

# Out-of-State Attorney Arbitration Counsel Program Rules and Regulations

## 1.0 Purpose

The purpose of the Out-of-State Attorney Arbitration Counsel Program Rules and Regulations is to ~~administer~~ ~~establish~~ a program ~~to implement~~ for the State Bar of California's responsibilities under Civil Code of Procedure Section 1282.4 and California Rules of Court, rule 983.4, for out-of-state attorneys to represent parties in the course of, or in connection with ~~an~~ arbitration proceedings in California.

## 2.0 Definitions

- 2.1 An "Out-of-State Attorney Arbitration Counsel" is an ~~out-of-state~~ attorney who may represent parties in the course of, or in connection with an arbitration proceeding in California, ~~in accordance with the requirements of Code of Civil Procedure section 1282.4 and California Rules of Court, rule 983.4 and who is eligible under these Rules.~~
- 2.2 The "Rules" are these Out-of-State Attorney Arbitration Counsel Program Rules and Regulations.
- 2.3 The "State Bar" is the chief executive officer of the State Bar, or a person or persons designated by the chief executive officer who shall have the authority to administer and interpret these Rules.

## 3.0 Eligibility ~~for Filing~~ and Certificate

- 3.1 ~~The State Bar shall accept a certificate served upon the State Bar by an attorney where service of the certificate satisfies~~ To be eligible to be an Out-of-State Attorney Arbitration Counsel, an out-of state attorney must the following requirements:
  - 3.2.1 ~~submit a certificate to the San Francisco office of the State Bar on a form provided by the State Bar. The certificate must provide all of the following information regarding the out-of-state attorney:~~
    - 3.1.1 ~~A statement that the attorney~~ The certificate is filed by an attorney who is not a member of the State Bar of California but who is a member in good standing of and eligible to practice before the bar of any United States court or the highest a court in any state, territory, ~~dependancy~~ or insular possession of the United States, and who has been retained to appear in the course of, or in connection with an arbitration proceeding in this state;
    - 3.1.2 Name, residence and office address, and telephone number of the attorney;

- 3.1.3 Name of all state and federal courts where the attorney has been admitted to practice and dates of admission;
  - 3.1.4 Statement that the attorney is currently a member in good standing of and eligible to practice law before the bar of those courts;
  - 3.1.5 Statement that the attorney is not currently on suspension, is disbarred, or resigned with charges pending from the practice of law before the bar of any court;
  - 3.1.6 Statement of any discipline imposed by any professional or occupational disciplinary agency or licensing board, whether in California or elsewhere;
  - 3.1.7 Statement that the attorney is not a resident of the State of California;
  - 3.1.8 Statement that the attorney is not regularly employed in the State of California;
  - 3.1.9 Statement that the attorney is not regularly engaged in substantial business, professional, or other activities in the State of California;
  - 3.1.10 Statement that the attorney agrees to be subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of California
  - 3.1.11 Title of all courts of California and the causes in which the attorney has filed an application to appear as counsel pro hac vice or filed a certificate to be approved as Out-of-State Attorney Arbitration Counsel in the preceding two years, the date of each application or certificate, and whether or not the application or certificate was granted; and
  - 3.1.12 The name, address, and telephone number of the active member of the State Bar of California who is the attorney of record.
- 3.2 The certificate must be accompanied by the appropriate non-refundable processing fee.

#### **4.0 Filing and Service**

- 4.1 Prior to the attorney's first appearance at a scheduled hearing of an arbitration held in California, the out-of-state attorney shall submit the certificate specified in 3.0 of these Rules to the State Bar along with the required filing fee.
- 4.2 After the State Bar confirms review of the certificate for completeness, a copy of

the certificate shall be served in accordance with section 1013a of the Code of Civil Procedure upon the arbitrator(s), the arbitral forum, the State Bar of California at its San Francisco Office, and all other parties and counsel in the arbitration whose names and addresses are known to the attorney. Said service shall be prior to the first scheduled hearing in an arbitration or, in the event that the attorney is retained after the first hearing has commenced, then the certificate shall be served prior to the first hearing at which the attorney appears.

~~3.2.2 The certificate is verified and contains proof of service by mail in accordance with section 1013a of the Code of Civil Procedure upon all parties and upon the State Bar of California~~

~~3.2.2 The certificate is verified and contains proof of service by mail in accordance with section 1013a of the Code of Civil Procedure upon all parties and upon the State Bar of California at the San Francisco office, prior to the first scheduled hearing in an arbitration or, in the event that the attorney is retained after the first hearing has commenced, then the certificate shall be served prior to the first hearing at which the attorney appears.~~

~~3.2.3 All Certificates shall contain:~~

~~3.2.3.1 and~~

~~3.2.3.2 and~~

~~3.2.3.3~~

## **5.0 Duration**

**A certificate shall remain in effect until**

**5.1** the resolution of the arbitration matter; or

**5.2** As long as an active member of the State Bar of California is associated as attorney of record in the arbitration matter; or

**5.3** The State Bar is notified that the out-of-state attorney has been suspended or disbarred from the practice of law before the bar of any court or otherwise fails to comply with the standards of professional conduct required of members of the State Bar of California and has been subject to final disciplinary action by the Supreme Court, the State Bar Court or any body authorized to impose professional discipline with respect to any of his or her acts occurring in the course of the arbitration; or

**5.4** The State Bar is notified that the **out-of-state** attorney filed a certificate containing

false information, or

~~4.5 The State Bar of California's program is terminated under the applicable provisions of the Code of Civil Procedure section 2182.4.~~

## **6.0 Disqualification**

Failure to timely file a certificate or absent special circumstances, repeated appearances by an Out-of-State Attorney Arbitration Counsel shall be grounds for disqualification from serving as the attorney-of-record in the arbitration in which the certificate is filed.

## **7.0 Discipline**

Out-of-State attorneys who file a certificate with the State Bar and/or appear in an arbitration hearing under the provisions of the Out-of-State Attorney Arbitration Counsel Program shall comply with the laws and rules governing the standards of professional conduct required of members of the State Bar of California. Failure to comply shall subject the out-of-state attorney to the disciplinary jurisdiction of the State Bar of California.

## **8.0 Public Nature of Records**

~~An applicant's or an Out-of-State Attorney Arbitration Counsel's status as it relates to the Out-of-State Attorney Arbitration Counsel Program and the information contained in 3.2.3 provided to the State Bar of California or its representatives under this Program is not confidential and shall be disclosed upon request to any interested person, except~~ Information about a Counsel Pro Hac Vice shall be public to the same extent that information about a member of the State Bar of California is public.