



# JUDICIAL COUNCIL OF CALIFORNIA

APPELLATE ADVISORY  
COMMITTEE

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## APPELLATE ADVISORY COMMITTEE

### MINUTES OF OPEN MEETING

02/27/2018

10:00 AM

Judicial Council of California  
455 Golden Gate Avenue, 3<sup>rd</sup> Floor  
San Francisco, California 94102

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**Advisory Body Members Present:** Hon. Louis R. Mauro (Chair), Hon. Kathleen M. Banke (Vice-chair), Ms. Laura Arnold, Mr. Kevin K. Green, Mr. Jonathan D. Grossman, Hon. Adrienne M. Grover, Hon. Richard D. Huffman (by phone), Hon. Kent M. Kellegrew, Mr. Daniel M. Kolkey, Mr. Jeffrey Laurence, Ms. Heather J. MacKay, Ms. Mary McComb, Mr. Jorge Navarrete, Ms. Beth Robbins, Hon. Laurence D. Rubin, Mr. Timothy M. Schooley, Hon. Stephen D. Schuett, Hon. M. Bruce Smith, and Ms. Mary-Christine Sungaila (by phone)

**Advisory Body Members Absent:** Hon. Leondra R. Kruger, Ms. Sheran L. Morton

**Others Present:** Ms. Christy Simons (Lead Staff), Ms. Sarah Abbott, Ms. Heather Anderson (by phone), Ms. Andrea Jaramillo (by phone), Ms. Ingrid Leverett, Mr. Dan Pone (by phone), and Mr. Jay Harrell

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#### OPEN MEETING

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##### Call to Order and Roll Call

The chair called the meeting to order at 10:00 a.m. Roll was called.

##### Chair's Report

Justice Mauro provided an update regarding activities of the Information Technology Advisory Committee, including the document management system for the appellate courts, recommendations of the Futures Commission regarding technology, and technology-related initiatives that JATS will be working on, such as remote access and digitizing records.

##### Approval of Minutes

The advisory body reviewed and approved the minutes of the September 11, 2017, and October 16, 2017, Appellate Advisory Committee meetings.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 1-12)

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##### Item 1

Legislative Update (information)

Mr. Dan Pone provided an update on the budget and information on the role of Governmental Affairs and the Judicial Council in taking a position on legislation or sponsoring legislation. He also described GA's role in providing technical assistance in the drafting of bills.

**Item 2**

Update from the Privacy Subcommittee (information)

Justice Banke provided an update regarding recent education programs and the web site pilot program. The Privacy Subcommittee will resume activity in the coming months.

**Item 3**

Settled Statement Forms (action required)

The committee considered whether to recommend circulation of proposed new and revised forms to facilitate and simplify the settled statement procedure in unlimited civil cases (joint proposal with the Family and Juvenile Law Advisory Committee). The committee discussed several modifications to form APP-014, including adding sections to describe relevant motions and jury instructions. The committee also discussed, regarding summaries of objections to testimony and evidence on forms APP-014 and APP-014A, modifying the instructions to require appellants to specify the objection and the basis for the court's ruling. The committee started to review form APP-014-INFO, but ran out of time. The meeting will be continued for the purpose of completing review of this proposal.

**Action: The advisory committee approved recommending that the following forms, as modified, be circulated for public comment, pending approval of the remaining forms: APP-003, APP-010, APP-014, and APP-014A.**

**Item 4**

Rules Modernization: Sealed and Confidential Records (action required)

The committee considered whether to recommend circulation of proposed amendments to the rules regarding sealed and confidential records, including provisions for the disposition of lodged electronic records. The committee discussed adding a provision to rule 8.45 requiring that sealed and confidential records be transmitted in a secure manner that preserves confidentiality. The committee also discussed adding provisions addressing the situation of an appeal from a trial court's order denying a motion or application to seal a record.

**Action: The advisory committee approved recommending the proposal as amended for circulation, with authority to approve final additional provisions delegated to Justice Mauro, Justice Banke, and Mr. Kolkey.**

**Item 5**

Finality in Appellate Division Matters (action required)

The committee considered whether to recommend circulation of proposed amendments to the rules regarding deadlines and finality to address issues with the timeliness of notice of decisions. A committee member identified a correction to the background discussion in the invitation to comment,

and a revision to rule 8.888(a)(2) to provide that the finality period runs from the date the publication order is *sent*, rather than the date it is filed.

**Action: The advisory committee approved recommending the proposal as modified for circulation.**

**Item 6**

Appellate Division Forms (action required)

The committee considered whether to recommend circulation of proposed revisions to several appellate division notice of appeal and record on appeal forms to make corrections and clarify these forms. Committee members suggested an organizational change to section 5d of form CR-142 and several wording and punctuation changes.

**Action: The advisory committee approved recommending the proposal as modified for circulation.**

**Item 7**

Rules Modernization: Electronic Exhibits (action required)

The committee considered whether to defer this proposal regarding bookmarking and volumes for electronic exhibits and expand the scope to address the formatting of electronic documents generally.

**Action: The advisory committee approved deferring the proposal.**

**Item 8**

Advisement of Parental Appellate Rights in Juvenile Cases (action required)

The committee considered whether to defer this proposal to amend the rule regarding the advisement of appellate rights in juvenile cases and/or develop a notice explaining appellate rights that would accompany juvenile court orders.

**Action: The advisory committee approved deferring the proposal.**

**Item 9**

Oral Argument in Misdemeanor Appeals (action required)

The committee considered whether to defer this proposal to amend the rules regarding oral argument when no issues are raised and to establish a procedure for waiving oral argument.

**Action: The advisory committee approved deferring the proposal.**

**Item 10**

Appointment of Counsel in Misdemeanor Appeals (Action Required)

The committee considered whether to defer this proposal to amend the rule regarding appointment of appellate counsel to authorize courts to appoint counsel for preconviction misdemeanor defendants and to revise the form for requesting court-appointed counsel.

**Action: The advisory committee approved deferring the proposal.**

**Item 11**

Input to the Information Technology Advisory Committee on the Privacy Resource Guide (action required)

The committee considered and provide input on the draft appellate provisions to this handbook that is being developed to assist trial and appellate courts.

**Action: Committee members will provide any feedback to Patrick O'Donnell.**

**Item 12**

Liaison Reports

The liaison reports were deferred.

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**A D J O U R N M E N T**

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The meeting was suspended at 3:20 p.m. and continued to March 5, 2018.

Approved by the advisory body on 07/17/18.