

Request for Arbitration of a Fee Dispute

The San Mateo County Bar Association Fee Arbitration Program is governed by the rules of procedure. If you do not have a copy, **contact this office at 650.298.4023 or download the rules from our website: www.smcba.org**. You should read the rules carefully and contact this office if you have any questions.

Instructions:

- **All sections of this form must be completed.**
- Incomplete forms or completed forms **without** the required number of copies **will not be accepted & will be returned.**
- Sign and date where indicated below (the individual requesting arbitration has to sign, not his/her counsel).
- Return **the original and 4 copies** of this form and all attachments, along with your filing fee, to:

San Mateo County Bar Association
 Attn: Fee Arbitration Program
 333 Bradford Street, Suite 200
 Redwood City, CA 94063

Failure to follow the instructions and/or not submitting this request form with the required copies within the time limitations could result in loss of your right to arbitrate your fee dispute.

Please print or type.

1. (a) Name of CLIENT:

 Name

 Box or Street Address

 City State Zip Code

 (Area Code) Day Time Telephone Number

 Email

(b) Name of INDIVIDUAL ATTORNEY

With whom there is a dispute:

 Name

 Box or Street Address

 City State Zip Code

 (Area Code) Day Time Telephone Number

 Email

(c) Person Who Paid/Assumed Responsibility for Paying Attorney's Fees:

(if different from (a) above)

 Name

 City State Zip Code

 Box or Street Address

 (Area Code) Day Time Telephone Number

2. If you are, or will be, represented by an attorney in the arbitration, provide his/her information below:

 Name

 City State Zip Code

 Box or Street Address

 (Area Code) Day Time Telephone Number

3. The hearing in this matter will take place in the county where most of the legal services were provided. In what county were most the services provided?

County

4. (a) When did the client hire the attorney?

Month/Day/Year

(b) When did the attorney stop representing the client or provide a final bill (which ever is later)?

Month/Day/Year

5. What type of case was the attorney handling for the client? (Divorce, criminal, etc.)

6. Do you have a written fee agreement? If yes, ATTACH a copy of fee agreement.

Yes No

7. (a) Did the attorney give the client or person responsible for payment of the fees a written notice of their right to arbitration? If yes, ATTACH a copy of Notice.

Yes No

(b) If yes, what date did the client receive the written notice?

Month/Day/Year

8. (a) Has the attorney filed a lawsuit to collect the fees or costs? If yes, ATTACH a copy of Complaint.

Yes No

(b) If yes, has the client answered the lawsuit? If yes, ATTACH a copy of Answer.

Yes No

9. Has the client filed a lawsuit against the attorney? If yes, ATTACH a copy of Complaint.

Yes No

10. Were the fees ordered by the court or set by law? If yes, explain on a separate sheet and ATTACH a copy of Court Order.

Yes No

11. Amount already paid to the attorney. \$ _____

12. Additional amount, if any, the attorney says is still owed. \$ _____

13. Add lines 11 and 12. \$ _____

14. Total amount you think the attorney should be paid. \$ _____

15. Client: subtract line 14 from line 13. Attorney: subtract line 14 from line 11. This is the disputed amount. \$ _____

16. Filing Fee. Enter the filing fee amount. \$_____ The filing fee is 6% of the disputed amount.

Fee disputes less than \$1000 will be decided by the SMCBA's Client Relations Committee, without a hearing.

***The filing fee amount shall not be less than \$100 and shall not exceed \$7,000.00.**

Make your check payable to the San Mateo County Bar Association. To pay by credit card, the client must come into the SMCBA office (address listed on pg.1 of this application). All major credit cards accepted. Do not send cash.

17. On a separate piece of paper provide a comprehensive summary of the nature of the fee dispute, attaching additional sheets as necessary and attaching copies of billings and communications with the attorney regarding the fees.

18. If the fee dispute is for less than \$15,000, it is heard by one (1) arbitrator. If it is for \$15,000 or more, it is heard by three (3) arbitrators. If both you and the attorney agree, you can have the dispute heard by one (1) arbitrator even if the dispute is for \$15,000 or more.

- My dispute is for less than \$1,000 and will be decided by the SMCBA's Client Relations Committee, without a hearing.
- My dispute is for less than \$15,000.
- My dispute is for \$15,000 or more and I **agree** to one arbitrator
- My dispute is for \$15,000 or more and I **do not agree** to one arbitrator.

19. Unless both you and the attorney agree in writing to **BINDING ARBITRATION**, this arbitration is **NON-BINDING**.

Non-Binding either of you has the right to ask for a trial in a *civil court* within 30 days from the date the award is mailed to you. **If neither of you ask for a trial in 30 days of the date the award is mailed to you, the award automatically becomes final and binding.**

Binding Arbitration means that if you and the attorney **BOTH** agree in writing to make the arbitration **BINDING**, a trial may **not** be requested and the award will **immediately become final and no party may request further court proceedings.**

Do you agree to binding arbitration? Yes No

20. If the attorney represented the client in a civil matter, you are entitled to choose an arbitrator who practices civil law; if the attorney represented the client in a criminal matter, you are entitled to choose an arbitrator who practices criminal law. Please indicate your choice below.

- I do not have a preference.
- I want an attorney who practices civil law as an arbitrator.
- I want an attorney who practices criminal law as an arbitrator.

21. Are you willing to see if your case can be resolved through mediation prior to arbitration?

Mediation is a completely voluntary process in which a neutral third party will attempt to help the parties settle their case. If the parties are unable to resolve the dispute through mediation, the matter will proceed to arbitration. Unless both you and the attorney agree to enter mediation, the case will proceed to arbitration.

- I agree to participate in pre-arbitration mediation to see if the case can be resolved.
- I do NOT agree to participate in pre-arbitration mediation to see if the case can be resolved.

I declare under penalty of perjury under the laws of the State of California that my statements on this request and any attachments are true and correct.

Sign here

Date

Signature of (print your name)

Sign here (if more than one person is requesting arbitration)

Date

Signature of (print your name)