



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

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Title	Agenda Item Type
Judicial Administration: Membership of the Civil and Small Claims Advisory Committee	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 10.41	January 1, 2011
Recommended by	Date of Report
Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair	August 6, 2010
	Contact
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### **Executive Summary**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council expand the membership categories of the committee to include a category for an individual knowledgeable about court-connected alternative dispute resolution (ADR) programs for civil and small claims cases. A new membership category would allow the advisory committee to recruit members with significant interest and expertise in court-connected ADR programs.

### **Recommendation**

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective January 1, 2011, amend rule 10.41 of the California Rules of Court, to add a new category for members of the committee for persons knowledgeable about court-connected alternative dispute resolution programs used for civil and small claims cases.

The text of the proposed amendment is attached at page 4.

## **Previous Council Action**

The rule establishing the Civil and Small Claims Advisory Committee and describing its membership categories, then rule 1022 of the California Rules of Court, was adopted in 1993. The rule has twice been renumbered since then, but the categories in the rule have not been changed.

## **Rationale for Recommendation**

Rule 10.41(b) of the California Rules of Court establishes the following categories of committee members: appellate court justice, trial court judicial officer, judicial administrator, lawyer whose primary area of practice is civil law, legal secretary, and person knowledgeable about small claims law and procedure. More than one individual may be appointed in each membership category. This proposal would add a new membership category: a person knowledgeable about court-connected ADR programs for civil and small claims cases.

The committee has an active ADR subcommittee, which makes recommendations to the advisory committee concerning rules, forms, and policies relating to court ADR programs for civil and small claims cases. The committee's current membership categories, however, do not expressly include individuals with specific expertise in ADR programs. While the committee has been fortunate to have among its members many judges, court administrators, and attorneys who have ADR experience, most individuals apply for and are appointed to the advisory committee based on their interest and expertise in civil or small claims litigation. The committee has rarely had candidates or members whose main area of expertise was court-connected ADR programs. As a result, the ADR subcommittee has often needed to create working groups with non-members, including court administrators, practitioners, and academics who specialize in ADR, in order to develop sound recommendations for the full advisory committee's consideration. A new membership category would allow the advisory committee to recruit members with significant interest and expertise in court-connected ADR programs.

## **Comments, Alternatives Considered, and Policy Implications**

This proposal was circulated for public comment in spring 2010. Four comments were received, all supporting the proposal. The commentators included the California Judges Association, which noted that the proposal made a sensible addition to the committee membership "as ADR plays such a strong role in the resolution of many civil cases." The other commentators were the Superior Court of San Diego County, the Orange County Bar Association, and an individual mediator. A copy of the chart summarizing the comments is attached, beginning at page 5.

## **Implementation Requirements, Costs, and Operational Impacts**

The advisory committee does not intend to increase the total number of committee members with the new category, but rather to offset it by reducing the number of members appointed from one or more of the other membership categories. Hence, there will be no additional costs or operational impacts arising from this proposal.

## **Attachments**

1. Cal. Rules of Court, rule 10.41, at page 4
2. Chart of comments, at page 5



Rule 10.41 of the California Rules of Court is amended, effective January 1, 2011, to read:

1 **Rule 10.41. Civil and Small Claims Advisory Committee**

2

3 (a) \*\*\*

4

5 (b) **Membership**

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7 The committee must include at least one member from each of the following categories:

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9 (1) Appellate court justice;

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11 (2) Trial court judicial officer;

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13 (3) Judicial administrator;

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15 (4) Lawyer whose primary area of practice is civil law;

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17 (5) Legal secretary; ~~and~~

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19 (6) Person knowledgeable about small claims law and procedure; and

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21 (7) Person knowledgeable about court-connected alternative dispute resolution programs  
22 for civil and small claims cases.

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**SPR10-20****Judicial Administration: Membership of the Civil and Small Claims Advisory Committee** (amend Cal. Rules of Court, rule 10.41)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	California Judges Association by Jordan O. Posamentier, Legislative Counsel	A	We support the amendment to Rule 10.41. It is sensible to include an ADR expert on the Advisory Committee, as ADR plays such a strong role in the resolution of many civil cases.	No response required.
2.	Nancy Neal Yeend Dispute management specialist Los Altos	A	I support the proposed Rule 10.41(b) change. ADR processes are now an integral part of the court system, and creating a category for a member of the Civil and Small Claims Advisory Committee to be "knowledgeable about court-connected" ADR is most appropriate.	No response required.
3.	Orange County Bar Association by Lei Lei Wang Ekvall, President	A	No specific comment.	No response required.
4.	Superior Court of San Diego County by Michael Roddy, Court Executive Officer	A	No specific comment.	No response required.