§ 647”, respectively, to “§ 674(a)(7)” and “§ 674”;
2. Revise CR-132 to correct two penal code references in item 2, from “1466(2)(B)” to “1466(b)(1)”, and to restore language in item 3.a. inadvertently replaced in a previous revision;

3. Amend the Notary Acknowledgement on page 2 of forms DE-305 and FL-632 to reflect revised Civ. Code § 1189(a)(1);
4. Revise GC-350, page 2, Notice, paragraph 4, to add “conservatorship or” before “guardianship”.

Copies of the revised forms are attached at pages 3–14.

### **Previous Council Action**

Although the Judicial Council has acted on these rules and forms previously, this proposal recommends only minor corrections unrelated to any prior action.

### **Rationale for Recommendation**

The changes to these rules are technical in nature and necessary to correct inadvertent omissions and incorrect references.

### **Comments, Alternatives Considered, and Policy Implications**

These proposals were not circulated for public comment because they are noncontroversial, involve technical revisions, and are therefore within the Judicial Council’s purview to adopt without circulation. (See Cal. Rules of Court, rule 10.22(d)(2).)

### **Implementation Requirements, Costs, and Operational Impacts**

Operational impacts are expected to be minor. The proposed revisions may result in reproduction costs if courts provide hard copies of any of the forms recommended for revision. Because the proposed changes are technical corrections, case management systems are unlikely to need updating to implement them.

### **Attachments and Links**

1. Forms CR-110/JV-790, CR-111/JV-791, CR-132, DE-305, FL-632, and GC-350, at pages 3–14

ATTORNEY OR PERSON WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>   TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CASE NAME:	
<b>ORDER FOR VICTIM RESTITUTION</b>	CASE NUMBER:

1. a.  On *(date):* \_\_\_\_\_ defendant *(name):* \_\_\_\_\_  
 was convicted of a crime that entitles the victim to restitution.
- b.  On *(date):* \_\_\_\_\_ child *(name):* \_\_\_\_\_  
 was found to be a person described in Welfare and Institutions Code section 602, which entitles the victim to restitution.  Wardship is terminated.
- c.  Parents or guardians jointly and severally liable *(name each):* \_\_\_\_\_
- d.  Co-offenders found jointly and severally liable *(name each):* \_\_\_\_\_
  
2. Evidence was presented that the victim named below suffered losses as a result of defendant's/child's conduct. Defendant/child was informed of his or her right to a judicial determination of the amount of restitution and
  - a.  a hearing was conducted.
  - b.  stipulated to the amount of restitution to be ordered.
  - c.  waived a hearing.
  
3. **THE COURT ORDERS** defendant/child to pay restitution to
  - a.  the victim *(name):* \_\_\_\_\_ in the amount of: \$ \_\_\_\_\_
  - b.  the Victim Compensation and Government Claims Board, to reimburse payments to the victim from the Restitution Fund, in the amount of: \$ \_\_\_\_\_
  - c.  plus interest at 10 percent per year from the date of  loss **or**  sentencing.
  - d.  plus attorney fees and collection costs in the sum of: \$ \_\_\_\_\_
  - e.  plus an administrative fee not to exceed 15 percent of the restitution owed (Pen. Code, § 1203.1(l)).

CASE NAME:	CASE NUMBER:
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## 4. The amount of restitution includes

- a.  the value of property stolen or damaged.
- b.  medical expenses.
- c.  lost wages or profits
- (1)  incurred by the victim due to injury.
- (2)  of the victim's parent(s) or guardian(s) (if victim is a child) incurred while caring for the injured child.
- (3)  incurred by the victim due to time spent as a witness or in assisting police or prosecution.
- (4)  of the victim's parent(s) or guardian(s) (if victim is a child) due to time spent as a witness or in assisting police or prosecution.
- d.  noneconomic losses (felony violations of Pen. Code, § 288 only).
- e.  Other (*specify*):

Date:

---

 JUDICIAL OFFICER
**NOTICE TO VICTIMS**

**PENAL CODE SECTION 1214 PROVIDES THAT ONCE A DOLLAR AMOUNT OF RESTITUTION HAS BEEN ORDERED, THE ORDER IS THEN ENFORCEABLE AS IF IT WERE, AND IN THE SAME MANNER AS, A CIVIL JUDGMENT. ALTHOUGH THE CLERK OF THE COURT IS NOT ALLOWED TO GIVE LEGAL ADVICE, YOU ARE ENTITLED TO ALL RESOURCES AVAILABLE UNDER THE LAW TO OBTAIN OTHER INFORMATION TO ASSIST IN ENFORCING THE ORDER.**

**THIS ORDER DOES NOT EXPIRE UNDER PENAL CODE SECTION 1214(d).**

**YOU MUST FILE A SATISFACTION OF JUDGMENT WITH THE COURT WHEN THIS ORDER IS SATISFIED, AS REQUIRED BY PENAL CODE SECTION 1214(b).**

**YOU ARE ENTITLED TO A CERTIFIED COPY OF THIS ORDER UPON REQUEST, AS REQUIRED BY PENAL CODE SECTION 1214(b) AND WELFARE AND INSTITUTIONS CODE SECTION 730.7(c).**



ATTORNEY OR PERSON WITHOUT ATTORNEY (Name, State Bar number, and address):

Recording requested by and return to:

TELEPHONE NO.:

FAX NO. (Optional):

E-MAIL ADDRESS (Optional):

ATTORNEY FOR:  JUDGMENT CREDITOR  ASSIGNEE OF RECORD

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**

STREET ADDRESS:

MAILING ADDRESS:

CITY AND ZIP CODE:

BRANCH NAME:

FOR RECORDER'S USE ONLY

CASE NUMBER:

CASE NAME:

FOR COURT USE ONLY

**ABSTRACT OF JUDGMENT—RESTITUTION**  Amended

1. The  judgment creditor  assignee of record  other (specify):

applies for an abstract of judgment and represents the following:

a. Judgment debtor's

Name and last known address

b.  Driver's license no. [last 4 digits] and state:

Unknown

c.  Social security no. [last 4 digits]:

Unknown

d.  Date of birth:

Unknown

Date:

(TYPE OR PRINT NAME)

(SIGNATURE OF APPLICANT OR ATTORNEY)

ON INFORMATION AND BELIEF

CASE NAME:	CASE NUMBER:
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## CERTIFICATION

2. I certify that the following is a true and correct judgment entered in this action.
3. Judgment creditor (*name*):  
 whose address or whose attorney's address appears on this form above the court's name.
4. Judgment debtor (*full name as it appears in judgment*):
5. Judgment entered on (*date*):
6. Total amount of judgment as entered or last renewed: \$
7.  A stay of enforcement was ordered on: \_\_\_\_\_ and is effective until:  
 A stay of enforcement was not ordered.

[SEAL]

This abstract of judgment was issued on (*date*):

Clerk, by

, Deputy

Clerk stamps date here when form is filed.

**Instructions**

- This form is only for appealing in a **misdemeanor case**. You can get other forms for appealing in a civil or infraction case at any courthouse or county law library or online at *www.courts.ca.gov/forms*.
- Before you fill out this form, read *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO) to know your rights and responsibilities. You can get form CR-131-INFO at any courthouse or county law library or online at *www.courts.ca.gov/forms*.
- **You must file this form no later than 30 days after the trial court issued the judgment or order you are appealing** (see rule 8.853(b) of the California Rules of Court for very limited exceptions). **If your notice of appeal is late, the court will not take your appeal.**
- Fill out this form and make a copy of the completed form for your records.
- Take or mail the completed form to the clerk’s office for the same trial court that issued the judgment or order you are appealing. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

You fill in the name and street address of the court that issued the judgment or order you are appealing:

**Superior Court of California, County of**

You fill in the number and name of the trial court case in which you are appealing the judgment or order:

**Trial Court Case Number:**  
  
**Trial Court Case Name:**

You fill in the appellate division case number (if you know it):

**Appellate Division Case Number:**

**1 Your Information**

a. Name of Appellant (the party who is filing this appeal):

Name: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

Phone: \_\_\_\_\_ E-mail (if available): \_\_\_\_\_

b. Appellant’s lawyer (skip this if the appellant is filling out this form):

The lawyer filling out this form is (check (1) or (2)):

(1)  was the appellant's lawyer in the trial court.      (2)  is the appellant's lawyer for this appeal.

Name: \_\_\_\_\_ State Bar number: \_\_\_\_\_

Street address: \_\_\_\_\_  
Street City State Zip

Mailing address (if different): \_\_\_\_\_  
Street City State Zip

Phone: \_\_\_\_\_ E-mail (if available): \_\_\_\_\_

Fax (if available): \_\_\_\_\_



Trial Court Case Name: \_\_\_\_\_

Trial Court Case Number: \_\_\_\_\_

**2 Judgment or Order You Are Appealing**

I am/My client is appealing (*check one*):

- a.  The final judgment of conviction in this case (Penal Code section 1466(b)(1)).  
 I am/My client is contesting only the conditions of the probation.
- b.  The following order made after the judgment in this case that affects an important right of mine/my client (for example, an order after a probation violation) (Penal Code section 1466(b)(1)).  
 An order modifying the conditions of probation.  
 Other(*describe the action you are appealing and give the date the trial court took the action*):  
\_\_\_\_\_  
\_\_\_\_\_
- c.  The trial court has not yet issued a final judgment in this case. I am appealing before final judgment an order that denied a motion to suppress evidence in this case (Penal Code section 1538.5(j)).
- d.  Other action (*describe the action you are appealing and give the date the trial court took the action*):  
\_\_\_\_\_  
\_\_\_\_\_

**3 Record on Appeal**

*See form CR-131-INFO for information about the record on appeal.*

- a.  I have attached a completed *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134).
- b.  I have **not** attached a *Notice Regarding Record on Appeal (Misdemeanor)* (form CR-134). I understand that I must file this notice in the trial court within either: (1) 20 days after I file this notice of appeal; or, if it is later, (2) 10 days after the court appoints a lawyer for me (if I file a request for a court-appointed lawyer within 20 days after I file my notice of appeal). I also understand that if I do not file the notice on time, the court will not be able to consider what was said in the trial court in deciding whether an error was made in the trial court proceedings.


**4 Court-Appointed Lawyer**

- a. I/My client  was  was not represented by the public defender or another court-appointed lawyer in the trial court.
- b. I am/My client is (*check (1) or (2)*):
  - (1)  asking the court to appoint a lawyer to represent me/my client in this appeal. I have completed *Request for Court-Appointed Lawyer in Misdemeanor Appeal* (form CR-133) and attached it to this notice of appeal.
  - (2)  **not** asking the court to appoint a lawyer to represent me/my client in this appeal.

**REMINDER—Except in the very limited circumstances listed in rule 8.835(b), you must file this form no later than 30 days after the trial court issued the judgment or order you are appealing in your case. If your notice of appeal is late, the court will not take your appeal.**

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

 \_\_\_\_\_  
*Signature of appellant or attorney*

ATTORNEY OR PARTY WITHOUT ATTORNEY (name, address, and State Bar number):  
After recording return to:  
  
TEL NO.: FAX NO. (optional):  
E-MAIL ADDRESS (optional):  
ATTORNEY FOR (name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF  
STREET ADDRESS:  
MAILING ADDRESS:  
CITY AND ZIP CODE:  
BRANCH NAME:

FOR RECORDER'S USE ONLY

MATTER OF (name):  
  
DECEDENT

CASE NUMBER:

**AFFIDAVIT RE REAL PROPERTY OF SMALL VALUE  
(\$50,000 or Less)**

FOR COURT USE ONLY

1. Decedent (name):  
died on (date):
2. Decedent died at (city, state):
3. At least **six months** have elapsed since the date of death of decedent as shown in the certified copy of decedent's death certificate attached to this affidavit. (Attach a certified copy of decedent's death certificate.)
4. a.  Decedent was domiciled in this county at the time of death.  
b.  Decedent was **not** domiciled in California at the time of death. Decedent died owning real property in this county.
5. a. The **legal description** and the Assessor's Parcel Number (APN) of decedent's real property claimed by the declarant(s) are provided on an attached page labeled Attachment 5a, "Legal Description." (Copy legal description **exactly** from deed or other legal instrument.)  
b. Decedent's interest in this real property is as follows (specify):
6. Each declarant is a successor of decedent (as defined in Probate Code section 13006) and a successor to decedent's interest in the real property described in item 5a, or signs this declaration on behalf of an entity that is a successor of decedent and to decedent's interest in the real property, and no other person or entity has a superior right, because each declarant or entity is:
  - a.  (will) a beneficiary that succeeded to the property under decedent's will. (Attach a copy of the will.)
  - b.  (no will) a person who succeeded to the property under Probate Code sections 6401 and 6402.
7. Names and addresses of each guardian or conservator of decedent's estate at date of death:  none  are as follows:\*  

<u>Names</u>	<u>Addresses</u>
--------------	------------------

(\*You must mail [or serve, per Prob. Code, § 1216] a copy of this affidavit and all attachments to each guardian or conservator listed above. You may use Judicial Council form POS-030 for a proof of mailing or form POS-020 for a proof of personal service.)

8. The **gross value** of decedent's interest in all real property located in California as shown by the attached *Inventory and Appraisal*—excluding the real property described in Probate Code section 13050 (property held in joint tenancy or as a life estate or other interest terminable upon decedent's death, property passing to decedent's spouse, property in a trust revocable by the decedent, etc.)—did not exceed \$50,000 as of the date of decedent's death.

MATTER OF (Name):	CASE NUMBER:
DECEDENT	

- 9. An *Inventory and Appraisal* of all of decedent's interests in **real property** in California is attached. The appraisal was made by a probate referee appointed for the county in which the property is located. *(You must prepare the Inventory on Judicial Council forms DE-160 and DE-161. You may select any probate referee appointed for the county for the appraisal. The California State Controller's Office has a list of all probate referees, shown by county on its website, and each court has a list of probate referees appointed for its county. Check with the probate referee you select or consult an attorney for help in preparing the Inventory.)*
- 10. No proceeding is now being or has been conducted in California for administration of decedent's estate.
- 11. Funeral expenses, expenses of last illness, and all known unsecured debts of the decedent have been paid. *(NOTE: You may be personally liable for decedent's unsecured debts up to the fair market value of the real property and any income you receive from it.)*

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)\*

(TYPE OR PRINT NAME)\*

▶

(SIGNATURE OF DECLARANT)

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)\*

(TYPE OR PRINT NAME)\*

▶

(SIGNATURE OF DECLARANT)

SIGNATURE OF ADDITIONAL DECLARANTS ATTACHED

**\* A declarant claiming on behalf of a trust or other entity should also state the name of the entity that is a beneficiary under the decedent's will, and declarant's capacity to sign on behalf of the entity (e.g., trustee, Chief Executive Officer, etc.).**

**NOTARY ACKNOWLEDGMENT** *(NOTE: No notary acknowledgment may be affixed as a rider (small strip) to this page. If additional notary acknowledgments are required, they must be attached as 8-1/2-by-11-inch pages.)*

**A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.**

STATE OF CALIFORNIA, COUNTY OF *(specify)*: \_\_\_\_\_

On *(date)*: \_\_\_\_\_, before me *(name and title)*: \_\_\_\_\_

personally appeared *(name(s))*: \_\_\_\_\_

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the instrument in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
 (SIGNATURE OF NOTARY PUBLIC)

(NOTARY SEAL)

(SEAL)

**CLERK'S CERTIFICATE**

I certify that the foregoing, including any attached notary acknowledgments and any attached legal description of the property (but excluding other attachments), is a true and correct copy of the original affidavit on file in my office. *(Certified copies of this affidavit do not include the (1) death certificate, (2) will, or (3) inventory and appraisal. See Probate Code section 13202.)*

Date: \_\_\_\_\_ Clerk, by \_\_\_\_\_, Deputy

GOVERNMENTAL AGENCY (under Family Code, §§ 17400, 17406):  
 RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

TEL NO.: \_\_\_\_\_ FAX NO. (optional): \_\_\_\_\_

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF**  
 STREET ADDRESS:  
 MAILING ADDRESS:  
 CITY AND ZIP CODE:  
 BRANCH NAME:

FOR RECORDER'S USE ONLY

PETITIONER/PLAINTIFF:  
 RESPONDENT/DEFENDANT:  
 OTHER PARENT:

**FOR COURT USE ONLY**

CASE NUMBER:

**NOTICE REGARDING PAYMENT OF SUPPORT**  
 NOTICE OF ASSIGNED SUPPORT     SUBSTITUTION OF PAYEE

1. The obligor (the person paying support) in this proceeding is (name and last known address):

2. a.  The local child support agency is providing the following services (check all that apply):

- (1)  Current support
- (2)  Support arrears
- (3)  Medical support

b.  The local child support agency is no longer providing the services under title IV-D of the Social Security Act.

3.  The substituted payee is:

- a.  The local child support agency (specify):
- b.  Other (specify):

4.  An abstract or notice of support judgment or support judgment was recorded as follows:

<u>County</u>	<u>Date of recording</u>	<u>Instrument number</u>	<u>Book number</u>	<u>Page number</u>
---------------	--------------------------	--------------------------	--------------------	--------------------

5. All payments must be made as follows (check all that apply):

- a. Income withholding payments must be directed to the State Disbursement Unit at (specify address):
- b.  All current support payments other than income withholding payments must be sent to (specify):
- c.  All arrears payments other than income withholding payments must be sent to (specify):
- d.  Other (specify):

**THE SUBSTITUTED PAYEE MUST BE CONTACTED WHEN NOTICE TO A LIENHOLDER MAY OR MUST BE GIVEN.**

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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- 6.  An assignment of support rights by operation of law under Welfare and Institutions Code section 11477(a) has been made to the county of *(specify)*:
- 7. a.  Each parent must notify the local child support agency in writing within 10 days of any change in residence or employment.
- b.  Each parent must complete a *Child Support Case Registry Form* (FL-191) and deliver it to the court within 10 days of any change in residence or employment.

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)
(SIGNATURE)

**A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.**

**NOTICE:**  
**No acknowledgment is required when this form is recorded by a local child support agency.**

**ACKNOWLEDGMENT**  
**(To be completed when this form is recorded by a person or entity other than a local child support agency.)**

STATE OF CALIFORNIA  
 COUNTY OF \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_ (here insert name and title of the officer),  
 personally appeared \_\_\_\_\_,  
 who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature (s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
 (SIGNATURE OF NOTARY)

(Seal)



ATTORNEY OR PARTY WITHOUT ATTORNEY (name, address, and State Bar number):  
After recording return to:  
  
TEL NO.: FAX NO. (optional):  
E-MAIL ADDRESS (optional):  
ATTORNEY FOR (name):

SUPERIOR COURT OF CALIFORNIA, COUNTY OF  
STREET ADDRESS:  
MAILING ADDRESS:  
CITY AND ZIP CODE:  
BRANCH NAME:

FOR RECORDER'S USE ONLY

CONSERVATORSHIP OF (name):  
  
CONSERVATEE

CASE NUMBER:

LETTERS OF CONSERVATORSHIP

Person  Estate  Limited Conservatorship

FOR COURT USE ONLY

1.  (Name): \_\_\_\_\_ is the appointed  
 conservator  limited conservator of the  person  estate  
of (name): \_\_\_\_\_
2.  (For conservatorship that was on December 31, 1980, a guardianship of an adult or of  
the person of a married minor) (Name): \_\_\_\_\_  
was appointed the guardian of the  person  estate by order dated  
(specify): \_\_\_\_\_ and is now the conservator of the  person  
 estate of (name): \_\_\_\_\_
3.  Other powers have been granted or conditions imposed as follows:
  - a.  Exclusive authority to give consent for and to require the conservatee to receive  
medical treatment that the conservator in good faith based on medical advice  
determines to be necessary even if the conservatee objects, subject to the limitations  
stated in Probate Code section 2356.
    - (1)  This treatment shall be performed by an accredited practitioner of the religion whose tenets and practices call  
for reliance on prayer alone for healing of which the conservatee was an adherent prior to the establishment of  
the conservatorship.
    - (2)  (If court order limits duration) This medical authority terminates on (date): \_\_\_\_\_
  - b.  Authority to place the conservatee in a care or nursing facility described in Probate Code section 2356.5(b).
  - c.  Authority to authorize the administration of medications appropriate for the care and treatment of dementia described in  
Probate Code section 2356.5(c).
  - d.  Powers to be exercised independently under Probate Code section 2590 are specified in Attachment 3d (specify powers,  
restrictions, conditions, and limitations).
  - e.  Conditions relating to the care and custody of property under Probate Code section 2402 are specified in Attachment 3e.
  - f.  Conditions relating to the care, treatment, education, and welfare of the conservatee under Probate Code section 2358  
are specified in Attachment 3f.
  - g.  (For limited conservatorship only) Powers of the limited conservator of the person under Probate Code section 2351.5 are  
specified in Attachment 3g.
  - h.  (For limited conservatorship only) Powers of the limited conservator of the estate under Probate Code section 1830(b) are  
specified in Attachment 3h.
  - i.  Other powers granted or conditions imposed are specified in Attachment 3i.

(SEAL)

4.  The conservator is **not** authorized to take possession of money or any other property without a  
specific court order.

5. Number of pages attached:

WITNESS, clerk of the court, with seal of the court affixed.

Date:

Clerk, by \_\_\_\_\_, Deputy

This form may be recorded as notice of the establishment of a conservatorship of the estate as provided in Probate Code § 1875.

LETTERS OF CONSERVATORSHIP  
(Probate—Guardianships and Conservatorships)

CONSERVATORSHIP OF (name):	CASE NUMBER:
CONSERVATEE	

**NOTICE TO INSTITUTIONS AND FINANCIAL INSTITUTIONS**  
**(Probate Code sections 2890–2893)**

When these *Letters of Conservatorship* (Letters) are delivered to you as an employee or other representative of an *institution* or *financial institution* (described below) in order for the conservator of the estate (1) to take possession or control of an asset of the conservatee named above held by your institution (including changing title, withdrawing all or any portion of the asset, or transferring all or any portion of the asset) or (2) to open or change the name of an account or a safe-deposit box in your financial institution to reflect the conservatorship, you must fill out Judicial Council form GC-050 (for an institution) or form GC-051 (for a financial institution). An officer authorized by your institution or financial institution must date and sign the form, and you must file the completed form with the court.

There is no filing fee for filing the form. You may either arrange for personal delivery of the form or mail it to the court for filing at the address given for the court on page 1 of these Letters.

The conservator should deliver a blank copy of the appropriate form to you with these Letters, but it is your institution’s or financial institution’s responsibility to complete the correct form, have an authorized officer sign it, and file the completed form with the court. If the correct form is not delivered with these Letters or is unavailable for any other reason, blank copies of the forms may be obtained from the court. The forms may also be accessed from the judicial branch’s public Web site free of charge. The Internet address (URL) is [www.courts.ca.gov/forms/](http://www.courts.ca.gov/forms/). Select the form group *Probate—Guardianships and Conservatorships* and scroll down to form GC-050 for an institution or form GC-051 for a financial institution. The forms may be printed out as blank forms and filled in by typewriter or may be filled out online and printed out ready for signature and filing.

An *institution* under California Probate Code section 2890(c) is an insurance company, agent, or broker; an investment company; an investment bank; a securities broker-dealer; an investment advisor; a financial planner; a financial advisor; or any other person who takes, holds, or controls an asset subject to a conservatorship or guardianship other than a financial institution. Institutions must file a *Notice of Taking Possession or Control of an Asset of Minor or Conservatee* (form GC-050) for an asset of the conservatee held by the institution. A single form may be filed for all affected assets held by the institution.

A *financial institution* under California Probate Code section 2892(b) is a bank, a trust, a savings and loan association, a savings bank, an industrial bank, or a credit union. Financial institutions must file a *Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box* (form GC-051) for an account or a safe-deposit box held by the financial institution. A single form may be filed for all affected accounts or safe-deposit boxes held by the financial institution.

**LETTERS OF CONSERVATORSHIP**  
**AFFIRMATION**

I solemnly affirm that I will perform according to law the duties of  conservator  limited conservator.

Executed on (date): \_\_\_\_\_, at (place): \_\_\_\_\_

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF APPOINTEE)
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**CERTIFICATION**

I certify that this document, including any attachments, is a correct copy of the original on file in my office, and that the Letters issued to the person appointed above have not been revoked, annulled, or set aside, and are still in full force and effect.

(SEAL)

Date:

Clerk, by \_\_\_\_\_, Deputy



# JUDICIAL COUNCIL OF CALIFORNIA

RULES AND PROJECTS  
COMMITTEE

[www.courts.ca.gov/ruprometings.htm](http://www.courts.ca.gov/ruprometings.htm)  
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## RULES AND PROJECTS COMMITTEE

### MINUTES OF OPEN MEETING

December 10, 2015

**Advisory Body Members Present:** Hon. Harry E. Hull (chair), Hon. Brian L. McCabe (vice-chair), Hon. Brian J. Back, Mr. Richard D. Feldstein, Mr. James P. Fox, Hon. David E. Gunn, Ms. Debra Elaine Pole, Hon. David Rosenberg, and Hon. Joan P. Weber.

**Advisory Body Members Absent:** Hon. David De Alba, and Hon. Martin J. Tangeman.

**Others Present:** Ms. Heather Anderson, Ms. Deirdre Benedict, Hon. Tricia A. Bigelow, Hon. Jerilyn J. Borack, Hon. Mark S. Borrell, Mr. Arturo Castro, Ms. Audrey Fancy, Mr. Bruce Greenlee, Hon. Raymond J. Ikola, Hon. Mark A. Juhas, Ms. Camilla Kieliger, Hon. Sandy R. Kriegler, Hon. Patricia M. Lucas, Ms. Susan McMullan, Mr. Douglas C. Miller, Mr. Patrick O'Donnell, Ms. Claudia Ortega, Ms. Anne Ronan, Ms. Robin Seeley, Hon. John H. Sugiyama, Ms. Adrienne Toomey, Mr. Courtney Tucker, Ms. Julia Weber, Ms. Carrie Zoller.

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

##### Call to Order and Roll Call

#### II. DISCUSSION AND POSSIBLE ACTION ITEMS

##### Item 1

##### ~~Subordinate Judicial Officers: Complaints and Notice Requirements~~

*Proposal withdrawn prior to meeting.*

##### Item 2

##### Criminal Law Advisory Committee Annual Agenda

**Action:** The Rules and Projects Committee approved the annual agenda.

##### Item 3

##### Military Service: *Notification of Military Status* (amend MIL-100)

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

##### Item 4

##### Family and Juvenile Advisory Committee Annual Agenda

**Action:** The Rules and Projects Committee approved the annual agenda.

**Item 5**

**Probate and Mental Health Advisory Committee Annual Agenda**

**Action:** The Rules and Projects Committee approved the annual agenda.

**Item 6**

**Traffic Advisory Committee Annual Agenda**

**Action:** The Rules and Projects Committee approved the annual agenda.

**Item 7**

**~~Traffic: Notice to Appear forms~~**

*Proposal withdrawn prior to meeting.*

**Item 8**

**Civil and Small Claims Advisory Committee Annual Agenda**

**Action:** The Rules and Projects Committee approved the annual agenda.

**Item 9**

**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**  
(Adopt form EJ-115)

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

**Item 10**

**Civil Forms: Confidential Information Form** (Adopt form MC-125)

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

**Item 11**

**Court Interpreters: Request for Interpreter** (Adopt Cal. Rules of Court, rule 2.895; recommend model local court form)

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

**Item 12**

**Judicial Branch Education: Court Executive Officers Education** (Amend Cal. Rules of Court, rule 10.473)

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

**Item 13**

**Trial Courts: Reporting of Reciprocal Assignment Orders** (Amend Cal. Rules of Court, rule 10.630)

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

**Item 14**

**Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges** (Amend California Rules of Court, rules 2.810 and 10.742)

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

**Item 15**

**Judicial Administration: Rule Amendments to Change Delegations**

**Action:** The Rules and Projects Committee approved the proposal for circulation for comment.

**Item 16**

**Advisory Committee on Criminal Jury Instructions Annual Agenda**

**Action:** The Rules and Projects Committee approved the annual agenda.

**Item 17**

**Advisory Committee on Civil Jury Instructions Annual Agenda**

**Action:** The Rules and Projects Committee approved the annual agenda.

**Item 18**

**Appellate Advisory Committee Annual Agenda** (Action required)

**Action:** The Rules and Projects Committee approved the annual agenda.

**Item 19**

**Minutes: September 12, October 1, October 2, November 5, and November 20, 2014**

**Action:** The Rules and Projects Committee approved the minutes.

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**III. ADJOURNMENT**

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There being no further business, the meeting was adjourned.

Approved by the advisory body on \_\_\_\_.



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RULES AND PROJECTS COMMITTEE

MINUTES OF OPEN MEETING

January 26, 2015

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**Advisory Body Members Present:** Hon. Harry E. Hull (chair), Hon. David E. Gunn, Ms. Debra Elaine Pole, Hon. Martin J. Tangeman, and Hon. Joan P. Weber.

**Advisory Body Members Absent:** Hon. Brian J. Back, Hon. David De Alba, Mr. Richard D. Feldstein, Mr. James P. Fox, Hon. Brian L. McCabe (vice-chair), and Hon. David Rosenberg.

**Others Present:** Ms. Camilla Kieliger, Hon. Sandy R. Kriegler, Ms. Susan McMullan, Mr. Patrick O'Donnell, and Ms. Robin Seeley

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

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**Call to Order and Roll Call**

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**II. DISCUSSION AND POSSIBLE ACTION ITEMS**

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**Item 1**

**California Criminal Jury Instructions (CALCRIM)** (Approve Publication of Additions and Revisions)

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's February 19, 2015, consent agenda.

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**III. ADJOURNMENT**

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There being no further business, the meeting was adjourned.

Approved by the advisory body on\_\_\_\_\_.



# JUDICIAL COUNCIL OF CALIFORNIA

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## RULES AND PROJECTS COMMITTEE

### MINUTES OF OPEN MEETING

February 6, 2015  
EMail

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**Advisory Body Members Present:** Hon. Harry E. Hull (chair), Hon. Brian L. McCabe (vice-chair), Hon. Brian J. Back, Mr. Richard D. Feldstein, Mr. James P. Fox, Hon. David E. Gunn, Hon. David Rosenberg, Hon. Martin J. Tangeman, and Hon. Joan P. Weber.

**Advisory Body Members Absent:** Ms. Debra Elaine Pole.

**Others Present:** Ms. Camilla Kieliger, Ms. Susan McMullan, Mr. Patrick O'Donnell, and Ms. Anne Ronan

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#### DISCUSSION AND ACTION ITEMS

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##### Item 1

**Fee Waivers: Change in Federal Poverty Guidelines, Revisions to Application Form, and Specific Fees Included in Waivers** (Amend Cal. Rules of Court, rules 3.52, 3.55, and 8.818; revise forms FW-001, FW-001-INFO, FW-002, FW-003, FW-005, FW-008, FW-012, APP-001, and APP-015/FW-015-INFO)

**Action:** The Rules and Projects Committee recommended approval on the Judicial Council's February 19, 2015, consent agenda, for a March 1 and July 1, 2015, effective date.

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#### ADJOURNMENT

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There being no further business, the meeting was adjourned.

Approved by the advisory body on \_\_\_\_\_.



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**RULES AND PROJECTS COMMITTEE**

**MINUTES OF OPEN MEETING**

February 13, 2015

E-Mail

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**Advisory Body** Hon. Harry E. Hull (chair), Hon. Brian L. McCabe (vice-chair), Hon. Brian J. Back,  
**Members Present:** Mr. Richard D. Feldstein, Mr. James P. Fox, Hon. David E. Gunn, Hon. David  
Rosenberg, Hon. Martin J. Tangeman, and Hon. Joan P. Weber.

**Advisory Body** Ms. Debra Elaine Pole.  
**Members Absent:**

**Others Present:** Mr. Arturo Castro, Ms. Audrey Fancy, Ms. Camilla Kieliger, Ms. Susan McMullan,  
Mr. Patrick O'Donnell, and Ms. Adrienne Toomey.

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**DISCUSSION AND ACTION ITEMS**

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**Item 1**

**Family and Juvenile Law Advisory Committee** (Revise 2015 Annual Agenda)

**Action:** The Rules and Projects Committee approved the revisions to the annual agenda.

**Item 2**

**Criminal Law Advisory Committee** (Approve formation of limited duration subcommittee)

**Action:** The Rules and Projects Committee approved formation of the proposed  
subcommittee.

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**ADJOURNMENT**

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There being no further business, the meeting was adjourned.

Approved by the advisory body on \_\_\_\_.





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**RULES AND PROJECTS COMMITTEE**

**MINUTES OF OPEN MEETING**

February 13, 2015  
EMail

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**Advisory Body** Hon. Harry E. Hull (chair), Hon. Brian L. McCabe (vice-chair), Hon. Brian J. Back,  
**Members Present:** Mr. Richard D. Feldstein, Mr. James P. Fox, Hon. David Rosenberg, Hon. Martin  
J. Tangeman, and Hon. Joan P. Weber.

**Advisory Body** Hon. David E. Gunn and Ms. Debra Elaine Pole.  
**Members Absent:**

**Others Present:** Mr. Arturo Castro, Ms. Audrey Fancy, Ms. Camilla Kieliger, Ms. Susan McMullan,  
Mr. Patrick O'Donnell, and Ms. Adrienne Toomey.

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**DISCUSSION AND ACTION ITEMS**

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**Item 1**

**Family and Juvenile Law Advisory Committee** (Revise form JV-132)

**Action:** The Rules and Projects Committee recommended approval on the Judicial  
Council's February 19, 2015, consent agenda for an immediate effective date.

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**ADJOURNMENT**

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There being no further business, the meeting was adjourned.

Approved by the advisory body on \_\_\_\_.