

# AGENDA ITEM

**MARCH**  
**Request for  
Approval of  
Proposed Rules of  
Procedure for Fee  
Arbitrations by the  
Bar Association of  
Northern San Diego  
County**

**DATE:** January 29, 2010

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

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

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

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## **EXECUTIVE SUMMARY**

This agenda item is before your Committee to approve the proposed new Rules of Procedure for Fee Arbitrations by the Bar Association of Northern San Diego County in the form attached as Attachment A hereto.

The Bar Association of Northern San Diego County (BANSD) has submitted new rules of procedure for fee arbitrations conducted by its mandatory fee arbitration program. The BANSD's proposed new rules of procedure consist of materially new rules to replace its current rules of procedure last approved by the Board in 1996. The proposed new rules essentially adopt the State Bar's Model Rules of Procedure approved by the Board of Governors in 2006 and revised in 2008.

The State Bar's Committee on Mandatory Fee Arbitration (MFA) reviewed the BANSD's proposed Rules of Procedure at its January 15, 2010 meeting. The Committee agreed to recommend approval of the rules to your Committee 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 Bar Association of Northern San Diego's (BANSD's) rules of procedure for fee arbitrations in 1996. 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 state's 44 local bar MFA programs. The Model Rules also provide the local bar programs with a template incorporating rights and procedures consistent with the MFA statutes, Minimum Standards, and case law. The Model Rules were revised effective July 2008.

On January 7, 2010, the BANSD submitted proposed new rules of procedure for fee arbitrations based on the most current Model Rules to the State Bar's Mandatory Fee Arbitration Committee (MFA Committee) for consideration at its January 15, 2010 meeting.

## **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 BANSD'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 BANSD's MFA program is attached hereto as Attachment A.

At its January 15, 2010 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 Discipline Oversight Committee that the proposed Rules of Procedure for Fee Arbitrations for BANSD be approved.

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

None.

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

None.

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<sup>1</sup> The red-lining shown on Attachment A reflects show only the changes proposed by the BANSD compared to the Model Rules of Procedure to assist the MFA Committee's review.

**V. PROPOSED RESOLUTION:**

**RESOLVED**, that, the Board Discipline Oversight Committee hereby approves the Rules of Procedure for Fee Arbitrations by the Bar Association of Northern San Diego 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.