

RESOLUTION 01-01-2008

DIGEST

CDCBA Rules: Review Process For Record Of Conference Actions

Adds to CDCBA Rules a procedure for tracking, reviewing, correcting and publishing a record of the actions taken during the Annual Meeting of the Conference of Delegates.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of the California Bar Association recommends that the Board of Governors of the Conference of Delegates of the California Bar Association adopt the following resolution:

WHEREAS the Conference of Delegates meets for three days every years and its meeting schedule does not accommodate the preparation of minutes and their review, correction and approval at its next meeting;

WHEREAS the record of Conference actions simply appears on its web site with no provision for their review, correction and approval;

WHEREAS the web site has incorrectly reported the actions of the Conference, and no avenue for redress of such errors by delegates is available.

THEREFORE BE IT RESOLVED that the Conference of Delegates of the California Bar Association recommends that the Board of Governors of the Conference of Delegates of the California Bar Association establish a process whereby the record of Conference actions can be reviewed by the Board of Governors;

BE IT FURTHER RESOLVED that it is recommended that the process include (1) the retention of documents showing (a) call-ups, (b) withdrawal of call-ups and withdrawal of resolutions and (c) Reports of the Resolutions Committee until the record is approved by the Board of Governors; (2) that the record of the Conference be posted on the Conference web site within a reasonable period of time after the conclusion of the Conference; (3) that every delegate to the Conference be afforded the opportunity to review and offer corrections to that record; and (4) that at its next meeting after 30 days have elapsed from the posting of the record of the Conference on the web site, the Board of Governors shall consider corrections and vote on the approval of the record of the Conference.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: San Diego County Bar Association

STATEMENT OF REASONS:

Existing Law: Presently there is no process to ensure that the actions taken at the Conference of Delegates are accurately reflected in the record of the Conference.

This Resolution: Would correct an oversight in the CDCBA's procedures and provide an avenue to challenge clerical errors.

The Problem: Resolutions adopted by the Conference may be incorrectly shown as withdrawn or defeated. This is not just a possibility - it has happened. In 2006, the Resolutions Committee recommended Approval in Principle of Resolution 05-11-06. Most delegations agreed with the Resolutions Committee, but a few called up the resolution. The call-ups were withdrawn and, in the normal process, the action that should have been reported was the resolution was approved in principle. However, the web site of the Conference showed instead the Resolution - not the call-ups - had been withdrawn. The efforts of the proponent to remedy this error met a stone wall because there is no process in place to challenge such a clerical error and, as far as can be ascertained, no practice of preserving documents to show the resolution had not been withdrawn.

In the 1980s, the Conference approved a resolution dealing with the transfer of capital cases from the Supreme Court to the Courts of Appeal. At a subsequent Conference, that resolution was shown as having been Disapproved.

Clerical errors are simply subverting our hard work. This is particularly important since we have a lobbyist in place to attempt to put our resolutions into law, but a mistake in reporting can frustrate the effort to introduce legislation. A process needs to be established to review the record of Conference actions to be sure that the record accurately reflects what took place at the Conference. This Resolution offers recommendations on how that process should work, but leaves the formulation of the process to the Board of Governors.

IMPACT STATEMENT:

This resolution does not affect other laws, statutes or rules of procedure.

AUTHOR AND PERMANENT CONTACT: Howard Wayne, 110 West A Street, Suite 1100, San Diego, California 92101; p 619-525-4244, f 619-645-2012; email: Howard.Wayne@doj.ca.gov.

RESPONSIBLE FLOOR DELEGATE: Howard Wayne