

REPORTS OF SPECIAL COMMITTEES

SPECIAL COMMITTEE ON THE RESOLUTION OF FEE DISPUTES

Richard C. Sullivan, Jr., Chair

The Special Committee on the Resolution of Fee Disputes oversees the bar's Fee Dispute Resolution Program (FDRP). The FDRP began in 1995, after extensive study by the special committee. The FDRP provides the bar and the public with an informal, private, quick and inexpensive alternative to litigation or the disciplinary system for resolving fee disputes through voluntary binding arbitration.

The program now has 12 Circuit Committees on the Resolution of Fee Disputes (CCRFD) around the commonwealth. Each CCRFD is made up of a panel of lawyers and nonlawyers nominated by the local bar associations and appointed by the Virginia State Bar president. The special committee writes the rules that govern arbitrations, and periodically reviews and revises those rules. It also conducts training sessions for panel members of the CCRFDs. There are CCRFDs in the tenth, eleventh, thirteenth, sixteenth, eighteen, nineteenth, twentieth, twenty-third, twenty-fourth, twenty-seventh, twenty-eighth and thirty-first circuits. The Tidewater area does not have an official CCRFD, but is served by the Norfolk and Portsmouth Bar Associations, and referrals go from the Virginia State Bar to the Norfolk and Portsmouth Bar Association Fee Dispute Resolution Committee. The Hampton and Arlington bars have both expressed an interest in forming a CCRFD, and the special committee is working with local bar leaders toward that goal.

The committee continues to focus on raising the profile of the program, especially with the judiciary and bar members. The committee began a pilot program in the twenty-third circuit, working with the general district court to try and divert as many fee dispute cases as possible into the program by raising the awareness of the judges and litigants to the existence of the program.

The committee also established a task force this year, at the request of Mike Glasser and Ben Dimuro, to consider the question of whether an attempt at mediating a fee dispute should become a prerequisite to litigating or arbitrating a fee dispute. The task force will be studying recommendations over the next year made by the Sub-Committee on Disciplinary Efficiency of the Standing Committee on Lawyer Discipline to further examine the question.

Last year the Virginia State Bar received 300 inquiries from attorneys and clients seeking help resolving a fee dispute. One hundred and forty-two referrals were made by the Virginia State Bar to local CCRFDs. The local CCRFD chairs, who are charged with overseeing each local CCRFD and with making initial efforts to conciliate or mediate fee disputes before the hearing stage, reported receiving 46 inquiries during the year. The number of hearings held and disputes resolved remained steady compared to prior years, and the special committee continues to believe that there are numerous additional fee disputes for which the program could be well-suited.

The special committee continues to raise awareness of the program, hoping to remind more lawyers and clients about the existence of the program as an option for resolving fee disputes. The program's statistics consistently indicate that more clients sign agreements to arbitrate than do attorneys, and the special committee continues to be concerned about that trend. The hope is that, by reminding judges and lawyers that the program exists, more attorneys will agree to arbitrate their fee disputes.

