

2010 Year End Report

Committee on Administration of Justice Committee on Alternative Dispute Resolution Committee on Appellate Courts Committee on Federal Courts

Committee on Administration of Justice

The Committee on Administration of Justice (“CAJ”) is composed of up to thirty-six members appointed by the Board of Governors. It is a diverse group of attorneys concerned with aspects of civil procedure, court rules and administration, rules of evidence, and other matters having an impact on the administration of justice in the civil courts. The charge of the committee is as follows:

- a. Analyze, report to the Board of Governors and comment as authorized by the Board of Governors on proposed court rules, legislation and other proposals affecting the committee's subject area.
- b. Draft proposals relating to its area of concern for consideration by the Board of Governors.
- c. Perform such other functions relevant to the committee's subject area as the Board of Governors may from time to time assign.

The following is a summary of CAJ's activities in 2010 that furthered its charge:

A. Judicial Council Proposals

In 2010, CAJ reviewed and analyzed numerous Judicial Council proposals, and submitted comments on the following:

1. Appellate Procedure: Electronic Filing Pilot Program in the Court of Appeal, Second Appellate District
2. Multiple sets of proposed revisions to Civil Jury Instructions
3. Civil Case Coordination: Submission of Assignment Order and Termination of Proceeding
4. Civil Practice and Procedure: Response to Amended Complaint
5. Civil Trials: Expedited Jury Trials
6. Attorney's Fees: Time for Making a Claim in a Civil Case

7. Civil Motions: Lodging of Copies of Authorities
8. Proposed Orders: Electronic Submission of Proposed Orders
9. Electronic Service: Rule Amendments to Authorize Electronic Service by Notice and Hyperlink; Revision of Forms on Electronic Filing and Service
10. Civil Cases: Vexatious Litigants
11. Alternative Dispute Resolution: Judicial Arbitration Statutes
12. Trial Court Records Manual

B. Conference of California Bar Associations (CCBA) resolutions

CAJ considered the CCBA resolutions and submitted comments on the following:

1. Oral Depositions: Attorney Conduct in Deposition
2. Revised Pre-Deliberation Jury Instruction
3. Hearings on Applications for Default Judgments
4. Mandatory Settlement Conferences: Confidentiality of Proceedings
5. Motion for Summary Adjudication: Format of Separate Statement in Opposition
6. Electronic Filing of Court Papers: No Need for Tabs

In response to a request from the Beverly Hills Bar Association, CAJ also considered a 2007 BHBA resolution concerning discovery requests and responses

C. Legislation and Other Miscellaneous Proposals

1. CAJ sponsored legislation in 2010 concerning computation of deadlines in civil litigation, and that legislation was enacted.
2. A CAJ legislative proposal concerning the time limitation for making a peremptory challenge to a judge in a direct calendar, fast track cases was coordinated with and included in a bill with related issues sponsored by another entity, and that bill was enacted.
3. CAJ submitted comments in response to the Judicial Council's Invitation to Comment on a proposed legislative change concerning the judicial arbitration statutes.

4. CAJ monitored legislation that was introduced in 2010, for potential comment

D. California Law Revision Commission Proposals

CAJ continues to monitor the work of the California Law Revision Commission, for potential comment.

Committee on Alternative Dispute Resolution

The Committee on Alternative Dispute Resolution (“ADR Committee”) is composed of twenty-one persons appointed by the Board of Governors. Its membership consists of a diverse group of attorneys and public members with expertise or an interest in ADR, including ADR neutrals, consumers of ADR services and those who reflect the experience and expertise of State Bar sections. The charge of the committee is as follows:

- a. Analyze, report to the Board of Governors and comment as authorized by the Board of Governors on proposed court rules, legislation and other proposals affecting the committee's subject area.
- b. Draft proposals relating to alternative dispute resolution for consideration by the Board of Governors.
- c. Identify issues concerning the relationship of ADR to the practice of law, the administration of justice and improving access to justice.
- d. Plan and administer educational programs relating to alternative dispute resolution.
- e. Encourage attorneys involved in alternative dispute resolution to become active participants in the State Bar.
- f. Perform such other functions relevant to the committee’s subject area as the Board of Governors may from time to time assign.

The following is a summary of the ADR Committee’s activities in 2010 that furthered its charge:

A. Judicial Council Proposals

In 2010, the ADR Committee submitted comments on the following proposals:

1. Case Management Statement
2. Mediator's Statement of Agreement or Nonagreement and Statistical Reports to Judicial Council
3. Order Appointing Referee
4. Judicial Arbitration Statutes

B. Conference of California Bar Associations (CCBA) resolutions

The ADR Committee considered the CCBA resolutions and submitted comments on the following:

1. Mandatory Settlement Conferences: Confidentiality of Proceedings.

C. Legislation and Regulatory Proposals

1. The ADR Committee monitored ADR-related legislation for potential comment.
2. The ADR Committee discussed a potential State Bar legislative proposal to amend the mandatory fee arbitration statutes, and suggested revisions to the proposed statutory language.
3. The ADR Committee discussed pending legislation concerning a new foreclosure mediation program, and considered technical comments.

D. California Law Revision Commission Proposals

The ADR Committee continues to monitor the work of the California Law Revision Commission as it relates to ADR.

E. Other

1. The ADR Committee considered potential outreach to others concerning international arbitration issues of interest to California lawyers.
2. The ADR Committee considered potential collaboration with the ABA dispute resolution teleconference series, but determined that it would not pursue the issue.
3. The ADR Committee considered various issues relating to the potential consortium of State Bar section/committee ADR leadership, under ABA sponsorship, and the related event during the ABA meeting in San Francisco.
4. The ADR Committee considered issues relating to an ABA Dispute Resolution teleconference concerning the Revised Uniform Arbitration Act (RUAA), Uniform Mediation Act (UMA), and Uniform Collaborative Law Act (UCLA).

E. MCLE Programs

The ADR Committee sponsored or co-sponsored the following MCLE programs at the 2010 State Bar Annual Meeting:

1. Ethical Duties and Eliminating Bias in the Legal Profession
2. How Can Litigators and Arbitrators Streamline Arbitration to Increase Efficiency?
3. Behind the Scenes of the ADR Business
4. Conducting an Effective and Efficient Arbitration
5. Strategies for Successful Advocacy in Mediation

Committee on Appellate Courts

The Committee on Appellate Courts is composed of sixteen attorneys appointed by the Board of Governors. Its members may be drawn from such diverse sources as law firms, solo practitioners, defense and prosecution offices handling criminal appeals, appellate court research staff, and law school faculty. The subject area of the committee concerns appellate court operation and appellate practice. In furtherance of the administration of justice, the charge of the committee is as follows:

- a. Analyze, report to the Board of Governors and comment as authorized by the Board of Governors on proposed court rules, legislation and other proposals affecting the committee's subject area.
- b. Draft proposals relating to its area of concern for consideration by the Board of Governors.
- c. Plan and administer educational programs designed to foster improvement in appellate practice and awareness of issues affecting the committee's subject area.
- d. Perform such other functions relevant to the committee's subject area as the Board of Governors may from time to time assign.

The following is a summary of the Committee's activities in 2010 that furthered its charge:

A. Judicial Council

In 2010, the Committee on Appellate Court reviewed and analyzed numerous Judicial Council proposals, and submitted comments on the following proposals:

1. Electronic Filing Pilot Program in the Court of Appeal, Second Appellate District
2. Timeliness of Filings
3. Electronic Recordings Offered Into Evidence
4. Civil Case Information Statement
5. Clerks Transcript in Civil Appeals
6. Judicial Notice
7. Transfer of Appellate Division Cases to the Court of Appeal

8. Briefs and Petitions
9. Numbers of Copies of Motions
10. Extension of Time to File Notice of Appeal
11. Record on Appeal
12. Proposed legislation concerning electronic service of documents

The Committee on Appellate Courts also considered several changes to appellate rules and forms that it would like to propose, and will continue to develop those proposals for potential submission to the Judicial Council's Appellate Advisory Committee for its consideration.

B. Conference of California Bar Associations (CCBA) resolutions

The Committee on Appellate Courts considered the CCBA resolutions and submitted comments on the following:

1. Criminal Appeals: Stipulation to extend time to file briefs

C. California Law Revision Commission Proposals

The Committee on Appellate Courts continues to monitor the work of the California Law Revision Commission as it relates to appellate issues.

D. MCLE programs

The Committee on Appellate Courts sponsored or co-sponsored the following MCLE programs at the 2010 State Bar Annual Meeting:

1. Ethics and Appellate Practice
2. Beyond the Basics: Advanced Civil Appellate Writ Practice
3. Don't Lose Your Appeal Before It Starts
4. U.S. Supreme Court Update

Committee on Federal Courts

The Committee on Federal Courts is composed of fifteen members appointed by the Board of Governors. A representative of the Circuit Executive of the United States Court of Appeals for the Ninth Circuit is eligible to participate ex officio. The charge of the committee is as follows:

- a. Generally enhance the lines of communication between the Federal Bench in California and the State Bar, including the attorney discipline system.
- b. Bring to the attention of the Federal Bench in California, State Bar issues that have an impact on Federal Court practice in California.
- c. Make the State Bar Board aware of Federal Court issues that may have an impact on the State Bar.
- d. Review and make recommendations on proposals that affect California Federal Court practice and the Federal Courts in California.
- e. Make recommendations to improve legal services in California's Federal Courts.
- f. Organize and sponsor educational programs on Federal Court practice.
- g. Perform such other functions relevant to the committee's subject area as the Board of Governors may from time to time assign.

The following is a summary of the Committee's activities in 2010 that furthered its charge:

A. Federal Rules

The Committee on Federal Courts considered a set of proposed amendments to the federal rules, but ultimately determined not to submit any comments.

B. MCLE Program

The Committee on Federal Courts sponsored an MCLE program at the 2010 State Bar Annual Meeting entitled "A Comparison of State and Federal Privilege Law."

C. Various District Courts

The Committee on Federal Courts continued to monitor and report on changes to the local rules and other matters of interest from the four districts.

D. Communication with the Federal District Courts in California

The Committee on Federal Courts continues to enhance the lines of communication between the Federal Bench in California and the State Bar, primarily through annual in-person meetings with Judges in the different district courts in California.