



The State Bar of California

OPEN SESSION AGENDA ITEM 50-7 SEPTEMBER 2022

DATE: September 22, 2022

TO: Members, Board of Trustees

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: Return from Public Comment and Request for Adoption

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 item requests adoption of amendments to rule 3.513 after a 30-day public comment period. The State Bar received two comments in support of the proposed amendments and one comment purportedly in opposition to the proposed amendments.

BACKGROUND

On July 21, 2022, the [Regulation and Discipline Committee authorized](#) the State Bar to issue proposed amendments to rule 3.513 for a 30-day public comment period.

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.

The MFA program's proposed amendments to rule 3.513 would streamline its operations and make electronic submission the preferred method of filing requests for arbitration and other communications in fee arbitration matters. The proposed amendments eliminate the requirement that a hard copy of an electronic filing or communication be submitted to the State Bar within five days of the electronic submission and would deem an electronic submission or filing received on the date the State Bar receives the electronic submission or filing. 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.

DISCUSSION

The State Bar received two comments in support of proposed amended rule 3.513. In addition, one comment stated opposition to the proposed amendments, but the substance of this comment was not relevant to proposed amended rule 3.513.

Staff does not recommend any additional revisions to rule 3.513 based on the public comments received.

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

Goal 1. Protect the Public by Strengthening the Attorney Discipline System

- b.1. Assist members of the public needing assistance in submitting complaints and resolving problems by providing clear information about how the system works, outlining what constitutes a viable complaint.

RECOMMENDATIONS

Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:

RESOLVED, that the Board of Trustees, hereby approves and adopts amendments to rule 3.513 of the Rules of Procedure of the State Bar of California, provided as Attachment A, effective September 22, 2022.

ATTACHMENTS LIST

- A.** Proposed Amended Rule 3.513 of the Rules of Procedure of the State Bar of California (clean copy)
- B.** Proposed Amended Rule 3.513 of the Rules of Procedure of the State Bar of California (redline copy)
- C.** Public Comment Received Regarding Proposed Amended Rule 3.513 of the Rules of Procedure of the State Bar of California

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.
- (G) ~~(F)~~ 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.

Public Comment Received Regarding Proposed Amended Rule 3.513 of the Rules of Procedure of the State Bar of California

Date	Name	Professional Affiliation	Comment
7/25/2022	NC Carlson	The Consumer Bar	AGREE: (No further comment received)
7/30/2022	Tim Castellano	9162136829 defensexref4659254	DISAGREE: Xref4659254 dmv found innocent jail folsom pd beat naked for asking to pee left naked in classroom after Jail Deputy Took To Nurse He Saw Seizure Blood Sugar 30 Or Under Deputy Ordered Nurse No Food Just Water Social Worker Documented Bruises Reason Clergy Abuse Former Foster Youth Child Abuse Congress Canidate Sac County Who Authored Book ~ How I Ran For Congress On Disabilty Wrote About Incest With His Mom True Eye Wittness Not Family Foster Mom Dead That Was Family And Sac Pd Recruit Iwas 3 Days In Jail Food Took Till 330 2 Meals Not Given Judged Dismissed Dmv Found Innocent Was At Sudwerks With Carpool Friend And Employee Neighbor Designated Iwas Waiting Outside Car Futre Suspicious Of Intent Charge No Body Cams Da Refilled After Dmv Found Innocent 2018 During Pretrial Lindsey Cirney My Pub Def Told Judged Dept 37 In Front Of Jury She Went To Catholic High School With Da And They Friends Judged Alllowed It Then In Her Office Refused My Right To Take Stand Cuz Da Her Friend Then Changes My Plee To Guilty Against My Will I Planned Appeal But Da Had Sherriff Pulled Over With Ambulance Emt Came To Door 45 Day Alertative Sentence At Sierra Vista I Have Ptsd Adhd Trauma Only Da And Police Power Abuse Of Power No Medical Training But Can Access Records Im Emt Trained No Mental Illnes Cuban American Foster Kid After Grandpa Died Foster Care Put Me On Bus Out Of State Child Hood Trauma Severe Abandoment Not Family Clergy Abuse Jail Abuse To Cover White Rascist Folsom Pd Police Bruality Govt Corruption Next Dmv Action Unit Gave Oregon License Program Said 1Yr Or2 Clean Records Says Can Get California License Will Notify Muncipal Court That First Offender Program And Court Requirements Removed Dmv Says I Completed Dmv Actions Unit Can Get License I Been In Alaska And Seattle During Covid No Issue May 24 2021 Dmv Closed Folsom Pd Two Cop Cars Pull Me Over At City Limit 3Am Ask Over Ab System Step Out Vehicle Take Two Steps Backwards Get Onknees Hands On Howard Pulls Gun Tohead Threats To Shoot If Move Or Try Look At Him Tells Dispatch Im Cooperative 39 Secs
8/12/2022	Megan Zavieh	Zavieh Law	AGREE: At this point in time, there is no reason whatsoever for any legal business to be conducted via snail mail. Fee arbitration should be simple and modernly efficient. It should absolutely be the case that electronic submissions and service of documents is the preferred method.