

RESOLUTION 11-05-2014

DIGEST

Rules of Court: Remove Reference to Municipal Court and Constables

Amends California Rules of Court 10.810 to remove references to municipal courts and constables.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends California Rules of Court, rule 10.810 to remove references to municipal court and constables. This resolution should be approved in principle because it removes obsolete terms from the current Rules of Court.

The term "municipal court" was made obsolete with the passage in 1998 of a constitutional amendment unifying the superior and municipal courts and the final unification of these court systems in 2001. Upon this unification, the need for constables also was eliminated, as they were traditionally assigned to the former justice courts with populations of less than 40,000 people, which have now been included in the superior court system. Accordingly, reference to courts or positions which no longer exist is inappropriate and confusing, and this resolution to omit reference to such terms will provide necessary clarification.

TEXT OF RESOLUTION

RESOLVED, that the Conference of California Bar Associations recommends that the Judicial Council amend California Rules of Court, rule 10.810, to read as follows:

Rule 10.810

1 (a) Definition Except as provided in subdivision (b) and subject to the requirements of
2 subdivisions (c) and (d), "court operations" as defined in Government Code section 77003
3 includes the following costs:

4 (1) (judicial salaries and benefits) salaries, benefits, and public agency retirement
5 contributions for superior ~~and municipal~~ court judges and for subordinate judicial officers;

6 (2) (nonjudicial salaries and benefits) salaries, benefits, and public agency retirement
7 contributions for superior ~~and municipal~~ court staff whether permanent, temporary, full- or
8 parttime, contract or per diem, including but not limited to all ~~municipal~~ court staff positions
9 specifically prescribed by statute and county clerk positions directly supporting the superior
10 courts;

11 (3) salaries and benefits for those sheriff, and marshal, ~~and constable~~ employees as the
12 court deems necessary for court operations in superior ~~and municipal~~ courts and the supervisors
13 of those sheriff, and marshal, ~~and constable~~ employees who directly supervise the court security
14 function;

15 (4) court-appointed counsel in juvenile dependency proceedings, and counsel appointed
16 by the court to represent a minor as specified in Government Code section 77003;

17 (5) (services and supplies) operating expenses in support of judicial officers and court
18 operations;

19 (6) (collective bargaining) collective bargaining with respect to court employees; and

20 (7) (indirect costs) a share of county general services as defined in subdivision (d),
21 Function 11, and used by the superior ~~and municipal~~ courts.
22 (b) Exclusions
23 Excluded from the definition of "court operations" are the following:
24 (1) law library operations conducted by a trust pursuant to statute;
25 (2) courthouse construction and site acquisition, including space rental (for other than
26 court records storage), alterations/remodeling, or relocating court facilities;
27 (3) district attorney services;
28 (4) probation services;
29 (5) indigent criminal and juvenile delinquency defense;
30 (6) civil and criminal grand jury expenses and operations (except for selection);
31 (7) pretrial release services;
32 (8) equipment and supplies for use by official reporters of the courts to prepare transcripts
33 as specified by statute; and
34 (9) county costs as provided in subdivision (d) as unallowable.
35 (c) Budget appropriations
36 Costs for court operations specified in subdivision (a) shall be appropriated in county budgets for
37 superior ~~and municipal~~ courts, including contract services with county agencies or private
38 providers except for the following:
39 (1) salaries, benefits, services, and supplies for sheriff, and marshal, ~~and constable~~
40 employees as the court deems necessary for court operations in superior ~~and municipal~~ courts;
41 (2) salaries, benefits, services, and supplies for county clerk activities directly supporting
42 the superior court; and
43 (3) costs for court-appointed counsel specified in Government Code section 77003.
44 Except as provided in this subdivision, costs not appropriated in the budgets of the courts are
45 unallowable.
46
47 [subdivision (d) remains unchanged]

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

PROPONENT: Bar Association of Northern San Diego County

STATEMENT OF REASONS

The Problem: Under existing law even though the municipal courts no longer exist and the constable functions have disappeared, they are still mentioned in the Rules of Court. California Rules of Court rule 10.810 includes references to municipal court and constables. Although it is harmless, it is also out of date, much like buggy-whip holders on curved dash Oldsmobiles at the beginning of the twentieth century.

The Solution: This resolution would remove references to municipal court and constables from the Rule of Court related to Court operations.

LEGISLATIVE HISTORY

Not known.

IMPACT STATEMENT

The proposed resolution does not affect any other law, statute or rule.

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