

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

**AGENDA**

**Friday, August 5, 2016  
10:00 a.m. – 3:00 p.m.**

The State Bar of California  
845 South Figueroa Street, 2<sup>nd</sup> Floor  
Los Angeles, CA 90017  
(213) 765-1000

- I. Call for Public Comment (Halper)
- II. Approval of Minutes of March 25, 2016 meeting (Attachment A, pp. 1-4) (All)
- III. Chair's Report (Halper)
- IV. Report from Presiding Arbitrator (Bacon)
  - A. *Sheppard, Mullin, Richter and Hampton v. J-M Manufacturing*
- V. Report from the Office of Mandatory Fee Arbitration (Hull)
  - A. Office statistics (Attachment B, pp. 5-8)
  - B. Schedule of Events (Attachment C, pp. 9-10)
  - C. Rules of Professional Conduct release for public comment
- VI. Business
  - A. Minimum Guidelines for Fee Arbitrators (Attachment D, pp 11-18) (Hull)
  - B. Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration programs (Hull/Buckner)
  - C. Los Angeles County Bar Association's ACBAs request to re-print Sample Fee Agreement forms (Attachment E, pp. 19-20) (LACBA representative)
  - D. Bankruptcy Advisory (Blank, Walsh)
  - E. Blue lining fee agreement language (Mark)
  - F. Handbook (all)
  - G. Judicial Outreach efforts (Halper, Bacon, Walsh, Migliaccio, Hull, Stone)
  - H. Case summaries (Halper)
  - I. Cost standards for local bar programs (Halper)

J. Arbitration Advisories for Future Review

VII. Arbitration Advisories for Review

- A. 2005-01("Jurisdiction of the Mandatory Fee Arbitration Program to Determine the Existence of an Attorney-Client Relationship") (Blank)

Next committee meeting:

DATE: Thursday, September 29, 2016  
TIME: 10:00 a.m. – 3:00 p.m.  
LOCATION: San Diego County Bar Association  
401 West A Street, Ste. 1100  
San Diego, CA 92101  
(619) 231-0781

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

**MINUTES**

**Friday, May 20, 2016**

**10:00 a.m. – 3:00 p.m.**

The State Bar of California  
180 Howard Street, 4<sup>th</sup> Floor  
San Francisco, CA 94105

Members Present: Jobi Halper (Chair), Ken Bacon (Presiding Arbitrator), Nick Migliaccio (Vice Chair), Lorraine Walsh (Vice Chair), Chris Blank, Carole Buckner, Brandon Krueger, Joel Mark, Dave Parker, Mark Schreiber and Clark Stone.

Not Present: Mary Best, Michelle Chavez, Michael Fish, Lee Straus and Sally Williams.

Staff Present: Doug Hull

The meeting was called to order at 10:30 a.m. by Chair Jobi Halper

- I. Approval of Minutes of March 25, 2016 meeting  
The minutes were approved as attached to the agenda.
- II. Chair's Report  
No report was given.
- III. Report from Presiding Arbitrator  
Ken discussed a pending award and provided an update in the *Sheppard Mullin v. J-M Manufacturing*. The California Supreme Court has taken up the matter. Opening briefs are due June 27, 2016.
- IV. Report from the Office of Mandatory Fee Arbitration
  - A. Doug provided a brief description of the statistics
  - B. Appointments  
Doug announced the upcoming appointments for 2016:
    - i. Nick—Chair;
    - ii. Lorraine—1<sup>st</sup> Vice Chair, and
    - iii. Mark—2<sup>nd</sup> Vice Chair.

New Members:

- iv. Sharron McLawyer from LACBA;
- v. Patrick Maloney from El Segundo;
- vi. George Duesdiker from Menlo Park
- vii. Lee Hess from Westlake Village.

Minutes May 20, 2016

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- C. Status of Presiding Arbitrator as a committee member  
Doug provided the authority for Ken's voting membership on the CMFA
- D. He also mentioned that the agenda structure will be modified for the next meeting to account for "business" items. This will help the committee to vote on items that may not be identified as "action" items.
- E. He informed the committee that the announcements about the Annual Meeting haven't been made yet.

V. Discussion/Information Items

- A. Bagley-Keene follow up discussion  
This was discussed. Members can volunteer for projects and can share ideas about specific issues without violating Bagley-Keene
- B. Agreements to Binding Arbitration  
Joel will analyze the jurisdiction and law on contract interpretation where the parties to a retention/fee agreement include a clause requiring "Binding Mandatory Fee Arbitration" - i.e. should an arbitrator strike the entire paragraph, give effect to all words in the provision other than "binding" (i.e. both parties agree to non-binding MFA), or strike the word "mandatory", thus giving effect to all other words so it becomes a general agreement to arbitrate.
- C. Alternative Fee agreements  
Jobi, Ken and Lorraine will review to offer better guidance on fee disputes under those agreements and consider the current status on flat fees, etc.
- D. Bankruptcy in Fee Arbitration and Arbitration Enforcement proceedings  
This matter was discussed including the In Re: Marilyn Scheer matter. Chris and Lorraine agreed to further consider on our position on who and how decides what to do if one party notices that they have filed for bankruptcy
- E. *Purcell v. Schweitzer*  
It was determined that a modification to Arbitration Advisory 2015-02 would be made to remove the reference to the payment terms. In its place, language relating to the 10% post award interest will be inserted.
- F. *Safarian Choi & Bolstad, LLP v. Minassian*  
The committee determined to make a concerted effort to conduct judicial education. Nick-Los Angeles, Jobi-San Diego, Lorraine-Contra Costa, Clark-Santa Clara, Ken-Sacramento, Doug-Alameda and CJA meeting at State Bar Annual Meeting.

- G. Case summaries  
This was not discussed.
- H. Minimum Standards  
Carole agreed to look over the Minimum Standards. She will work with Doug to provide some suggestions for the next meeting
- I. Cost standards for local bar programs  
Doug will provide some information to Clark and Lorraine about fees charged by local bars. They will begin to analyze whether to create a uniform formula or concept for determining a reasonable fee charged by programs for the MFA programs.
- J. Modification to Statute of Limitations Arbitration Advisory  
The committee voted to modify Arbitration Advisory 2016-01 relating to the Statute of Limitations issue.
- K. ABA rules v. State Bar Rules  
This was not discussed.
- L. Arbitration Advisories for Future Review
  - i. 2005-01("Jurisdiction of the Mandatory Fee Arbitration Program to Determine the Existence of an Attorney-Client Relationship")  
Chris will bring this back to the committee.

Next committee meeting:

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LOCATION: The State Bar of California  
845 South Figueroa Street, 2nd Floor  
Los Angeles, CA 90017

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# STATE BAR MANDATORY FEE ARBITRATION PROGRAM STATISTICS 2016

## INTAKE ACTIVITY 2016

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	YTD	Year End 2015
Fee Arbitration Requests	12	3	10	3	12	5							45	88
Requests with Jurisdiction Challenges or Removal Requests	1	1	1	1	2	0							6	6
Enforcement Requests	0	3	4	1	2	1							11	44
Phone Intake	331	324	361	381	274	324							1995	3900

## ENFORCEMENT ACTIVITY (All cases, all years)

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	YTD	Year End 2015
Orders Filed Assessing Administrative Penalties	0	0	0	1	1	0							2	14
Motions Filed To Enroll Attorney Inactive	2	0	1	0	1	1							5	5
Attorney Placed on Inactive Status	0	0	2	0	1	0							3	2
Prepare Motion	0	0	0	0	0	0							0	6
Impose Penalty	0	0	0	0	1	0							1	10
ExParte App. Inactive/Default	0	0	0	0	0	0							0	0
Attorney on Payment Plan	0	1	1	1	0	0							3	12
Cases Abated	0	1	1	2	0	1							4	7
Cases Paid and Closed	5	4	4	3	2	4							23	31
Cases Closed: Other	0	3	3	3	4	6							16	14

## ARBITRATION CASES: CLOSED STATUS (All Cases, all years)

	JAN.	FEB.	MAR.	APR.	MAY	JUN.	JUL.	AUG.	SEP.	OCT.	NOV.	DEC.	YTD	Year End 2015
Findings & Award Served	2	6	14	7	5	11							45	57
Cases Closed, No Award	0	4	5	4	0	5							18	45
Total Cases Closed	2	10	19	11	5	16							63	102

# STATE BAR MANDATORY FEE ARBITRATION PROGRAM STATISTICS 2016

## ARBITRATION CASE STATUS REPORT (All Cases, all years)

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	Year End 2016	Year End 2015
Case Forwarded to PA for Jurisdiction Decision	2	6	2	2	3	2								0
Fee Waiver/Filing Fee Due	1	0	0	0	0	1								1
Request Received/Not Served	4	1	1	2	3	1								2
Request Served/Reply Due	11	3	9	5	10	5								9
Ready to Assign	2	6	0	2	4	3								1
Assigned/No Hearing Set	8	7	14	5	6	8								11
Notice of Hearing Date Served	11	7	7	7	5	5								23
Findings & Award Due	19	22	10	12	11	6								2
Total Cases Currently Open	58	52	43	35	42	31								49
Cases Currently in Abeyance	0	0	0	0	0	0								0



# STATE BAR MANDATORY FEE ARBITRATION PROGRAM STATISTICS

## JUNE 30, 2016

INTAKE ACTIVITY	Through JUNE 30, 2016	Through JUNE 30, 2015	At year end <b>2015</b>
Fee Arbitration Requests	45	44	88
Requests with Jurisdiction Challenges or Removal Requests	6	2	6
Enforcement Requests	11	19	44
Phone Intake	1995	1955	3900

ENFORCEMENT ACTIVITY	Through JUNE 30, 2016	Through JUNE 30, 2015	At year end <b>2015</b>
Payment Plan	3	5	12
Orders Filed Assessing Administrative Penalties	2	9	14
Ex Parte App. To Enroll Inactive/Default	0	0	0
Prepare Motion	0	1	6
Motions Filed To Enroll Attorney Inactive	5	1	5
Attorney Placed on Inactive Status	3	0	2

OPEN ARBITRATION CASES CURRENT DISPOSITION	Month of JUNE 2016	Month of JUNE 2015	At year end <b>2015</b>
Jurisdiction Challenges & Removal Requests	2	2	0
Fee Waiver/Filing Fee Due	1	3	1
Request Received/Not Served	1	2	2
Request Served/Reply Due	5	5	9
Ready to Assign	3	4	1
Assigned/No Hearing Set	8	10	11
Notice of Hearing Date Served	5	7	23
Findings & Award Due	6	12	2
Total Cases Currently Open	31	48	49

Closed Status (Arbitration cases, all years)	Through JUNE 30, 2016	Through JUNE 30, 2015	Year end <b>2015</b>
Findings & Award Served	45	28	57
Cases Closed With No Award	18	27	45
Total Cases Closed	63	55	102
Cases Currently in Abeyance	0	0	0

## Mandatory Fee Arbitration Requests Filed By Local Bar Programs\*

	2010	2011	2012	2013	2014	2015	2016
1 <sup>st</sup> Quarter	418	379	365	271	287	304	196
2 <sup>nd</sup> Quarter	409	373	454	323	280	273	255
3 <sup>rd</sup> Quarter	449	341	368	295	301	295	
4 <sup>th</sup> Quarter	392	392	329	255	256	267	
Total	1668	1485	1516	1144	1124	1139	

\* This number is based on the number of reimbursement requests from local bars. The State Bar pays to participating local bar programs a flat \$50 fee per MFA case assigned to a mediator or arbitrator.

## Committee on Mandatory Fee Arbitration Calendar of events

Date	Event	Type	Location	Participants
June 16-18, 2016	Solo and Small Firm Summit	MCLE	Newport Beach	Migliaccio, Buckner
Wednesday, July 27, 2016 10:00 a.m. - 3:00 p.m.	Local Bar Roundtable	Meeting	The State Bar of California 180 Howard Street, 4th Fl. San Francisco, CA 94105	Bacon, Walsh, Hull
Thursday, August 4, 2016 10:00 a.m. - 3:00 p.m.	Local Bar Roundtable	Meeting	The State Bar of California 845 South Figueroa Street, 2FG Los Angeles, CA 90017	Bacon, Halper, Hull
Thursday, August 4, 2016 5:00 p.m. - 8:00 p.m.	Training	Basic	The State Bar of California 845 South Figueroa Street Room 2C-G Los Angeles, CA 90017	Bacon, Halper, Fish, Hull
Friday, August 5, 2016 10:00 a.m. - 3:00 p.m.	CMFA Meeting	Meeting	The State Bar of California 845 South Figueroa Street Room 2AB Los Angeles, CA 90017	All members
September? Tuesdays	Training	Advanced	Ventura County Bar Association 4475 Market St., Suite B Ventura, CA 93303	Mark, Straus(?)
Thursday, September 29, 2016 10:00 a.m. - 3:00 p.m.	CMFA Meeting	Meeting	San Diego County Bar Association 401 West A St., Room 120 San Diego, CA 92101	All members
Friday, September 30, 2016 10:30 a.m. - 12:00 p.m.	Mandatory Fee Arbitration: The Good, the Bad, there is No Ugly	MCLE	<b>State Bar Annual Meeting</b> San Diego Marriott Marquis & Marina	Mark, Bacon
Friday, September 30, 2016 1:30 p.m. - 3:00 p.m.	Updates on Enforceable and Ethical Fee Agreements, including Alternative Fee Agreements	MCLE	<b>State Bar Annual Meeting</b> San Diego Marriott Marquis & Marina	Halper, Bacon
Friday, September 30, 2016 3:30 p.m. - 5:00 p.m.	Getting Paid: The relationship between your billings and fee agreements	MCLE	<b>State Bar Annual Meeting</b> San Diego Marriott Marquis & Marina	Migliaccio, Walsh
Saturday, October 1, 2016 10:30 a.m. - 12:00 p.m.	Protecting and Collecting Fees	MCLE	<b>State Bar Annual Meeting</b> San Diego Marriott Marquis & Marina	Fish, Buckner
September or October?	Training	Basic	Desert Bar Association	Mark, Straus
Wednesday, November 2 4:00 – 7:00 pm	Training	Basic	Sonoma County Bar Association 37 Old Courthouse Square, Suite 100 Santa Rosa, CA 95404	Fish, Bacon
November, 2016	Training	Basic	San Diego County Bar Association 401 W. A St., Suite 1100 San Diego, CA 92101	Powell, Best
2017?	Training	Basic	Riverside County Bar Association	

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# STATE BAR OF CALIFORNIA

## INTER-OFFICE COMMUNICATION

**DATE:** July 29, 2016

**TO:** Committee on Mandatory Fee Arbitration

**FROM:** Doug Hull

**SUBJECT:** Proposed modification to Guidelines and Minimum Qualifications of Arbitrators

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When applicants volunteer to serve as State Bar arbitrators, they must meet the Minimum Qualifications in order to be appointed. The current version of the Guidelines and Minimum Qualifications of Arbitrators for the State Bar Fee Arbitration Department contains some internal inconsistencies. It would be appropriate to address those inconsistencies.

This item proposes modifications to the Minimum Qualifications as attached. I worked with our General Counsel's office to update the language. The attachment shows the clean version of the document along with the proposed changes in legislative format.

This item seeks approval of these changes.

### Attachments:

- D1. Clean version
- D2. Legislative version
- D3. Original version

**The State Bar of California  
Committee on Mandatory Fee Arbitration  
Guidelines & Minimum Qualifications of Arbitrators  
for the State Bar Fee Arbitration Department**

**I. Arbitrator Appointments Selection Committee**

The Appointments Selection Committee shall consist of the Presiding Arbitrator and the Program Director of the State Bar of California Mandatory Fee Arbitration Department. Recommendations for appointments of arbitrators are submitted to the appropriate State Bar Board Committee, which in turn forwards its recommendations to the full Board of Trustees of the State Bar for appointment.

**II. Guidelines for Minimum Qualifications of Arbitrators**

The following guidelines are intended to set forth the minimum qualifications for lawyer and non-lawyer arbitrator appointments as well as the retention of appointees on the arbitrator panel. Any information provided by the applicant on his or her application form will be evaluated and could be used as grounds for exclusion from appointment. An applicant's failure to show, upon request of the Appointments Selection Committee, that he/she affirmatively meets these minimum qualifications may result in the rejection of an applicant or removal of an arbitrator from the Fee Arbitration Department.

**III. Appointment to the Mandatory Fee Arbitration Panel**

1. Requirements of All State Bar Fee Arbitrators

Prior to appointment to a panel, arbitrators are required to attend at least one comprehensive training program for arbitrators on attorney fee arbitration through a local bar association or the State Bar of California.

Conviction of a crime for any felony or misdemeanor may constitute grounds for rejection of the applicant or removal from the State Bar Fee Arbitration Department panel. The filing of disciplinary charges with the State Bar Court or imposition of any public discipline by the State Bar Court or a federal court authorized to impose comparable professional discipline against attorneys may constitute grounds for rejection of an application or removal from the panel.

2. Lawyer Arbitrators

To be qualified for appointment as a lawyer arbitrator, an applicant must:

- (1) be, and have been for at least five years, an active member in good standing with the State Bar of California; or

- (2) be a retired judge who is an active member of the State Bar of California; and
- (3) not have a pending professional disciplinary matter filed with the State Bar Court, any federal court or other state bar discipline authority. Conviction of a crime for any felony or misdemeanor may constitute grounds for rejection of the applicant. The imposition of any public discipline by the State Bar Court, or a federal court or other state bar discipline authority authorized to impose comparable professional discipline against attorneys may constitute grounds for rejection of an application.

### 3. Non-Lawyer Arbitrators

To be qualified for appointment as a non-lawyer arbitrator an applicant must:

- (1) provide sufficient information to the Appointments Selection Committee to its satisfaction concerning his or her business, professional or volunteer experience, education, or other relevant qualifications to serve as an arbitrator; and
- (2) have never been an active or inactive member of the bar of any state or the District of Columbia; and
- (3) have never worked regularly for a public or private law office or practice, court of law or attended law school for any period of time; and
- (4) have never worked as a paralegal, law firm staff, or law clerk.

## **IV. Ongoing Requirements**

- (1) During the term of service, all lawyer arbitrators are required to report the existence of any professional disciplinary complaint filed with the State Bar Court or imposition of public professional discipline by the State Bar of California or by any federal court authorized to impose comparable professional discipline against attorneys.
- (2) During the term of service, all arbitrators are required to report to the Program Director the existence of any criminal conviction, whether misdemeanor or felony.
- (3) Once appointed, all arbitrators shall attend a comprehensive training at least once every five (5) years.

**The State Bar of California  
Committee on Mandatory Fee Arbitration  
Guidelines & Minimum Qualifications of Arbitrators  
for the State Bar Fee Arbitration Department**

**I. Arbitrator Appointments Selection Committee**

The Appointments Selection Committee shall consist of the Presiding Arbitrator and the Program Director of the State Bar of California Mandatory Fee Arbitration Department. Recommendations for appointments of arbitrators are submitted to the appropriate State Bar Board Committee, which in turn forwards its recommendations to the full Board of ~~Governors~~ Trustees of the State Bar for appointment.

**II. Guidelines for Minimum Qualifications of Arbitrators**

The following guidelines are intended to set forth the minimum qualifications for lawyer and non-lawyer arbitrator appointments as well as the retention of appointees on the arbitrator panel. Any information provided by the applicant on his or her application form will be evaluated and could be used as grounds for exclusion from appointment. An applicant's failure to show, upon request of the Appointments Selection Committee, that he/she affirmatively meets these minimum qualifications may result in the rejection of an applicant or removal of an arbitrator from the Fee Arbitration Department.

~~Conviction of a crime for any felony or misdemeanor may constitute grounds for rejection of the applicant or removal from the State Bar Fee Arbitration Department panel. The filing of disciplinary charges with the State Bar Court or imposition of any public discipline by the State Bar Court or a federal court authorized to impose comparable professional discipline against attorneys may constitute grounds for rejection of an application or removal from the panel.~~

~~All arbitrators shall have attended, or committed to attend prior to the acceptance of an arbitration assignment, at least one comprehensive training program for arbitrators on attorney fee arbitration matters in the last five years offered by a local bar association or the State Bar of California.~~

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**~~A~~III. Appointment to the Mandatory Fee Arbitration Department Panel**

**1. ~~4.~~ Requirements of All State Bar ~~Arbitration Department~~ Fee Arbitrators**

Prior to assignment to a panel, Aarbitrators are required to attend ~~and submit proof of attendance of~~ at least one comprehensive training program for arbitrators on



attorney fee arbitration through a local bar association or the State Bar of California.  
~~every five (5) years of service on the Fee Arbitration Department panel.~~

Conviction of a crime for any felony or misdemeanor may constitute grounds for rejection of the applicant or removal from the State Bar Fee Arbitration Department panel. The filing of disciplinary charges with the State Bar Court or imposition of any public discipline by the State Bar Court or a federal court authorized to impose comparable professional discipline against attorneys may constitute grounds for rejection of an application or removal from the panel.

~~During the term of service with the Department, all arbitrators are required to report to the Program Director the existence of any criminal conviction, whether misdemeanor or felony.~~

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## 2. ~~21.~~ Lawyer Arbitrators

To be qualified for appointment as a lawyer arbitrator, an applicant must:

(1) be, and have been for at least five years, an active member in good standing with the State Bar of California; or

(2) be a retired judge who is ~~either~~ an active ~~or inactive~~ member of the State Bar of California; ~~and; and;~~

(3) ~~not~~ ~~applicant shall~~ have a pending professional disciplinary matter filed with the State Bar Court, any federal court or other state bar discipline authority. Conviction of a crime for any felony or misdemeanor may constitute grounds for rejection of the applicant. The imposition of any public discipline by the State Bar Court, or a federal court or other state bar discipline authority authorized to impose comparable professional discipline against attorneys may constitute grounds for rejection of an application. ~~or the imposition of any public professional discipline by the State Bar of California or by any federal court authorized to impose comparable professional discipline against attorneys at any time. The existence of any pending federal or other state bar discipline may be considered by the Appointments Selection Committee as grounds for denial of appointment to the Fee Arbitration Department.~~

During the term of service, all lawyer arbitrators are required to report the existence of any professional disciplinary complaint filed with the State Bar Court or imposition of public professional discipline by the State Bar of California or by any federal court authorized to impose comparable professional discipline against attorneys.

## 3. ~~2.~~ Non-Lawyer Arbitrators

To be qualified for appointment as a non-lawyer arbitrator ~~with the State Bar of California's Mandatory Fee Arbitration Department,~~ an applicant must:

(1) ~~(1)~~ provide sufficient information to the Appointments Selection Committee to its satisfaction concerning his or her business, professional or volunteer experience, education, or other relevant qualifications to serve as an arbitrator; and

(2) ~~(2) never~~ have never been an active or inactive member of the bar of any state or the District of Columbia; ~~and~~

(3) have never worked regularly for a public or private law office or practice, court of law or attended law school for any period of time; and

(4) have never worked as a paralegal, law firm staff, or law clerk.

#### IV. Ongoing Requirements

(1) During the term of service, all lawyer arbitrators are required to report the existence of any professional disciplinary complaint filed with the State Bar Court or imposition of public professional discipline by the State Bar of California or by any federal court authorized to impose comparable professional discipline against attorneys.

(2) During the term of service, all arbitrators are required to report to the Program Director the existence of any criminal conviction, whether misdemeanor or felony.

(3) Once appointed, all arbitrators shall attend a comprehensive training at least once every five (5) years.

#### ~~B. Requirements of All State Bar Arbitration Department Arbitrators~~

~~During the term of service with the Department, all arbitrators are required to report to the Program Director the existence of any criminal conviction, whether misdemeanor or felony.~~

~~During the term of service, all lawyer arbitrators are required to report the existence of any professional disciplinary complaint filed with the State Bar Court or imposition of public professional discipline by the State Bar of California or by any federal court authorized to impose comparable professional discipline against attorneys.~~

Arbitrators are required to attend and submit proof of attendance of at least one comprehensive training program for arbitrators on attorney fee arbitration through a local bar association or the State Bar of California every five (5) years of service on the Fee Arbitration Department panel.

**The State Bar of California  
Committee on Mandatory Fee Arbitration  
Guidelines & Minimum Qualifications of Arbitrators  
for the State Bar Fee Arbitration Department**

**I. Arbitrator Appointments Selection Committee**

The Appointments Selection Committee shall consist of the Presiding Arbitrator and the Program Director of the State Bar of California Mandatory Fee Arbitration Department. Recommendations for appointments of arbitrators are submitted to the appropriate State Bar Board Committee, which in turn forwards its recommendations to the full Board of Governors of the State Bar for appointment.

**II. Guidelines for Minimum Qualifications of Arbitrators**

The following guidelines are intended to set forth the minimum qualifications for lawyer and non-lawyer arbitrator appointments as well as the retention of appointees on the arbitrator panel. Any information provided by the applicant on his or her application form will be evaluated and could be used as grounds for exclusion from appointment. An applicant's failure to show, upon request of the Appointments Selection Committee, that he/she affirmatively meets these minimum qualifications may result in the rejection of an applicant or removal of an arbitrator from the Fee Arbitration Department.

Conviction of a crime for any felony or misdemeanor may constitute grounds for rejection of the applicant or removal from the State Bar Fee Arbitration Department panel. The filing of disciplinary charges with the State Bar Court or imposition of any public discipline by the State Bar Court or a federal court authorized to impose comparable professional discipline against attorneys may constitute grounds for rejection of an application or removal from the panel.

All arbitrators shall have attended, or committed to attend prior to the acceptance of an arbitration assignment, at least one comprehensive training program for arbitrators on attorney fee arbitration matters in the last five years offered by a local bar association or the State Bar of California.

**A. Appointment to the Fee Arbitration Department**

**1. Lawyer Arbitrators**

To be qualified for appointment as a lawyer arbitrator, an applicant must

(1) be, and have been for at least five years, an active member in good standing with the State Bar of California; or

(2) be a retired judge who is either an active or inactive member of the State Bar of California; and

(3) no applicant shall have a pending professional disciplinary matter filed with the State Bar Court or the imposition of any public professional discipline by the State Bar of California or by any federal court authorized to impose comparable professional discipline against attorneys at any time. The existence of any pending federal or other state bar discipline may be considered by the Appointments Selection Committee as grounds for denial of appointment to the Fee Arbitration Department.

## 2. Non-Lawyer Arbitrators

To be qualified for appointment as a non-lawyer arbitrator with the State Bar of California's Mandatory Fee Arbitration Department, an applicant must

(1) provide sufficient information to the Appointments Selection Committee to its satisfaction concerning his or her business, professional or volunteer experience, education, or other relevant qualifications to serve as an arbitrator; and

(2) never have been an active or inactive member of the bar of any state or the District of Columbia.

### B. Requirements of All State Bar Arbitration Department Arbitrators

During the term of service with the Department, all arbitrators are required to report to the Program Director the existence of any criminal conviction, whether misdemeanor or felony.

During the term of service, all lawyer arbitrators are required to report the existence of any professional disciplinary complaint filed with the State Bar Court or imposition of public professional discipline by the State Bar of California or by any federal court authorized to impose comparable professional discipline against attorneys.

Arbitrators are required to attend and submit proof of attendance of at least one comprehensive training program for arbitrators on attorney fee arbitration through a local bar association or the State Bar of California every five (5) years of service on the Fee Arbitration Department panel.

Hull, Doug

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**From:** Seth Chavez <schavez@lacba.org>  
**Sent:** Wednesday, April 20, 2016 5:05 PM  
**To:** Hull, Doug  
**Cc:** Sharron McLawyer  
**Subject:** MFA / Retainer agreement language

Doug,

Good afternoon. A question for you.

In its efforts to spread awareness of its MFA program, our MFA committee would like to publish unique written fee agreement form samples and would like to base those samples on the State Bar's published samples. Any copyright concerns on your end regarding MFA program committee members modifying State Bar samples and publishing them online on the LACBA MFA web page? The adjustments would make the fee agreement samples specific to lawyers who would like to opt into LACBA's MFA program using a free agreement.

Thank you Doug.

Best,

**Seth Chavez**  
**Director**  
**Lawyer Referral Service**  
**Attorney-Client Mediation & Arbitration Service**  
**Los Angeles County Bar Association**

p. 213.833.6759  
schavez@lacba.org | LACBA.org

1055 West 7<sup>th</sup> Street, Suite 2700  
Los Angeles, CA 90017

**LACBA**

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