

AGENDA ITEM

NOV 2015

DATE: November 4, 2015

TO: Members, Regulation and Discipline Committee

FROM: Douglass Hull, Director, Mandatory Fee Arbitration

SUBJECT: Proposed Modifications to the Santa Barbara County Bar Association Rules for Fee Arbitrations

EXECUTIVE SUMMARY

This agenda item is before your Committee to approve the proposed rule amendments to the Santa Barbara County Bar Association ("SBCBA") Rules For Fee Arbitrations ("rules"), as set forth in Attachment A.

The State Bar's Committee on Mandatory Fee Arbitration ("CMFA") has reviewed the proposed changes and determined they comport 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 Douglass 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 6200-6206¹ 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 ("MFA") (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)).

¹ B&P 6200(d) requires that: "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."

DISCUSSION

The SBCBA conducts fee arbitrations pursuant to rules authorized by the Bus. & Prof. Code 6200 eq. seq. and the State Bar of California. SBCBA's MFA program has been in existence for over 20 years. The last revision to the rules occurred in 2011.

In light of the CMFA's updates to Arbitration Advisories relating to disclosures to be made by arbitrators (see Arbitration Advisory 2015-01), the SBCBA is requesting to modify their rule 22 (see Attachment A).

The CMFA has reviewed the proposed rule change and finds it to be in compliance with B&P 6200 eq. seq. and the Minimum Standards and Guidelines for the Operation of Mandatory Fee Arbitration Programs. The CMFA recommends that RAD approve the modifications to the Santa Barbara County Bar Association's Rules of Procedure For Fee Arbitrations in the form attached hereto as Attachment A.

FISCAL/PERSONNEL IMPACT

None.

RULE AMENDMENTS

None.

BOARD BOOK IMPACT

None.

BOARD COMMITTEE RECOMMENDATIONS

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

RESOLVED, that the Regulation and Discipline Committee approve the proposed amendments to the Santa Barbara 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.

ATTACHMENT(S) LIST

- A.** Modification to Rule 22, Santa Barbara County Bar Association Rules for Fee Arbitrations (redline format)
- B.** Modification to Rule 22, Santa Barbara County Bar Association Rules for Fee Arbitrations