

DATE: July 3, 2013

TO: Members, Board Committee on Stakeholder Relations

FROM: Saul Bercovitch, Legislative Counsel

SUBJECT: 2012 Year End Report –
Committee on Administration of Justice
Committee on Alternative Dispute Resolution
Committee on Appellate Courts
Committee on Federal Courts
(The four Administration of Justice Committees)

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 Trustees. 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 Trustees and comment as authorized by the Board of Trustees 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 Trustees.
- c. Perform such other functions relevant to the committee's subject area as the Board of Trustees may from time to time assign.

The following is a summary of CAJ's activities in 2012 that furthered its charge:

A. Judicial Council Proposals

In 2012, CAJ reviewed and analyzed numerous Judicial Council proposals, and submitted comments on the following:

- 1. Alternative Dispute Resolution: Judicial Arbitration
- 2. Small Claims: Form to Dismiss and Give Notice of Entry of Dismissal
- 3. Small Claims: Forms to Address Default in Payment of Judgment in Installments
- 4. Civil Practice and Procedure: Notice of Conditional Settlement

5. Civil Trials: Voir Dire Rules of Court

6. Discovery: New Form Interrogatories for Construction Litigation

CAJ continues to review proposed new and revised civil jury instructions for potential comment.

State Bar staff to CAJ and the other Administration of Justice Committees is appointed to serve as an Advisor on the Judicial Council's Civil and Small Claims Advisory Committee. Ongoing input from the Administration of Justice Committees greatly enhances the consideration and development of numerous proposals at various stages, as well as the relationship between the State Bar Committees and the Judicial Council's Civil and Small Claims Advisory Committee.

B. Conference of California Bar Associations (CCBA) resolutions

CAJ considered the CCBA resolutions but did not submit comments.

C. Legislation and Other Miscellaneous Proposals

1. CAJ provided input but not official comments on several bills, including the following:
 - a. AB 1875 (Gatto) – seven hour depositions
 - b. AB 1354 (Huber) - privilege logs
 - c. AB 1582 (Wagner) – telephonic appearances
2. CAJ provided input relating to the Litigation Section's proposed comments concerning the case management statement and conference.
3. CAJ reviewed proposed Judicial Council sponsored legislation on modernization and improvement of statutes on trial court records retention and management.
4. CAJ provided input on a proposal concerning mandatory early exchange of information in limited civil cases.
5. CAJ provided input on potential amendments to the Statement of Decision statutes and rules.

B. 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 Trustees. 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 Trustees and comment as authorized by the Board of Trustees 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 Trustees.
- 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 Trustees may from time to time assign.

The following is a summary of the ADR Committee's activities in 2012 that furthered its charge:

A. Judicial Council Proposals

In 2012, the ADR Committee submitted comments on the following proposal:

1. Judicial Arbitration

B. Conference of California Bar Associations (CCBA) resolutions

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

1. 5-01-2012 - Use and Regulation of Mediators and Mediation Providers

2. 11-09-2012 - Rules for Limited Practice: International Arbitrations Held in California

C. Legislation and Regulatory Proposals

The ADR Committee monitored ADR-related legislation for potential comment.

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.

D. MCLE Programs

The ADR Committee sponsored or co-sponsored the following MCLE programs at the 2012 State Bar Annual Meeting:

1. Ethical Duties of Eliminating Bias in the Legal Profession
2. Successfully Mediating with Self-Represented Litigants
3. Video and Telephone Mediations: Success In the Technology Age
4. ADR Update: Arbitration and Mediation Legal Developments
5. Mediation Live - The Good, Bad & Ugly

E. Other

1. The ADR Committee considered potential revisions to the State Bar Consumer Pamphlet - How Can I Resolve My Dispute Without A Trial?
2. The ADR Committee considered potential work relating to the California Education and the Environment Initiative.
3. The ADR Committee considered potential coordination with the work of the California Commission on Access to Justice

Committee on Appellate Courts

The Committee on Appellate Courts is composed of sixteen attorneys appointed by the Board of Trustees. 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 Trustees and comment as authorized by the Board of Trustees 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 Trustees.
- 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 Trustees may from time to time assign.

The following is a summary of the Committee's activities in 2012 that furthered its charge:

A. Judicial Council

In 2012, the Committee on Appellate Court submitted comments on the following Judicial Council proposals:

1. Review of California Environmental Quality Act Cases Under Public Resources Code Sections 21178–21189.3
2. Filing Fees
3. Appointment of Appellate Counsel in Juvenile Delinquency Appeals
4. Contents of normal record in criminal appeals
5. Premature or Late Notice of Intent to File Writ Petition in Juvenile Dependency Proceeding
6. Transmission of Administrative Records on Appeal

7. Costs on Appeal
8. Court of Appeal Records
9. Copies of Briefs in Civil Appeals in the Court of Appeal Served on the Supreme Court
10. Addresses and Telephone Numbers of Parties and Attorneys

The Committee on Appellate Courts reviewed proposed Judicial Council sponsored legislation on modernization and improvement of statutes on trial court records retention and management.

The Committee on Appellate Courts provided input on potential amendments to the Statement of Decision statutes and rules.

B. Conference of California Bar Associations (CCBA) resolutions

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

1. 05-06-2012 - Petitions for Review of Published Appellate Division Cases
2. 05-07-2012 - Appellate Procedures to Challenge Disqualification of Judicial Officers
3. 09-04-2012 - Supreme Court Review of Opinions of Superior Court Appellate Divisions

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. Federal proposals

The Committee on Appellate Courts discussed potential Committee comments on proposed amendments to the Federal Rules of Appellate Procedure, but ultimately decided not to submit comments.

E. MCLE programs

The Committee on Appellate Courts sponsored or co-sponsored the following MCLE programs at the 2012 State Bar Annual Meeting:

1. Typography for Lawyers: Best Practices for Persuasive Documents
2. California Supreme Court Practice
3. Habeas Strategies in Criminal Appellate Practice
4. Appellate Tips for Family Law Practitioners
5. Advocate in Style for Better Results

Committee on Federal Courts

The Committee on Federal Courts is composed of fifteen members appointed by the Board of Trustees. 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 Trustees may from time to time assign.

The following is a summary of the Committee's activities in 2012 that furthered its charge:

A. Federal Rules

The Committee on Federal Courts considered a set of proposed amendments to the federal rules, and submitted comments on proposed amendments to Federal Rule of Civil Procedure 45.

B. MCLE Program

The Committee on Federal Courts sponsored an MCLE program at the 2012 State Bar Annual Meeting entitled "State Court Practitioner's Playbook for Mastering Federal Court."

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.