

AGENDA ITEM

DATE: June 29, 2012

TO: Members, Regulation, Admissions and Discipline Oversight

FROM: Doug Hull, Director, Mandatory Fee Arbitration

SUBJECT: Proposed Modifications to Marin County Bar Association Rules for Fee Arbitrations

EXECUTIVE SUMMARY

This agenda item is before your Committee to approve the proposed rule amendments to the Marin County Bar Association ("MCBA") Rules for Fee Arbitrations, as set forth in Attachment A.

The proposal modifies MCBA's filing fee structure, reducing the fees charged by the program to the applicants.

The State Bar's Committee on Mandatory Fee Arbitration ("CMFA") has reviewed the proposed change and has determined that it comports with the Minimum Standards and Guidelines for the Operation of Mandatory Fee Arbitration Programs ("Minimum Standards") as approved by the State Bar Board of Trustees.

Any questions about this item should be directed to Director Doug Hull (415) 538-2015 or doug.hull@calbar.ca.gov.

BACKGROUND

Pursuant to Business and Professions Code section 6200(d), local bar associations are authorized to sponsor mandatory fee arbitration programs. The programs' local rules of procedure must comply with the Business and Professions Code 6200-6206 and the Minimum Standards. Approval by the Board of Trustees gives the local bar programs jurisdiction to arbitrate fee disputes submitted under the auspices of the Mandatory Fee Arbitration Program (Minimum Standards, para. 1) and provides fee arbitration program staff, directors and volunteer arbitrators the same immunity which attaches in judicial proceedings (Bus. & Prof. §6200(f)).

MCBA's rules were last approved in May 2011 by this committee. In May 2012, MCBA submitted the proposed updates as outlined in this document and attached hereto as Attachment A.

DISCUSSION

The following rule change is proposed by the MCBA:

15.3 Filing Fee Schedule. The filing fee is:

~~\$250 plus 5% of the amount in dispute when the total amount in dispute is \$5,000 or less;~~

~~\$500 plus 6% of the amount in dispute when the total amount in dispute is \$5,001 or greater, but less than \$10,000;~~

~~\$750 plus 7% of the amount in dispute when the total amount in dispute is \$10,000 or more, not to exceed a total filing fee of \$7,750.~~

5% of disputed amount if it is less than \$10,000 and 7% of the disputed amount if it is 10,000 or more (\$50 minimum and \$7000 max filing fee).

(Text to be deleted is stricken. Text to be added is underlined.)

This proposed change reduces the amount charged by the Marin County Bar Association.

When reviewing fees charged by local bar associations, the CMFA considers whether the proposed fee structure discourages use of the program. It is the committee's determination that this proposal makes the program more available to applicants. The CMFA found this proposed modification to be in compliance with the Minimum Standards and Guidelines for the Operation of a Mandatory Fee Arbitration Program and approved this change at their May 18, 2012 meeting.

FISCAL / PERSONNEL IMPACT:

None

RULE AMENDMENTS:

None

BOARD BOOK IMPACT:

None

PROPOSED BOARD COMMITTEE RESOLUTION:

Should the Regulation, Admissions and Discipline Oversight agree with the above recommendation, the following resolution would be appropriate:

RESOLVED, that the Regulation, Admissions and Discipline Oversight approves the proposed amendments to the Marin County Bar Association Rules for Fee Arbitrations in the form attached hereto as Attachment A as being in compliance with the Business and Professions Code section 6200-6206 and the Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs.