

JUDICIAL COUNCIL MEETING
Minutes of the June 30, 2006, Meeting
San Francisco, California

Chief Justice Ronald M. George, Chair, called the meeting to order at 8:45 a.m. on Friday, June 30, 2006, at the Administrative Office of the Courts (AOC) in San Francisco, California.

Judicial Council members present: Chief Justice Ronald M. George; Senator Joseph Dunn; Justices Marvin R. Baxter and Eileen C. Moore; Judges J. Stephen Czulger, Michael T. Garcia, Suzanne N. Kingsbury, Charles W. McCoy, Jr., Barbara J. Miller, Dennis E. Murray, William J. Murray, Jr., Richard E. L. Strauss, and James Michael Welch; Mr. Anthony P. Capozzi, Mr. Thomas V. Girardi, Mr. Rex S. Heinke, Ms. Barbara J. Parker, and Mr. William C. Vickrey; **advisory members:** Judges Terry B. Friedman and Sharon J. Waters; Commissioner Ronald E. Albers; Ms. Tamara Lynn Beard, Ms. Deena Fawcett, Mr. Alan Slater, and Ms. Sharol Strickland.

Absent: Assembly Member Dave Jones; Justices Candace D. Cooper and Richard D. Huffman; and Judge Michael Nash.

Others present included: Judges Peter Paul Espinoza, Carolyn B. Kuhl, and Thomas M. Maddock; Mr. Michael M. Roddy; Mr. Stanley Bissey, Ms. M. Heffel, Ms. Beth Jay, and Ms. Christel Osborn; **staff:** Ms. Heather Anderson, Mr. Dennis Blanchard, Ms. Deborah Brown, Mr. Philip Carrizosa, Mr. James Carroll, Ms. Casie Casados, Ms. Jeanne Caughell, Mr. Dexter Craig, Ms. Kim Davis, Ms. Diann Diamond, Mr. Mark Dusman, Ms. Lura Dymond, Mr. Robert Emerson, Ms. Nina Erlich-Williams, Ms. Audrey Fancy, Mr. George Ferrick, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Ms. Christine M. Hansen, Ms. Donna Hershkowitz, Ms. Lyn Hinegardner, Ms. Lynn Holton, Ms. Kathleen T. Howard, Mr. Kenneth L. Kann, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Carolyn McGovern, Mr. Douglas C. Miller, Ms. Vicki Muzny, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Ms. Mary M. Roberts, Ms. Rona Rothenberg, Ms. Sonya Smith, Ms. Nancy Spero, Ms. Marcia M. Taylor, Ms. Karen M. Thorson, Mr. Joshua Weinstein, Ms. Barbara Jo Whiteoak, Ms. Daisy Yee, and Ms. Patricia M. Yerian; **media representative:** Ms. Cheryl Miller, *The Recorder*.

Except as noted, each action item on the agenda was unanimously approved on the motion made and seconded. (Tab letters and item numbers refer to the binder of Reports and Recommendations dated June 30, 2006, that was sent to members in advance of the meeting.)

Public Comment Related to Trial Court Budget Issues

Chief Justice George noted that no requests to address the council had been received.

Approval of Minutes of the April 21, 2006, Business Meeting

The minutes of the April 21, 2006, business meeting were approved.

Chief Justice George's Comments

Chief Justice George introduced new Judicial Council members who were in attendance: Presiding Judge Thomas M. Maddock; Judges Peter Paul Espinoza, Carolyn B. Kuhl, and James Michael Welch; and Executive Officer Mike Roddy. Chief Justice George said that Judge Terry Friedman, a member of the council in his present capacity as president of California Judges Association (CJA), will also be continuing as a member through a new appointment. Chief Justice George also mentioned two new Judicial Council members, Judge Jamie A. Jacobs-May and Mr. Raymond G. Aragon, who were unable to attend the meeting.

Judicial Council Committee Presentations

Executive and Planning Committee

Judge William J. Murray, Jr., vice-chair of the Executive and Planning Committee (E&P), reported that the committee had met twice by conference call and once in person since the April 21, 2006, council meeting.

On May 11, 2006, the committee approved five Civil Mediation and Settlement Program Grants from the Judicial Administration Efficiency and Modernization Fund as follows: an Assessment and Planning Grant to the Superior Court of Orange County (\$7,500), and Implementation and Improvement Grants to the Superior Courts of Lake (\$100,000), Los Angeles (\$62,500, \$99,850), and Santa Clara (\$100,000) Counties.

The committee also discussed the process for reviewing nominations to the Judicial Council.

On May 16, 2006, the committee met in person in San Francisco, primarily to review nominations for membership on the Judicial Council. Committee members discussed nominations and developed recommendations to the Chief Justice on appointments for 2006.

The committee also reviewed and discussed plans for the Judicial Council Strategic Planning Meeting scheduled for June 28–29, 2006.

On June 7, 2006, the committee reviewed reports and set the agenda for the June 30, 2006, Judicial Council business meeting.

Committee members also approved the remaining Civil Mediation and Settlement Program Grants for fiscal year 2005–2006, which were Assessment and Planning Grants for the Superior Courts of Fresno (\$7,500; \$7,150), Humboldt (\$7,500), Mendocino (\$7,500), and Yuba and Sutter Counties (\$13,500), and Implementation and Improvement Grants for the Superior Courts of Contra Costa (\$37,000) and El Dorado (\$15,041) Counties. The committee also approved the fiscal year 2004–2005 Assessment and Planning Grant Reports submitted by the Superior Courts of Fresno and Sonoma Counties and authorized the disbursement of the Implementation and Improvement Grants previously awarded to those courts.

Justice Richard D. Huffman discussed with committee members the review process for advisory committee nominations. The deadline for these nominations is June 30, 2006, and E&P will review the nominations and develop recommendations to the Chief Justice in August.

Policy Coordination and Liaison Committee

Justice Marvin R. Baxter, chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met three times since the last council meeting.

During those meetings, the PCLC took positions on 10 bills relating to jurors, small claims matters, the death penalty, family law, juvenile dependency, and court challenges to initiatives.

Five Judicial Council–sponsored bills continue to proceed through the Legislature, including bills relating to court operations issues, judges’ retirement, and new judgeships.

The PCLC will continue to meet regularly to take positions on pending legislation on behalf of the council and will keep the council informed of key legislative issues at future council meetings.

The State Budget was approved by the Legislature on Tuesday, June 27 and submitted to the Governor for signature.

Justice Baxter announced that there are several upcoming legislative deadlines to note: August 31 is the last day for each house to pass bills and September 30 is the Governor’s signing deadline.

In conjunction with the PCLC report, Mr. Anthony P. Capozzi also reported that on May 24, 2006, members of the Bench-Bar Coalition met with over 50 legislators and staff in Sacramento.

Rules and Projects Committee

Judge Suzanne N. Kingsbury, chair of the Rules and Projects Committee (RUPRO), reported that the committee had met two times by phone since the last council meeting.

On May 16, 2006, the committee met by phone to review the technical changes proposal and the rules reorganization proposal that are before the council. The committee recommended council approval of these proposals—item 3 and item 5, respectively, on today's agenda.

The rules reorganization proposal is the culmination of a very lengthy, labor-intensive project that reordered and renumbered the rules and the Standards of Judicial Administration. The rules were reorganized into appropriate titles that generally follow the progress of cases from filing through trial and post trial. The standards were reorganized to correspond logically to the titles and rules to which they relate. In addition, the format of the rules and standards was changed to make them easier to read and understand, and many of the rules and standards were amended for clarity and consistency of style.

Judge Kingsbury thanked and recognized staff who worked on this important project.

On June 1, 2006, Judge Richard E. L. Strauss chaired the committee's phone meeting to consider revisions and additions to the council's civil jury instructions. RUPRO recommended approval of the instructions for publication—item 2 on the consent agenda.

Judicial Council Court Visits Report

Judge Michael T. Garcia reported on visits to the Superior Courts of Lake, Mendocino, and Sonoma Counties, with the assistance of Ms. Camilla Kieliger. Judge Garcia was joined on the visits to these courts by Justices Marvin R. Baxter and Eileen C. Moore; Judges Dennis E. Murray and William J. Murray, Jr.; Ms. Tamara Beard, Ms. Deena Fawcett, and Mr. Thomas V. Girardi, along with AOC staff members Mr. Nick Cimino, Mr. Robert Emerson, Mr. Bob Fleshman, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Mr. Burt Hirschfeld, Mr. Kenneth L. Kann, Ms. Jody Patel, Ms. Christine Patton, and Ms. Jennifer Turnure. Not everyone was present at each site.

Administrative Director's Report

Mr. William C. Vickrey reported on activities related to getting the State Budget passed during the legislative session and, on behalf of the AOC, thanked staff and others for the considerable effort they all put forth toward that end. Ms. Kathleen T. Howard announced that the Governor was having a signing ceremony at the State Capitol today.

Mr. Vickrey reported that he had attended a luncheon meeting of the Legal Aid Society of San Francisco at which federal District Court Judge Marilyn Patel presented Chief

Justice George with the Matthew O. Tobriner Public Service Award. Chief Justice George was also notified that he will receive the Dwight D. Opperman Award for Judicial Excellence that will be presented to him during the Judicial Council Leadership Conference, November 1–3, 2006.

Mr. Vickrey welcomed Ms. Mary M. Roberts to her new position as General Counsel in the AOC's Office of the General Counsel and Mr. William Kasley, who has accepted the position as the Assistant General Counsel in the same division.

Mr. Vickrey also welcomed Mr. Kenneth L. Kann, who was recently appointed as Director in the Executive Office Programs Division.

Mr. Vickrey announced the recent appointment of retired Judge Leonard P. Edwards to a half-time position working with the AOC's Center for Families, Children & the Courts division, focusing on delinquency issues.

Mr. Vickrey reported that the focus of the fall Judicial Council Leadership Conference would be on security and emergency preparedness and response, and on judicial elections. Mr. Kenneth Feinberg, who was the administrator of the September 11 Fund, will be the guest speaker for what will be the first of the Ralph Shapiro Administration of Justice Fund "Purpose of Justice" lectures on the evening of November 1, 2006.

Mr. Vickrey reported on a recent conference on judicial diversity led by a former council member, Judge Brenda Harbin-Forte, at which approximately 150 judges and lawyers, including Judicial Council members, discussed how the legal system can work with the Governor's Office and local communities to assist in recruiting applicants of diverse cultural and ethnic backgrounds, as well as professional backgrounds, for appointment to the bench.

Mr. Vickrey reported that AOC staff and the California Courts Technology Center contractor, Siemens Business Services, had an exercise over a weekend in which the technology center's computers were disabled to identify whether they could be brought back to operational status in a reasonable period of time. The exercise went successfully with computer services up and operating while being provided out of Philadelphia, Pennsylvania.

Mr. Vickrey praised Ms. Patricia Yerian and her Information Services Division staff for their impressive efforts during a recent weekend accident at the AOC facility in San Francisco, in which several of the computer servers were disabled due to water leakage into the main AOC computer room. Working around the clock, staff was able to have everything operational by Sunday afternoon.

Chief Justice's Report

Chief Justice Ronald M. George announced that at the second annual California Capitol event recognizing National Foster Care Month, Mr. Vickrey was honored, both as a member of the national Pew Commission on Children in Foster Care and in conjunction with the Judicial Council's Blue Ribbon Commission on Children in Foster Care, for his dedicated work in this area on a local and national level.

The Chief Justice also welcomed Ms. Mary M. Roberts to her new position as General Counsel in the AOC's Office of the General Counsel.

The Chief Justice expressed appreciation for the contributions of Ms. Sonya Smith, who will be leaving the AOC. He also praised her efforts going forward to her new position assisting to establish an independent judiciary in Armenia.

The Chief Justice also welcomed Mr. Kenneth L. Kann, who was recently appointed as director of the Executive Office Programs Division.

The Chief Justice expressed his sadness at the unexpected passing of Superior Court Judge Roberta McPeters in May. Judge McPeters had served the judicial branch with great dedication and distinction and was the first female presiding judge in the Superior Court of San Bernardino County. Judge McPeters also led the court through substantial upgrades to help secure grant funding for the retrofit of the historic courthouse.

Judge James Michael Welch also expressed his regret at having lost such a true leader and noted how much she will be missed.

The Chief Justice noted that Juror Appreciation Week was celebrated May 8–12, and that courts across the state held events to honor jurors and to encourage jury service.

The Chief Justice reported that funding for 50 new judgeships was approved in the budget, although statutory authorization for the positions is still subject to passage of Senate Bill 56. Funding is for the last month of fiscal year 2006–2007, so the proposal is for the new positions to become effective April 1, 2007. This will allow the Governor's Office to begin the process of making the 50 appointments that will be funded on an ongoing basis beginning in fiscal year 2007–2008.

The Chief Justice reported that liaison meetings had taken place in recent weeks with the County Counsels' Association, California Defense Counsel, Consumer Attorneys of California, California District Attorneys Association, and the California Association of Counties. The Chief Justice expressed his appreciation for support from the Bench-Bar Coalition and to Mr. Thomas V. Girardi for his efforts from abroad to work with the Legislature on the judicial branch budget.

The Chief Justice noted also that he had met with former State Treasurer Kathleen Brown, who now is active with Goldman, Sachs. Chief Justice George said that Ms. Brown has some proposals for possible public/private partnerships for funding courthouse needs, drawn from the success that she and Goldman, Sachs have had in other states, such as Illinois and Indiana, where government agencies responsible for toll ways and bridges had a partnership with the private sector. The Chief noted that such partnerships are worth exploration.

The Chief Justice reported that he had had a number of speaking engagements, including an hour-long interview on the California Channel during which he focused on judgeships and facilities needs. The Chief Justice also spoke at the Peace Officers Memorial Ceremony in Sacramento, where police officers who died in the line of duty in the past year were honored, and at a meeting of the American Academy of Arts and Sciences in Boston on matters of judicial independence and a tax on the judiciary. The Chief Justice also was interviewed on KQED-FM by Mr. Michael Krasny on threats to judicial independence here in California and developments in South Dakota related to that state's initiative on judicial accountability and judicial immunity. Other speaking engagements focused on the needs of self-represented parties and for pro bono activities, as well as the need for legal services and interpreter services.

The Chief Justice reported that he also had received an award from, and spoken at a function for, the Inner City Law Center in Los Angeles and also was honored to receive the Matthew O. Tobriner Public Service Award from the Legal Aid Society of San Francisco.

The Chief Justice reported that he had had other speaking engagements at the Alameda County Bar Association's Volunteer Legal Services Group and a similar group in Contra Costa County; the Lawyers' Club of San Francisco; the Public Counsel dinner at the Beverly Hills Bar Association; and at the Bernard E. Witkin Judicial College.

The Chief Justice reported on three Commission on Judicial Appointments hearings: for the council's own Judge Douglas P. Miller's elevation to the Fourth Appellate District, Judge Stephen J. Kane's elevation to the Fifth Appellate District, and Judge Steven C. Suzukawa's elevation to the Second Appellate District.

The Chief Justice met with the State-Federal Judicial Council to discuss matters of mutual interest. The Chief Justice also reported that he will be attending the Ninth Circuit Judicial Conference early in July. The Chief Justice noted that he had attended (1) a combined meeting of the San Francisco Historical Society and the Supreme Court Historical Society, where he spoke about the history of the Supreme Court and the Courts of Appeal; (2) the annual dinner of the members of the Supreme Court, on invitation by the State Bar Board of Governors; and (3) a meeting of the Collaborative Court-County

Working Group on Enhanced Collections chaired by Ms. Sheila Calabro. The working group has done an outstanding job increasing collections of court-ordered fines and forfeitures.

The Chief Justice, accompanied by Mr. Vickrey and Mr. Ronald G. Overholt, visited the Superior Court of Mariposa County to participate in a signing ceremony on June 27, 2006, in celebration of Mariposa being the first court in California to comply with all required provisions under the Trial Court Facilities Act of 2002.

The Chief Justice praised the efforts of Ms. Susan Kennedy, the Governor's Chief of Staff; Senate President pro Tem Don Perata; Speaker of the Assembly Fabian Núñez; Senators Dick Ackerman, Joseph Dunn, and Mike Machado; and Assembly Member John Laird for their considerable efforts aimed at the enactment of the judicial branch budget as well as securing 50 new judgeships.

CONSENT AGENDA (ITEMS 1–4)

Item 1 Site Selection for New Courthouses: Superior Courts of Plumas/Sierra and Mono Counties

The Office of Court Construction and Management staff recommends that the Judicial Council direct AOC staff to proceed with the site selection process for the new courthouse projects for the Superior Courts of Plumas/Sierra and Mono Counties. The negotiation for property acquisition, pending funding and authority in the fiscal year 2006–2007 budget, and authority to proceed to site selection will allow for timely and competitive negotiation for the below-market-rate properties that are proposed for these two projects, or other properties available at market.

Council action

The Judicial Council, effective June 21, 2006:

1. Directed AOC staff to proceed with the site selection process for the Plumas/Sierra Counties new Portola/Loyalton Court. The process will include negotiation for one of three identified properties: one in the city of Portola, one at the Woodbridge development, and one on Highway 70. The process will conclude with a recommendation to the council to purchase a single property; and
2. Directed AOC staff to proceed with the site selection process for the Mono County new Mammoth Lakes Court. The process will include negotiation for one or more identified properties: a portion of the U.S. Forest Service site that has been identified for the development of the Mammoth Lakes Government Center campus by Southern Mono Healthcare District, the town of Mammoth Lakes, and Mono County. The process will conclude with a recommendation to the council to purchase a single property.

Item 2 Jury Instructions: Approve Publication of Revisions and Additions to Civil Instructions (Cal. Rules of Court, rule 8.55(d))

The Advisory Committee on Civil Jury Instructions recommends approval of the publication of revisions to the Judicial Council of California Civil Jury Instructions (CACI) that were first published in September 2003 and last amended in January 2006. The instructions would be added or revised to improve clarity and accuracy.

Council action

The Judicial Council, effective June 30, 2006, approved for publication under rule 855(d) of the California Rules of Court the civil jury instructions prepared by the Advisory Committee on Civil Jury Instructions. The revisions will be officially published as a supplement to the 2006 edition of *California Civil Jury Instructions (CACI)*.

Item 3 Technical Changes to Judicial Council Forms (revise forms DV-110, DV-130, and DV-520-INFO)

Administrative Office of the Courts staff recommends that several domestic violence forms be revised to correct typographical omissions.

Council action

The Judicial Council, effective July 1, 2006:

1. Revised form DV-110, *Temporary Restraining Order and Notice of Hearing (CLETS—TRO)*, to add the word “least” to the first sentence of item 7, so that the sentence reads: “The person in 2 must stay at least _____ yards away from”;
2. Revised form DV-130, *Restraining Order After Hearing (CLETS—OAH)*, to correct the spelling of the word “restrained” in the second line of item 23; and
3. Revised form DV-520-INFO, *Get Ready for Your Hearing (For Protected Person)*, to delete the sentence “Take a copy of DV-130 to your local police or sheriff if the clerk does not send it for you” from page 2.

Item 4 Travel Expenses: Approval of Travel Expense Reimbursement for Trial Court Judges and Employees and Business Meal Expense Guidelines Policies and Procedures

AOC staff recommends adoption of revised policies, schedules, and procedures for trial court business-related travel expenses as required annually by Government Code section 69505 and business meal expense guidelines.

Council action

The Judicial Council, effective July 1, 2006:

1. Adopted the revised policies, schedules, and procedures for trial court business-related travel expenses contained in the *Trial Court Financial Policies and Procedures Manual* under policy section AOC FIN 8.03, Travel Expense Reimbursement for Trial Court Judges and Employees and AOC FIN 8.05, Business Meal Expense Guidelines; and
2. Adopted the following policies:
 - a. These policies do not change any terms of a memorandum of understanding or agreement by and between a recognized employee organization and a trial court, entered into before July 1, 2006. Upon expiration of a memorandum of understanding or agreement by and between a recognized employee organization and a trial court, entered into before July 1, 2006, the policies mentioned above apply.
 - b. Trial courts that process their travel expense claims through their county will be required to follow this reimbursement policy regardless of the rates that the counties may allow.

DISCUSSION AGENDA (ITEMS 5–7)

Item 5 Reorganization of the California Rules of Court

Mr. Patrick O'Donnell, Office of General Counsel, presented this item, with the participation of Ms. Audrey Fancy, Center for Families, Children & the Courts, and Ms. Heather Anderson, Office of the General Counsel.

Administrative Office of the Courts staff recommended that the Judicial Council adopt the reorganization of the California Rules of Court, effective January 1, 2007. This comprehensive reorganization reorders, renumbers, and amends significant portions of the rules and standards so that they are more logically located, better formatted, and easier to read.

A complete set of the reorganized California Rules of Court can be accessed using this link: <http://www.courtinfo.ca.gov/rules/reorg.htm>

Council action

The Judicial Council, effective January 1, 2007:

1. Approved the reorganization, renumbering, reformatting, and amendment of the California Rules of Court; and
2. Also directed that AOC staff provide support, if needed, to assist the appellate courts in responding to these rule changes while simultaneously undergoing changes in their case management systems.

Item 6 Status: Workload Growth and Equity Funding (Information Only)

Ms. Christine M. Hansen, Finance Division, Ms. Jody Patel, Northern/Central Regional Office, and Ms. Christine Patton, Bay Area/Northern Coastal Regional Office presented this item with the participation of Ms. Vicki Muzny, Finance Division.

The Judicial Council approved an allocation to various trial courts of \$13.86 million in Workload Growth and Equity funding from the fiscal year 2005–2006 state appropriations limit (SAL) funding at its July 2005 meeting. The council required that the courts receiving this funding report to the Administrative Office of the Courts regarding how the funds were used and the benefits they received from the funds. The council also required that this information be presented to them at a future meeting. This report summarized how the funds were used.

Council action

The Judicial Council took no action on this item.

Item 7 Status: Court Facilities (Information Only)

Mr. Ronald G. Overholt, Chief Deputy Director, presented an update on court facilities transfers and related issues.

Mr. Overholt reported that, with master plans and seismic evaluations in place for all 58 counties, projects are under way in the counties of Merced, Contra Costa, Fresno, and Mono, Plumas, and Sierra. Additionally four projects are under way in the appellate courts: in the Fifth Appellate District in Fresno, the Fourth Appellate District, Division Three, in Santa Ana, the Third Appellate District in Sacramento, and the Fourth Appellate District, Division Two, in Riverside. In the coming year funding will be requested for 10 superior court projects and 2 appellate court projects.

Council action

The Judicial Council discussed the need for reviewing sources of alternative funding to finance construction and other projects related to court facilities and requested that AOC staff report back to the council on alternatives for consideration.

Circulating Orders

Copy of a Circulating Order acted on since the last business meeting; no action was necessary.

Appointment Orders

Copies of appointment orders are for information only; no action was necessary.

Publication of Jury Instructions

A staff report on relations with publishers of jury instructions after the amendment to rule 855(c) authorized the AOC to require commercial publishers to pay fees or royalties in exchange for permission to publish the instructions was distributed with meeting materials for council information only; no action was necessary.

There being no further public business, the meeting was adjourned at 11:15 a.m.

Respectfully submitted,



William C. Vickrey
Administrative Director of the Courts and
Secretary of the Judicial Council