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September 9, 2024

John J. Mudd, Executive Director
State Bar of Montana

c/o Jill Diveley
33 S. Last Chance Gulch, Suite 1B
Helena, MT 59624

SENT VIA EMAIL ONLY
jdiveley@montanabar.org

RE: 2024 Annual Report
Fee Arbitration Committee

Dear Director Mudd and Ms. Diveley,

Please accept the following report which I submit as Chairperson of the Fee Arbitration Committee and its members.

On May 15, 2024 I met with Executive Director John Mudd, along with state bar staff members. Among the subject areas discussed for future consideration and action include: 1) discussion of text for revision to Rule 7.3 of the Fee Arbitration Rules to address the authority of the Committee to issue discovery subpoenas under required circumstances during the fee arbitration process; 2) establishing a standing committee meeting date, or alternatively, semi-annual meeting dates, and related use of Zoom or similar technologies; and, 3) the need to strengthen state-wide committee membership to include a greater number of judicial districts – currently the committee is composed of attorneys mainly from Bozeman (3), Missoula (4), Billings (1), Helena (2) and Kalispell (1).

There will be some significant changes in the composition of the Fee Arbitration Committee beginning this fall of 2024. I will be stepping down as chairperson and member of the committee later in the fall after a full transition is completed. The new committee chair will be occupied by former state bar association president David Steele of Missoula. I recently recommended and nominated Lisa A Griffith of West Yellowstone to serve immediately in the committee membership position previously held by Matt Lowry. There are also one or more membership positions open for enrollment to fill vacancies of myself and Francis Raucci. I look forward to meeting with David Steele, Stu Segrest and others to discuss general fee arbitration committee business during the state bar convention later this week.

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More recently, Director Mudd and I discussed a potential conflict involving committee members who serve at the trial and appellate court levels. The concern arises mainly from the possible scenario where a fee arbitration claimant files an action following unsuccessful, non-binding arbitration and the matter ends up being calendared before a judge or justice. Currently Paul D. Sullivan is a long-time committee member and is now a justice of the peace in Kalispell. Justice Ingrid Gustafson an associate Montana Supreme Court Justice is also a member of many years. Part of the question here are concerns over the role of the supreme court in its capacity of governance over the fee arbitration committee and its rules. I have contacted and discussed this matter with Justice Gulbrandson. She is happy to continue to serve but understands the potential conflict, or appearance of conflict, and is happy to discuss this with the committee chair and Director Mudd. Efforts to contact Judge Sullivan by phone and email have been unsuccessful so far. Additional discussion and a committee decision about this matter should be made reasonably soon.

This report is intended to provide a useful summary of recent developments and the future plans and activities of this committee. There are of course more details to be discussed in seeking further improvement and efficiency of the Fee Arbitration Committee in order to better serve Montana counsel and their clients and the public under the Fee Arbitration Rules.

I look forward to working with Director Mudd, David Steele, committee members and state bar staff for a smooth transition. It has been an honor to serve on this committee.

Yours very truly,

RALPH W. STEELE, P.C.



Ralph W. Steele

RWS

Cc: John J. Mudd (jmudd@montanabar.org)