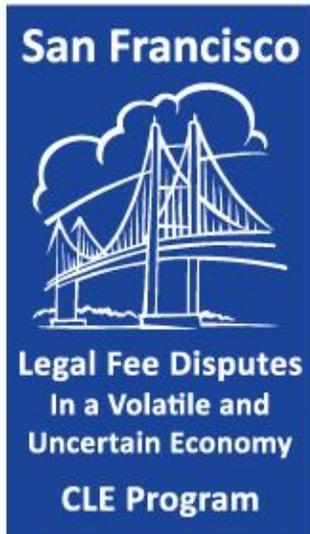


The San Francisco Attorney Fee Dispute Program: “Attorney Fee Disputes In a Volatile and Uncertain Economy”



**Golden Gate Law School
San Francisco, CA
March 19, 2009
Noon-1pm (Lunch Buffet)
1pm-5pm (CLE Program)**

The San Francisco Attorney Fee Dispute Program is a CLE Program covering fee disputes in insurance coverage litigation and prevailing party situations. The program also offers a review of California’s Mandatory Fee Arbitration Program.

Top fee experts and insurance litigators discuss reasonable fees in *Cumis* counsel situations, recovering *Brandt* fees, and the efficacy and economics of billing guidelines.

Then, panelists offer tips and strategies for recovering attorney fee awards in fee-shifting situations, including a point/counter-point discussion of supporting and opposing a fee petition in court, as well as attorney fees on appeal.

Plus, the State Bar of California reviews the legal responsibilities of attorneys and procedures unique to California’s Mandatory Fee Arbitration Program. State Bar panelists provide an insider’s view of what to (and not) expect from fee arbitration, preparation for hearing with a focus on potential pitfalls for the unwary attorney, and post-fee arbitration rights.

You will hear from top fee experts, litigators, and fee arbitrators on:

- **The Fee Expert & The Fee Dispute Case**
- **Attorney Fees in Insurance Coverage Litigation**
- **Reasonable Fees in *Cumis* Counsel Situations**
- **Attorney Fees in Prevailing Party Situations**
- **California’s Mandatory Fee Arbitration Program**

Our Course Book provides a comprehensive guide to attorney fee disputes in a number of practice areas.

Faculty Members

GARY A. BRESEE, Program Chair, is Partner at Barger & Wolen in San Francisco. Mr. Bresee has worked on a wide range of business litigation matters for insurance companies, corporations, partnerships, and individuals. Gary is a trial lawyer with more than 20 years litigation and trial experience in complex business litigation, insurance coverage, bad faith, employment law, attorney fee disputes, and appellate practice. Since 1992 he has litigated, consulted and served as an expert in attorneys' fee disputes and the nature and scope of an insurer's right to defend. Gary successfully defended the insurers from bad faith allegations and claims for punitive damages. Gary helped obtain a verdict in excess of one million dollars against a law firm after a jury trial concerning the law firm's billing practices.

BRUCE R. MECKLER, Program Co-Chair, is the Founding Partner of Meckler, Bulger, Tilson, Marick & Pearson in Chicago. Mr. Meckler is the founder of the firm's Legal Audit Practice Group, the only practice group of its kind. Bruce is widely recognized as one of the nation's leading attorney fee experts. Bruce frequently serves as an attorney fees expert and has testified before numerous state and federal tribunals on attorney fee matters. Bruce has conducted or supervised more than 150 legal bill review audits involving over \$2 billion in legal fees; and has led numerous non-fee related corporate and governmental investigative/legal audits involving, among other things, issues of financial fraud and malfeasance. Bruce enjoys an AV Martindale Hubbell Peer Review Rating and has been consistently named by his peers as one of Illinois' "Leading Lawyers" and "Super Lawyers" in commercial litigation.

JOHN S. PIERCE is Partner at Barger & Wolen in San Francisco. Mr. Pierce's litigation and trial experience includes a wide variation of complex national cases for insurance and non-insurance clients. Jack is also a nationally recognized author and expert witness in the areas of legal fee disputes, fee and cost allocation, legal ethics, and issues related to legal and ethical responsibilities of lawyers that arise in the tripartite relationship between insurers, insureds and defense counsel. He has also served as a consultant and expert in the litigation management of cases involving a wide range of issues, including intellectual property disputes, mass tort litigation, breast implant litigation, commercial disputes, environmental coverage disputes, recording royalty disputes and mass asbestos litigation.

JILL SPERBER has served as the Director of the State Bar of California's Mandatory Fee Arbitration Program for nine years. As Director, she oversees 45 local bar association programs, manages fee arbitration and request for enforcement of award proceedings filed with the State Bar, and staffs the State Bar Committee on the Mandatory Fee Arbitration. Ms. Sperber began her law career as a deputy public defender with the Office of Public Defender in San Francisco. Jill joined the State Bar of California in 1990 as a prosecutor in the Office of Enforcement. Before assuming her current position, she was staff counsel in the State Bar's Office of General Counsel, representing the State Bar in attorney discipline and admissions matters. Jill is a frequent

lecturer for CEB on attorney fee disputes. She teaches fee arbitration for arbitrators throughout California.

HOWARD M. GARFIELD is a senior partner at Long & Levit in San Francisco where he maintains an active litigation practice primarily in the areas of insurance coverage, directors and officers' liability, and employment law. Mr. Garfield litigation experience also includes professional liability where he has successfully defended attorneys in legal malpractice claims. Howard has served as both a mediator and arbitrator on a host of law practice management and insurance coverage issues. He also testifies extensively as an expert in depositions and at trial on the reasonableness of attorney fees in a variety of contexts. Howard has shared his insurance coverage expertise in a variety of publications and been a featured speaker at bar association events and insurance groups. Howard received his B.A. from Stanford University and his J.D. from Harvard Law School.

GARY A. GREENFIELD is the Principle of Litigation Cost Management in Oakland. Mr. Greenfield specializes in legal and expert fee analysis. Gary has served as a Special Master by the San Francisco Superior Court with respect to fees and expenses of lawyers and expert witnesses. Gary has represented both insurers and law firms in a range of attorney fee and legal billing matters. He has testified in numerous court proceedings and arbitrations regarding attorneys' fees issues and consulted with both insurers and law firms in litigation management issues. Gary has also conducted numerous workshops and has been a featured speaker throughout Northern California on effective litigation management practices. Gary received his B.A. from Stanford University and his J.D. from California Berkeley at Boalt Hall.

SUSAN PAGE WHITE is a partner at Dickstein Shapiro in Los Angeles where she manages an active trial practice in the firm's Insurance Coverage Practice. Ms. White represents corporate and individual clients in complex insurance coverage matters, including bad faith, and other commercial litigation matters. Susan has been at the forefront of new developments in insurance coverage in numerous jurisdictions including Director and Officers liability claims, fiduciary and employee benefit liability claims, and claims for coverage for wage hour class actions. Susan also provides risk management advice on insurance policy procurement and renewals and contracts that have insurance or indemnification implications. She also has obtained substantial recoveries for her clients in arbitrations and mediations regarding the rates and reasonableness of attorneys' fees and costs.

RAYMOND A. CARDOZO is Partner at Reed Smith in San Francisco. Mr. Cardozo is the firm-wide Chair of Reed Smith's Appellate Group. His practice focuses on commercial appellate matters, including unfair competition and other business torts, employment, product liability, telecommunications litigation and regulation, intellectual property and financial service litigation. Raymond is a member of the California Academy of Appellate Lawyers, is certified as a specialist in appellate law by the California State Bar Board of Legal Specialization, is the former Chair of the Appellate Practice Section of the Bar Association of San Francisco, and has been appointed to

the State Bar's Committee on Appellate Courts. Ray was selected by his peers for inclusion in The Best Lawyers in America in Appellate Law and as a Northern California "Super Lawyer".

KENNETH E. BACON is the Principal of Lewis & Bacon in Sacramento. Mr. Bacon is a member of the California State Bar Committee on Mandatory Fee Arbitration. Kenneth also serves as a Fee Arbitrator for the Sacramento County Bar Association. Kenneth devotes much of his practice to professional liability and professional responsibility pertaining to attorneys. In addition to presiding over dozens of attorney-client fee disputes, Kenneth's work is widely published in bar associations journals and insurance publications. Kenneth also a court appointed arbitrator and settlement judge pro-tem for the Sacramento County Superior Court. Kenneth also trains arbitrators throughout California on the California's State Bar's Mandatory Fee Arbitration Program.

MICHAEL J. FISH is a senior principal attorney in the San Francisco law firm of Fish & Snell in Marin County. His firm emphasizes civil litigation and transactional work in the fields of business, banking, commercial transactions, real property, construction, personal injury, family law, and estate planning. He is a court appointed arbitrator and a member of the Arbitration Panel of FINRA. Additionally, he sits as a judge pro-tem for the Marin County Courts. He also currently serves on the Board of Directors of the Marin County Bar Association. He served as Chair of the MCBA Client Relations Committee for over 10 Years. He is a past Chair of the State Bar of California's Mandatory Fee Arbitration Committee and currently serves as its Assistant Presiding Arbitrator. Michael is a frequent trainer and lecturer on fee disputes and has taught fee arbitration for arbitrators throughout California.

Program Agenda

Noon-12:45pm Buffet Lunch

12:45-1:00 CLE Registration

1:00-1:50 The Fee Dispute Case & The Fee Expert

Bruce R. Meckler and **Jack Pierce**, in a discussion moderated by **Gary A. Bresee** will provide information about what to expect from a fee expert, what qualifications you should look for in a fee expert, what opinions a fee expert can provide, and what opinions you should avoid seeking from a fee expert.

1:55-2:45 Attorney Fees in the Insurance Coverage Context

Howard M. Garfield addresses *Brandt* Fees: what they are, who can get them, and how they are determine. Howard also provides the latest developments in California and in other important states.

Susan Page White discusses *Cumis* counsel, when California Code section 2860 does not apply, rates to be paid by the insurer, and how disputes are resolved. Susan discusses insurer billing guidelines and how insureds can respond to insurers' attempts to impose these guidelines on *Cumis* counsel.

Gary A. Greenfield addresses issues related to the process of allocating fees and expenses among various claims in litigation where there is the potential for damages or an award of fees or expenses related to some but not all the claims in the case.

10 Minute Break

2:55-3:45 Attorney Fees in Prevailing Party Situations & On Appeal

Gary A. Bresee takes on the prevailing party position in a point/counter-point discussion.

Gary A. Greenfield takes on the non-prevailing party position in a point/counter-point discussion.

Raymond A. Cardozo discusses several primary areas of legal uncertainty that can unnecessary prolong fee disputes and lead to appeals.

3:50-4:45 State Bar of California's Mandatory Fee Arbitration Program

In a panel discussion, state bar presenters **Jill Sperber**, **Kenneth E. Bacon** and **Michael J. Fish** review the statutory requirements for written fee agreements, satisfying the notice of fee arbitration requirements to the client before commencing a proceeding against the client to collect unpaid attorney fees, and the mandatory fee arbitration process.

The presenters will provide an insider's view of what to expect during fee arbitration, including arbitration when the fee agreement is void, binding vs. non-binding, post-fee arbitration rights, and the recent trend upholding pre-existing arbitration and enhanced judicial review arbitration clauses by the California Supreme Court.