

**COMMITTEE ON MANDATORY FEE ARBITRATION
THE STATE BAR OF CALIFORNIA**

MINUTES

**Friday, November 2, 2018
10:00 a.m. – 3:00 p.m.**

The State Bar of California
180 Howard Street
Conference Room 4D, 4th Floor
San Francisco, CA 94105

Members Present (11): Lorraine Walsh (Chair), Ken Bacon (Presiding Arbitrator), Clark Stone (Vice Chair), Lee Straus (Vice Chair), Anahid Agemian, George Duesdieker, Jobi Halper, Joel Mark, Sharron McLawyer, Nick Migliaccio, Roy Zukerman.

Not Present (2): Patrick Maloney, John McDougall.

Staff Present: Chief of Programs Donna Hershkowitz, Program Director Dina DiLoreto, MFA Staff Attorney Isabel Liou.

Chair Lorraine Walsh called the meeting to order at 10:17 a.m.

I. Call for Public Comment

There were no requests for public comment.

II. Approval of Minutes of September 14, 2018 meeting

The minutes were approved as attached.

III. Chair's Report

Lorraine did not have anything to report.

IV. Report from Presiding Arbitrator

Ken discussed the recent outcome of litigation involving an enforcement matter as well as issues encountered in other arbitration enforcement cases.

V. Report from State Bar Staff

A. Office Statistics

Updated statistics were handed out and discussed.

B. Other Business

Dina stated that State Bar staff are in the process of reviewing post-Appendix I study transition recommendations for the November Board of Trustees meeting.

After the November meeting, there will be more information regarding a sunset date for the CMFA.

Relatedly, Dina informed the CMFA that the Mandatory Fee Arbitration Program will be moved from Attorney Regulation and Consumer Resources to the Office of Professional Competence, which is managed by Program Director Randy Difuntorum. To assist with the post-Appendix I transition, there will be time dedicated at the December 7, 2018 Committee on Professional Responsibility and Conduct (COPRAC) meeting in Los Angeles for a meet-and-greet session between CMFA and COPRAC members. Staff will provide more information following the November Board meeting and closer to the December 7th meeting date.

Donna stated that part of the transition planning stage involves identifying key projects and whether it makes sense to maintain the CMFA for those projects, or whether the same work could be accomplished by using working groups. Several CMFA members stated it would be helpful to have direction from the State Bar on how to communicate to local bar staff and the public about the status of the State Bar MFA program including changes to the CMFA. It was also suggested that the MFA program resume holding administrator roundtables in order to disseminate information and to dispel rumors so that local bar associations are not left in the dark.

An events calendar was omitted from this meeting's materials because no future meetings or trainings were scheduled at the time the November meeting materials were prepared and posted. However, Isabel mentioned there were over 50 RSVPs for the October 25th basic fee arbitrator training in San Luis Obispo, and that the CMFA is to continue presenting live trainings until the online training program is produced and ready for use. At this time, Isabel took down names of members interested in volunteering for basic training programs in the Yuba/Sutter area and Sonoma, as well as an advanced training program in San Mateo.

Isabel also briefly summarized the three MFA-related items that will be on the November Board of Trustees meeting agenda: the San Mateo County Bar Association's fee arbitration rule revisions regarding its fee schedule, the Tulare County Bar Association's fee arbitration rules, and an appointments item requesting the reappointment of the current Presiding Arbitrator, two current Assistant Presiding Arbitrators, and existing State Bar fee arbitrators, as well as the appointment of fourteen (14) new arbitrator appointments to the State Bar program.

Lastly, the Committee tentatively scheduled its next meeting at the Los Angeles State Bar office for Friday, February 8, 2019 from 10 a.m. to 3 p.m.

VI. Business

A. San Mateo County Bar Association: Review Proposed Fee Mediation Rules

The Committee approved these proposed fee mediation rules, provided that the SMCBA: 1) correct a typo in Rule 53.1, 2) insert the phrase “The mediator shall not serve as arbitrator.” in the relevant rule, and 3) add an interest provision to the template. Isabel will communicate this to SMCBA staff.

B. Impact of New Rules of Professional Conduct on MFA Materials

Isabel advised that COPRAC does not plan on updating MFA materials to comply with the new Rules of Professional Conduct, so the CMFA should continue working on updating these documents.

Some time was spent reviewing the sample fee agreement documents. These changes were approved by the Committee.

C. Contra Costa County Bar Association’s Partnership Proposal to the State Bar MFA Program Where the CCCBA Handles Fee Mediation Only and Refers Unsettled Cases to the State Bar MFA Program

The Committee did not think this proposal was feasible and thought it would be rife with procedural problems. Staff will draft a response to the CCCBA e-mail.

The meeting adjourned at 2:04 p.m.

Next committee meeting:

DATE: Friday, February 8, 2019
TIME: 10:00 a.m. – 3:00 p.m.
LOCATION: The State Bar of California
845 S. Figueroa Street, Conference Room 2A
Los Angeles, CA 90017