



WHY WE BECAME THE ACADEMY OF COURT-APPOINTED NEUTRALS

On Friday, June 10, 2022, the Academy of Court-Appointed Masters' board voted unanimously to change the Academy's name to the Academy of Court-Appointed Neutrals (ACAN). On Thursday, July 7, 2022, our Membership agreed.

We reached this conclusion because experience and scores of conversations over months have made it apparent that "Court-Appointed Neutral" better serves and better defines our profession.

Why? The Academy has been reexamining and working to improve our profession. In Fall 2021, the Academy opened its membership to people who had not previously served as court-appointed neutrals; reached out to diversify not only our own membership, but our profession; began to develop the first ever curriculum for training court-appointed neutrals; and launched an effort to partner the Academy with dozens of other organizations so that our members could serve as a more effective part of the administration of justice.

As we focused on these efforts, it became clear that there is a disconnect between the names most commonly used to refer to our profession – "masters" and "special masters" – and our goals to diversify our profession and to make courts and stakeholders aware of the diverse, creative, useful and service-focused roles our members play. In considering a change like this, it is impossible for anyone (much less professionals committed to resolving disputes) to ignore the divisions we are experiencing in our country. Words have always mattered. But it is especially important now to think carefully about what our words convey.

We Should Think About What the Term "Master" Means. There is no question that "master" has both positive and negative connotations. It can refer to admirable qualities, like expertise, proficiency, accomplishment, scholarship or leadership. The term appears 42 times in the Federal Rules of Civil Procedure and a plurality of state rules addressing the appointing of individuals to assist.

But the term "master" also refers to one (male) person who has control or authority over another; and the most obvious example of that is slavery. In recent years, many organizations, in many contexts, have been considering whether they should use a different term that does not carry a negative racial meaning or a restrictive gender meaning. For example, electrical and software engineers are discussing whether they should continue (as they have for decades) to use master and slave to refer to situations in which one device exercises asymmetric control over others. Colleges, including Harvard, Yale and Rice have stopped using "master" as an academic title or the name for the head of a residential college. Real estate professionals are debating whether "master" bedroom is the best name. The wine industry is debating whether to delete the term "master" from "master sommelier."

At least two states – Maryland and Pennsylvania – have changed court rules in recent years to substitute a different term for "masters." In Pennsylvania's case, the move followed a resolution of the Philadelphia Bar Association that raised a number of concerns about appointing someone called a "master." The resolution noted that the term "creates a sense of separation, anxiety, and confusion" because it suggests that some people are subject to others.



The Academy feels strongly that it should be among the leaders of this wave of change, rather than oppose it. Our Academy has used the term “master” since the Academy was founded in 2004. We can all agree that no one associated with the Academy intended the term to connote these negative or restrictive images. But after lengthy discussions and thought, we have concluded that despite the innocent intent that led us to use the term in the past, we should stop using the term in the future. It is the right thing to do. And it is also wrong for us to devote energy to justifying the use of a term that states in which some of our members practice have already rejected.

“Court-Appointed Neutral” Describes What Our Members Do. Our members have a very diverse skill set. They perform many different services. Often their titles are not “master.” They are called “facilitator,” “monitor,” “ombuds,” “claims administrator,” “expert,” “mediator,” “investigator,” “advisor,” “special magistrate,” “receiver,” among many other titles.

Our members have these many different titles because our members serve justice in roles so diverse that they are limited only by our creativity. Where the term “master” suggests someone brought in to adjudicate, our members are more like a Swiss Army Knife: a multipurpose tool that could be used for quasi-adjudicative work, but could also be used for facilitative, investigative, intermediary, informatory, administrative, monitoring, implementing or many other purposes. We are an organization of any type of neutral whose appointment might help the administration of justice and “court-appointed neutral” much better reflects that.

“Court-appointed neutral” is not only broader than “master,” it is far more accurate. Calling someone the “master” suggests that they are being brought in to make decisions for others. That misdescribes someone who is used, as our members often are, to mediate or otherwise assist the parties in reaching their own resolution of differences; or to offer expertise about science, or particular industries like construction, or forensic accounting; or to serve numerous other roles. Even when the role is ostensibly quasi-adjudicative, a significant benefit our members provide comes not merely from issuing reports and recommendations on motions the parties file, but from helping the parties work out differences without the need for motions in the first place. A “court-appointed neutral” is not brought in to take over, but to help. And that’s our organization.

Why This Is Especially Exciting for Us. Changing our name also furthers the Academy’s goal of broadening our profession. We are currently working with many organizations in the hope of agreeing both on the use of “court-appointed neutrals” as a common description and more importantly on understanding how these professionals can help the administration of justice.

In the near future, we expect that the American Bar Association Judicial Division Lawyers Conference “Special Masters Committee” will also change its name to the “Court-Appointed Neutrals” Committee. That Committee also expects shortly to circulate for comment a draft model state rule for “Court-Appointed Neutrals.” The resolution our membership approved also calls for working in the long term on amending the federal rules.

Our new name is also a calling card for a new profession. The Academy’s members are at the intersection of judicial administration and alternative dispute resolution. We assist courts in making better use of ADR skills and assist ADR professionals to understand courts’ needs. We are growing into a



broad organization of people of incredible diversity of skills and experience. This is an organization people are proud to be a part of.

We are excited about these changes. If you want to learn more about the Academy of Court-Appointed Neutrals, contact our Executive Director Merrill Hirsh at ExecDir@courtappointedneutrals.org (202) 448-9020.