



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on July 18–19, 2019

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Title	Agenda Item Type
Judicial Branch Administration: Sabbatical Request for Judge Nicholas S. Thompson	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	October 1, 2019
Recommended by	Date of Report
Executive and Planning Committee Hon. Douglas P. Miller, Chair	June 25, 2019
	Contact
	Felizia Nava-Kardon, 415-865-4280 <a href="mailto:felizia.nava-kardon@jud.ca.gov">felizia.nava-kardon@jud.ca.gov</a>

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### Executive Summary

The Executive and Planning Committee recommends the approval of an unpaid sabbatical leave for Judge Nicholas S. Thompson, Superior Court of Orange County, for the period of October 1 to December 31, 2019. During this sabbatical leave, Judge Thompson intends to study and conduct a comparative analysis of Canadian law and jurisprudence and teach on California law at the University of Calgary Faculty of Law in Alberta, Canada. Judge Thompson anticipates that his experience in this program will provoke new thoughts on enhancing protocols and practices within the California justice system and on how he approaches varied criminal and limited jurisdiction civil matters. He believes it will positively influence his future performance as a California trial court judge.

### Recommendation

The Executive and Planning Committee (E&P) recommends that the Judicial Council approve a request for an unpaid sabbatical leave from October 1 through December 31, 2019, for Judge Nicholas S. Thompson of the Superior Court of Orange County.

## **Relevant Previous Council Action**

On May 8, 2019, Judge Thompson sent a sabbatical request application to E&P for its recommendation to the Judicial Council (see Attachment A).

## **Analysis/Rationale**

Rule 10.502 of the California Rules of Court (see Link A) provides for a judicial sabbatical program, including eligibility criteria, application procedures, and evaluation standards. Rule 10.502(b) outlines the eligibility requirements for an unpaid sabbatical under Government Code section 68554.

Government Code section 68554 (see Link B) authorizes the Judicial Council to grant a leave of absence for a period not to exceed one year:

for the purpose of permitting study which will benefit the administration of justice and the individual's performance of judicial duties, upon a finding that the absence will not work to the detriment of the court. During a study leave, the judge shall receive no compensation, nor shall the period of absence count as service toward retirement, but the time of leave shall not toll the term of office.

(Gov. Code, § 68554.)

Judge Thompson's participation in this program will allow him to research and collaborate with professors and Canadian judges and teach law students at the University of Calgary Faculty of Law, Alberta, Canada. His application also elaborates on the benefits of his participation as a sitting fellow and judge in residence, including professional development and enhancement of protocols and practices currently employed in our system. Judge Thompson indicates that he will gain new insights and perspectives on the administration of justice in ways that will benefit the judicial branch and the public.

Judge Thompson's sabbatical proposal contains all the documentation required by rule 10.502. His application letter (Attachment A) elaborates on the benefit to the administration of justice in California and the performance of his duties. Presiding Judge Kirk H. Nakamura of the Superior Court of Orange County has written a letter of support for Judge Thompson's sabbatical (see Attachment B).

## **Policy implications**

This sabbatical request has no implications because it adheres to the requirements of the judicial sabbatical program provided for in rule 10.502 of the California Rules of Court.

## **Comments**

Presiding Judge Nakamura states that the court fully supports Judge Thompson's request and recommends that the sabbatical request be granted. He states in his letter that Judge Thompson "has agreed to speak and write an article about his experience to be shared with the bar and the [Superior Court of Orange County] bench."

### **Alternatives considered**

The alternative not to recommend the sabbatical request was dismissed by E&P because the request adheres to the guidelines provided in rule 10.502.

### **Fiscal and Operational Impacts**

There is no fiscal impact. If the unpaid sabbatical leave is approved, Judge Thompson will draw no salary during his sabbatical, and the period of absence does not count as service toward retirement.

### **Attachments and Links**

1. Attachment A: Judicial sabbatical program application letter from Judge Nicholas S. Thompson to Associate Justice Douglas P. Miller and the Executive & Planning Committee
2. Link A: Cal. Rules of Court, rule 10.502,  
[www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10\\_502](http://www.courts.ca.gov/cms/rules/index.cfm?title=ten&linkid=rule10_502)
3. Link B: Gov. Code, § 68554,  
[http://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=68554.&lawCode=GOV](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=68554.&lawCode=GOV)
4. Attachment B: Letter from Presiding Judge Kirk H. Nakamura, Superior Court of Orange County, to Associate Justice Douglas P. Miller and the Executive & Planning Committee



# Superior Court of California County of Orange

CHAMBERS OF  
NICHOLAS S. THOMPSON  
JUDGE

1275 N. BERKELEY AVENUE  
P.O. BOX 5000  
FULLERTON, CA 92836-0500  
PHONE 657-622-5662

May 8, 2019

Hon. Douglas P. Miller, Chairman  
Executive & Planning Committee  
Judicial Council of the State of California  
455 Golden Gate Ave.  
San Francisco, CA 94102-3688

Re: Request for Sabbatical Leave

Dear Justice Miller and Members of the Committee,

Please accept this letter as my application for an unpaid sabbatical pursuant to Government Code §68554 and California Rules of Court, Rule 10.502 (see Rule 10.502(a): "*The objective of sabbatical leave is to facilitate study, teaching, research or another activity that will benefit the administration of justice and enhance judges' performance of their duties.*") The period of my requested sabbatical leave is three months. The requested leave period would commence on October 1<sup>st</sup> and end December 31<sup>st</sup> 2019.

I, Nick Thompson, am a judge of the Orange County Superior Court. I have been on the bench since 2008. I am a devoted husband and father of two children. I am a U.S. Army Reserve veteran having served in Iraq, Bosnia and many overseas operations over a twenty-year period. I am a current member of our Judicial Executive and Security Committees. I have never requested or taken sabbatical leave. If my request for leave is granted, I plan on and agree to serve as a judicial officer for at least seven years after my return.

The purpose of my requested sabbatical is to study and conduct a comparative analysis of Canadian law and jurisprudence and teach on California law at the University of Calgary, Alberta, Canada. I have been tentatively offered an unpaid position as a *Sitting Fellow and Judge in Residence at the University of Calgary School of Law*. This offer was made by Dr. Ian Holloway PC QC, Professor and Dean of Law and I anticipate a formal invitation within the next two weeks.

The sabbatical leave will, if approved, benefit the administration of justice and the performance of my duties in the following ways: First, by researching and collaborating with professors and Canadian judges (including Judges Vaughn Myers & Ian Zaharko), and teaching law students in a comparative law context about California and American

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legal systems. I anticipate learning a great deal about Canadian law, which include French, First Nations and Anglo (British) influences of common law and current statutory schemes.

I plan on observing courtroom proceedings and meeting with judges in Alberta to evaluate and compare approaches to legal issues from substantive and procedural standpoints. This unique experience would provide a forum for critical analysis of the benefits and shortcomings of our current practices and procedures, including alternatives to bail, sentencing, dispute resolution, etc. The position of a Sitting Fellow would effectively create an opportunity to act as an unofficial ambassador of our courts to the justice and legal education systems in Alberta. I would strive to enhance international understanding and perspective on California's judiciary and system of justice to Canadian students, law professors, judges and the legal community.

If given this opportunity, I will be challenged to compare, interpret and sometimes defend California justice. I anticipate this experience will provoke new thoughts on enhancing protocols and/or practices within our own system and on how I approach varied criminal and limited jurisdiction civil matters that I handle. I believe it will lead to positive influences on my future performance as a judge. I also expect that this exposure will serve to strengthen cross-cultural sensitivities in administering justice in a wide variety of situations.

For my entire life, I have been fascinated with history and how it has molded our society today. This interest also relates to the development and current state of our criminal justice system and its correlation with Canadian and British jurisprudence. This position would allow me to research Canadian criminal procedure as compared to California. I would also be assisting the law school by augmenting staff in an outreach program of teaching about California courts and the law.

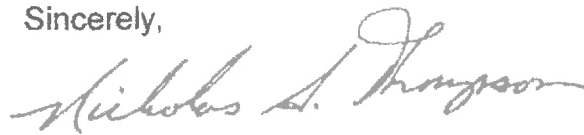
I have requested leave of three months because it is my intention to relocate my eleven-year old daughter to Canada for an experiential and home-schooling opportunity through the Canadian Rockies School System for sixth grade. She has been struggling in her current school environment for a few years and this sabbatical will provide a renewed chance at learning and promote her motivation, self-confidence and esteem, and academic development. Since I am fully committed to her education and emotional development, I intend to use my vacation time at the front end of my sabbatical tenure and on the end, if necessary.

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I intend to share my experiences in community outreach activities upon my return. I will continue to speak at local schools or universities, but with a new realm of experience and topics. I will submit an article for publication in our Orange County Bar Journal and if given the opportunity, will give presentations on my experience and findings at judicial meetings, conferences or forums.

Thank you for your consideration of this request! This sabbatical is supported by Presiding Judge Kirk Nakamura of our Orange County Superior Court. If you or any committee member have any questions, or desire further information, please do not hesitate to contact me at: (657) 622-5662 or [nthompson@occourts.org](mailto:nthompson@occourts.org). I look forward to the Committee's response.

Sincerely,

A handwritten signature in cursive script that reads "Nicholas S. Thompson". The signature is written in dark ink and is positioned below the word "Sincerely,".

Nicholas S. Thompson



# Superior Court of California County of Orange

CHAMBERS OF  
KIRK H. NAKAMURA  
PRESIDING JUDGE

OFFICE OF THE PRESIDING JUDGE  
CENTRAL JUSTICE CENTER  
700 CIVIC CENTER DRIVE WEST  
SANTA ANA, CA 92701-4045  
(657) 622-7011

May 8, 2019

Hon. Douglas P. Miller, Chairman  
Executive & Planning Committee  
Judicial Council of the State of California  
455 Golden Gate Avenue  
San Francisco, Ca 94102-3688

Dear Justice Miller and Members of the Committee,

Please accept this as a letter in support of Nicholas Thompson's request for sabbatical leave. I spoke to Judge Thompson at length regarding his initial request for sabbatical leave and as a result (1) his request is limited to 3 months (2) he has agreed to speak and write an article about his experience to be shared with the bar and our bench and (3) he assured me that request is not simply a way to obtain an unpaid leave for the purpose of home schooling his daughter.

I supported Judge Thompson's request when it was solely for the purpose of finding alternative education opportunities for his daughter. In light of this request, which contains a legitimate judicial education element, I can also support this new request on his behalf.

Very Truly Yours,

Kirk H. Nakamura  
Presiding Judge

Enc.

KN:lh

cc: Hon. Nicholas S. Thompson