

AGENDA ITEM

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Request for Designation of
Committee Authority to Approve Local
Bar Fee Arbitration Rules

DATE: December 9, 2009

TO: Discipline Oversight Committee
Members, Board of Governors

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

SUBJECT: Designation of Committee to Approve Local Bar Fee Arbitration Rules

EXECUTIVE SUMMARY

Rules of procedure for the local bar programs must be approved by the State Bar Board of Governors to establish jurisdiction to arbitrate fee disputes under Business & Professions Code section 6200(a)(Article 13, Arbitration of Attorney's Fees). The current statute provides that local bar rules are subject to review by the Board "...to insure that they provide for a fair, impartial, and speedy hearing and award." (Bus.&Prof. Code §6200(d).) Mandatory fee arbitration (MFA) is currently available through 45 local bar association programs in addition to the State Bar fee arbitration program.

Effective January 1, 2010, the statute was amended to allow the Board of Governors to designate a committee to approve local bar rules of procedures. The Board is requested to designate the discipline committee (currently "Discipline Oversight Committee") to approve local bar rules of procedure for fee arbitrations.

I. BACKGROUND

Pursuant to Article 13, Arbitration of Attorney's Fees (Business and Professions Code section 6200 *et seq.*), the Board of Governors is charged with establishing, maintaining and administering a system and procedure for the arbitration of disputes concerning fees, costs, or both, charged by attorneys for professional services.

The statutory scheme for Mandatory Fee Arbitration (MFA) provides for fee arbitration services through local bar associations in addition to the State Bar (Bus. & Prof. Code, §6200(d).) Mandatory fee arbitration is available through 45 local bar programs in addition to the State Bar's fee arbitration program.

The statute further provides that the Board of Governors adopts rules of procedure to govern the arbitration of attorney fee and cost disputes sponsored by local bar associations. Specifically, "[r]ules of procedure promulgated by local bar associations are subject to review to insure that they provide for a fair, impartial and speedy hearing and award." (Bus. & Prof. Code §6200(d).)

For the past several years, the MFA Committee has recommended that the statute be amended to permit the Board of Governors to designate a committee to perform the review function of local bar rules of procedure. Senate Bill 544, Chapter 54 (attached) amended Business & Professions Code section 6200(d) as follows:

(d) The board of governors shall adopt rules to allow arbitration and mediation of attorney fee and cost disputes under this article to proceed under arbitration and mediation systems sponsored by local bar associations in this state. Rules of procedure promulgated by local bar associations are subject to review by the board **or a committee designated by the board** to ensure that they provide for a fair, impartial, and speedy hearing and award.

The amendment becomes effective January 1, 2010.

II. Proposed Action

The Board of Governors is requested to designate its discipline committee (currently the Discipline Oversight Committee) to review and approve the rules of procedure for fee arbitrations promulgated by local bar association programs.

III. FISCAL AND PERSONNEL IMPACT

None.

IV. BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None.

VI. EFFECTIVE DATE OF APPROVAL

The effective date of approval would be the date of the Board's meeting.

VII. PROPOSED RESOLUTIONS

For the DOC Committee:

RESOLVED, that the Discipline Oversight Committee (DOC) hereby recommends that the Board of Governors designate its discipline committee to review and approve the rules of procedure for fee arbitrations promulgated by local bar association programs as authorized by Business & Professions Code section 6200(d).

For the Board of Governors:

RESOLVED, that upon the recommendation of the Discipline Oversight Committee, the Board of Governors hereby designates its discipline committee (currently Discipline Oversight Committee) to review and approve the rules of procedure for fee arbitrations promulgated by local bar association programs as authorized by Business & Professions Code section 6200(d).

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