JUDICIAL COUNCIL MEETING
Minutes of the April 25, 2008, Meeting
San Francisco, California

Justice Marvin R. Baxter, Acting Chair, called the meeting to order at 8:40 a.m. on Friday, April 25, 2008, at the Administrative Office of the Courts (AOC) in San Francisco, California.

Judicial Council members present: Justices Marvin R. Baxter, Brad R. Hill, Richard D. Huffman, and Eileen C. Moore; Judges George J. Abdallah, Jr., Peter Paul Espinoza, Terry B. Friedman, Jamie A. Jacobs-May, Carolyn B. Kuhl, Thomas M. Maddock, Charles W. McCoy, Jr., Dennis E. Murray, and James Michael Welch; Mr. Raymond G. Aragon, Mr. Anthony P. Capozzi, Mr. Thomas V. Girardi, and Mr. William C. Vickrey; advisory members: Judges Ira R. Kaufman and Nancy Wieben Stock; Commissioner Ronald E. Albers, Ms. Deena Fawcett, Mr. Michael D. Planet, Mr. Michael M. Roddy, and Ms. Sharol Strickland.

Absent: Chief Justice Ronald M. George; Senator Ellen M. Corbett; Assembly Member Dave Jones; Judge Barbara J. Miller; and Ms. Barbara J. Parker.

Others present included: Justice Kathleen E. O'Leary; Judges Frederick P. Aguirre, Brian John Back, Andrew P. Banks, Steven D. Bromberg, Donna L. Crandall, Sheila Fell, John C. Gastelum, Sheila F. Hanson, Douglas Hatchimonji, Susan D. Huguenor, Carolyn Kirkwood, Charles Margines, Mary Fingal Schulte; Executive Officers Rosa Junqueiro, Ken Torre, and Alan Slater; Commissioners Gary G. Bischoff, Glenn Mondo, Joe Teel Perez, Lyle J. Robertson, Thomas H. Schulte; Mr. Bryant Bell, Mr. Mike Belote, Ms. Catalina Caballero, Mr. Don Ernst, Ms. Roxanne Garibay, Mr. Joshua Gilliland, Ms. Sandy Hilger, Mr. Michael Hyams, Ms. Beth Jay, Mr. Jon Kidde, Ms. Jacqueline King, Ms. Denise Leat, Ms. Patricia Lee, Ms. Jeannette McSkane, Mr. Daniel Navarro, Mr. Snorri Ogata, Ms. Roberta Schultz, Ms. Fanny Suarez, and Ms. Chelle Uecker; **staff:** Mr. Joey Barham, Mr. Dennis Blanchard, Ms. Deborah Brown, Ms. Ayanna Cage, Ms. Sheila Calabro, Mr. Philip Carrizosa, Ms. Tina Carroll, Ms. Roma Cheadle, Mr. Curtis L. Child, Ms. Khin Chin, Mr. Stephen Chow, Ms. Nicole Claro-Quinn, Mr. Dexter Craig, Ms. Chris Cunningham, Mr. Patrick Danna, Ms. Kim Davis, Mr. Douglas Denton, Ms. Charlene Depner, Mr. Mark W. Dusman, Mr. Edward Ellestad, Mr. Robert Emerson, Ms. Audrey Fancy, Mr. Bob Fleshman, Mr. Malcolm Franklin, Mr. Ernesto V. Fuentes, Mr. David Glass, Mr. Joe Glavin, Mr. Ruben Gomez, Mr. Bruce Greenlee, Ms. Lynn Holton, Ms. Jonna Houghton, Mr. Kenneth L. Kann, Ms. Camilla Kieliger, Mr. Gary Kitajo, Ms. Leanne Kozak, Ms. Maria Kwan, Mr. John Larson, Ms. Althea Lowe-Thomas, Ms. Iona Mara-Drita, Ms. Carolyn McGovern, Ms. Susan McMullan, Ms. Alisha Medina, Mr. Douglas C. Miller, Mr. Frederick Miller, Ms. Diane Nunn, Mr. Patrick O'Donnell, Mr. Ronald G. Overholt, Ms. Jody Patel, Ms. Christine Patton, Mr. Daniel Pone, Ms. Kelly Quinn Popejoy, Mr. Christopher Rey, Ms. Mary M. Roberts, Ms. Rona Rothenberg, Ms. Robin Seeley, Ms. Lucy Smallsreed, Ms. Marcia Taylor, Ms. Irene Vozaites, Mr. Don

Will, Mr. Jack Urquhart, Ms. Josely Yangco-Fronda, Ms. Daisy Yee, and Mr. Jens Zeschky; **media representative**s: Mr. Ari Burack, *Bay City News Service,* Ms. Molly Samuel, KQED, Ms. Amy Chai, *Ming Pao Daily News*, and Mr. Will Reisman, *San Francisco Examiner.*

Public Comment Related to Trial Court Budget Issues
Justice Baxter noted that no requests to address the council had been received.

Approval of Minutes
The minutes of the February 22, 2008, business meetings were approved.

Visitors from the Superior Court of Orange County
Justice Baxter welcomed the group of visitors from the Superior Court of California, County of Orange: Presiding Judge Nancy Wieben Stock; Judges Frederick A. Aguirre, Steven D. Bromberg, Donna L. Crandall, Sheila Fell, John C. Gastelum, Sheila F. Hanson, Douglas Hatchimonji, Carolyn Kirkwood, Charles Margines, and Mary Fingal Schulte; Commissioners Gary G. Bischoff, Glenn Mondo, Joe Teel Perez, Lyle J. Robertson, and Thomas H. Schulte; Chief Executive Officer Alan Slater; Assistant Chief Executive Officer Chelle Uecker; Chief Human Resources Officer Denise Leat; Chief Technology Officer Snorri Ogata; Executive Director, Judicial Support Services Michael Hyams; Executive Director, Project Management Office, Jeannette McSkane; Planning and Research Unit Program Officer, Sandy Hilger; and Executive Assistants to the presiding judge, Catalina Caballero and Jacqueline King.

Judicial Council Committee Presentations
Executive and Planning Committee
Justice Richard D. Huffman, chair of the Executive and Planning Committee (E&P), reported that the committee had met three times since the February 22, 2008, Judicial Council meeting as follows:

- Via conference call on April 2, 2008;
- Via e-mail on April 15, 2008; and
- Via e-mail on April 23, 2008.

On April 2, 2008, the committee reviewed reports and set the agenda for the April 25, 2008, Judicial Council business meeting.

E&P also reviewed the draft Operational Plan for California's Judicial Branch, 2008–2011, and approved it for presentation, discussion, and council action at the April 25, 2008, Judicial Council meeting.

Justice Huffman reminded the council that the Legislature had authorized conversion of up to 16 subordinate judicial officer (SJO) positions to judgeships in fiscal year 2007–2008. At its December 7, 2007, business meeting, the council approved a policy

delegating to E&P the authority and responsibility for confirming the conversion of SJO positions to judgeships. In accordance with procedures established for courts to notify the Administrative Office of the Courts (AOC) of SJO vacancies, several courts notified E&P that they had commissioner vacancies eligible for conversion, and E&P took the following actions regarding requests that had been received:

- Confirmed the conversion of one vacant SJO position to a judicial officer position in each of the Superior Courts of Los Angeles, Sacramento, and San Diego Counties, effective April 2, 2008; and

- Approved that the converted positions in Los Angeles and San Diego Counties may be temporarily filled with a retired commissioner until a new judge is appointed and sworn to the bench.

On April 15, 2008, staff circulated, via e-mail, a request from the Superior Court of Solano County for committee confirmation of the conversion of one vacant SJO position to a judicial officer position, effective June 30, 2008. The committee confirmed the request for conversion, effective June 30, 2008. The court did not request the committee's approval to temporarily fill the converted position but indicated that it intends to make application to the Chief Justice of California for temporary assignment of a judge until a new judge is appointed and sworn to the bench.

On April 23, 2008, staff E&P circulated a request, via e-mail, from the Superior Court of San Diego that a third vacant SJO position not be converted at this time because of considerable judicial turnover. The court already has had two SJO conversions in 2007–2008. The committee voted to approve San Diego County's request not to convert this position during the current 2007–2008 fiscal year.

Justice Huffman reported that E&P is in the process of soliciting nominations for vacancies on the Judicial Council. The deadline for submitting nominations is May 9, 2008. It is E&P's responsibility to solicit nominations for a Judicial Council composed of members who represent diverse geographic locations, professional, and personal experiences, who possess strong leadership qualities and ethics, who demonstrate commitment to the administration of justice, and who reflect the diversity of the state's residents. At its May 19, 2008, meeting, E&P will review the nominations and will send the names of three candidates for each vacant position to the Chief Justice, from which names he will make his appointments.

Justice Huffman also reported that the process of soliciting nominations for vacancies on the Judicial Council's advisory committees is underway. Soon after completing the review of Judicial Council nominees, the committee will then review nominations received for advisory committee vacancies. Justice Huffman stressed the importance of the participation of court and branch leaders such as the presiding judges, court

executives, council members, and advisory committee chairs in the nomination process to ensure the broad representation needed from members of each segment of the judicial branch to accomplish the work of each of the advisory committees.

Policy Coordination and Liaison Committee
Mr. Anthony P. Capozzi, Vice-chair of the Policy Coordination and Liaison Committee (PCLC), reported that the committee had met three times since the February 22, 2008, Judicial Council meeting.

PCLC took positions on 19 pieces of legislation relating to jury exemptions, guardians and conservators, law libraries, criminal law, family law, and court interpreters.

In addition, there were three pieces of legislation which were approved for council sponsorship. The legislation dealt with court fee waivers, electronic discovery, and court facilities.

Eight Judicial Council–sponsored bills continue to move through the legislature, including bills on new judgeships, court facilities, civil fees, fee waivers, and miscellaneous court operations items.

Since the council met last, Chief Justice George delivered his annual State of the Judiciary address to a joint session of the legislature.

The Chief's address was followed by the fourteenth annual Judicial-Legislative-Executive Forum. The forum was well attended by representatives of the Judicial, Executive, and Legislative branches, as well as Bench-Bar Coalition members. These two events were very well received and are an important part of the council's ongoing efforts to enhance working relationships among the three branches of government.

Rules and Projects Committee
Justice Eileen C. Moore, chair, reported that the Rules and Projects Committee (RUPRO) had met three times by telephone since the February 22, 2008, Judicial Council meeting.

On March 18, RUPRO met to review several proposals and recommends approval of proposals Item 1A and Items 1C–1H on the consent agenda.

On March 27, RUPRO met to review revisions to the Civil Jury Instructions and recommends approval of proposal Item 1B on the consent agenda.

On April 18, RUPRO met to review and approve 45 proposals to circulate for public comment in the spring 2008 RUPRO rules cycle. These proposals are expected to come before the Judicial Council at its October 24, 2008, business meeting.

Judicial Council Court Visit Report

Judge Thomas G. Maddock, team leader, and Ms. Sheila Calabro, Regional Administrative Director, AOC Southern Regional Office, reported on visits to the Superior Courts of Imperial and San Diego Counties, with the participation of Josely Yancgo-Fronda.

Administrative Director's Report

Mr. William C. Vickrey recognized the presence of Mr. Mike Bolote, who has been a longstanding partner in furthering issues of importance to the judicial branch and in increasing the effectiveness of the judicial branch in relationship to the legislative and executive branches.

Mr. Vickrey mentioned a few matters contained in his written report to the council on activities since the last report that further the Judicial Council's goals and agenda for the judicial branch. These matters are described below:

- The spring finance letters for the judicial branch submitted to the Legislature by the State Department of Finance were not reflected in the May budget revisions, however, they remain part of the process as the Governor's Budget is amended during the course of the year.

- The funding increase needed for the Mammoth Courthouse reflects the unique circumstances of that location and the continuing cooperation of the budget subcommittees in the Legislature and the Governor to continue with this project in order to meet the needs of the community.

- Chief Deputy Director Ronald G. Overholt has been a very effective architect of building improved relationships and communications with state and local recognized bargaining unit representatives, which inures to the benefit both of the employees of our state court system and of the Judicial Branch as a whole.

- The Commission on Civil Fees has had its first meeting. Legislation in 2007 would have directed the council to establish such a commission, but the measure was vetoed by the Governor. In his veto message, the Governor indicated that legislation was not necessary as the council had the authority to create such a commission and encouraged the council to proceed in this fashion.

- Two legislative proposals of particular significance: (1) Senate Bill 1407 (Senator Perata) authorizes a revenue bond program to finance construction of critical-need courthouses in the state. (2) Assembly Bill 3052 (Assembly Committee on the Judiciary) revises and recasts the Judicial Council's authority to explore

alternative approaches to constructing courthouses. Assembly Member Dave Jones is interested in the Judicial Branch having the necessary discretion to take advantage of alternative court facilities construction methods.

- With the assistance of AOC Office of Court Construction and Management, Finance Division, and Office of the General Counsel, and outside financial and legal advisors, the financial benchmarks and performance expectations for the performance-based infrastructure project for the new Long Beach courthouse have been approved by the Department of Finance. The Joint Legislative Budget Committee has 30 days to review the documentation. If approved, the Request for Qualifications can be released in May, to be followed by a Request for Proposals. A final decision is likely in December.

- The AOC has selected Science Applications International Corporation as the new provider of technology services for the AOC, the Courts of Appeal, and the superior courts, replacing Siemens IT Solutions. Transition to the new service provider is planned for completion in September 2008. The new service provider will be able to recover from a system failure much faster than our current provider.

- Cost savings measures are being implemented—by the Supreme Court, the Courts of Appeal, the Administrative Office of the Courts, and the council's advisory committees—including a freeze on hiring and promotions with limited exceptions, and restrictions on travel and meetings. The judicial branch advisory groups that have met since the last council meeting are listed on page 10 of the written report, with more specifics on their activities starting with page 14.

- The list of 2008 priorities from the Conference of Chief Justices and the Conference of State Court Administrators Government Affairs Committee appears on page 27; these priorities will guide their legislative efforts in Congress.

- The Judicial Council received the G. Thomas Munsterman Award for Jury Innovation from the National Center for State Courts for the work of the council's Task Force on Jury Instructions. Justice Carol A. Corrigan and Justice James D. Ward co-chaired the initial task forces.

- The Judicial Vacancy Report illustrates the workload pressure on the courts. Last year, there were approximately 15 vacancies in our trial courts; today there are 72. We are following up on earlier meetings with the Governor's Appointment Secretary and others to get more timely appointments.

- Substantial progress is taking place in the branch's technology projects, not just in the development of the Court Case Management System, but also on the teamwork across the state as every court prepares to be part of both designing the technology

system and then participating in its deployment. Other judicial branch technology projects are progressing as well, such as a statewide telecommunications system and financial system, a human resources system, and based on available funding, the replacement of computer hardware across the state. Since the last council meeting, the Superior Court of San Joaquin County has deployed the Case Management System for all case types in all of its courts. San Joaquin's Court Executive Officer Rosa Junqueiro is here today and will provide a brief report on that successful effort.

The report was concluded.

Ms. Junqueiro reported that the San Joaquin court successfully deployed CCMS V3 on April 7, 2008. The court was provided with considerable support from both the Deloitte consultant team and AOC staff. The San Joaquin court staff and its judges were also very supportive of the deployment. In recognition of the court's successful CCMS deployment, Ms Junqueiro presented to the council members T-shirts that commemorate that day.

Justice Baxter thanked Ms. Junqueiro and the Superior Court of San Joaquin and the other courts that have provided the leadership in implementing these systems. They provide a laboratory for the development of the final V4 product. Justice Baxter also thanked Southern Regional Administrative Director Sheila Calabro, Information Services Director Mark W. Dusman, AOC Information Services staff, and the courts around the state that are collaborating to develop something of tremendous benefit for the people of California and for judges and court staff.

Ms. Calabro suggested that the Administrative Director provide further information on the performance-based infrastructure in the new Long Beach court building and the effect of the collaboration with private interests on the building's design and construction.

Mr. Vickrey responded that the terms "private/public partnership" and "performance-based infrastructure" are not readily understood and create confusion. The basic concept is similar to that used for other appellate and trial court courthouses that the state has acquired through lease or lease purchase arrangements. With a performance-based infrastructure, the developer assumes a significant portion of the risk in developing the project. When completed, the developer is responsible for operating the courthouse, as long as 35 years, at which time the state receives the courthouse in Class A condition. The courthouse will typically be exclusively a courthouse with tenants that provide related services, such as the District Attorney's Office and Public Defender's Office. Some courthouse projects in the future may be multi-use. As an example, Mr. Vickrey mentioned that he and Mr. Overholt had visited a multi-use building in New York that houses both criminal and family law courthouses, each with separate entrances and separate facilities, as well as privately leased offices on the top six floors of a 36-story building. In that particular development, the developer promised leased space that would

generate a certain amount of revenue. So the court has enjoyed the benefit of having a cost reduction on building their court space based on the projected income from the tenants that are supposed to be in those facilities. Otherwise, it is still a courthouse as we know it, with the County Sheriff providing security, with a Court Executive and a Presiding Judge overseeing the administrative decisions about the use of the space and operating in the facility.

Chief Justice's Report

In Chief Justice Ronald M. George's absence, Justice Marvin R. Baxter presented an oral report on the activities in which the Chief Justice had been involved since the February 22, 2008, council business meeting.

Liaison meetings with the leaders of justice system partners in the Chief's office are ongoing. Recent meetings include the District Attorney's Association, the defense lawyers on the civil side of the California Defense Counsel, and the Consumer Attorneys of California. Regular communication between groups that seemingly oppose one another actually reveals common ground on which proposed legislation sponsored by the Judicial Council can be based.

The Chief Justice recently announced the appointment of the Judicial Council's Bench Bar Media Steering Committee, with Justice Carlos R. Moreno as chair. Its purpose is to improve understanding and working relationships among California judges, lawyers, and journalists who cover the courts. This Steering Committee will direct the work of a larger Bench Bar Committee.

CONSENT AGENDA (ITEMS 1A–1H, 2–3)

Item 1A Criminal Jury Instructions: Approve Publication of Revisions to the Criminal Jury Instructions (CALCRIM)

The Advisory Committee on Criminal Jury Instructions recommended approval of the publication of revisions and additions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM).* The proposal included 48 revised and redrafted instructions. Among them were the instructions on lesser included offenses for homicide cases, the union of act and intent, and kidnapping.

> ***Council action***
> The Judicial Council, effective April 25, 2008, approved for publication under rule 2.1050(d) of the California Rules of Court. The instructions will be officially published in the latest edition of *CALCRIM.*

Item 1B Civil Jury Instructions: Approve Publication of Revisions to the Civil Jury Instructions (CACI)

The Advisory Committee on Civil Jury Instructions recommended approval of the publication of revisions and additions to the *Judicial Council of California Civil Jury Instructions (CACI).* The proposal included 58 new, revised, or revoked instructions and verdict forms. Among them were the instructions and verdict forms on malicious prosecution, defamation, and elder abuse.

> ***Council action***
> The Judicial Council, effective April 25, 2008, approved for publication under rule 2.1050 of the California Rules of Court the civil jury instructions prepared by the committee. The new and revised instructions will be officially published in the 2008 supplement to the 2008 edition of the *Judicial Council of California Civil Jury Instructions (CACI).*

Item 1C Foreign Language Interpreter's Duties—Civil and Small Claims (For Noncertified and Nonregistered Interpreters) (approve form INT-200)

The Civil and Small Claims Advisory Committee recommended that the Judicial Council approve *Foreign Language Interpreter's Duties—Civil and Small Claims (For Noncertified and Nonregistered Interpreters)* (form INT-200). Courts will be able to use this optional form to provide information to unofficial interpreters who assist litigants and the courts in civil and small claims proceedings. The form will assist these interpreters in understanding and performing their duties.

> ***Council action***
> The Judicial Council, effective July 1, 2008, approved *Foreign Language Interpreter's Duties—Civil and Small Claims (For Noncertified and Nonregistered Interpreters)* (form INT-200).

Item 1D Technical Revisions to Forms: Restraining Orders for the Prevention of Elder and Dependent Adult Abuse and Domestic Violence (revise forms EA-100, EA-120, EA-130, EA-142-INFO, EA-150-INFO, DV-210-INFO, and DV-500-INFO; revoke form EA-150)

The Administrative Office of the Courts (AOC) recommended that the Judicial Council revise seven protective order forms used for elder and dependent adult abuse and domestic violence proceedings. The forms would be revised to reflect changes in the law relating to free service of protective orders and to delete references to an obsolete form used to request free service. An instruction form used in elder and dependent adult abuse prevention proceedings would be revoked because it has been superseded by two new plain-language instruction forms.

Council action
The Judicial Council, effective July 1, 2008:

1. Revised *Request for Orders to Stop Elder or Dependent Adult Abuse* (form EA-100);
2. Revised *Notice of Hearing and Temporary Restraining Order* (form EA-120);
3. Revised *Order After Hearing Restraining Elder or Dependent Adult Abuse* (form EA-130);
4. Revised *What Is Proof of Service?* (form EA-142-INFO);
5. Revised *Can a Restraining Order to Prevent Elder or Dependent Adult Abuse Help Me?* (form EA-150-INFO);
6. Revised *What Is Proof of Service?* (form DV-210-INFO);
7. Revised *Can a Domestic Violence Restraining Order Help Me?* (form DV-500-INFO); and
8. Revoked *Instructions on a Petition for a Protective Order to Prevent Elder or Dependent Adult Abuse* (form EA-150).

The first five forms were revised to reflect the changes in the law resulting from Assembly Bill 2695 relating to the free service of protective orders in elder and dependent abuse prevention cases. The sixth and seventh forms were revised to eliminate obsolete references to form CH-101/DV-290, a form used to request free service of orders that was revoked last year. The eighth form was revoked because it was outdated and the instructions in it were presented fully and accurately in a plain language format in forms EA-150-INFO and EA-151-INFO.

Item 1E Child Support Withholding: Revise Income Withholding for Support and Related Instructions (revise forms FL-195/OMB No. 0970-0154 and FL-196/OMB No. 0970-0154, DV-160, FL-342, FL-350, FL-391, FL-393, FL-450, FL-615, FL-625, FL-630, FL-665, FL-684, and FL-687)

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council revise forms FL-195 and FL-196. These federal forms must be used in California under Family Code section 5208 and federal law and were revised by the federal Office of Management and Budget in October 2007. The revisions include the renaming of FL-195 from *Order/Notice to Withhold Income for Child Support* to *Income Withholding for Support*. The Family and Juvenile Law Advisory Committee further recommends revising references to FL-195 in forms DV-160, FL-342, FL-350, FL-391, FL-393, FL-450, FL-615, FL-625, FL-630, FL-665, FL-684, and FL-687.

Council action
The Judicial Council, effective July 1, 2008:

1. Revised *Income Withholding for Support* (FL-195/OMB. No. 0970-0154) in order to comply with Family Code section 5208 and federal law;

2. Revised *Income Withholding for Support—Instruct*ions (FL-196/OMB No. 0970-1054)in order to comply with Family Code section 5208 and federal law; and
3. Voted to insert the new name of FL-195 where it is referenced in the following forms:
    a. DV-160, *Child Support Order—Order of Protection (Domestic Violence Prevention);*
    b. FL-342, *Child Support Information and Order Attachment;*
    c. FL-350, *Stipulation to Establish or Modify Child Support and Order;*
    d. FL-391, *Information Sheet—Simplified Way to Change Child, Spousal or Family Support;*
    e. FL-393, *Information Sheet—How to Oppose a Request to Change Child, Spousal or Family Support;*
    f. FL-450, *Request for Hearing Regarding Earnings Assignment (Family Law—Governmental—UIFSA);*
    g. FL-615, *Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment (Governmental);*
    h. FL-625, *Stipulation and Order (Governmental);*
    i. FL-630, *Judgment Regarding Parental Obligations (Governmental);*
    j. FL-665, *Findings and Recommendation of Commissioner (Governmental);*
    k. FL-684, *Request for Order and Supporting Declaration (Governmental);* and
    l. FL-687, *Order After Hearing (Governmental).*

Item 1F Judicial Branch Travel Expense Reimbursement Policy (adopt Cal. Rules of Court, rule 10.106)

Assembly Bill 1248 provides the branch with the authority to establish a reasonable travel expense reimbursement policy based on the needs of the courts and the branch in general. AOC Finance Division staff recommended that the Judicial Council adopt rule 10.106 of the California Rules of Court.

Council action
The Judicial Council adopted rule 10.106 of the California Rules of Court.

Item 1G Probate: Changes in the *Petition for Appointment of Temporary Guardian or Conservator* and *Order Appointing Probate Conservator* Required by 2006 and 2007 Legislation (revise forms GC-110 and GC-340; adopt form GC-111)

The Probate and Mental Health Advisory Committee recommended revision of the *Petition for Appointment of Temporary Guardian or Conservator* (form GC-110) and the *Order Appointing Probate Conservator* (form GC-340) to implement changes in the requirements for appointment of temporary guardians and temporary and general

conservators made by legislation enacted in 2006 and 2007. The petition for appointment of a temporary guardian or conservator would be restated as separate petitions for appointment of a temporary guardian or a temporary conservator. The new *Petition for Appointment of Temporary Conservator* (form GC-111) would include two new items calling for information about appointees who are professional fiduciaries and efforts made by the petitioner to contact persons entitled to notice of the hearing on the temporary petition. These items are required by 2007 legislation. The *Order Appointing Probate Conservator* (form GC-340) would be revised to include a finding required by that legislation and refer to the licensure of professional conservators under a law that will go into effect on July 1, 2008.

> ***Council action***
> The Judicial Council, effective July 1, 2008, revised the *Petition for Appointment of Temporary Guardian or Conservator* (form GC-110) and the *Order Appointing Probate Conservator* (form GC-340) and adopted a new form, *Petition for Appointment of Temporary Conservator* (form GC-111).

Item 1H Rules and Forms: Miscellaneous Technical Changes (amend Cal. Rules of Court, rules 1.6, 1.45, 2.306, 3.1112, 3.1350, 3.1702, 5.324, 7.1062(c), 8.32, 8.130, 8.544, 10.462, 10.491, and 10.701; amend Cal. Stds. Jud. Admin., std. 10.16; and revise forms CR-101, DE-305, FL-314-INFO, FL-632, ID-100, ID-140, JV-100, JV-446, JV-535, WG-002, and WG-003)

The Administrative Office of the Courts recommended making technical and minor substantive changes to miscellaneous rules and forms. These changes are necessary to correct inadvertent omissions, typographical errors, improper formatting, and language inconsistencies and to clarify the rules and forms at issue.

> ***Council action***
> The Judicial Council, effective July 1, 2008:
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> 1. Amended rule 1.6(15) to clarify the definition of “party”;
> 2. Amended rule 1.45(a) to delete references to outdated form numbers;
> 3. Amended rule 2.306(d) and (e) to correctly reference relettered subdivisions;
> 4. Amended title 3, division 6, to rename chapter 3, added chapter 4 to provide a more logical location for rules on collections cases, and renumbered subsequent chapters in the division;
> 5. Amended rule 3.1112(e) to correct “elating” to “relating”;
> 6. Amended rule 3.1350(h), separate statement for summary adjudication, to make the supporting statement, issue 1, subpart 2, consistent with the same section of the opposing statement;
> 7. Amended rule 3.1702(c)(1) to correct a rule reference from 8.276(d) to 8.278(c)(1);

8. Amended rule 5.324(j) to correctly reference relettered subdivisions in rule 3.670;
9. Amended rule 7.1062(c) to correct a reference from Probate Code §2250(c) to relettered §2250(e);
10. Amended rule 8.32(b)(1) to add "reviewing" before "court" and (d) to add unrepresented parties and change "office" to "address";
11. Amended rule 8.130(f)(1) to correct a reference to a renumbered paragraph;
12. Amended rule 8.544 to correct references to renumbered rules in two places;
13. Added chapter 14 to title 10, division 4, to provide a more logical location for rule 10.960, Court self-help centers;
14. Amended rule 10.462(c)(1)(A) to add "judicial" in two places between "subordinate" and "officer";
15. Amended rule 10.491(f)(4) to correct "court personnel" to "employees";
16. Amended rule 10.701 to delete a reference to repealed Welfare and Institutions Code section 247;
17. Amended standard 10.16 to correct a rule reference from "10.650" to "10.670";
18. Revised form CR-101 to correct one typographical and two other errors;
19. Revised forms DE-305 and FL-632 to comply with Assembly Bill 886 (stats. 2007, ch. 399), which amended the language in Civil Code 1189 regarding the required form for any certificate of acknowledgment executed in California. A statement under penalty of perjury was added to the acknowledgment, and personal knowledge as a basis for the notary determining identities or facts in the acknowledgment was deleted;
20. Revised form FL-314-INFO to delete the statutory reference to Family Code section 3022.3(a);
21. Revised forms ID-100 and ID-140 to correct the spelling of "California";
22. Revised form JV-100 to correct the reference to form JV-101, which was renumbered as form JV-101(A) effective January 1, 2008;
23. Revised form JV-446 to correct "perspective" to "prospective" (15d) and to capitalize "services" (27b);
24. Revised form JV-535 to correct "effects" to "efforts";
25. Revised form WG-003, page 1, "Notice," to move the word "against" to after "judgment," to correct several typographical errors in the Spanish translation, and on page 2, item 3, to correct "%" to "½."

And the Judicial Council, effective July 24, 2008:

26. Revised form WG-002 to reflect the increase of the federal minimum wage from $5.85 to $6.55 per hour.

Item 2 Child Support Commissioner and Family Law Facilitator Program: Midyear Funding Reallocation for Fiscal Year 2007–2008

The Family and Juvenile Law Advisory Committee recommended that the council approve the reallocation of non–trial court funding to local courts for the child support

commissioner and family law facilitator program. The funds for this program are provided by a cooperative agreement between the California Department of Child Support Services (DCSS) and the Judicial Council. Two-thirds of these funds are federal funds and the remaining one-third are state General Funds.

> ***Council action***
> The Judicial Council, effective immediately:
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> 1. Approved the reallocation for funding of child support commissioners for fiscal year 2007–2008, subject to finalization of contract amendments between AOC and DCSS for approval of a procedure for drawing down federal funds.
> 2. Approved the reallocation for funding of family law facilitators for fiscal year 2007–2008, subject to finalization of contract amendments between AOC and DCSS for approval of a procedure for drawing down federal funds.

Item 3 Franchise Tax Board Court Ordered Debt Program's Request for Concurrence to Use Available Funds

On August 31, 2007, the Judicial Council approved the Franchise Tax Board's utilization of $1.5 million from the Franchise Tax Board Court Ordered Debt Court Collection Account (CCA) to continue the Court Ordered Debt Collections Expansion (CODE) project. To prevent immediate cancellation of the CODE project, the Franchise Tax Board requested the Judicial Council's support of its request to the state Department of Finance to use additional available funds in the CCA in the amount of $4.3 million. In 2004, Senate Bill 246 (Stats. 2004, ch. 380) amended Revenue and Taxation Code section 19280 to require the Franchise Tax Board Court Ordered Debt Program (FTB-COD) to accept collection referrals from the 58 superior courts and counties. It also required the Franchise Tax Board, in consultation with the Judicial Council, to seek whatever resources are needed to accept referrals from all 58 counties or superior courts.

> ***Council action***
> The Judicial Council, voted to:
>
> 1. Support the Franchise Tax Board Court-Ordered Debt Program's request to the Department of Finance to use the additional available funds in the Court Collection Account (approximately $4.3 million) in order to support the technology project known as Court-Ordered Debt Collections Expansion (CODE) in FY 2007–2008, FY 2008–2009, and FY 2009–2010. The breakdown by fiscal year is:
>
> - FY 2007–2008: The FTB is requesting an additional $1 million to continue phase I of the CODE Project, in addition to the $1.5 million approved by the Judicial Council in August 2007.

- FY 2008–2009 and FY 2009–2010: The FTB is requesting $3.3 million to complete phase II and phase III, the development and implementation of technological enhancements to accept collection referrals from the 58 courts and counties and the critical external reporting and Web-based self-service features of the CODE Project.

2. Directed AOC staff to formally inform both the Franchise Tax Board and the Department of Finance of the council's decision regarding this matter.

DISCUSSION AGENDA (ITEMS 4–9)

Item 4 Electronic Discovery: Proposed Legislation (amend Code Civ. Proc., §§ 2016.020, 2031.010–2031.060, 2031.210–2031.280, and 2031.290–2031.320; add Code Civ. Proc., §§ 1985.8 and 2031.285)

Judge Andrew P. Banks, Chair, Discovery Subcommittee of the Civil and Small Claims Advisory Committee, Mr. Don Ernst, President of the Consumer Attorneys of California, Mr. Mike Belote, speaking on behalf of the California Defense Counsel, Mr. Patrick O'Donnell, AOC Office of the General Counsel, and Mr. Daniel Pone, AOC Office of Governmental Affairs, presented this item.

The Policy Coordination and Liaison Committee, the Civil and Small Claims Advisory Committee, and the Court Technology Advisory Committee recommended that the Judicial Council sponsor legislation to amend the Code of Civil Procedure to expressly address issues relating to the discovery of electronically stored information. The proposed legislation would modernize California discovery law and improve the procedures for handling the discovery of electronically stored information.

Council action
The Judicial Council voted to co-sponsor, with the Consumer Attorneys of California and the California Defense Counsel, legislation in 2008 to amend the Code of Civil Procedure to expressly address issues relating to the discovery of electronically stored information.

Item 5 Court Interpreters: Testing Standards for Certification and Registration

Justice Kathleen E. O'Leary, Chair, Court Interpreters Advisory Panel, and Ms. Lucy Smallsreed, AOC Executive Office Programs Division presented this item with the participation of Ms. Rosa Junqueiro, Executive Officer, Superior Court of San Joaquin County.

The Court Interpreters Advisory Panel recommended (1) the adoption of specific knowledge, skills, and abilities (KSAs) as the essential standards for court interpreter

certification and registration, (2) the approval of oral bilingual proficiency screening for candidates in designated languages and in nondesignated languages wherever possible, and (3) prioritization of the development of any new exams according to language use in the court and need. The first two recommendations were based on the in-depth *Study of California's Court Interpreter Certification and Registration Testing*, conducted by ALTA Language Services and presented to the council in October 2007. The KSAs would provide a clear foundation for the revision of the testing instruments; bilingual proficiency screening will ensure that both certified and registered interpreters, the latter of whom are currently tested only in English, are truly bilingual. Prioritizing exam development would permit the orderly and resource-efficient development of new exams according to court need statewide. These changes were necessary to ensure uniform statewide standards and excellence of service for the growing number of court users who require court interpretation.

Council action
The Judicial Council, effective immediately:

1. Approved the 32 KSAs (knowledge, skills, and abilities) identified in the ALTA study as the essential measures of a qualified court interpreter. Twenty-six of the KSAs were found by ALTA to be measurable through testing. The council also adopted the 26 measurable KSAs as the basis for the court interpreter testing program.
2. Adopted the addition of a bilingual oral proficiency screening (OPS) exam to the current testing program, subject to future budgetary authorization. The purpose of the OPS test is to determine that a candidate can demonstrate the level of oral bilingual proficiency necessary to perform the job of court interpreter. The bilingual OPS exam would be implemented for all designated languages and for most, but not all, nondesignated languages needed in the courts.[1]
3. Prioritized the revision or development of new exams by language, based on the statewide level of use in the court and need for each language. Any consideration to decertify a currently certified language due to declining use should be based on the findings of the anticipated *2010 Language Need and Interpreter Use Study*.

Item 6 Court Interpreters: Certification Examinations for Interpreters of Previously Registered Languages

Justice Kathleen E. O'Leary, Chair, Court Interpreters Advisory Panel, presented this item with the participation of Ms. Rosa Junqueiro, Executive Officer, Superior Court of San Joaquin County and Ms. Lucy Smallsreed, AOC Executive Office Programs Division.

[1] Rare languages are not practical to test. The 12 spoken languages currently designated by the council for which certification tests have been developed are: Arabic, Eastern Armenian, Western Armenian, Cantonese, Japanese, Korean, Mandarin, Portuguese, Russian, Spanish, Tagalog, and Vietnamese.

The Court Interpreters Advisory Panel recommended that the extension until February 1, 2009, to the grace period for registered interpreters of Eastern and Western Armenian, Mandarin, and Russian to become certified shall be the final blanket extension. The committee also recommended that the council approve a one-year exemption (to February 1, 2010) for those interpreters who meet certain conditions, such as demonstrating basic competency and serious efforts to become certified.

Council action

The Judicial Council voted not to provide a further extension of the grace period for registered interpreters of Eastern and Western Armenian, Mandarin, and Russian beyond the deadline of February 1, 2009. The council voted that individual interpreters be allowed to qualify for a one-year exemption from the deadline by meeting all of the following conditions:

1. Verifying to the AOC, on penalty of perjury, the number of times the interpreter has taken the certification exam. For interpreters who do not become certified by the February 2009 deadline, that information will be reported by the AOC to the courts for the purpose of providing information that will be useful to the courts in supporting interpreter efforts to pass the examination.
2. Passing the written exam, if the interpreter has not done so already, in time to take the November 2008 oral exam. The written exam will be offered in both May and September 2008.
3. Registering for the November 2008 oral exam.
4. Participating in a two-day training workshop[2] (16 hours), provided by the AOC in October 2008, to prepare for the November exam. Participants must be registered for the November exam in order to attend the two-day training.
5. Taking the November 2008 oral exam.
6. If the interpreter has not passed the November 2008 oral exam, taking the oral certification exam again at least once during 2009. (The exam is offered in July and November each year for languages other than Spanish.)

This proposal requires the registered interpreters in the four designated languages to pass the written certification exam and to demonstrate serious efforts toward passing the oral exam to become certified. Interpreters in these four languages who demonstrate this level of competence and commitment would continue to be registered for an additional 12 months, to February 1, 2010. Those interpreters who do not meet the above requirements will convert to noncertified status as of February 1, 2009. They would, however, be able to continue to interpret in the courts as independent, noncertified interpreters if the court, for good cause, determines them to be provisionally qualified.

[2] This workshop will be available to all registered interpreters of the four targeted languages who have passed the written exam. The workshop will include breakout sessions conducted in each of the four languages.

Item 7 ***Juvenile Delinquency Court Assessment 2008*** **Report**

Judge Susan D. Huguenor, Co-chair, Family and Juvenile Law Advisory Committee, and Judge Brian John Back, Superior Court of Ventura County, presented this item with the participation of Ms. Audrey Fancy and Ms. Iona Mara-Drita, both of the AOC's Center for Families, Children & the Courts.

The Family and Juvenile Law Advisory Committee recommended that the Judicial Council receive and accept the *Juvenile Delinquency Court Assessment 2008* report. This report is the first comprehensive research study of how the superior courts of California handle delinquency matters. The study represented nearly two years of research on California's delinquency courts. The report detailed the scope of the examination, analyzes the data, and makes recommendations focused on enhancing the juvenile justice system.

> ***Council action***
> The Judicial Council, effective April 25, 2008:
>
> 1. Received and accepted the *Juvenile Delinquency Court Assessment 2008* report.
> 2. Directed the AOC Center for Families Children & the Courts (CFCC) to:
> (a) Convene a resource group composed of members of the Family and Juvenile Law Advisory Committee and other interested experts to assist CFCC staff to develop an implementation plan for the Juvenile Delinquency Court Assessment 2008 report and prioritize the Juvenile Delinquency Court Assessment recommendations.
> (b) Work with appropriate AOC divisions for review and preparation of proposed legislation, rules, forms, educational materials, or other proposed changes to be considered through normal judicial branch processes.
> (c) Collaborate with other justice system professionals, as appropriate, to improve efforts to serve the interest of justice.
> (d) Undertake a study to determine the additional resources that courts may require to ensure implementation of the recommendations.
> (e) Report progress to the council on implementation of the recommendations by June 2010.

Item 8 **Court Facilities Planning: Update to Trial Court Capital-Outlay Plan and Fiscal Year 2009–2010 Capital-Outlay Funding Requests**

Ms. Kim Davis and Ms. Kelly Quinn Popejoy, both of the Office of Court Construction and Management, presented this item.

The Administrative Office of the Courts recommended adoption of the updated Trial Court Capital-Outlay Plan, based on (1) the reevaluation of one project, (2) the removal of 20 projects for various reasons, (3) the combination of projects for two buildings, (4) the

renaming of six projects for various reasons, (5) the adjustment to the statewide growth budget to remove facility funds for new judgeships now allocated to project budgets of proposed FY 2008–2009 and 2009–2010 capital-outlay projects, and (6) an annual update of current need project budgets to January 2008 dollars. The updated plan then would be incorporated into the Judicial Branch AB 1473 Five-Year Infrastructure Plan for FY 2009–2010. The AOC further recommended that AOC staff be directed to submit the Five-Year plan to the Department of Finance, along with the fiscal year 2009–2010 funding requests for initial funding for eight new trial court projects and the resubmission of any trial court capital-outlay project that is not funded in the FY 2008–2009 Budget Act. The submission supported the mission and policy direction of the Judicial Council in its long-range Strategic Plan—Goal III, Modernization of Management and Administration and Goal VI, Branchwide Infrastructure for Service Excellence. Meeting the June 2008 deadline for submission avoided delays to the implementation of the trial court capital-outlay program.

Council action
The Judicial Council,

1. Adopted the updated Trial Court Capital-Outlay Plan, based on the reevaluation of one capital-outlay project due to changed underlying conditions, the removal of 20 projects for various reasons, the combination of projects for two buildings, the renaming of six projects for various reasons, the adjustment to the statewide growth budget to remove facility funds for new judgeships now allocated to project budgets of proposed FY 2008–2009 and 2009–2010 capital-outlay projects, and an annual update of current-need project budgets to January 2008 dollars.
2. Directed AOC staff to submit FY 2009–2010 funding requests to the Department of Finance (DOF) for initial funding for eight new trial court projects and to resubmit any trial court capital-outlay project that is not funded in the FY 2008–2009 Budget Act.
3. Directed AOC staff to present the updated Trial Court Capital-Outlay Plan and the FY 2009–2010 funding requests for the trial courts in the *Judicial Branch AB 1473 Five-Year Infrastructure Plan* for FY 2009–2010 and to submit it to the DOF.

Item 9 Branchwide Planning: The Operational Plan for California's Judicial Branch 2008–2011

Justice Richard D. Huffman, Chair, Executive and Planning Committee, and Mr. Ronald G. Overholt, Chief Deputy Director, presented this item.

The council's operational plan, last updated in December 2003, on a three-year cycle, was due for revision. The proposed operational plan represented a concerted effort by the council and many other judicial branch stakeholders to realign branch high-priority

objectives and desired outcomes with California's changing demographics and fiscal environments. The proposed operational plan, which would be evaluated annually, was presented for the council's approval. The plan was previously reviewed by the council at its February 21, 2008, issues meeting; this draft includes the revisions identified at that meeting.

> ***Council action***
> The Judicial Council, effective May 1, 2008, adopted the proposed operational plan for California's judicial branch for fiscal years 2008–2009 through 2010–2011 and instructed AOC staff to broadly communicate the plan within the courts and to judicial branch stakeholders. The council also instructed AOC staff to develop specific accountability instruments for tracking the plan's implementation.

Item included FOR YOUR INFORMATION ONLY

- Update on the California Court Case Management System and Phoenix Statewide Financial System Projects as required by Government Code section 68511.8(a).

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

There being no further public business, the meeting was adjourned at 12:20 p.m.

Respectfully submitted,

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