

AGENDA ITEM

JULY- 54-122
**Request for
Approval of
Proposed Revisions
to Rules of
Procedure for the
Hearing of Fee
Arbitrations and
Mediations by the
Contra Costa
County Bar
Association**

DATE: June 16, 2009

TO: Members of the Board Committee on Regulation, Admissions and Discipline Oversight
Members of the Board of Governors

FROM: Jill Sperber, Director, Office of Mandatory Fee Arbitration

SUBJECT: Request for Approval of Proposed Revisions to Rules of Procedure for the Hearing of Fee Arbitrations and Mediations by the Contra Costa County Bar Association

EXECUTIVE SUMMARY

This agenda item is before the RAD Committee and the Board to approve the proposed new Rules of Procedure for Fee Arbitrations by the Contra Costa County Bar Association in the form attached as Attachment A hereto.

The Contra Costa County Bar Association (CCCBA) has submitted proposed revisions to rules of procedure for fee arbitrations conducted by its mandatory fee arbitration program. The CCCBA's proposed revisions track recent (2008) amendments to the State Bar's Model Rules of Procedure for Fee Arbitrations and refine several administrative procedures.

At its March 27 and May 27, 2009 meetings, the State Bar's Committee on Mandatory Fee Arbitration (MFA) reviewed the CCCBA's proposed revisions to the Rules of Procedure for Fee Arbitrations and agreed to recommend their approval to the Board Committee on Regulation, Admission and Discipline (RAD) and the Board of Governors, subject to modifications which CCCBA made, as being in compliance with the State Bar Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs and the Minimum Standards for Mediation ("Minimum Standards").

Inquiries about this item should be directed to Jill Sperber (415)538-2023 or jill.sperber@calbar.ca.gov.

I. BACKGROUND:

Pursuant to Business and Professions Code section 6200, subdivision (d), local bar associations are authorized to sponsor mandatory fee arbitration programs. The programs must have local bar rules of procedure that comply with Business and Professions Code sections 6200-6206 and the State Bar's Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs ("Minimum Standards") and be approved by the Board of Governors. Approval by the Board of Governors provides the local bar programs with jurisdiction to arbitrate and mediate fee disputes submitted under the auspices of the Mandatory Fee Arbitration Program. (Minimum Standards, Para.1.)

The Board of Governors last approved revisions to the Contra Costa County Bar Association's (CCCBA's) rules of procedure for fee arbitrations in November 2007. At that time, substantial revisions were made to incorporate rules included in the State Bar's Model Rules of Procedure for Fee Arbitrations. In July 2008, the Board approved new amendments to the State Bar's Model Rules. The CCCBA's current rule proposal tracks the 2008 amendments to the Model Rules and refines several administrative procedures.

II. DISCUSSION:

The proposed revisions to the rules of procedure for fee arbitrations submitted by the CCCBA are shown in redlining to compare the current and proposed amendments in Attachment A. At its March 27 and May 27, 2009 meetings, the MFA Committee reviewed the proposal and suggested various modifications. The MFA Committee found that the proposed amendments to the rules of procedure were acceptable subject to several suggested changes. Following the meetings, the local bar program accepted the suggestions made by the MFA Committee. The MFA Committee therefore recommends to the RAD Committee that the proposed revisions to the Rules of Procedure for the Hearing of Fee Arbitrations and Mediations of the CCCBA be recommended to the Board of Governors for approval.

Aside from the rule changes that track the 2008 amendments to the State Bar's Model Rules, the CCCBA has proposed a graduated refund schedule (rule 3(e)(3)) and the protocol for referring a matter to the State Bar consistent with Minimum Standards.

III. FISCAL AND PERSONNEL IMPACT:

None.

IV. BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:

None.

V. PROPOSED RESOLUTIONS:

For the Regulation, Admissions & Discipline Committee:

RESOLVED, that, the Board Committee on Regulation, Admissions and Discipline Oversight hereby recommends that the Board of Governors resolve to approve the proposed revisions to the Rules of Procedure for the Hearing of Fee Arbitrations and Mediations by the Contra Costa County Bar Association in the form attached as Attachment A hereto as being in compliance with Business and Professions Code sections 6200-6206 and the Guidelines and Minimum

Standards for the Operation of Mandatory Fee Arbitrations and Minimum Standards for Mediations.

For the Board of Governors:

RESOLVED, that, upon recommendation of the Board Committee on Regulation, Admissions and Discipline Oversight, the Board of Governors hereby approves the proposed revisions to the Rules of Procedure for the Hearing of Fee Arbitrations and Mediations by the Contra Costa County Bar Association in the form attached as Attachment A hereto as being in compliance with Business and Professions Code sections 6200-6206 and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitrations.