

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT

SP14-01

Title	Action Requested
Judicial Administration: Membership of Appellate Advisory Committee	Review and submit comments by February 14, 2014
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 10.40	July 1, 2014
Proposed by	Contact
Appellate Advisory Committee Hon. Raymond J. Ikola, Chair	Heather Anderson, heather.anderson@jud.ca.gov, 415-865-7691

Executive Summary and Origin

Based on suggestions from the managing attorneys in two Court of Appeal districts, the Appellate Advisory Committee is proposing to amend the rule that establishes the membership of the committee to add a new membership category for an appellate lawyer of the Court of Appeal or Supreme Court.

The Proposal

Rule 10.40 of the California Rules of Court establishes the charge and membership of the Judicial Council's Appellate Advisory Committee. Subdivision (c) of this rule currently establishes the categories of members on the committee to include at least one member from each of the following categories:

- Justice of the Supreme Court;
- Justice of the Court of Appeal,
- Trial court judge with experience in the appellate division;
- Clerk/administrator of the Supreme Court;
- Clerk/administrator of the Court of Appeal
- Trial court judicial administrator;
- Civil appellate lawyer;
- Criminal defense appellate lawyer;
- The State Public Defender; and
- Appellate lawyer of the Attorney General's Office.

The committee believes it would helpful to the committee if the current membership were expanded to include a category for an appellate lawyer of the Court of Appeal or Supreme Court.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The committee’s view is that an individual from this background would provide a unique perspective on appellate procedure and appellate court administration, one that differs from that of the appellate justices, clerk/administrators, and attorneys that represent parties in appellate proceedings. The committee is therefore proposing to amend rule 10.40 to add a new membership category for an appellate lawyer of the Court of Appeal or Supreme Court.

Alternatives Considered

The committee considered not recommending this rule amendment on the basis that an appellate court attorney could, in theory, be appointed under the category of “civil appellate lawyer.” However, the committee’s experience is that appellate court attorneys have rarely applied for the committee under that category. The committee’s view is that appropriate candidates are much more likely to apply for appointment to the committee if they see an opening in a membership category that is specifically designated for individuals in their position.

Implementation Requirements, Costs, and Operational Impacts

Adding an additional member to the Appellate Advisory Committee will result in a small increase in meeting costs of approximately \$265 per year. There is also likely to be a very small increase in workload for the Administrative Office of the Courts staff associated with the nominations and appointment process.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on whether the proposal appropriately addresses the stated purpose.

Rule 10.40 of the California Rules of Court would be amended, effective July 1, 2014, to read:

Rule 10.40. Appellate Advisory Committee

(a)–(b) * * *

(c) Membership

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

- (1) Supreme Court justice;
- (2) Court of Appeal justice;
- (3) Trial court judicial officer with experience in the appellate division;
- (4) Supreme Court clerk administrator;
- (5) Appellate court administrator;
- (6) Trial court judicial administrator;
- (7) Civil appellate lawyer;
- (8) Criminal defense appellate lawyer;
- (9) State Public Defender; ~~and~~
- (10) Appellate lawyer of the Attorney General's Office; and
- (11) Appellate lawyer of the Court of Appeal or Supreme Court.