



# The State Bar of California

---

## **OPEN SESSION AGENDA ITEM JULY 2022 REGULATION AND DISCIPLINE COMMITTEE III.B**

**DATE:** July 21, 2022

**TO:** Members, Regulation and Discipline Committee

**FROM:** Bridget Gramme, Deputy Chief of Programs  
Isabel Liou, Attorney, Office of Professional Support & Client Protection

**SUBJECT:** Proposed Amendment to Rule 3.513 Regarding Mandatory Fee Arbitration Service; Receipt; Dates: Request to Circulate for Public Comment

---

### **EXECUTIVE SUMMARY**

The State Bar Mandatory Fee Arbitration (MFA) program seeks to streamline its daily operations by reducing its reliance on hard-copy submissions of requests for arbitration and other communications by accepting electronic submissions when possible. To facilitate this transition, the MFA program proposes to amend rule 3.513 of the Rules of the State Bar of California to state that electronic submission of a filing or other communication in a fee arbitration matter is deemed to be received on the date of receipt of the electronic submission.

This agenda item requests that the Regulation and Discipline Committee (RAD) approve the circulation of the proposed amendments to rule 3.513 for a 30-day public comment period.

---

### **BACKGROUND**

Presently, all requests for arbitration and most communications in MFA matters are mailed to the MFA program. Rule 3.513 currently permits electronic or facsimile submission of documents in fee arbitration cases, but states that the State Bar must receive the original filing or communication within five days of the electronic or facsimile transmission in order for the electronic or facsimile submission date to be deemed the receipt date.

## **DISCUSSION**

The MFA program's proposed revision to rule 3.513 aims to make electronic submission the preferred method of filing requests for arbitration and other communications in fee arbitration matters. The proposed amendments to rule 3.513 eliminates the hard copy requirement for electronic submissions, which is unnecessary when electronic versions of documents can be emailed or submitted online to the MFA program and are often clearer than photocopied documents. Applicants who prefer to file a request for arbitration or send a communication to the MFA program by mail or facsimile will still be able to do so.

The proposed revisions to rule 3.513 will modernize the MFA program's operations and reduce administrative costs, including for postage, printing, and photocopying. Accordingly, staff recommends that RAD approve the circulation of the proposed amendments to State Bar rule 3.513 for a 30-day public comment period.

## **FISCAL/PERSONNEL IMPACT**

None

## **AMENDMENTS TO RULES OF THE STATE BAR OF CALIFORNIA**

Title 3, Division 4, Chapter 2

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

Updates are being made to this section of the agenda item template to reflect the 2022–2027 Strategic Plan.

## **RECOMMENDATIONS**

**Should the Regulation and Discipline Committee concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the Regulation and Discipline Committee hereby authorizes for a 30-day public comment period the proposed revisions to rule 3.513 of the Rules of the State Bar of California, attached here as Attachment A; and it is

**FURTHER RESOLVED**, that this authorization for release for public comment is not, and shall not be construed as, a statement or recommendation of approval of the proposed changes.

## **ATTACHMENT LIST**

- A.** Rule 3.513 of the Rules of the State Bar of California (Clean and Redline)

**CLEAN****Rule 3.513 Service; receipt; dates**

- (A) Unless these rules provide otherwise, service is by personal delivery or by mail pursuant to Code of Civil Procedure section 1013(a). If a party is represented by counsel, service is required only upon that party's counsel, except for service of an award, which is served on the party as well as on counsel.
- (B) Service by mail is complete at the time of deposit in the United States mail or in a business facility used to collect and process correspondence for mailing with the United States Postal Service. The time for performing any act commences on the date service is complete and shall not be extended by reason of service by mail.
- (C) A client who is a party to an arbitration is served at the latest address provided to the State Bar. If a client fails to advise the State Bar of his or her current address, the State Bar may close a client request for arbitration or enforcement thirty days after learning that the address is not current.
- (D) An attorney who is a party to an arbitration or who represents a party in an arbitration is served at the attorney's address of record with the State Bar.
- (E) A filing or other communication submitted to the State Bar by facsimile is deemed to be received on the date of receipt of the transmission only when the State Bar receives the original within five days of the facsimile submission.
- (F) A filing or other communication submitted to the State Bar electronically is deemed to be received on the date of receipt of the transmission.
- (G) Electronic Service
  - (1) In addition to the methods of service provided for in subdivision (A) of this rule, the parties to an arbitration may consent to electronic service of documents upon each other pursuant to Code of Civil Procedure section 1010.6(a)(1)(A)-(C).
  - (2) The parties to an arbitration may consent to receive electronic service of documents from the State Bar in lieu of service by mail by providing to the State Bar written consent to receive electronic service of documents from the State Bar at the party's designated electronic address.

**REDLINE****Rule 3.513 Service; receipt; dates**

- (A) Unless these rules provide otherwise, service is by personal delivery or by mail pursuant to Code of Civil Procedure section 1013(a). If a party is represented by counsel, service is required only upon that party's counsel, except for service of an award, which is served on the party as well as on counsel.
- (B) Service by mail is complete at the time of deposit in the United States mail or in a business facility used to collect and process correspondence for mailing with the United States Postal Service. The time for performing any act commences on the date service is complete and shall not be extended by reason of service by mail.
- (C) A client who is a party to an arbitration is served at the latest address provided to the State Bar. If a client fails to advise the State Bar of his or her current address, the State Bar may close a client request for arbitration or enforcement thirty days after learning that the address is not current.
- (D) An attorney who is a party to an arbitration or who represents a party in an arbitration is served at the attorney's address of record with the State Bar.
- (E) A filing or other communication submitted to the State Bar ~~electronically or~~ by facsimile is deemed to be received on the date of receipt of the transmission only when the State Bar receives the original within five days of the ~~electronic or~~ facsimile submission.
- (F) A filing or other communication submitted to the State Bar electronically is deemed to be received on the date of receipt of the transmission.
- (GF) Electronic Service
  - (1) In addition to the methods of service provided for in subdivision (A) of this rule, the parties to an arbitration may consent to electronic service of documents upon each other pursuant to Code of Civil Procedure section 1010.6(a)(1)(A)-(C).
  - (2) The parties to an arbitration may consent to receive electronic service of documents from the State Bar in lieu of service by mail by providing to the State Bar written consent to receive electronic service of documents from the State Bar at the party's designated electronic address.