

New York State Attorney-Client Fee Dispute Resolution Program



2010 –2011

Annual Report

to the

Administrative Board of the Courts

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Background



Two thousand eleven marks the Fee Dispute Resolution Program's ninth full year of operation. The Board of Governors for the Fee Dispute Resolution Program (FDRP) continues to ensure that attorneys and clients have access to cost-effective, high-quality methods of resolving fee disputes. The Board continues to monitor local programs across New York State, and supports their efficient operation by providing funding, training volunteer arbitrators, and responding to myriad legal and programmatic questions from staff of local programs as well as attorneys and clients.

This report covers the calendar years 2010 and 2011.

Summary of Highlights

Below is a brief summary of the FDRP's main accomplishments during 2010 and 2011. Each item will be discussed in greater detail:

Two Thousand Ten

- During 2010, local programs closed 1,124 cases, roughly the same as the 1,130 cases closed in 2009.
- The Board created separate oaths for attorney-arbitrators and attorney- mediators whereby, they swear or affirm that they are in good standing in the jurisdictions in which they are admitted and if they are admitted in New York that their registration is current.
- In May 2010, the Board distributed information packets to the Law Librarian staff- and to the staff of the Court Help Centers. The Board also included articles on the program in the Division of Court Operations (now the Division of Professional and Court Services) newsletter, *Nuts & Bolts*.
- In October 2010, the Board convened the annual meeting of local program administrators to discuss issues raised during calendar year 2010.
- The Part 137 Newsletter was distributed to program administrators.
- In 2010, the Board continued to review resumes and bios of the neutrals who volunteer their services for the Program.

- In 2010, the legislature expanded the jurisdiction of the lower courts, including the Small Claims parts, enabling them to entertain declaratory judgment actions commenced pursuant to Part 137 arbitrations.

Two Thousand Eleven

- During 2011, local programs closed 1,179 cases, a slight increase over the 1,124 cases closed the previous year.
- On April 1, 2011, the Administrative Board of the Courts issued an Administrative Order raising the panel threshold requirement to \$10,000 in certain local programs as part of a pilot program. The Pilot Program commenced on October 1, 2011.
- In March and July, local program administrators participated in webinars on the Part 137 Database and how administrators may assist parties after the award has been rendered, respectively.
- On October 26, 2011, the Board convened the annual meeting of local program administrators to discuss issues raised during calendar year 2011.
- In July, Co-Counsel again distributed information about Part 137 to the Court Help Centers as a way to maintain program awareness among staff.
- On September 4th, the Uniform City Court Act was amended to allow City Courts to grant aid in relief of arbitration.
- The Part 137 Newsletter was distributed to program administrators.
- In October, the New York Courts Part 137 webpage was updated so it uniformly addressed both attorneys and clients. Then in November, the Frequently Asked Questions page was updated to include a question on how to determine what types of cases are excluded from the rule under 137.1(b)(5) [disputes where the fee to be paid by the client has been determined pursuant to statute or rule and allowed as of right by a court; or where the fee has been determined pursuant to a court order].
- In October, Form UCS 137-4a *Client Request for Arbitration* and Form 137-4b *Attorney Request for Arbitration* were amended to include a field for email addresses and to include a question that asks on what date were services last performed on the client's case.
- Also in October, Form UCS 137-17 *Consent to submit fee dispute to one attorney-arbitrator where the amount in dispute is \$6,000 or greater pursuant to Part 137 of the Rules of the Chief Administrator* was created.

- The Chairman created the Arbitrator Service Award Subcommittee. This new subcommittee was created to honor the attorneys and members of the community who generously volunteer their time to arbitrate fee disputes.

Subcommittees

Subcommittees meet independently of the Board of Governors and operate with the assistance of co-counsel. Each subcommittee has an appointed chairperson who reports its suggestions and findings to the Chair. The subcommittees' work and recommendations are subject to review and approval by the full Board of Governors at plenary meetings. The Board is supported by co-counsel, Daniel M. Weitz, Esq., and Amy Sheridan, Esq. Co-counsel also act as liaisons between the Board and the local programs, public, and bar.

In 2011, a seventh subcommittee was formed to create an award program for arbitrators who have provided continuous quality service to the program.

The subcommittees and their respective chairs are:

- Program Approval -Martha E. Gifford, Esq.
- Legal Issues- John H. Pennock, Esq.
- Qualifications and Training for Neutrals- Stephen W. Schlissel, Esq.
- Outreach & Education- Linda M. Campbell, Esq.
- Panel Threshold Subcommittee- Paul M. Hassett, Esq.
- Review Subcommittee- Martha E. Gifford, Esq.
- The Arbitrator Service Award Subcommittee is comprised of Simeon Baum, Elaine Cole, and Steve Schlissel.

PROGRAM APPROVAL SUBCOMMITTEE

Background

The Program Approval Subcommittee monitors approved local programs to ensure compliance with the Standards and Guidelines, as well as Part 137. In its beginning years, the subcommittee reviewed program proposals submitted by bar associations and Judicial District Administrative Judges' Offices to the Board of Governors. Now, the subcommittee reviews program requests for rule amendments, form amendments, and other local programmatic changes.

The Subcommittee presents proposals to the Board of Governors with recommendations for approval or other action. The guiding criterion for the Subcommittee and the full Board is whether the proposed program provides a fair and efficient process for the resolution of attorney-client fee disputes. A table of dates that local programs were approved can be found in Appendix B.

In 2011, the Board amended Form UCS 137-4a *Client Request for Arbitration* and Form 137-4b *Attorney Request for Arbitration* to include a field for email addresses and to include a question that asks on what date services were last performed on the client's case. The decision to include a field for email addresses is reflective of local program practice and the use of technology in everyday administration. Many programs have found scheduling hearings by email is more convenient and efficient than scheduling through multiple phone calls and letter writing.

The decision to add the question, *On what date were services last performed on the client's case*, was intended to make it easier for administrators to determine whether the program has jurisdiction pursuant to 137.1(b)(6) "disputes where no attorney's services have been rendered for more than two years". While the response indicated on the form may not be conclusive of the actual last date of services- as the answer may implicate factual and legal questions- it will provide administrators with a starting point.

In 2011, the Board also developed Form UCS 137-17 *Consent to submit fee dispute to one attorney-arbitrator where the amount in dispute is \$6,000 or greater pursuant to Part 137 of the Rules of the Chief Administrator*. This was in response to administrators' requests to allow parties to resolve disputes more quickly by agreeing to waive a panel hearing where otherwise required under the Standards and Guidelines. Administrators have reported that the time involved in scheduling panels often leads to delays in setting hearing dates.

The Board of Governors is grateful to the members of the Program Approval Subcommittee, led by Martha E. Gifford, Esq., for all of their hard work.

LEGAL ISSUES SUBCOMMITTEE

Background

The Legal Issues Subcommittee researches legal questions as they arise and provides guidance to the Board of Governors, local programs and arbitrators. Complex or weighty issues that merit extended discussion are brought to the attention of the full Board of Governors for consideration. The Board of Governors regularly brings important policy issues to the attention of the Administrative Board of the Courts for guidance and direction, particularly where local programs request amendments to or deviations from Part 137 or other applicable statutes or rules. The Board also consults with the Office of Court Administration's Counsel's Office on various legal issues.

In **2010** and **2011**, the Legal Issues Subcommittee responded to a variety of inquiries from local program administrators, such as:

- Whether a client request for fee arbitration was considered “filed” on the date the client mailed it to the local program or the date the local program received it.
- Whether parties may settle their dispute after the arbitration hearing but before the arbitrators render the award and whether the settlement must be on the model form 137-11 “Stipulation of Settlement” or in any form the parties wish to use.
- May the arbitrators consider and decide whether an attorney has been discharged for cause?
- Whether an administrator may correct a misdated award.
- Whether the mother of the client- who retained the lawyer, paid the fee and where the retainer refers to the mother as “client” but where the attorney represented the son’s interests- has standing to arbitrate the lawyer’s fee.
- How local programs may enforce the 15-day period in which attorneys are required to return their fee response.
- How the decision, Sachs v. Zito, 901 N.Y.S.2d 818 (Sup. Ct. Orange County) which held, that CPLR 75 does not apply to Part 137 arbitration and the resulting awards, affects the program.
- Whether a program administrator may provide facts concerning local program practice on mailing of hearing notices and the notice of the award and describe the procedure that illustrates that the hearing was competently administered under the Part 137 Rules.
- Whether a client is entitled to a second fee arbitration for a refund of fees after unsuccessfully arbitrating the issue of outstanding fees.
- Whether an attorney may hold onto client’s insurance proceeds pending the arbitration hearing and determination.
- Whether a Power of Attorney is necessary for a Part 137 arbitration where a party cannot or does not want to appear on his or her own behalf.
- Whether local programs should close out cases where one of the parties dies prior to the arbitration hearing.
- Whether an attorney who has retired from the practice of law can be the sole arbitrator assigned to arbitrate cases under \$6,000.

- Whether arbitrators should interfere with parties' decision to settle if arbitrators believe the settlement appears unfair.

The Legal Issues Subcommittee, led by John H. Pennock, Esq., responds to inquiries on a frequent basis and the Board of Governors is grateful for all of their hard work.

QUALIFICATIONS AND TRAINING FOR NEUTRALS SUBCOMMITTEE

Background

Section 9 of the Standards and Guidelines prescribes minimum training requirements and addresses the qualifications and duties of Part 137 arbitrators. In developing these requirements, the Board sought to assure high-quality services and preserve local program flexibility without overburdening volunteer arbitrators. The training includes a 90-minute Part 137 orientation program for experienced arbitrators and a six-hour program for new arbitrators (inclusive of the orientation).

The Board of Governors has to date approved two mediation programs (Joint Committee of Fee Disputes and Conciliation and Brooklyn Bar Association), both of which follow generally accepted standards within the mediation field and utilize trained mediators whose credentials and qualifications have been approved under recognized court-annexed or community dispute resolution programs.

The Subcommittee provides logistical and other assistance to local programs in organizing the training sessions for arbitrators. Members of the Board of Governors frequently attend these training sessions and thank the participants for agreeing to serve as volunteers in the Fee Dispute Resolution Program.

In 2010, the Board resolved to create a DVD for the orientation portion of the training. Having the training in an easily accessible transmittable format will help diminish costs associated with conducting trainings, like travel and lodging for staff and trainers. Administrators can show the DVD to potential arbitrators without having to wait for a training to be scheduled, making it quicker and easier for program administrators to add experienced arbitrators to their rosters.

Part 137 Newsletter

In 2009, the Subcommittee launched a newsletter to update administrators and arbitrators on program information throughout the year. The Newsletter is an example of the Board's practice of providing ongoing communication and support to local programs. Co-counsel remains in frequent contact with administrators by phone and email. Additionally, co-counsel and the Chair continue to hold annual administrator meetings.

Newsletters contain articles on legal issues, summaries of noteworthy cases, and Board resolutions.

Topics covered in 2010 were:

- Considerations for arbitrators when parties ask to record arbitrations.
- Reminders on transmitting case data and arbitrator biographical information to the Board.
- Reminders to funded programs to transmit budget data to the Office of ADR Programs.
- Guidance and instructions on how to fill out an arbitration award form as a refresher for arbitrators. This instructional piece included a step-by-step diagram.
- Notices about newly tailored arbitrator oaths for attorney arbitrators.

Topics covered in 2011 were:

- A notice concerning an amendment to the City Court Act allowing city courts to accept confirmation actions and other actions under CPLR 75.
- How programs may be more active in facilitating settlement for parties.
- How local program administrators can add a mediation component to their fee dispute resolution programs.
- How arbitrators can respond to requests for post-hearing briefs and post-hearing evidence.

The Board of Governors is grateful to the members of the Qualifications and Training for Neutrals Subcommittee, led by Stephen Schlissel, Esq., for all of their hard work.

EDUCATION AND OUTREACH SUBCOMMITTEE

Background

This subcommittee's mandate is to educate the public about the FDRP.

The Board also provides information to court employees who may interact with parties involved in fee disputes. A change in the jurisdiction of the lower courts and an amendment to the Uniform City Court Act (See *Legislation*, below), in particular, necessitated reaching out to court staff to notify them of the changes.

In 2010, Part 137 information packets were distributed to the Help Centers housed in local courts and to the Unified Court System law librarians who field calls from the public. Information was again distributed to staff in the Help Centers in 2011.

In 2011, the Board continued to discuss methods to improve education among the bar about the program. The Board agreed to develop a curriculum that could be included as a component of practice management trainings offered by local bar associations.

One of the most effective ways to disseminate current information to the public is through Part 137's web presence on www.nycourts.gov. The subcommittee works with co-counsel to keep the information current and the site user-friendly.

At the request of the local program administrators and after consultation with Counsel's Office, the Frequently Asked Questions page was updated to include a question on how to determine what types of cases are excluded from the rule under 137.1(b)(5) [disputes where the fee to be paid by the client has been determined pursuant to statute or rule and allowed as of right by a court; or where the fee has been determined pursuant to a court order]. The Board has interpreted this section to exclude disputes where the attorney's fee is governed by another statute or rule not solely where the attorney's fee has already been set. For example, the Surrogate has the power to set attorneys' fees in estates matters in Surrogates' Court and the Bankruptcy Judge has the power to set attorneys' fees in bankruptcy proceedings.

REVIEW SUBCOMMITTEE

Background

A Review Subcommittee was created to address any concerns that may be raised by Part 137 parties and the public about the program, staff, and arbitrators. The subcommittee recommends action to the Board and assists co-counsel with any inquiries received. The subcommittee offers vital support to the program in light of the Board's responsibility pursuant to the rule and standards, as well as the Attorney General Opinion (Formal Opinion 2004-F3) which provides for defense and indemnification for arbitrators.

Part 137 Form Amendments

In May 2010, the Board created new oaths for mediators and arbitrators who are also attorneys. Forms 137-7b "Arbitrator's Oath or Affirmation (Attorney)" and 137-8b "Mediator's Oath or Affirmation (Attorney)" respectively, include the language:

"I further swear or affirm that as an attorney-arbitrator I am in good standing in the jurisdictions where I am admitted and if admitted to practice

in the State of New York, I am current in my registration with the Office of Court Administration.”

And,

“I further swear or affirm that as an attorney-mediator I am in good standing in the jurisdictions where I am admitted and if admitted to practice in the State of New York, I am current in my registration with the Office of Court Administration.”

The Board developed these forms to add an additional layer of quality assurance and oversight of the neutrals volunteering their services for the program.

The Review Subcommittee also continued to review resumes of arbitrators serving on local program rosters. This is part of an on-going process to monitor the Program and to ensure that neutrals continue to receive defense and indemnification pursuant to Attorney General Opinion 2004-F3 (granting Part 137 neutrals defense and indemnification conditioned on Board monitoring of neutrals).

PANEL THRESHOLD SUBCOMMITTEE

Background

A “Panel Threshold” Subcommittee was created to explore raising the \$6,000 threshold for panel arbitrations in response to the ratio of one-member and three-member panels reaching parity and to the increase in the number of member panels. At annual meetings, program administrators reported that scheduling three-member panels is more labor intensive and thus leads to delays in scheduling arbitrations.

In 2010 the Panel Threshold Subcommittee discussed options to resolve the threshold issue, such as a pilot program to study the effects of raising the threshold. On April 1, 2011, the Administrative Board of the Courts issued an Administrative Order for the program to develop a pilot wherein four programs would institute a ten-thousand dollar threshold for panel arbitrations. The Board selected the four programs on the criteria that each represents an upstate program, a downstate program, a program run by a District Administrative Judge’s Office, a program run by a local bar association and each Judicial Department. The local programs selected were: The Joint Committee on Fee Disputes and Conciliation, housed at the New York County Lawyers’ Association, serving the 1st and 12th Judicial Districts (New York and Bronx Counties); the Third Judicial District Administrative Judge’s Office serving all counties in the 3rd Judicial District; the Bar Association of Erie County serving all counties within the 8th Judicial District; and the Tenth Judicial District Administrative Judge’s Office serving Nassau County.

ARBITRATOR SERVICE AWARD SUBCOMMITTEE

The Arbitrator Service Award Subcommittee is comprised of Simeon Baum, Elaine Cole, and Steve Schlissel. The subcommittee's charge is to create a mechanism to honor arbitrators who have demonstrated a commitment to the program through their great work and generous donation of time and skill. Local program administrators will nominate arbitrators based on their own judgment; however, some guiding criteria includes: willingness to take cases; availability on short-notice; ability to handle difficult issues; willingness to share their expertise with other program members; performing training or education for the program; willingness to help with administration of the program; attention to detail; responsiveness; reliability; and whether the arbitrator's peers have given positive feedback on the arbitrator.

Board Membership

In 2010, Chief Judge Lippman reappointed Hon. Guy J. Mangano as Chair of the Board. Judge Lippman also reappointed Mary C. Loewenguth. The Honorable Judith S. Kaye previously appointed Judge Mangano and Ms. Loewenguth. Justice Cardona reappointed Ferdinand J. Acunto, James L. Chivers, Esq., and John H. Pennock, Esq. as representatives of the Third Department. Justice Scudder reappointed Linda M. Campbell, Esq., Elaine Z. Cole, Esq. as representatives of the Fourth Department.

Caseload Activity

SUMMARY OF DATA COLLECTED FROM LOCAL PROGRAMS

2010 and 2011

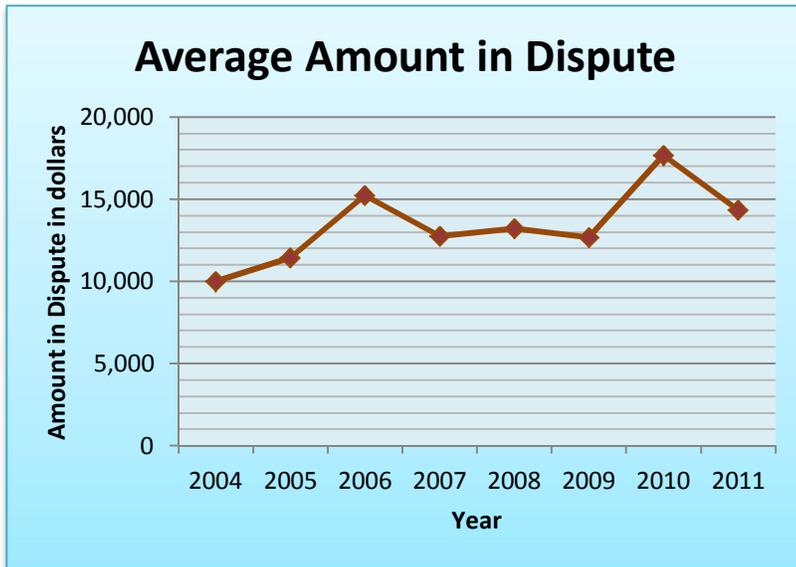
Since its inception in January 1, 2002, the Fee Dispute Resolution Program has closed 8,021 cases. During 2010, local programs closed 1,124 cases, which is a minor decrease from the 1,130 cases closed in 2009. However, in 2011, local programs closed a total of 1,179 cases. This is an increase of 55 cases from 2010.

Of the 1,124 cases closed in 2010, 267 cases were either dismissed for lack of jurisdiction or withdrawn by the filing party. Parties agreed to settle the matter in 318 cases (187 settled prior to arbitration, 8 settled prior to mediation, and 123 settled during arbitration). A total of 626 cases were arbitrated in 2010, of which arbitrators issued awards in 423 cases.

Of the 1,179 cases closed in 2011, 279 cases were either dismissed for lack of jurisdiction or withdrawn by the filing party. Parties agreed to settle the matter in 337 cases (180 settled prior to arbitration, 5 settled prior to mediation, and 152 settled during

arbitration). A total of 666 cases were arbitrated in 2011, of which arbitrators issued awards in 442 cases.

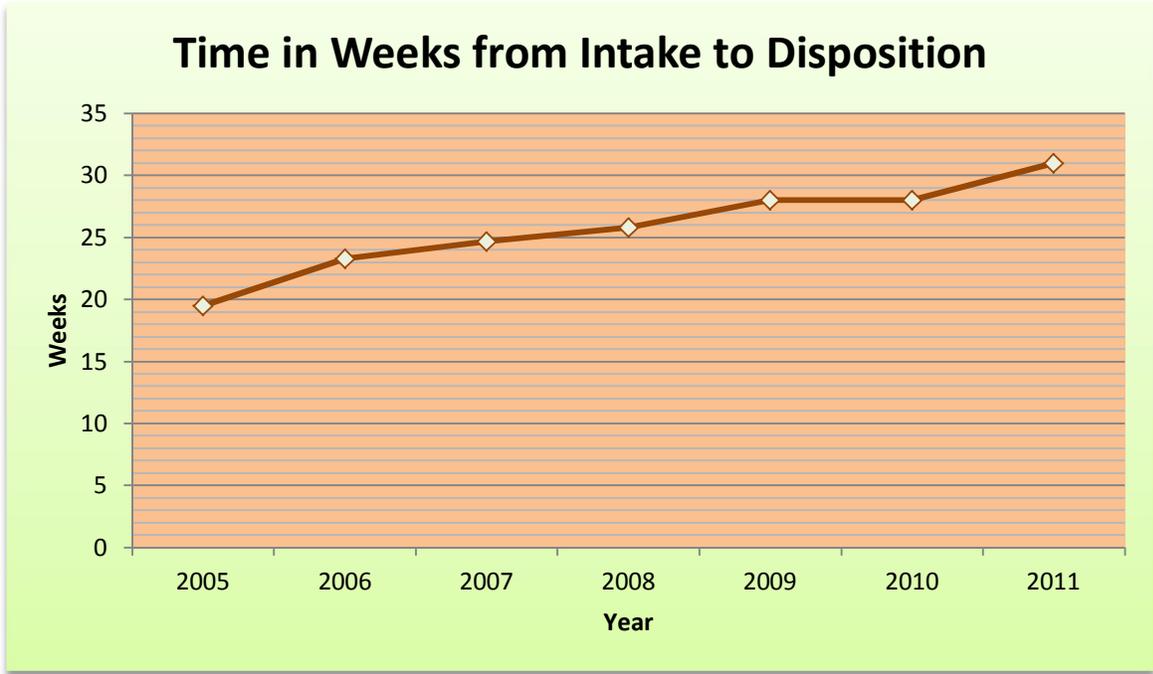
In 2010, single arbitrators arbitrated 296 cases, while panels of three arbitrators arbitrated 330 cases. In 2011, single arbitrators arbitrated 290 cases and panels arbitrated 376.



Statewide, in 2010, the average amount in dispute was \$17,650, which is a 39% increase in the average amount in dispute among 2009 cases (\$12,675). In 2011, that number was \$14,336, which is about a 19% decrease from 2010. A table of caseload activity can be found in Appendix C.

TIME FROM INTAKE TO DISPOSITION

In 2010, it took an average of 28 weeks for programs to dispose of cases, the same as in 2009. In 2011, however, it took about 31 weeks to dispose of cases. The prior years show a gradual increase in the time it took to dispose of a case. In 2005, it took an average of 19.5 weeks. In 2006, it took an average of 23.3 weeks for cases to proceed from intake to disposition, while in 2007 it took an average of 24.7 weeks for cases to proceed from intake to disposition. In 2008 the average was 25.8 weeks.



Funding

The Office of Court Administration continues to fund the following programs in order to help defray costs: the Bar Association of Erie County (BAEC); the New York County Lawyers Association (NYCLA), which administers the Joint Committee on Fee Disputes and Conciliation in Bronx and New York Counties; the Onondaga County Bar Association (OCBA); and the Monroe County Bar Association (MCBA). Beginning in 2007, all funding to bar associations occurs pursuant to the terms of negotiated multi-year contracts based on a fiscal year. The following is a breakdown of the funding that each program received during the fiscal year *April 1, 2010- March 31, 2011*: BAEC - \$8,742; NYCLA - \$76,491; OCBA - \$13,113; and MCBA - \$16,774. For fiscal year *April 1, 2011 - March 31, 2012*, the breakdown is as follows: BAEC - \$8,917; NYCLA - \$78,021; OCBA - \$13,375; MCBA - \$17,109.

Prior to 2007, the Office of Court Administration funded programs through the less formal memoranda of understanding. This change reflects the evolution of the funding process from ad hoc, annual memoranda of understanding to a structured process of negotiated multi-year contracts. As a result of this change, bar associations that obtain funding in support of their local fee dispute resolution programs submit detailed annual budgets for review and approval, and they are required to file reconciliation reports on a quarterly basis. This change brings the funding of Part 137 programs into conformity with the standard budget and contract practices of the Unified Court System. The Board of Governors believes that this change promotes greater accountability and that the budget

negotiation process provides an opportunity for local programs and the Board of Governors to address collaboratively any impediments to a fair, expeditious and efficient process for attorneys and clients.

Local Program Administrator Meetings

As in previous years, the 2010 and 2011 meetings were held by video conference. The ability to meet by video cuts down on travel costs and makes it easier for those administrators who are unable to travel during the day because of other obligations to participate. Scheduling is also more convenient, thus promoting greater attendance and participation. Participants who could travel or who live or work close to New York City attended in-person.

In order to supplement communication between the Board and the local programs and among local program administrators, co-counsel organized *webinars* in 2011. A webinar is a meeting that is conducted over the internet via a secured password protected connection. Local program administrators, board members, co-counsel, and ADR Office staff log-in to the meeting and can share information through presentations and other software on the computer and can speak to one another through a synced phone connection.

One webinar, conducted by Amelia Hershberger from the ADR Office, offered instructions on how to use the Part 137 database. The webinar was intended to orient new program administrators to the database and to provide tips to all administrators on how to edit information in the database.

The other webinar, conducted by co-counsel and Board Member Martha E. Gifford, Esq., offered program administrators guidance on how to assist parties after the award has been rendered without offering legal advice. Topics included enforcing the award, communication and referrals to the local court clerk, help centers, and bar associations, information available on the courts website, and sites that offer free access to New York State Laws.

Legislative Changes in 2010 and 2011

In 2010, the legislature expanded the jurisdiction of the lower courts, including their Small Claims parts, enabling those courts to accept *de novo* actions, from Part 137 arbitrations, in the form of declaratory relief. The jurisdiction of the Town and Village courts was not affected by the change. The amendments to the Uniform District Court Act, the Uniform City Court Act, and the New York City Civil Court Act (§212-a and §1801) became effective January 1, 2011.

On September 4th, 2011, the Uniform City Court Act was amended to allow City Courts to grant aid in relief of arbitration. The City Court Act § 206 was in discord with its sister sections in the UDCA and the NYC Civil Court Act. This change reconciled the Acts and parties who want to confirm, vacate, or modify arbitration awards may now do so in the City Courts.

Looking Ahead

The Board of Governors continues to ensure that there are sufficient numbers of well-trained and qualified arbitrators around the State to preside over fee arbitrations in a fair and timely manner. In 2012, the Board will also look into expanding mediation to more programs. The Board recognizes the importance of continued outreach so that judges, attorneys and clients remain aware of the FDRP.

The expansion of the lower courts' jurisdiction to entertain Part 137 declaratory judgment actions will alleviate the financial burden of commencing this type of action in Supreme Court. By expanding party options, the change increases access to the courts and may also clarify the parties' option to use the trial de novo.

The Board of Governors and co-counsel will again broaden their communications with local programs to include more webinars in between annual local program administrator meetings. Webinar topics will be based on local program needs determined by administrator requests and frequency of similar questions posed to the Board. Webinars will be open to all administrators who wish to participate, but participation will not be mandatory.

The Board will continue to consult with local program administrators to identify concerns and will continue to work with the Administrative Board of the Courts and the Office of Court Administration to oversee this valuable program.

Conclusion

In this annual report to the Administrative Board of the Courts, covering the eighth and ninth full years of operation, the Board of Governors expresses its gratification for the high level of cooperation we have received, without exception, from county-level bar associations in New York State and from District Administrative Judges across the State. We have benefitted greatly from the highly motivated and hands-on lawyers and members of the public who have been appointed by you to serve as members of the Board of Governors. Virtually every one of them has evinced great dedication to their task of implementing Part 137 and working with local programs to ensure the success of this Program.

We, the members of the Board of Governors, greatly appreciate the interest, responsiveness, and support we have received from the Administrative Board of the Courts. We believe that we continue to provide a process that guarantees the fair and speedy resolution of fee disputes and furthers the interests of the public and the legal profession.

APPENDIX A- BOARD OF GOVERNORS

Member	Appointment
Hon. Guy J. Mangano	Chief Judge Jonathan Lippman
Gene A. Johnson	Chief Judge Judith S. Kaye
Mary Loewenguth	Chief Judge Jonathan Lippman
Martha E. Gifford, Esq.	Chief Judge Jonathan Lippman
Simeon H. Baum, Esq.	Chief Judge Judith S. Kaye
Paul M. Hassett, Esq.	Chief Judge Jonathan Lippman
William J. Dockery, Esq.	Presiding Justice Joseph P. Sullivan
<i>Vacant</i>	Presiding Justice (App. Div. 1 st Dept.)
<i>Vacant</i>	Presiding Justice (App. Div. 1 st Dept.)
Stephen W. Schlissel, Esq.	Presiding Justice A. Gail Prudenti
Yolanda A. Walker	Presiding Justice A. Gail Prudenti
Robert J. Avallone, Esq.	Presiding Justice A. Gail Prudenti
Ferdinand J. Acunto	Presiding Justice Anthony V. Cardona
James L. Chivers, Esq.	Presiding Justice Anthony V. Cardona
John H. Pennock, Esq.	Presiding Justice Anthony V. Cardona
Linda M. Campbell, Esq.	Presiding Justice Eugene F. Pigott, Jr.
Elaine Z. Cole, Esq.	Presiding Justice Henry J. Scudder
Katherine S. Bifaro	Presiding Justice Henry J. Scudder

<i>Ex Officio</i>
Abigail Wickham, Esq.

APPENDIX B – APPROVED PROGRAMS

Program Approval Status- Statewide Overview

As of December 31, 2011

District	Administrator	Status
First (Manhattan)	Joint Committee on Fee Disputes and Conciliation	Joint program of New York County Lawyers Assn, Bronx County Bar Assn, and Assn of the Bar of the City of New York. Program operates out of NYCLA headquarters. Approved to administer program as of 3/4/2002
Second (Kings)	Brooklyn Bar Assn	Approved to administer program as of 8/20/2002
Third (Albany, Schoharie, Rensselaer, Greene, Columbia, Ulster, Sullivan)	District Administrative Judge's Office. (Program covers entire District)	Approved to administer program as of 7/23/2002
Fourth (Schenectady, Saratoga, Montgomery, Fulton, Washington, Warren, Hamilton, Essex, St. Lawrence, Franklin, & Clinton)	District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 5/1/2005
Fifth (Onondaga, Herkimer, Jefferson, Lewis, Oneida, Oswego)	Onondaga County Bar Assn, in partnership with the District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 7/24/2002
Sixth (Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga & Tompkins)	District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 4/16/2003

District	Administrator	Status
Seventh (Monroe, Cayuga, Livingston, Ontario, Seneca, Steuben, Wayne & Yates)	Monroe County Bar Assn, in partnership with the District Administrative Judge's Office (Program to cover entire District)	Approved to administer program as of 10/1/2002
Eighth (Erie, Allegany, Cattaraugus, Chautauqua, Genesee, Niagara, Orleans & Wyoming)	Bar Assn of Erie County (Program covers entire District)	Approved to administer program as of 2/6/2002
Ninth (Westchester, Dutchess, Orange, Putnam, Rockland)	District Administrative Judge's Office (Program covers entire District)	Approved to administer program as of 2/24/2003
Tenth (Nassau)	District Administrative Judge's Office (Program covers Nassau County)	Approved to administer program as of 2/24/2003
Tenth (Suffolk)	Suffolk County Bar Assn (SCBA Pilot program ran from Feb. 28, 2003 to Nov. 22, 2004 to arbitrate disputes of \$3000 and above only in Suffolk County; District Administrative Judge's Office arbitrated disputes between \$1,000 and \$3,000. The SCBA now handles all Part 137 fee disputes.)	Approved to administer program as of 10/9/2002
Eleventh (Queens)	District Administrative Judge's Office	Approved to administer program as of 4/24/2003
Twelfth (Bronx)	Same as First District	Same as First District
Thirteenth (Staten Island)	Richmond County Bar Assn	Approved to administer program as of 1/9/2003

APPENDIX C- CASELOAD DATA

The following pages summarize the caseload data that local programs reported.

	Statewide	1st & 12th JDs	2nd JD	3rd JD	4th JD	5th JD	6th JD	7th JD
<u>Disposition Information</u>								
Total Cases Closed	1,124	260	31	49	29	29	19	47
Average Weeks from Intake to Disposition	27.88	39.35	30.82	10.59	25.17	43.83	14.18	40.46
Total Cases Arbitrated	627	137	13	3	17	28	9	21
Cases Arbitrated With Awards Issued	424	127	7	3	13	23	6	18
Cases Settled During Arbitration	123	10	0	0	4	5	3	3
Arbitration Held But No Award Issued	80	0	6	0	0	0	0	0
Cases Arbitrated by One Arbitrator	297	63	5	2	11	19	7	11
Cases Arbitrated by Three Arbitrators	330	74	8	1	6	9	2	10
Total Cases Resolved Outside of Arbitration	226	83	2	7	1	1	5	17
Total Number of Settled Cases	195	53	1	7	1	1	5	17
Settlements Prior to Arbitration	187	47	1	5	1	1	5	17
Settlements Prior to Mediation	8	6	0	2	0	0	0	0
Total Number of Mediated Cases	31	30	1	0	0	0	0	0
Cases Mediated to Agreement	31	30	1	0	0	0	0	0
Cases Mediated With No Agreement	0	0	0	0	0	0	0	0
Total Cases Withdrawn and Dismissed for Lack of Jurisdiction	267	40	15	39	11	0	5	8
Cases Withdrawn	27	4	1	1	2	0	1	1
Cases Dismissed for Lack of Jurisdiction	240	36	14	38	9	0	4	7
<u>Financial Information</u>								
Total Admin. Fees Collected From Parties	\$77,395.00	\$42,625.00	\$2,625.00	\$0.00	\$0.00	\$1,650.00	\$0.00	\$4,825.00
Average Amount in Dispute	\$17,635.56	\$21,083.31	\$8,097.74	\$9,871.82	\$5,351.52	\$8,532.52	\$6,630.84	\$7,332.81

	8th JD	9th JD	10th JD - Nassau	10th JD - Suffolk	11th JD	13th JD
<u>Disposition Information</u>						
Total Cases Closed	69	127	204	189	50	21
Average Weeks from Intake to Disposition	15.98	36.81	15.39	16.11	54.60	36.67
Total Cases Arbitrated	30	70	114	131	38	16
Cases Arbitrated With Awards Issued	25	47	23	93	28	11
Cases Settled During Arbitration	5	22	27	36	8	0
Arbitration Held But No Award Issued	0	1	64	2	2	5
Cases Arbitrated by One Arbitrator	20	33	43	55	22	6
Cases Arbitrated by Three Arbitrators	10	37	71	76	16	10
Total Cases Resolved Outside of Arbitration	4	17	47	32	7	3
Total Number of Settled Cases	4	17	47	32	7	3
Settlements Prior to Arbitration	4	17	47	32	7	3
Settlements Prior to Mediation	0	0	0	0	0	0
Total Number of Mediated Cases	0	0	0	0	0	0
Cases Mediated to Agreement	0	0	0	0	0	0
Cases Mediated With No Agreement	0	0	0	0	0	0
Total Cases Withdrawn and Dismissed for Lack of Jurisdiction	33	40	43	26	5	2
Cases Withdrawn	5	2	0	6	4	0
Cases Dismissed for Lack of Jurisdiction	28	38	43	20	1	2
<u>Financial Information</u>						
Total Admin. Fees Collected From Parties	\$5,420.00	\$0.00	\$0.00	\$18,150.00	\$0.00	\$2,100.00
Average Amount in Dispute	\$4,668.48	\$14,954.47	\$15,037.61	\$36,047.17	\$8,020.50	\$10,939.86

	Statewide	1st & 12th JDs	2nd JD	3rd JD	4th JD	5th JD	6th JD	7th JD
<u>Disposition Information</u>								
Total Cases Closed	1,179	260	50	44	27	15	21	56
Average Weeks from Intake to Disposition	30.66	37.00	30.35	15.09	26.88	45.67	16.33	29.35
Total Cases Arbitrated	666	136	20	6	11	13	11	27
Cases Arbitrated With Awards Issued	442	124	1	4	8	12	6	14
Cases Settled During Arbitration	152	11	14	2	3	1	5	10
Arbitration Held But No Award Issued	72	1	5	0	0	0	0	3
Cases Arbitrated by One Arbitrator	290	43	12	4	6	11	6	16
Cases Arbitrated by Three Arbitrators	376	93	8	2	5	2	5	11
Total Cases Resolved Outside of Arbitration	222	77	4	11	0	2	1	13
Total Number of Settled Cases	185	42	4	11	0	2	1	11
Settlements Prior to Arbitration	180	40	4	9	0	2	1	10
Settlements Prior to Mediation	5	2	0	2	0	0	0	1
Total Number of Mediated Cases	37	35	0	0	0	0	0	2
Cases Mediated to Agreement	37	35	0	0	0	0	0	2
Cases Mediated With No Agreement	0	0	0	0	0	0	0	0
Total Cases Withdrawn and Dismissed for Lack of Jurisdiction	279	46	25	27	16	0	8	11
Cases Withdrawn	26	2	1	1	0	0	1	2
Cases Dismissed for Lack of Jurisdiction	253	44	24	26	16	0	7	9
<u>Financial Information</u>								
Total Admin. Fees Collected From Parties	\$95,900.00	\$50,975.00	\$9,625.00	\$0.00	\$0.00	\$1,350.00	\$0.00	\$8,075.00
Average Amount in Dispute	\$14,335.59	\$22,608.78	\$10,030.42	\$6,142.52	\$4,993.56	\$7,475.67	\$6,287.90	\$8,709.44

	8th JD	9th JD	10th JD - Nassau	10th JD - Suffolk	11th JD	13th JD
<u>Disposition Information</u>						
Total Cases Closed	71	145	177	185	110	18
Average Weeks from Intake to Disposition	17.65	49.35	17.09	19.48	47.20	25.65
Total Cases Arbitrated	24	79	97	150	79	13
Cases Arbitrated With Awards Issued	17	47	20	110	68	11
Cases Settled During Arbitration	7	20	27	39	11	2
Arbitration Held But No Award Issued	0	12	50	1	0	0
<i>Cases Arbitrated by One Arbitrator</i>	14	31	42	54	45	6
<i>Cases Arbitrated by Three Arbitrators</i>	10	48	55	96	34	7
Total Cases Resolved Outside of Arbitration	14	27	40	16	14	3
Total Number of Settled Cases	14	27	40	16	14	3
Settlements Prior to Arbitration	14	27	40	16	14	3
Settlements Prior to Mediation	0	0	0	0	0	0
Total Number of Mediated Cases	0	0	0	0	0	0
Cases Mediated to Agreement	0	0	0	0	0	0
Cases Mediated With No Agreement	0	0	0	0	0	0
Total Cases Withdrawn and Dismissed for Lack of Jurisdiction	32	39	38	18	17	2
Cases Withdrawn	4	1	1	9	2	2
Cases Dismissed for Lack of Jurisdiction	28	38	37	9	15	0
<u>Financial Information</u>						
Total Admin. Fees Collected From Parties	\$6,250.00	\$0.00	\$0.00	\$17,825.00	\$0.00	\$1,800.00
Average Amount in Dispute	\$5,443.79	\$19,827.49	\$14,995.86	\$12,216.48	\$9,545.51	\$8,522.83