



Judicial Council of California

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Meeting Minutes

Judicial Council

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Thursday, September 14, 2017

1:20 PM

San Francisco

CLOSED SESSION (RULE 10.6(B)) — PLANNING, PERSONNEL, AND DISCUSSION PROTECTED BY THE ATTORNEY-CLIENT PRIVILEGE

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

Attendance

Council Members

- Present:** 26 - Chief Justice Tani G. Cantil-Sakauye, Justice Harry E. Hull Jr., Justice Harry E. Hull Jr., Justice James M. Humes, Justice Douglas P. Miller, Justice Marsha G. Slough, Presiding Judge C. Todd Bottke, Presiding Judge Daniel J. Buckley, Presiding Judge Dean T. Stout, Judge Marla O. Anderson, Judge Brian J. Back, Judge Stacy Boulware Eurie, Judge Stacy Boulware Eurie, Judge Kyle S. Brodie, Judge Samuel K. Feng, Judge Scott M. Gordon, Judge Dalila Corral Lyons, Assistant Presiding Judge Gary Nadler, Judge Kenneth K. So, Commissioner David E. Gunn, Mr. Jake Chatters, Mr. Patrick M. Kelly, Mr. Richard D. Feldstein, Ms. Kimberly Flener, Ms. Audra Ibarra, and Ms. Donna D. Melby
- Absent:** 6 - Justice Ming W. Chin, Presiding Judge Jeffrey B. Barton, Judge David M. Rubin, Assembly Member Richard Bloom, Senator Hannah-Beth Jackson, and Ms. Debra Elaine Pole

Others Present

Mr. Tony Agullar, Mr. Daniel Osborn, Ms. Nancy Ruzicka, and Ms. Gail Johnson Vaughn.

Call to Order

Chief Justice Tani G. Cantil-Sakauye, chair of the Judicial Council, called the open session to order at 1:40 p.m. in the Judicial Council Board Room.

Opening Remarks

Chief Justice Tani G. Cantil-Sakauye acknowledged outgoing Judicial Council members and noted the swearing-in of new members who will take office on

September 15. She expressed her deep gratitude for the outgoing council members' work and noted that she gives each member a copy of "The Federalist Papers" as a token of appreciation for their service, symbolizing the importance of their role in the statewide Judicial Council and their lasting contributions as Judicial Council members. The Chief Justice thanked the following members for their service on the council: Judge Brian J. Back, 2014-2017; Judge Jeffrey B. Barton, 2016-2017; Presiding Judge Daniel J. Buckley, 2014-2017; Commissioner David E. Gunn, 2014-2017; Presiding Judge Dean T. Stout, 2013-2017; Mr. Richard D. Feldstein, 2014-2017; Ms. Donna D'Angelo Melby, 2014-2017; and Ms. Debra Elaine Pole, 2014-2017.

Chief Justice's Report

The Chief Justice reported on her activities since the previous council meeting. She attended the 51st annual Bernard E. Witkin Judicial College in San Ramon, where she was cross-examined by the dean, Judge Patricia Lucas, Superior Court of Santa Clara County, and the vice-dean, Judge Michael Groch, Superior Court of San Diego County, as part of a lunchtime Q&A. Some of the topics covered with the 82 participants included diversity, federalism, the Commission on Judicial Performance, race and gender, public opinion, civics education and engagement, immigration, judicial administration, the Futures Commission, the budget, and the critical transitions and learning necessary to become an effective bench officer.

In Philadelphia, at the annual meeting of the Conference of Chief Justices in August, the Chief Justice reported that the focus was again on federalism. She noted that it was the topic of conversations and educational programs, which included "Federalism: Sharing Power, Securing Liberty"; "Who Cares What the Federalist Papers Say About Federalism-I Do!"; "The Role of State Courts in Developing Federal Constitutional Law"; and "Promoting Cooperation Between State and Federal Courts." On the topic of cooperation between state and federal courts in California, the Chief Justice remarked that California is fortunate to have a robust State-Federal Judicial Council that shares information and promotes a collegial environment among state and federal colleagues. She added that they have education sessions and programs with federal and state judges, and from time to time vacancies come up that are solicited on the California Courts website for those who are interested in applying. They meet twice a year, once in Northern California and once in Southern California.

The Chief Justice reported that federal judges including Judge Connie Callahan, U.S. Court of Appeals for the Ninth Circuit; retired Judge Frank Damrell, U.S. District Court for the Eastern District of California; Senior Judge Raymond Fisher, U.S. Court of Appeals for the Ninth Circuit; and Judge Kimberly Mueller, U.S. District Court for the Eastern District of California, have joined the Power of Democracy Steering Committee. They work with state judges, Secretary of State Alex Padilla, and leaders in education like State Superintendent of Public Instruction Tom Torlakson to

promote civic learning and engagement in California.

The Chief Justice commented that Martin Hoshino, Administrative Director, attended the Conference of State Court Administrators meeting, which was held in conjunction with the Conference of Chief Justices. They examined the right to counsel in matters of court-imposed financial obligations, ability-to-pay determinations, and alternatives to payment. The Judicial Council's Administrative Presiding Justices Advisory Committee also looked at the issue of fee authorization for e-filing and service in the appellate courts at their regular meeting. The committee also considered a pilot program dealing with privacy in appellate opinions.

The National Association of Women Judges hosted a Women in the Court Legislative Day at the state capital where the Chief Justice participated in a fireside chat with Senator Hannah-Beth Jackson (D-Santa Barbara), who chairs both the Legislative Women's Caucus and the Senate Judiciary Committee, and is also a Judicial Council member. They discussed many issues of interest to the audience as well as current events. The Chief stated that she is pleased to join Governor Jerry Brown, Senator Robert Hertzberg (D-Van Nuys), and Senator Rob Bonta (D-Oakland) in a statement committing to continuing to move forward the discussion and action on bail reform, and addressing public safety, fairness, the rights of the accused, and equal access for all Californians.

The Chief Justice also continued regular ongoing meetings with sister branches of government to convene and connect on issues of mutual interest and concern and to share the judiciary's experience, knowledge, and information. She met with Senator Henry Stern (D-Canoga Park) to discuss his bill (SB 596) regarding youth participation in civic engagement. Along with Judge Kenneth So; Mr. Hoshino; Ms. Shelley Curran, Director of Criminal Justice Services; and other judicial council staff, the Chief Justice met with Attorney General Xavier Becerra and his staff as part of their liaison meeting program. Lastly, as the Supreme Court of California moved to mandatory e-filing, already in use by nearly all of the appellate courts, she joined 150 judges, court managers, and IT professionals at the Judicial Branch Technology Summit in Sacramento to find new ways to harness technology to offer better service and access. She noted that if the Supreme Court can adapt, much can be accomplished for the public served by the courts.

Judicial Council Members' Statewide Updates

[17-147](#)

Judicial Council Member Statewide Updates

Summary: Judicial Council members present an update on statewide judicial branch initiatives outside of internal committee or other advisory body work.

Judge Brian J. Back reported on his participation in the State Advisory Committee on Juvenile Justice and Delinquency Prevention.

Judicial Council Members' Liaison Reports

[17-125](#)

Judicial Council Members' Liaison Reports

Judge Dean T. Stout reported on his visit to the Superior Court of Calaveras County. Judge Brian J. Back reported on his visit to the Superior Court of Tulare County.

Public Comment

Mr. Ted Mermin, Ms. Andrea S. Warren, and Ms. Vivian Wang presented comments on item 17-146.

DISCUSSION AGENDA

[17-146](#)

Civil Practice and Procedure: Request for Entry of Default (Action Required)

Summary: The Civil and Small Claims Advisory Committee recommends adopting a new mandatory form for requesting entry of default and default judgment in cases subject to the Fair Debt Buying Practices Act, which imposes a number of requirements that debt buyers who purchase charged-off consumer debt must meet in order to pursue collection efforts and seek a default judgment against the debtor. The committee also recommends revising the current form for requesting entry of default and default judgment in all other civil cases, and amending the rule regarding default judgment to include references to the new form. The new form will assist litigants and courts by listing the extensive statutory requirements for a default judgment under the act. Both forms also include a revised declaration of nonmilitary service.

Recommendation: The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2018:

1. Amend California Rules of Court, rule 3.1800, which currently provides that form CIV-100 must be submitted in support of a default judgment on declarations, to authorize and require the use of new form CIV-105 in actions subject to the Fair Debt Buying Practices Act;
2. Adopt *Request for Entry of Default (Fair Debt Buying Practices Act)* (form CIV-105) to provide a form for requesting a default judgment in cases subject to the Fair Debt Buying Practices Act; and
3. Revise *Request for Entry of Default (Application to Enter Default)* (form CIV-100) to provide notice that the form is not for use in actions subject to the Fair Debt Buying Practices Act, and to clarify the declaration of nonmilitary service by revising the language of the declaration and including

the state law definition of military service.

Speakers

A motion was made by Ms. Ibarra, seconded by Judge Lyons, that this proposal be approved. The motion carried by a unanimous vote.

[17-060](#)

Court Adoption and Permanency Month: Judicial Council Resolution (Action Required)

Summary: The Family and Juvenile Law Advisory Committee recommends adopting a resolution proclaiming November to be Court Adoption and Permanency Month. As it has since 1999, in observance of National Adoption Month, the Judicial Council can recognize the ongoing efforts of California's juvenile courts and their justice partners to provide children and families with access to fair, understandable judicial proceedings leading to timely, well-informed, and just permanency outcomes. The resolution will also give courts the opportunity to hold special events finalizing adoptions from foster care and raising community awareness of the importance of finding safe, stable, and permanent homes for every child or youth in foster care.

Recommendation: The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt the attached resolution, effective September 14, 2017, proclaiming November 2017 to be Court Adoption and Permanency Month.

A motion was made by Presiding Judge Stout, seconded by Judge Boulware Eurie, that this proposal be approved. The motion carried by a unanimous vote.

Swearing in of New and Reappointed Judicial Council Members

The Chief Justice administered the oath of office to new and reappointed members. Nine new Judicial Council members include:

- Hon. Kevin C. Brazile, Assistant Presiding Judge, Superior Court of Los Angeles County
- Hon. Harold W. Hopp, Judge, Superior Court of Riverside County
- Hon. Patricia M. Lucas, Presiding Judge, Superior Court of Santa Clara
- Hon. Stuart M. Rice, California Judges Association President, and Judge, Superior Court of Los Angeles County
- Hon. Shama H. Mesiwala, Commissioner, Superior Court of Sacramento County
- Ms. Rachel W. Hill, Attorney, Law Office of Rachel Hill
- Ms. Gretchen M. Nelson, Attorney, Nelson & Fraenkel LLP
- Mr. Michael M. Roddy, Court Executive Officer, Superior Court of San Diego County

- Ms. Andrea K. Wallin-Rohmann, Clerk/Executive Officer, Court of Appeal, Third Appellate District

One reappointed member includes:

- Hon. C. Todd Bottke, Presiding Judge, Superior Court of Tehama County

Adjournment

With the meeting's business completed, the Chief Justice adjourned the meeting at approximately 2:45 p.m.

Respectfully submitted by Administrative Director Martin Hoshino, Secretary to the Judicial Council, on November 17, 2017.