



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 21-149

For business meeting on October 1, 2021

Title

Rules Committee: Chair's Report to the
Judicial Council

Agenda Item Type

Information Only

Date of Report

September 30, 2021

Submitted by

Rules Committee

Hon. Carin Fujisaki, Chair

Hon. Dalila Lyons, Vice Chair

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Executive Summary

The Rules Committee establishes and maintains the Judicial Council rule-making process and assists the council in making informed decisions about rules of court, forms, standards of judicial administration, and jury instructions. This report summarizes the committee's activities since the July 9, 2021, Judicial Council meeting—the last meeting at which there was a Rules Committee report. Since that time, the Rules Committee has met by telephone once and acted by email five times.

Overview of Committee Meetings

On August 6, 2021, the Rules Committee acted by email between meetings to consider a proposal by the Civil and Small Claims Advisory Committee on the new and revised forms to implement AB 832, enacted June 28. The proposal needed to be reviewed on an urgent basis because the committee was proposing a short, two-week comment period (August 9 through 20), in order to allow for public comment before the committee makes its final recommendations for the October 1 council meeting in order to meet the October 1 effective date for the new unlawful detainer procedures.

Action:

The Rules Committee approved the circulation of the forms, which were posted for public comment through August 20, 2021.

On August 19, 2021, the Rules Committee met by telephone to consider 14 rules and forms proposals and one proposal for criminal jury instructions that had circulated for public comment during the spring comment cycle and one technical amendment report to revise two rules and four Judicial Council forms. The technical amendment proposal was not circulated for public comment because it is noncontroversial, involve technical revisions, and are therefore within the Judicial Council’s purview to adopt without circulation.

Action:

The Rules Committee approved all 15 proposals that circulated and the one technical amendment report. These proposals are on the consent agenda of the October 1 council meeting.

On August 25, 2021, the Rules Committee acted by email between meetings to consider a proposal by the Family and Juvenile Law Advisory Committee (which had circulated for public comment) to implement a bill that was enacted on July 16, 2021, to be effective October 1, 2021. The proposal addressed the implementation of Assembly Bill 153, which implements part IV of the federal Family First Prevention Services Act. To coincide with the effective date of recently passed legislation, the Family and Juvenile Law Advisory Committee proposes that the Judicial Council adopt a new rule of court, amend a rule, adopt or approve 5 new Judicial Council forms, and revise 19 Judicial Council forms, effective October 1, 2021. This action was conducted by email because, although originally scheduled to be considered at the August 19 meeting, it was not ready at that time because AB 153 was enacted later than expected.

Action:

The Rules Committee approved this recommendation, which is on the consent agenda of the council’s October 1 meeting. The forms will be circulated for public comment during the winter comment period.

On September 3, 2021, the Rules Committee acted by email between meetings to consider a request from the Family and Juvenile Law Advisory Committee to add to its annual agenda an item to allow the committee to oversee the work of a statutorily required working group to advise the council on the adoption of an offense-based classification matrix to be used to set the baseline terms for youth who are committed to the newly enacted Secure Youth Treatment Facility (SYTF) dispositional option for serious juvenile offenses. Actions to approve changes to annual agendas based on legislative mandates may be approved by email; this one was needed to be approved quickly in light of the statutorily mandated timeline for its work.

Action:

The Rules Committee approved this request. Per the *Annual Agenda Guidelines*, the Rules Committee has the authority to approve this request as part of its oversight of the advisory committee.

On September 22 and 23, 2021, the Rules Committee acted by email between meetings to consider a proposal by the Civil and Small Claims Advisory Committee recommending the adoption, approval, and revision of 13 forms to implement statutory changes enacted June 28, 2021. The new law established new procedures for unlawful detainer actions, effective October 1, 2021. They also allow parties, effective November 1, 2021, to commence litigating claims for nonpayment of COVID-19 rental debt and mandate new pleading requirements for such actions. The proposed forms had been approved for circulation for public comment in August. This September action was conducted by email so the Rules Committee could recommend the forms for the October 1 council meeting.

Action:

The Rules Committee approved this recommendation, which is on the consent agenda of the council's October 1 meeting.

On September 28 and 29, 2021, the Rules Committee acted by email between meetings to consider a short circulation of an invitation to comment on a proposal from the Center for Judicial Education and Research (CJER) Advisory Committee amending rule 10.492 to extend the rule's temporary extension for the B. E. Witkin Judicial College by an additional 12 months to avoid the inability to comply with rule 10.462(c)(1)(C) amongst new judicial officers. This action was conducted by email so that proposal could be posted for comment as soon as possible and be ready for a final recommendation at the council's November meeting.

Action:

The Rules Committee approved that the proposal circulate through October 8.

Recommendation

The Rules Committee recommends approval of the following proposals that are on the council's consent agenda for October 1:

- the 15 rules, forms, and jury instructions proposals which circulated for comment and the one technical amendment report that it considered on August 9;
- the rules and form proposal that it considered in the August 18 email circulation, which will circulate for comment post-adoption; and
- the forms proposal which circulated for comment that it considered in the September 22–23 email circulation.