



Judicial Council of California

Meeting Minutes

Judicial Council

Friday, February 26, 2016

8:30 AM

San Francisco

OPEN SESSION (RULE 10.6(A)) — MEETING AGENDA

Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the meeting to order at 8:30 a.m. in the Malcolm M. Lucas Board Room of the Judicial Council Conference Center in the Ronald M. George State Office Complex.

Voting Members

- Present:** 16 - Chief Justice Tani G. Cantil-Sakauye, Justice Ming W. Chin, Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Judge Marla O. Anderson, Judge Brian J. Back, Judge Daniel J. Buckley, Judge Samuel K. Feng, Judge Gary Nadler, Judge David M. Rubin, Judge Dean T. Stout, Mr. Patrick M. Kelly, Ms. Donna D. Melby, Ms. Debra Elaine Pole, and Mr. Mark G. Bonino
- Absent:** 3 - Judge Emilie H. Elias, Senator Hannah-Beth Jackson, and Assembly Member Richard Bloom

Advisory Members

Present: Justice Marsha G. Slough; Judges Dalila Corral Lyons, Brian L. McCabe, Kenneth K. So, Eric C. Taylor, and Charles D. Wachob; Commissioner David E. Gunn; Supreme Court Administrator and Clerk Frank A. McGuire; and Court Executive Officers Jake Chatters, Richard D. Feldstein, and Kimberly Flener

Others Present

Hon. Rebecca Wightman, Superior Court of San Francisco County; Ms. Caryn A. Downing, Ms. Linda Watkins-Gallino, and Ms. Michelle Haney, Superior Court of Tehama County; Ms. Emina Abrams, Superior Court of San Francisco County; and Mr. Snorri Ogata, Superior Court of Los Angeles County

Members of the Public:

Mr. Michael Aguirre, Ms. Mary Lou Aranguren, Ms. Angelique Barboa, Mr. Logan Begneaud, Mr. Gregg Bryon, Ms. Catherine Campbell Raffa, Mr. Roger Chan, Mr. Yul Down, Ms. Patty Fitz, Ms. Roberta Fitzpatrick, Mr. Dominick Franco, Ms.

Alyssa Fuller, Ms. Regina E. Gurst, Ms. Leslie Hiemov, Ms. Jennifer Kelleher Cloyd, Ms. Hilary Kushins, Ms. Cristina Llop, Ms. Candi Mayes, Ms. Mariko Nakawoshi, Ms. Alicia Park, Mr. Tyler Paxton, M. Pendercast, Mr. Jesus Rivera, Ms. Kim Robinson, Ms. Kathleen Russell, Ms. Eve Sutton, Ms. Connie Valentine, Ms. Christine Williams, and Ms. Genny Zentella

Media Representatives

Ms. Maria Dinzeo, *Courthouse News Service*; and Mr. Kevin Lee, *Daily Journal*

Approval of Minutes

[16-020](#) **Minutes of the December 11, 2015, Judicial Council Meeting**

Summary: Approve minutes from the last Judicial Council meeting.

Justice Ming Chin motioned, and Judge McCabe seconded, that the minutes be approved. The motion carried by a unanimous vote.

Minutes approved.

Welcome to the New Judicial Officers and the New Judge Orientation Faculty

The Chief Justice gave a welcome on behalf of the judicial branch to the new judicial officers in the audience who were attending the opening of the business meeting as part of their orientation. She acknowledged the faculty members present for their wisdom, expertise, and time with the participants and introduced them: Hon. Anthony Moore of the Superior Court of Los Angeles County, Hon. Patricia Lucas of the Superior Court of Santa Clara County, Hon. Katherine Lyons of the Superior Court of San Francisco County, and Hon. Theodore Weathers, Dean of the Witkin College, serving the Superior Court of San Diego County. She then recognized and introduced the program participants: Hon. James Baxter, commissioner of the Superior Court of San Bernardino County; Hon. Sheryl Beasley, Hon. Nichelle Blackwell, and Hon. Doreen Boxer, all commissioners from the Superior Court of Los Angeles County; Hon. Jeffrey Brand from the Superior Court of Alameda County; Hon. Sonia Cortés of the Superior Court of Yolo County; Hon. Timothy Dillon, Hon. Ronald Frank, Hon. Laura Siegle and Hon. Natalie Stone, all from the Superior Court of Los Angeles County; Hon. Winston Keh of the Superior Court of San Bernardino County; Hon. Tilisha Martin, of the Superior Court of San Diego County; and Hon. Kathleen Roberts, of the Superior Court of Orange County.

Judicial Council Internal Committee Reports

[16-018](#) **Judicial Council Committee Reports**

Executive and Planning Committee

Hon. Douglas P. Miller, Chair

Policy Coordination and Liaison Committee

Hon. Kenneth K. So, Chair

Rules and Projects Committee

Hon. Harry E. Hull, Jr., Chair

Judicial Council Technology Committee

Hon. Marsha G. Slough, Chair

Executive and Planning Committee (E&P)

Justice Douglas P. Miller, Chair, directed council members to his report on committee activities to be posted online after the meeting. He expressed pride in the recent confirmation of the two council members, Justice Marsha G. Slough and Justice Martin Tangeman, who were recently named by Governor Edmund J. Brown to serve on the state appellate court. Their elevation to the Court of Appeal prompted their immediate withdrawal from the Judicial Council. The Chief Justice reappointed Justice Slough to continue serving on the council as an advisory member. Justice Miller announced that E&P would be seeking nominations through March 25 to fill the two open voting positions that resulted from the Court of Appeal appointments, in addition to two other openings that will result from other council terms that expire in September. He also announced the opening of nominations for advisory committee membership, beginning on March 7 through May 6, 2016, and encouraged all interested to apply.

Policy Coordination and Liaison Committee (PCLC)

Judge Kenneth K. So, Chair, reported next on the activities of his committee since the previous council meeting in December. In that time, the committee met three times and took one action by e-mail. The committee also adopted a recommendation for Judicial Council sponsorship. On January 7, PCLC acted to oppose Assembly Bill 1473, legislation related to judicial review of certain cases filed under the California Environmental Quality Act. The committee also acted to oppose AB 1272 on the subject of cases that involved crimes against persons with developmental disabilities. On February 11, 2016, PCLC acted to approve sponsorship of a legislative proposal from the Facilities Policies Working Group for the disposition of the Chico courthouse, a proposal on the consent agenda for this meeting. He announced the deadline to introduce legislative bills on Friday, February 19. Judge So also noted that the Governmental Affairs staff was in the process of identifying legislative proposals for tracking purposes that are of interest or of impact to the judicial branch. He noted that nine Judicial Council-sponsored proposals were introduced in the Legislature, on subjects including court interpreters, sanctions against jurors, court records, and increasing the number of judgeships for the courts.

Rules and Projects Committee (RUPRO)

Justice Harry E. Hull, Jr., Chair, reported that the committee met twice since the

previous council meeting in December. On February 2, the committee considered and recommended approval of proposals on the council's consent agenda for this meeting. On February 25, the committee approved recirculating for comment a proposal that relates to the trial court records sampling program. Justice Hull commented that the proposal promises substantial savings for the trial courts in the maintenance of their records. Once circulated for public comment and following another review by the advisory committee that proposed the rule and by RUPRO, the proposal is expected to be submitted for council action at the June business meeting to take effect on July 1, 2016.

Judicial Council Technology Committee (JCTC)

Justice Marsha G. Slough, Chair, reported on the multiple meetings of the committee since the previous council meeting. On December 14, 2015, Justice Terence Bruiniers, Chair of the Information Advisory Technology Committee (ITAC), updated members on the work of the subcommittees and their work streams. On January 11, 2016, JCTC received further updates from ITAC and approved ITAC's proposed annual agenda which documents project commitments for the next year. JCTC received updates on a survey that was distributed to all of the courts regarding the courts' use of Oracle and a budget change proposal concerning transitioning support provided to courts that are now using the V3 legacy case management system. The committee also discussed options for the nine courts that are using the Sustain Justice Edition case management system.

On February 8, JCTC received updates from Mr. Richard Feldstein, Chair of the Court Executives Advisory Committee, on the status of the V3 case management system and the Sustain Justice Edition case management system. Justice Slough reported on two meetings that she, Vice-chair Judge Daniel J. Buckley, and Mr. Feldstein held in December and in January with the nine courts that are currently on the Sustain Justice Edition case management system, related to the council directive to eliminate State Trial Court Improvement and Modernization funds to these courts. She was impressed by the commitment of each of the courts to resolve the issue of transitioning to a new case management solution. She credited council member Mr. Jake Chatters, from the Superior Court of Placer County, with a key part in working diligently with many of the courts on an alternative hosting option. Related to the identification of options, the JCTC voted to approve a request for proposal for making a leveraged purchase agreement to replace the interim case management system.

Also on February 8, Justice Bruiniers updated members on the implementation of the California Language Access Plan and asked the JCTC to review and approve a proposal to the council on the subject. Discussion focused on the importance of including the trial courts at the ground level of implementation, particularly by including chief information officers and court executive officers in the review of proposals and

discussion of video interpreting developments in order to ensure the success of this technology.

The committee held a second day of orientation on February 25. She credited staff with a great job correlating other kinds of issues that relate to technology implementation and policy such as the role that the Judicial Council's Phoenix financial system has in the courts' website operations and the fact that there were 900,000 downloads of forms using court websites. She applauded the good work of the Judicial Council's technology staff. She concluded by referencing the presentation that she would make later in the meeting on the successes and the challenges that remain for developing branch technology.

Judicial Council Members' Liaison Reports

[16-025](#)

Judicial Council Members' Liaison Reports

Summary: Judicial Council members report on their visits to the Superior Courts of California.

Hon. Samuel K. Feng reported on his visit to the Superior Court of Lake County; and Hon. Gary Nadler reported on his visit to the Superior Court of Trinity County.

Public Comment

Participating: Ms. Angelique Barboa, Mr. Logan Begneaud, Mr. Gregg Bryon, Mr. Roger Chan, Mr. Yul Down, Ms. Patty Fitz, Mr. Dominick Franco, Ms. Alyssa Fuller, Ms. Regina E. Gurst, Ms. Cristina Llop, Ms. Mariko Nakawoshi, Ms. Alicia Park, M. Pendercast, Ms. Eve Sutton, Ms. Christine Williams, and Ms. Genny Zentella

Written Comment

Comment Received on Judicial Administration Issues

Reporting and Accountability for Judicial Administration Standards and Measures

- Ms. Kathleen Russell, Executive Director, Judicial Center for Excellence CPUC Legislation AB 825
- Ms. Maria C. Severson, Esq., Aguirre & Severson, LLP Payment Policy for Contract Court Interpreters
- Board of Directors Association of Independent Judicial Interpreters of California

Comment Received on Specific Agenda Items

Trial Court Trust Fund Allocations: 2 Percent Reserve, Item 16-024

- Mr. Jerry Kalmar, Business Manager/International Vice-president Stationary Engineers, Local 39

Interim Report on Court-Appointed Dependency Counsel Workload and Funding Methodology, Item 16-019

- Hon. Patrick Tondreau, Judge, Superior Court of Santa Clara County
- Hon. Sue Alexander, Commissioner, Superior Court of Alameda County
- Hon. Rebecca L. Wightman, Commissioner, Superior Court of San Francisco County
- Mr. Gary Slossberg, Family Law Facilitator, Superior Court of El Dorado County
- Ms. Andrea L. Goodman, Executive Director, San Francisco Counsel for Families and Children
- Ms. Annalisa Chung, Executive Director, Dependency Advocacy Center, Santa Clara County
- Ms. Candi Mayes, Chief Executive Officer, Dependency Legal Group, San Diego County
- Ms. Julie A. Traun, Director of Court Programs, Lawyer Referral and Information Service
- Mr. John Passalacqua, Chief Executive Officer, Dependency Legal Services
- Mr. Roger Chan, Executive Director, East Bay Children's Law Offices
- Ms. Jennifer Kelleher, Directing Attorney, Legal Advocates for Children and Youth
- Ms. Martha Rosenberg, Managing Attorney, Legal Aid Society of Santa Clara County
- Mr. Martin Schwarz, Senior Assistant Public Defender, Office of the Public Defender, Orange County
- Mr. Robert Patterson, Attorney at Law
- Mr. Christopher Massod, Attorney at Law
- Ms. Alicia A. Griffin, Director, Department of Child Support Services

PRESENTATION

[16-000](#)

Tribal Court-State Court Forum: Honoring Former Cochair Judge Richard C. Blake and Presentation on First Five Years

Summary: The Chief Justice honored inaugural forum cochair Judge Richard C. Blake. The current cochairs and Judge Blake followed with a presentation on the forum's accomplishments and its future.

Chief Judge Abby Abinanti, and Presiding Justice Dennis Perluss, cochairs of the Tribal Court-State Court Forum, joined by Hoopa Valley Tribal Council member Ms. Diana McCovey-Ferris, presided over a ceremony honoring former cochair Chief Judge Richard Blake. Judge Blake was presented with a plaque of recognition and the traditional gifts of an honorary blanket, abalone shell, and sage. The presentation included a history of the forum, its founding, and accomplishments over the forum's first five years and a discussion of prospective issues.

CONSENT AGENDA

The Judicial Council approved all items proposed on the Consent Agenda.

[16-001](#)

Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

Summary: The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) and Judicial Council staff recommended that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Tulare*. This acceptance is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

Recommendation: The A&E Committee and Judicial Council staff recommended that the Judicial Council, effective February 26, 2016, accept the following “pending” audit report:

- Audit report dated July 2016 entitled: *Audit of the Superior Court of California, County of Tulare*

This acceptance resulted in the audit report progressing from “pending” status to “final” status, and publishing the final report on the California Courts public website.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-002](#)

Judicial Branch Administration: Audit Report for Judicial Council Acceptance (Action Required)

Summary: The Advisory Committee on Financial Accountability and Efficiency for the Judicial Branch (A&E Committee) and Judicial Council staff recommended that the Judicial Council accept the audit report entitled *Audit of the Superior Court of California, County of Yolo*. This acceptance is consistent with the policy approved by the Judicial Council on August 27, 2010, which specifies Judicial Council acceptance of audit reports as the last step to finalization of the reports before their placement on the California Courts public website to facilitate public access. Acceptance and publication of these reports promote transparent accountability and provide the courts with information to minimize future financial, compliance, and operational risk.

Recommendation: The A&E Committee and Judicial Council staff recommended that the Judicial Council, effective February 26, 2016, accept the following “pending” audit report:

- Audit report dated February 2015 entitled: *Audit of the Superior Court of California, County of Yolo*

This acceptance resulted in the audit report progressing from “pending” status to “final” status, and publishing the final report on the California Courts public website.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-003](#)**Judicial Branch Report to the Legislature: California's Access to Visitation Grant Program for Federal Fiscal Years 2014-2016 (Action Required)**

Summary: The Family and Juvenile Law Advisory Committee recommended approving *California's Access to Visitation Grant Program (Federal Fiscal Years 2014-2016): 2016 Report to the Legislature* for submission to the Legislature. The report provides information on the programs funded for federal fiscal years 2014-2016 under California's Access to Visitation Grant Program for Enhancing Responsibility and Opportunity for Nonresidential Parents. This report to the Legislature must be submitted on even-numbered years, as required by Family Code section 3204(d).

Recommendation: The Family and Juvenile Law Advisory Committee recommended that the Judicial Council, effective February 26, 2016:

- Approve *California's Access to Visitation Grant Program (Federal Fiscal Years 2014-2016): 2016 Report to the Legislature* (Attachment A); and
- Direct the Administrative Director of the Judicial Council staff to submit the report to the Legislature.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-008](#)**Judicial Council Forms: Technical Changes to Reflect Federal Poverty Guidelines (Action Required)**

Summary: Four Judicial Council forms containing figures based on the federal poverty guidelines need to be revised to reflect the changes in those guidelines recently published by the federal government.

Recommendation: Staff of the Judicial Council recommended that the Judicial Council, effective March 1, 2016, revise the following documents to reflect 2016 increases in the federal poverty guidelines:

- *Request to Waive Court Fees* (form FW-001);
- *Request to Waive Court Fees (Ward or Conservatee)* (form FW-001-GC);
- *Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal,*
- *Appellate Division)* (form APP-015/FW-015-INFO); and
- *Financial Declaration-Juvenile Dependency* (form JV-132).

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-010](#)**Child Support: Midyear Funding Reallocation for Fiscal Year 2015-2016 and Base Funding Allocation for Fiscal Year 2016-2017 for the Child Support Commissioner and Family Law Facilitator**

Program (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommended approving the reallocation of funding for the Child Support Commissioner and Family Law Facilitator Program for the remainder of fiscal year (FY) 2015-2016 and the allocation of funding for this same program for FY 2016-2017, as required by Assembly Bill 1058 (Stats. 1996, ch. 957). The funds are provided through a cooperative agreement between the California Department of Child Support Services (DCSS) and the Judicial Council. At midyear, under an established procedure described in the standard agreement with each superior court, the Judicial Council redistributes to courts with a documented need for additional funds any available funds from courts that are projected not to spend their full grants that year, up to the amount of funds available through the contract with DCSS. The courts are also offered an option to use local court funds up to an approved amount to draw down, or qualify for, federal matching funds.

Recommendation: The Family and Juvenile Law Advisory Committee recommended that the Judicial Council, effective February 26, 2016:

1. Approve the reallocation for funding of child support commissioners for FY 2015-2016, subject to the state Budget Act;
2. Approve the reallocation for funding of family law facilitators for FY 2015-2016, subject to the state Budget Act;
3. Approve allocation for funding of child support commissioners for FY 2016-2017, subject to the state Budget Act; and
4. Approve the allocation for funding of family law facilitators for FY 2016-2017, subject to the state Budget Act.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-012](#)**Judicial Branch Semiannual Contract Reporting Requirement:
Executed Contracts and Vendor Payments for the Period of July 1
through December 31, 2015 (Action Required)**

Summary: Public Contract Code section 19209 and the *Judicial Branch Contracting Manual* require that the Judicial Council submit a report semiannually to the Joint Legislative Budget Committee and the State Auditor listing (1) all vendors or contractors receiving payments from any judicial branch entity and their associated distinct contracts and (2) for every vendor or contractor receiving more than one payment, the amount of the payment, type of service or good provided, and judicial branch entity receiving the good or service. Therefore, Judicial Council staff recommended submitting this eighth semiannual report, which lists all judicial branch entity contracts that were amended during the reporting period covering July 1 through December 31, 2015.

Recommendation: Judicial Council staff recommended that the council accept and approve for

submission to the Joint Legislative Budget Committee and the California State Auditor the following report and related attachments: *Semiannual Report on Contracts for the Judicial Branch for the Reporting Period of July 1 through December 31, 2015*. The report includes information for the Supreme Court, Courts of Appeal, superior courts, Judicial Council, and Habeas Corpus Resource Center.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-016](#)

Jury Instructions: Revisions to Criminal Jury Instructions (Action Required)

Summary: The Advisory Committee on Criminal Jury Instructions recommended approval of the proposed revisions to the *Judicial Council of California Criminal Jury Instructions (CALCRIM)*. These changes will keep CALCRIM current with statutory and case authority.

Recommendation: The Advisory Committee on Criminal Jury Instructions recommended that the Judicial Council, effective February 26, 2016, approve for publication under rule 2.1050 of the California Rules of Court the criminal jury instructions prepared by the committee. Once approved by the Judicial Council, the revised instructions will be published in the next official edition of the *Judicial Council of California Criminal Jury Instructions*.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-022](#)

Court Facilities: Disposition of Chico and Corning Courthouses (Action Required)

Summary: The Corning Courthouse in Tehama County and the Chico Courthouse in Butte County have been permanently closed by their respective courts and are unsuitable to the needs of the judicial branch. In each case, local county government has expressed a strong interest in acquiring the closed court facility, and the local court supports such a disposition. To eliminate the council's continuing liability and expense in holding these permanently closed court facilities and to realize the value of those assets in fair-market-value sales transactions, the Facilities Policies Working Group recommended authorizing and approving the sale of those courthouses as either nonsurplus or surplus properties, depending on how the Legislature frames the disposition of the San Pedro Courthouse, which was approved by the Judicial Council in 2015.

Recommendation:

The Facilities Policies Working Group recommended that the Judicial Council, effective February 26, 2016:

1. Authorize and approve the sale of the Corning Courthouse to Tehama County and the Chico Courthouse to Butte County in fair-market-value transactions, with the final form of the legislation authorizing sale of these court facilities conforming to the

final form of legislation authorizing disposition of the San Pedro Courthouse;

2. Direct council staff to take all actions necessary to obtain statutory authorization to dispose of these facilities and to draft and negotiate purchase and sale agreements with the counties; and
3. Delegate to the Administrative Director the authority to sign a real property purchase and sales agreement for each facility, contingent on legislative authorization for the sale of the properties.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-023](#)

Judicial Council Report to the Legislature: Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2014-2015 (Action Required)

Summary: Judicial Council staff recommended approving the *Report of Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2014-2015*, as required by Government Code sections 68502.5(b) and 77202.5(b), to be sent to the chairs of the Senate Committee on Budget and Fiscal Review, the Senate Committee on Judiciary, and the Assembly Committees on Budget and Judiciary.

Recommendation: Judicial Council staff recommended that the Judicial Council:

1. Approve the Report of Trial Court Revenue, Expenditure, and Fund Balance Constraints for Fiscal Year 2014-2015; and
2. Direct Judicial Council staff to submit the report to the Legislature.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

[16-028](#)

Judicial Council Report to the Legislature: Status Update of Judicial Branch Courthouse Construction Program, as required under Government Code 70371.8 (Action Required)

Summary: The Judicial Council Capital Program recommended approving the status update of the judicial branch courthouse construction program for fiscal year 2014-2015 for submission to the Legislature. The annual submission of this report is required under Government Code section 70371.8.

Recommendation: The Chief Operating Officer recommended that the Judicial Council direct staff to submit the attached status update report to the Legislature.

A motion was made by Judge So, seconded by Judge Buckley, to approve the items on the Consent Agenda. The motion carried unanimously.

DISCUSSION AGENDA

[16-024](#)**Trial Court Trust Fund Allocations: 2 Percent Reserve (Action Required)**

Summary: The Trial Court Budget Advisory Committee's 2 Percent Funding Request Review Subcommittee (TCBAC subcommittee) presented a recommendation to the Judicial Council on the Superior Court of Tehama County's application for supplemental funding. Under the current policy adopted by the Judicial Council, from January 1 through March 15, 25 percent of the remaining Trial Court Trust Fund 2 percent state-level reserve is available for court requests due to unforeseen emergencies or unanticipated expenses. For 2015-2016, the 25 percent amount remaining in the 2 percent state-level reserve is \$9.4 million. The total amount requested by the Superior Court of Tehama County is \$498,000.

Recommendation: Allocate a one-time distribution of \$272,000 to the Superior Court of Tehama County from the TCTF 2 percent state-level reserve. The recommended amount would provide funding for the court's 2015-2016 General Fund operational deficiency and for a fund balance amount equal to half of the court's contributed share to the 2 percent state-level reserve, thereby approximating the maximum 1% reserve.

Judge Stout made a motion, seconded by Judge Buckley, to amend and adopt Option 2 of the options proposed, as follows.

Grant the Superior Court of Tehama County the allocation of \$272,000 from the 2 percent state-level reserve in the Trial Court Trust Fund (TCTF) for its 2015–2016 General Fund operational deficiency and for a fund balance amount equal to half of the court's contributed share to the 2 percent state-level reserve. The council approved an amendment to require that the court reimburse the TCTF for any balance remaining or funding received to offset the supplemental emergency funding received from the Judicial Council with this action.

The motion carried by a unanimous vote.

[16-029](#)**Court Facilities: Scope, Budget, and Schedule Approval for Downtown Sacramento Capital Project (Action Required)**

Summary: The Court Facilities Advisory Committee (CFAC) recommended approving the scope, budget, and schedule for a new 53-courtroom courthouse in downtown Sacramento. This approval is predicated on two future conditions: the Judicial Council would not commit to move the project into Construction until construction-funding legislation has been enacted, and at the completion of construction, the Judicial Council will dispose of the vacated Gordon D. Schaber Courthouse property. To the benefit of all county residents, this project will consolidate facilities including replacement of the Schaber Courthouse, and provide a modern, secure courthouse in downtown Sacramento for criminal and civil calendars and operations.

Recommendation: The Court Facilities Advisory Committee recommended that the Judicial Council, effective February 26, 2016, approve the scope, budget, and schedule for a new 53-courtroom courthouse in downtown Sacramento, predicated on two future conditions: the Judicial Council would not commit to moving the project into Construction until construction-funding legislation has been enacted and, at the completion of construction, the Judicial Council will dispose of the vacated Gordon D.

Schaber Courthouse property.

A motion was made by Justice Hull, seconded by Judge Stout, to approve this proposal. The motion carried by a unanimous vote.

[16-019](#)

Interim Report on Court-Appointed Dependency Counsel Workload and Funding Methodology (No Action Required)

Summary: On April 17, 2015, the Judicial Council approved recommendations of the Trial Court Budget Advisory Committee (TCBAC) to change the methodology used to allocate annual funding for court-appointed dependency counsel among the courts. The purpose was to provide a more equitable allocation of funding among the courts. Rather than using historical funding levels dating back to the adoption of state trial court funding, the new funding methodology is based on the caseload-based calculation of funding for each court provided by the workload model approved by the Judicial Council through the *DRAFT Pilot Program and Court-Appointed Counsel* report of October 26, 2007. One of the recommendations approved by the Judicial Council was that a joint working group of the TCBAC and the Family and Juvenile Law Advisory Committee be formed to review that workload model for possible updates and revisions. The joint working group was charged with bringing recommendations to the Judicial Council at the April 2016 meeting. The working group formed is called the Joint Subcommittee on Court-Appointed Dependency Counsel Workload and Funding Methodology (“subcommittee”). In an effort to keep the Judicial Council informed of the progress of the subcommittee, particularly as it relates to potential, increased statewide funding needs for dependency counsel, this report presented the draft recommendations of the subcommittee as an informational item.

[16-009](#)

Child Support: Child Support Commissioner and Family Law Facilitator Program Funding Allocation (Action Required)

Summary: At its meeting on April 17, 2015, the Judicial Council approved the recommendation from the Family and Juvenile Law Advisory Committee that the AB 1058 Funding Allocation Joint Subcommittee be established to reconsider the allocation methodology developed in 1997 for the AB 1058 Child Support Commissioner and Family Law Facilitator Program. The subcommittee, which included representatives from the Family and Juvenile Law Advisory Committee (FJLAC), the Trial Court Budget Advisory Committee (TCBAC), the Workload Assessment Advisory Committee (WAAC), and the California Department of Child Support Services (DCSS), was charged with reconsidering the allocation methodology developed in 1997 and reporting back at the February 2016 Judicial Council meeting. The joint subcommittee completed its work in November 2015 after extensive discussions and review of the relevant information.

The joint subcommittee was asked to report back to the Family and Juvenile Law Advisory Committee, the Trial Court Budget Advisory Committee, and the Workload Assessment Advisory Committee by December 31, 2015, and report back to the council at its February 2016 meeting. This report was provided in response to that directive and included the recommendation of the subcommittee as well as the reports from the three respective advisory committees.

Recommendation: The AB 1058 Funding Allocation Joint Subcommittee recommended that the Judicial Council, effective February 26, 2016:

1. Continue to allocate funding using the historical funding methodology, coordinate with California Department of Child Support Services (DCSS) on their current review of funding allocations for local child support agencies, and review the funding methodology for the child support commissioners and family law facilitators at the conclusion of the DCSS program review.
2. When developing a funding methodology in the future, determine whether there is sufficient data to determine the specific workload of the family law facilitator, which may be different than how workload for the child support commissioner is determined; and
3. Adopt the recommendation of the joint subcommittee for revising the process of how funds are moved from one court to another during a fiscal year to maximize program resources. This process would include providing questionnaires for the courts to identify funds available for redistribution and courts requesting additional funds. The Family and Juvenile Law Advisory Committee would make recommendations to the Judicial Council for reallocation of these available funds. The Judicial Council would direct the Administrative Director to continue to monitor spending patterns of the courts and provide a survey with a financial analysis to the courts towards the end of the fiscal year to determine if additional funds are available to be reallocated to courts that have exhausted their AB 1058 allocation. The Administrative Director would reallocate the available funds and report back to the Judicial Council on any action taken once the fiscal year has closed.

The Trial Court Budget Advisory Committee recommended that Recommendation 1, *supra*, instead provide as follows:

1. Allocate funding using the historical model in fiscal year (FY) 2016-2017. Develop a workload-based funding methodology to begin implementation in FY 2017-2018. Coordinate with California Department of Child Support Services (DCSS) on their current review of funding allocations for local child support agencies.

Judge Stout moved, and Judge Taylor seconded, adoption of recommendations 1, 2, and 3 and the five recommendations of the Family and Juvenile Law Advisory Committee, noted in pages 10-11 of the proposal and stated below, with a report to the Judicial Council expected in December 2016:

1. That the Judicial Council reappoint the joint subcommittee for at least fiscal year 2016–2017 to continue consideration of the allocation of the AB 1058 funds;
2. That the joint subcommittee work with Department of Child Support Services (DCSS) as DCSS reviews its funding allocation methodology for the local child support agencies;
3. That the joint subcommittee continue its work to determine accurate and complete workload numbers to include in a funding methodology for both child support commissioners and family law facilitators;
4. As part of the joint subcommittee's funding methodology determination, that a subject matter expert group be established comprising both child support

commissioners and family law facilitators to provide input and expertise to the joint subcommittee; and

5. That the joint subcommittee report back to the council at its December 2016 meeting after providing a report to TCBAC, WAAC, and the Family and Juvenile Law Advisory Committee to ensure statewide input.

The motion failed by roll call vote: Ayes: 5 and Nays: 10.

Judge Anderson made a second motion to amend the first, which was seconded by Justice Chin. The motion provided, in addition to the five recommendations of the Family and Juvenile Law Advisory Committee stated above, that the Judicial Council:

- Allocate funding using the historical funding allocation model in FY 2016–2017.
- Develop a framework for a workload-based funding methodology for implementation no later than fiscal year 2018-2019 and coordinate with DCSS on their current review of funding allocations for local child support agencies.

This second motion carried by a unanimous vote.

[16-004](#)

California’s Language Access Plan: Model Notice for Limited English Proficient (LEP) Court Users; Video Remote Interpreting Pilot Project; Progress Report on Implementation of the Strategic Plan for Language Access in the California Courts (Action Required)

Summary: To strengthen the California judiciary’s capacity to meet the needs of millions of people with limited-English language skills, the Judicial Council charged the Language Access Plan Implementation Task Force with implementing the recommendations of the *Strategic Plan for Language Access in the California Courts*. The task force began work to implement the “Phase 1” recommendations in 2015. In this report we offer a brief description of the task force’s progress on implementation. The task force seeks the Judicial Council’s further approval of two projects that implement recommendations of the Language Access Plan.

Recommendation: The Language Access Plan Implementation Task Force recommended that the council:

1. Adopt a model notice to help inform court users about the availability of language access services. The notice would be translated into the state’s top eight non-English languages and shared with courts to help inform court users about the availability of language access services. The notice includes language indicating that, where appropriate, language access services are free. Once translated, the notice should be shared by the Judicial Council and courts with the public, justice partners, legal services providers, community-based organizations, and other entities working with LEP populations. This project addresses Recommendation No. 5 in the *Strategic Plan* approved by the council on January 22, 2015.
2. Proceed with a request for proposals (RFP) for a video remote interpreting (VRI) pilot project, which will build on previous work to test new technology solutions and equipment, preapprove vendors if appropriate, and finalize statewide technical guidelines taking into account the needs of different courts

from throughout the state. This project addresses Recommendations 12 through 16 in the *Strategic Plan* approved by the council on January 22, 2015.

Judge Nadler made a motion, seconded by Judge So, to approve the first of the two recommendations proposed. The Language Access Plan Implementation Task Force recommended that the council:

Adopt a model notice to help inform court users about the availability of language access services. The notice would be translated into the state's top eight non-English languages and shared with courts to help inform court users about the availability of language access services. The notice includes language indicating that language access services are free. Once translated, the notice should be shared by the Judicial Council and courts with the public, justice partners, legal services providers, community-based organizations, and other entities working with limited English proficient populations.

The motion carried by a unanimous vote.

[16-006](#)

Judicial Branch Technology Update: Challenges and Successes (No Action Required and No Materials)

Summary: This was an update on the implementation of the Judicial Council-adopted Court Technology Governance and Strategic Plan, including how technology can be used now and in the future to improve access to justice and address challenges. It highlighted how technology is being used to meet current court business needs by improving business processes, operations, and service to the public.

INFORMATION ONLY ITEMS (NO ACTION REQUIRED)

[16-011](#)

Judicial Council: Implementation of Judicial Council Directives on Judicial Council Staff Restructuring

Summary: The chair of the Executive and Planning Committee (E&P) presented this informational report on the implementation of the Judicial Council Directives on Staff Restructuring, as approved by the Judicial Council on August 31, 2012. The Judicial Council Staff Restructuring Directives specifically direct the Administrative Director to report to E&P before each council meeting on every directive. This informational report provided an update on the progress of implementation efforts.

[16-033](#)

Government Code Section 68106: Public Notice by Courts of Closures or Reduced Clerks' Office Hours (Gov. Code, § 68106-Report No. 36)

Summary: Government Code section 68106 directs (1) trial courts to notify the public and the Judicial Council before closing courtrooms or clerks' offices or reducing clerks' regular office hours, and (2) the council to post all such notices on its website and also relay them to the Legislature. This is the 36th report to date listing the latest court notices received by the council under this statutory requirement; since the previous

report, two superior courts-those of Kings and Sutter Counties-have issued new notices.

[16-013](#)

State Department of Finance, Office of State Audits and Evaluations, Performance Audit Report Entitled Judicial Council of California's Fiscal Compliance for the Fiscal Year July 1, 2013 through June 30, 2014

Summary: In August 2015 the State Department of Finance, Office of State Audits and Evaluations, released a performance audit report entitled *Judicial Council of California's Fiscal Compliance for the Fiscal Year July 1, 2013 through June 30, 2014*. The audit was required to be performed by Government Code section 77206(i)(1). The report contained five recommendations which were responded to by the Administrative Director and the responses were included in the report. The audit concluded that the "revenues, expenditures, and fund balances subject to the administration, jurisdiction, or control of Council staff complied with governing statutes, rules, regulations, and policies; were recorded accurately in accounting records, and were maintained in accordance with fund accounting principles."

[16-014](#)

California State Auditor Report: Judicial Branch Procurement (Action Required)

Summary: On December 10, 2015, the California State Auditor released a performance audit report entitled *Judicial Branch Procurement: Although the Judicial Council Needs to Strengthen Controls Over Its Information Systems, Its Procurement Practices Generally Comply With Applicable Requirements*. The audit was required by Public Contract Code section 19210 to assess the implementation of the California Judicial Branch Contract Law. The report contained two recommendations and identified no new issues concerning procurement documentation, internal controls, and payments. This result represents progress over the last audit, in 2013. With respect to information security controls, the report indicated that the judicial branch still needs to continue to enhance and build on the policies and procedures previously approved and currently being implemented. The Administrative Director's responses to the two recommendations were included in the report.

[16-015](#)

Court Facilities: Trial Court Facility Modification Quarterly Activity Report for Quarter 2 of Fiscal Year 2015-2016

Summary: The Trial Court Facility Modification Advisory Committee (TCFMAC) has completed its facility modification funding for the second quarter of fiscal year 2015-2016. In compliance with the Trial Court Facility Modifications Policy, the advisory body submitted its *Trial Court Facility Modification Quarterly Activity Report: Quarter 2, Fiscal Year 2015-2016* as information for the council. This report summarizes the activities of the TCFMAC from October 1, 2015, to December 31, 2015.

Recommendation: The *Trial Court Facility Modification Quarterly Activity Report: Quarter 3,*

Fiscal Year 2015-2016 will be submitted to the Judicial Council in June 2016.

[16-027](#)**Trial Courts: Quarterly Investment Report for Fourth Quarter 2016**

Summary: *Trial Courts: Quarterly Investment Report for Fourth Quarter of 2015* provides the financial results for the funds invested by the Judicial Council on behalf of the trial courts as part of the judicial branch treasury program. The report is submitted under agenda item 10, Resolutions Regarding Investment Activities for the Trial Courts, approved by the Judicial Council on February 27, 2004, and the report covers the period of October 1, 2015, through December 31, 2015.

CIRCULATING ORDERS[16-030](#)**(CO-16-01) Probate Conservatorship: Conservatees' Capacity to Vote**

Summary: In response to legislation that became effective on January 1, 2016, the *Order Appointing Probate Conservator* (form GC-340) must be revised to reflect changes in the standard for a conservatee's capacity to vote. The Judicial Council Rules and Projects Committee and the Administrative Director recommended this revision be made by circulating order rather than at the council's next business meeting to ensure that courts have the necessary conservatorship orders with the correct new legal standard for voting capacity as soon as possible after the effective date of the legislation.

Recommendation: The Judicial Council's Rules and Projects Committee and the Administrative Director recommended that the Judicial Council revise item 8 on page 1 of the *Order Appointing Probate Conservator* (form GC-340), effective January 15, 2016, to state the new standard for disqualification of a conservatee from voting, which was created by legislation that became effective on January 1, 2016.

[16-031](#)**(CO-16-02) Sargent Shriver Civil Counsel Act: Report to the Legislature**

Summary: The Sargent Shriver Civil Counsel Act Implementation Committee recommended that the Judicial Council accept the report to the Legislature on the Sargent Shriver Civil Counsel Act. The report was due to the Legislature on January 31, 2016. To expedite the council's review and submission of the report to the Legislature, voting was conducted via circulating order memorandum.

Recommendation: The Sargent Shriver Civil Counsel Act Implementation Committee recommended that the Judicial Council:

1. Approve for submission the *Report to the Legislature on the Sargent Shriver Civil Counsel Act* by January 31, 2016, as required by Government Code section 68085.1(c).

2. Direct Judicial Council staff to transmit the report to the Legislature.

[16-017](#)

(CO-15-05) Judicial Council Report to the Legislature: Fee Revenue and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2014-2015

Summary: Judicial Council staff recommended approving the *Report of Court Reporter Fees Collected and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2014-2015*. Government Code section 68086(f) requires that the Judicial Council report to the Joint Legislative Budget Committee annually, by February 1, information concerning court reporter fees collected under Government Code sections 68086(a)(1), 68086(a)(2), and 68086.1 and expenditures on court reporter services in superior court civil proceedings statewide.

Recommendation: Judicial Council staff recommended that the Judicial Council:

1. Approve the Report of Court Reporter Fees Collected and Expenditures for Court Reporter Services in Superior Court Civil Proceedings for Fiscal Year 2014-2015; and
2. Direct Judicial Council staff to submit the report to the Joint Legislative Budget Committee.

[16-032](#)

(CO-15-06) Trial Court Allocations: Final Reduction Related to Statutory 1 Percent Cap on FY 2014-2015 Fund Balance Carryover

Summary: Under Government Code section 77203(b), a trial court may carry over unexpended funds in an amount not to exceed 1 percent of the court's operating budget from the prior fiscal year. The Judicial Council staff recommended approving a final reduction allocation of \$392,853 related to the fund balance in fiscal year (FY) 2014-2015 and prior-year excluded funds, as required by Government Code section 68502.5(c)(2) (A).

Recommendation: The Judicial Council staff recommended that the Judicial Council adjust the preliminary 1 percent fund balance cap reduction allocation of \$392,881 approved by the council in July 2015 by a net \$29, for a final reduction allocation of \$392,853, to match the trial courts' final calculations of the amount above the 1 percent fund balance cap.

APPOINTMENT ORDERS

[16-035](#)

Appointment orders since the last business meeting.

In Memoriam

The Chief Justice concluded the meeting with a remembrance of the following judicial

colleagues recently deceased, honoring their service to their courts and to the cause of justice:

- Hon. Marilyn P. Zecher (Ret.), Superior Court of California, County of Santa Clara
- Hon. David A. Thomas (Ret.), Superior Court of California, County of Los Angeles
- Hon. James H. Harmon (Ret.), Superior Court of California, County of Imperial
- Hon. Richard E. Arnason (Ret.), Superior Court of California, County of Contra Costa
- Hon. Warren K. Taylor (Ret.), Superior Court of California, County of Yolo
- Hon. Marion E. Gubler (Ret.), Superior Court of California, County of Los Angeles
- Hon. Thomas A. Peterson (Ret.), Superior Court of California, County of Los Angeles
- Hon. James L. Pattillo (Ret.), Santa Barbara County Municipal Court
- Hon. Louis P. Etcheverry (Ret.), Superior Court of California, County of Kern
- Hon. George D. Carroll (Ret.), Contra Costa County Municipal Court
- Hon. John P. Moran (Ret.), Superior Court of California, County of Tulare
- Hon. William J. Birney, Jr. (Ret.), Superior Court of California, County of Los Angeles
- Hon. Daniel L. Brenner (active), Superior Court of California, County of Los Angeles

ADJOURNMENT

With the meeting's business completed, the Chief Justice adjourned the meeting at 1:55 p.m.

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on June 23, 2016.