

**Summary of 2015 Year-end Accomplishments of the  
Committee on Mandatory Fee Arbitration  
Submitted by Douglass Hull, Director  
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This report covers the accomplishments of the State Bar's Committee on Mandatory Fee Arbitration ("CMFA") for Year 2015.

**SUMMARY OF KEY ACCOMPLISHMENTS**

Year-end highlights for 2015 include:

**MCLE Programs**

The Committee on Mandatory Fee Arbitration provided 39 hours of MCLE free of charge over the course of the year. The programs related to fee arbitration, the resolution of fee disputes, fee agreements and billing practices. In 2015, the following programs were presented by the CMFA:

- Ten (10) basic fee arbitrator training programs at local bar associations. These trainings provide three free hours of MCLE credit to attorneys and serve as recruitment for volunteer arbitrators. (3 hours each)
- Two (2) advanced fee arbitrator trainings in conjunction with local bar associations. These trainings are offered to help existing arbitrators brush up on their skills. The advanced program delves more deeply into topics presented in the basic training. (2 hours each)
- Four (4) MCLE Programs at the 2012 State Bar Annual Meeting. These programs were developed to teach State Bar members approaches to creating an appropriate fee agreement, billing, liens and attorney conduct in fee disputes. (1 hour each)
- Two panels at the Small Firm Summit offered by the State Bar of California in Anaheim—"Mandatory Fee Arbitration: The Good, The Bad and There is No Ugly" and "Make Sure You Get Paid." The first program provided a high-level overview of the Mandatory Fee Arbitration process, providing guidance to solo and small firm practitioners when they experience a fee dispute with a client, while the second program taught attorneys about proper billing practices. (1.5 hours each)

## **Local Bar Rules Review**

The CMFA is also responsible for reviewing the rules of local bar association fee arbitration programs to ensure they are in compliance with the Minimum Standards and Guidelines. This year, three local bar programs requested to modify their rules of procedure. In addition, the CMFA reviews rules regarding fee mediation programs.

- Facilitated approval of six (6) revised local bar rules of procedure,
  - Santa Barbara
  - Desert Bar
  - Bar Association of San Francisco
  - Santa Clara County Bar Association
  - San Diego County Bar Association
  - Santa Monica Bar Association

## **Arbitration Advisories**

Arbitration Advisories issued by the CMFA to provide guidance to arbitrators on specific issues that have arisen throughout the years. They are advisory in nature, and provide valuable assistance to local bar programs and volunteer arbitrators. The CMFA updated two Arbitration Advisories in 2012 and posted a new Advisory on the MFA website.

The following Advisories were updated:

- 2015-01 "Disclosure Guidelines"
- 2015-02 "The Arbitrators Role in Settlements and Stipulated Awards"

## **Forms/Notices**

The CMFA is also responsible to ensure that forms, notices, rules and procedures of the MFA program are consistent with various statutes, rules and codes related to the program. In 2015, finalized the process of updating the **Sample Fee Agreement Forms** posted on the State Bar's website (<http://www.calbar.ca.gov/Attorneys/Forms.aspx#16>). This was a years-long process which required the committee to meet over the course of 3 years to finalize the updates. In July of 2015, the updates were approved by the State Bar Board of Trustees and are now posted on the state Bar's website. The forms consist of:

- Instructions
- Hourly litigation fee agreement form
- Hourly non-litigation fee agreement form
- Contingency fee agreement form
- Optional clauses and disclosure forms

## **Survey**

The Mandatory Fee Arbitration Program conducts satisfaction surveys of participants in fee arbitrations after the matters have concluded. The surveys occur on a quarterly basis and seeks the following information from the participants:

- Date and Name of Arbitrator(s); Amount in Dispute
- How satisfied were you with the services provided by this program?
- How satisfied were you with the arbitrators assigned to your case?
- For 3 member panel cases only: One of your panelists was a person from the community, not associated with the legal profession in any way. Did you have that having a non-legal panelist made a difference?
- Do you feel that the program is reasonably easy to understand and use for an unrepresented non-lawyer. If not, why?
- Do you feel the program allowed the arbitrator to consider sufficient information before reaching a decision in your matter?
- Regardless whether you prevailed or not in your matter, do you think the Fee Arbitration Program offers a fair process to both parties in an effort to resolve fee disputes?
- Was the administration (filing of claim, assignment of arbitrators, administrative contacts and support) for your dispute handled well?
- Now that you have participated in the program and your dispute has been resolved, do you think the program offers a likely method of resolving fee disputes in lieu of further litigation or arbitration?
- Do you have additional comments, questions or concerns

The results of the objective responses are included with this document. Many of the written responses contained sensitive information (eg. names and e-mail address of participants). In an effort to protect the confidentiality of the process, those responses are not included here. If any Board member wishes to review the written comments included with the survey, staff will provide that information.

## Mandatory Fee Arbitration

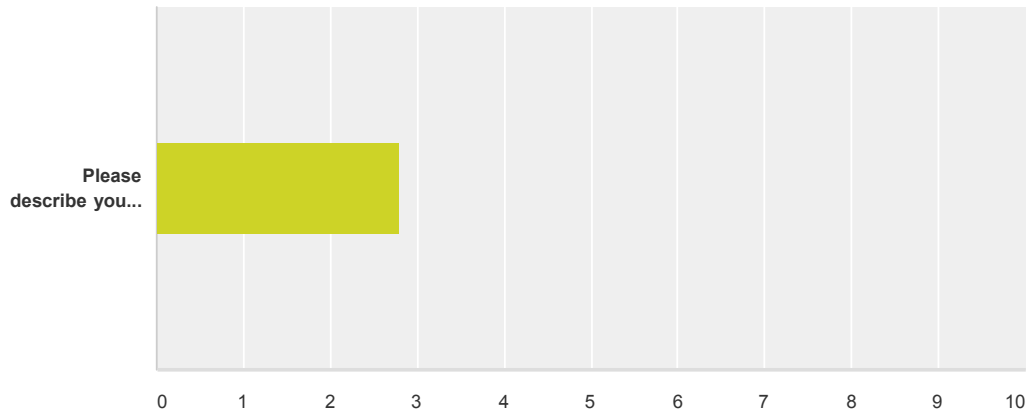
### Q1 Date and Name of Arbitrator(s); Amount in Dispute

Answered: 48 Skipped: 2

Answer Choices	Responses	
What was the date of the arbitration?	95.83%	46
Who was/were the arbitrator(s) in your matter?	95.83%	46
How much was the amount in dispute?	97.92%	47

### Q2 How satisfied were you with the services provided by this program?

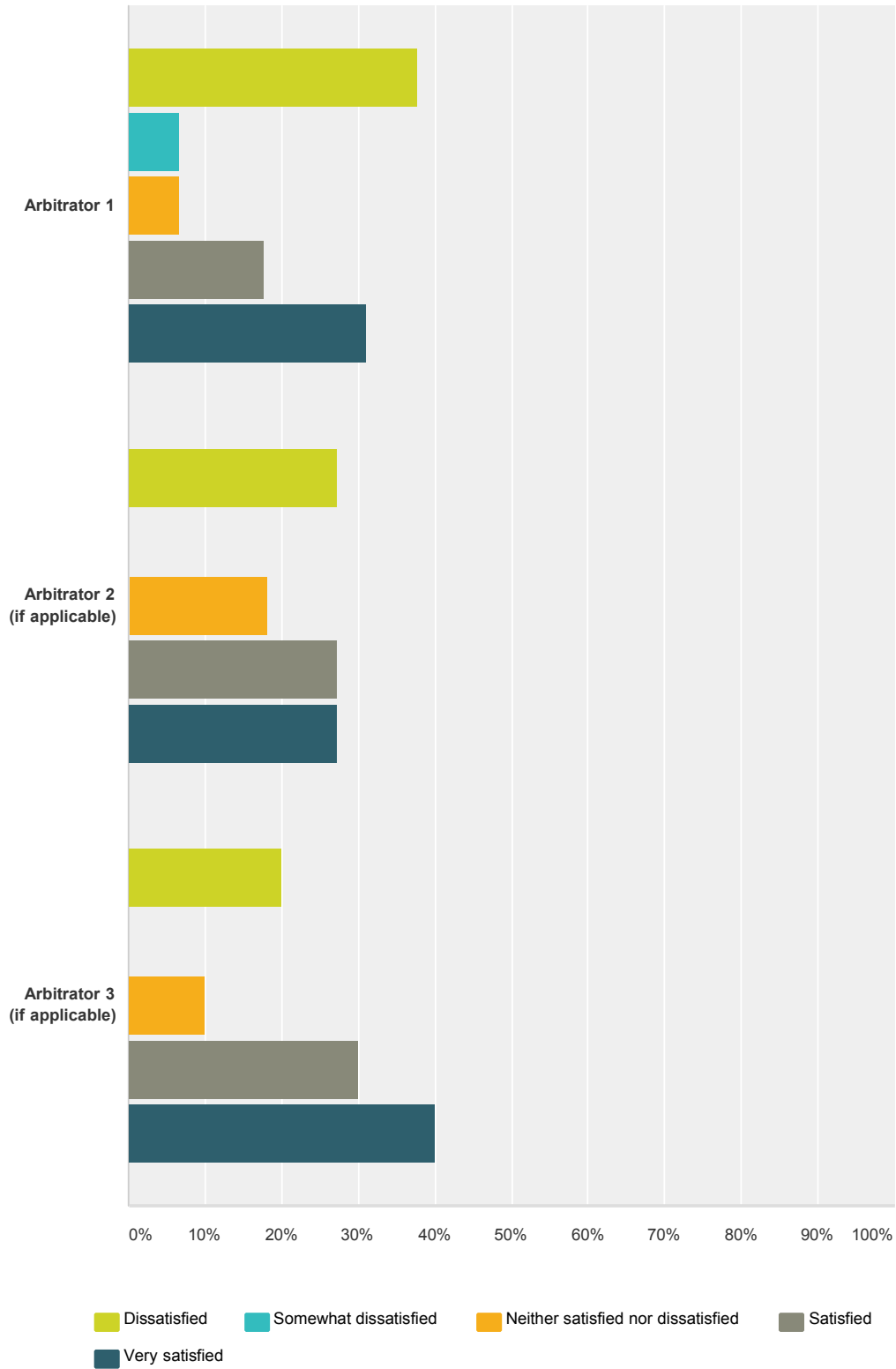
Answered: 48 Skipped: 2



	Dissatisfied	Somewhat dissatisfied	Neither satisfied nor dissatisfied	Satisfied	Very satisfied	Total	Weighted Average
Please describe your level of satisfaction with the services provided by this program:	39.58% 19	6.25% 3	8.33% 4	27.08% 13	18.75% 9	48	2.79

### Q3 How satisfied were you with the arbitrators assigned to you case?

Answered: 45 Skipped: 5



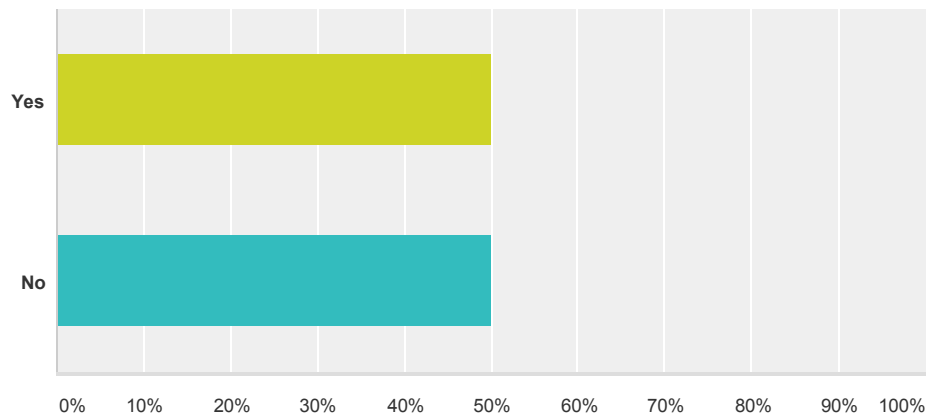
	Dissatisfied	Somewhat dissatisfied	Neither satisfied nor dissatisfied	Satisfied	Very satisfied	Total
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## Mandatory Fee Arbitration

Arbitrator 1	<b>37.78%</b> 17	<b>6.67%</b> 3	<b>6.67%</b> 3	<b>17.78%</b> 8	<b>31.11%</b> 14	45
Arbitrator 2 (if applicable)	<b>27.27%</b> 3	<b>0.00%</b> 0	<b>18.18%</b> 2	<b>27.27%</b> 3	<b>27.27%</b> 3	11
Arbitrator 3 (if applicable)	<b>20.00%</b> 2	<b>0.00%</b> 0	<b>10.00%</b> 1	<b>30.00%</b> 3	<b>40.00%</b> 4	10

**Q4 For 3 member panel cases only: One of your panelists was a person from the community, not associated with the legal profession in any way. Did you have that having a non-legal panelist made a difference?**

Answered: 12   Skipped: 38



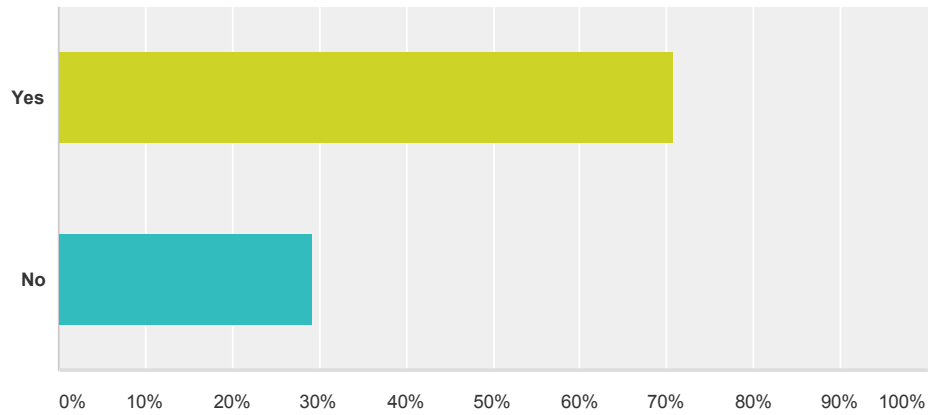
Answer Choices	Responses	
Yes	50.00%	6
No	50.00%	6
<b>Total</b>		<b>12</b>

**Q5 Do you feel that the program is reasonably easy to understand and use for an unrepresented non-lawyer. If not, why?**

Answered: 42 Skipped: 8

**Q6 Do you feel the program allowed the arbitrator to consider sufficient information before reaching a decision in your matter?**

Answered: 41 Skipped: 9

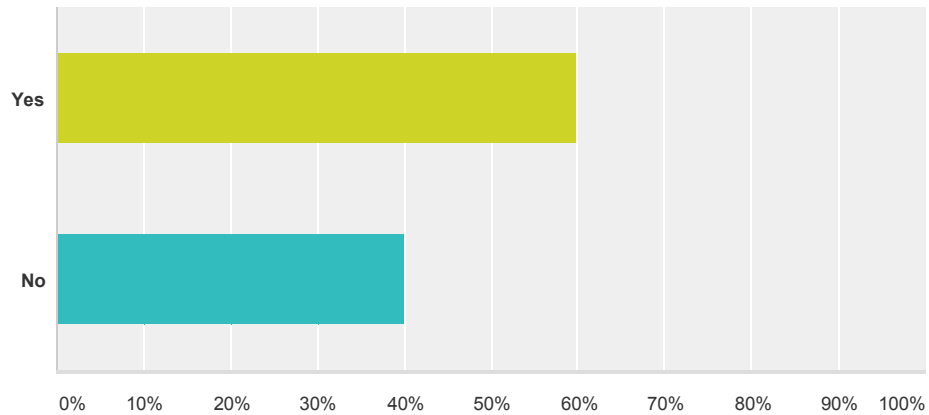


Answer Choices	Responses	
Yes	70.73%	29
No	29.27%	12
Total		41



**Q7 Regardless whether you prevailed or not in your matter, do you think the Fee Arbitration Program offers a fair process to both parties in an effort to resolve fee disputes?**

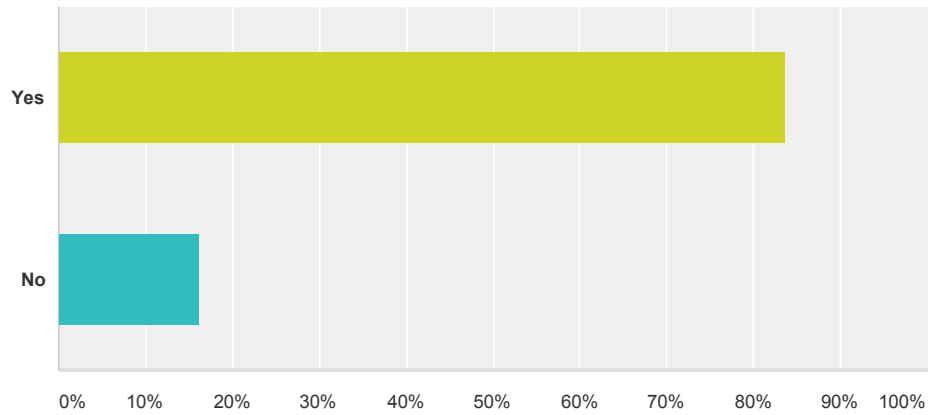
Answered: 42 Skipped: 8



Answer Choices	Responses	
Yes	59.52%	25
No	40.48%	17
Total		42

**Q8 Was the administration (filing of claim, assignment of arbitrators, administrative contacts and support) for your dispute handled well?**

Answered: 43 Skipped: 7



Answer Choices	Responses	
Yes	83.72%	36
No	16.28%	7
Total		43

**Q9 Now that you have participated in the program and your dispute has been resolved, do you think the program offers a likely method of resolving fee disputes in lieu of further litigation or arbitration?**

Answered: 42 Skipped: 8

NOTE: In the interest of confidentiality, written responses can be provided separately, if requested. Some of the responses contained sensitive information

**Q10 Do you have additional comments, questions or concerns?**

Answered: 30 Skipped: 20

NOTE: In the interest of confidentiality, written responses can be provided separately, if requested. Some of the responses contained sensitive information