

# AGENDA ITEM

**JAN 54-121**  
**Request for  
Approval of  
Proposed Rules of  
Procedure for Fee  
Arbitrations by the  
Riverside County  
Bar Association**

**DATE:** December 7, 2009

**TO:** Members of the Discipline Oversight Committee (DOC)  
Members of the Board of Governors

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

**SUBJECT:** Request for Approval of Proposed Rules of Procedure for Fee Arbitrations  
by the Riverside County Bar Association

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## **EXECUTIVE SUMMARY**

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

The Riverside County Bar Association (RCBA) has submitted new rules of procedure for fee arbitrations conducted by its mandatory fee arbitration program. The RCBA's proposed new rules of procedure consist of materially new rules to replace its current rules of procedure last approved by the Board in 1997. The proposed new rules essentially adopt the State Bar's Model Rules of Procedure approved by the Board of Governors.

The State Bar's Committee on Mandatory Fee Arbitration (MFA) reviewed the RCBA's proposed Rules of Procedure. Subject to certain rule changes that RCBA subsequently made, the Committee agreed to recommend approval of the rules to your Committee and the Board of Governors as being in compliance with the State Bar Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs ("Minimum Standards"). Any questions about this item should be directed to Director Jill Sperber (415)538-2023 or [jill.sperber@calbar.ca.gov](mailto: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' local rules of procedure must 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.") Approval by the Board of Governors gives the local bar programs jurisdiction to arbitrate fee disputes submitted under the auspices of the Mandatory Fee Arbitration Program. (Minimum Standards, Para.1.)

The Board of Governors last approved the Riverside County Bar Association's (RCBA's) rules of procedure for fee arbitrations in 1997. A decade later, the Board of Governors adopted the Model Rules of Procedure for Fee Arbitrations effective November 2006. Model Rules are intended to promote uniformity and best practices among the 45 local bar MFA programs. The Model Rules also provide the local bar programs with a template incorporating administrative procedures consistent with the MFA statutes and case law developments. The Model Rules were further revised in July 2008.

The RCBA submitted proposed new rules of procedure for fee arbitrations based on the Model Rules to the State Bar's Mandatory Fee Arbitration Committee (MFA Committee) for consideration at its September 10, 2009 meeting. The MFA Committee spotted a number of rules that were problematic for different reasons and conveyed recommended revisions to RCBA. RCBA subsequently submitted a revised set of rules to the MFA Committee for its November 20, 2009 accepting the recommended changes.

## **II. DISCUSSION:**

The proposed new rules essentially adopt the Model Rules of Procedure with some minor modifications-such as the filing fee- customized for the local bar. Because the proposed new rules of procedure are so materially different from the RCBA's current rules of procedure, it was determined that a redlined version comparing the current and proposed versions of the rules is of little assistance.<sup>1</sup> A copy of the proposed new rules of procedure for the RCBA program is attached hereto as Attachment A.

At its November 20, 2009 meeting, the MFA Committee found that the proposed rules of procedure for fee arbitrations attached as Attachment A comply with the MFA statutes and are consistent with the Minimum Standards. As such, the MFA Committee agreed to recommend to the DOC Committee that the proposed Rules of Procedure for Fee Arbitrations of the RCBA be recommended to the Board of Governors for approval.

## **III. FISCAL AND PERSONNEL IMPACT:**

None.

## **IV. BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:**

None.

## **V. PROPOSED RESOLUTIONS:**

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<sup>1</sup> The red-colored text show only the most recent changes made after the RCBA submitted its Nov. 7, 2009 version to the MFA Committee for review.

For the Discipline Oversight Committee:

**RESOLVED**, that, the Board Discipline Oversight Committee hereby recommends that the Board of Governors resolve to approve the Rules of Procedure for Fee Arbitrations by the Riverside 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.

For the Board of Governors:

**RESOLVED**, that, upon recommendation of the Discipline Oversight Committee, the Board of Governors hereby approves the Rules of Procedure for Fee Arbitrations by the Riverside 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.