

AGENDA ITEM

**Request for
Approval of
Proposed Rules of
Procedure for Fee
Arbitrations by the
Solano County Bar
Association**

DATE: April 15, 2010

TO: Members of the Discipline Oversight Committee

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

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

EXECUTIVE SUMMARY

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

The Solano County Bar Association (SCBA) has submitted new rules of procedure for fee arbitrations conducted by its mandatory fee arbitration program. The SCBA'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, as last amended March 2010.

The State Bar's Committee on Mandatory Fee Arbitration (MFA) reviewed the SCBA's proposed Rules of Procedure. Subject to a rule change that SCBA subsequently made, the Committee agreed to recommend approval of the rules by 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.

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 Solano County Bar Association's (SCBA'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 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 last revised in March 2010.

II. DISCUSSION:

The SCBA 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 March 26, 2010 meeting. The MFA Committee identified an internal inconsistency with respect to one of its rules. Subject to the elimination of the inconsistency, the MFA Committee agreed to recommend to the DOC Committee that the proposed Rules of Procedure for Fee Arbitrations of the SCBA be approved as being in compliance with the statutes and State Bar's Minimum Standards. SCBA subsequently submitted a revised set of rules to the MFA Committee accepting the recommended change to eliminate the inconsistency.

The proposed new rules essentially adopt the Model Rules of Procedure with expected 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 SCBA'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. A copy of the proposed new rules of procedure for the SCBA program is attached hereto as Attachment A.

III. FISCAL AND PERSONNEL IMPACT:

None.

IV. BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT:

None.

V. PROPOSED RESOLUTION:

If you agree with the MFA Committee's recommendation, adoption of the following resolution would be appropriate:

RESOLVED, that, the Board Discipline Oversight Committee hereby approves the Rules of Procedure for Fee Arbitrations by the Solano 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 State Bar's Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs.