

**RULES AND PROCEDURES OF THE
SPECIAL FEE DETERMINATION COMMITTEE
OF THE ALLEGHENY COUNTY BAR ASSOCIATION**

Purpose of the Committee

1.1 The purpose of the Special Fee Determination Committee (“Committee”) is to provide for the expeditious and final resolution of disputes involving charges for professional services by attorneys who are members of the Allegheny County Bar Association (ACBA) through binding arbitration.

Composition of the Committee

2.1 The Committee shall consist of a Chairperson, a Vice-Chairperson, and members in good standing of the ACBA who have been in practice for at least five (5) years.

2.2 The members shall be appointed to the Committee consistent with the Bylaws of the ACBA. Recommendations may be made by the Chairperson or the Vice-Chairperson.

2.3 The members shall serve as an Arbitrator from time-to-time without compensation.

Jurisdiction

3.1 The Committee shall have jurisdiction in disputes involving charges for professional services arising within Allegheny County, except:

- (a) Disputes in which the fee charged to or paid by the client or on the client’s behalf is governed pursuant to Statute, or by Order, Rule or Decision of a court or an administrative agency;
- (b) Disputes where a client seeks damages other than a reduction or reimbursement of a fee;
- (c) Disputes that are the subject of a lawsuit, unless the parties agree to stay the legal proceedings and submit the matter to the Committee for binding arbitration;
- (d) Matters in which either party has obtained a judgment against the other party regarding fees in dispute through litigation, default, or by consent, unless the judgment is opened or stricken through a separate court proceeding;
- (e) Matters in which the initial Petition is filed more than four (4) years from the date when the last legal service was performed or the last payment for services was made, whichever occurred later;

- (f) Disputes where the amount in controversy is \$1,000 or less or more than \$25,000.
- (g) Disputes brought by a third party non-client who does not have a legal right to contest the fee; and
- (h) Any matter determined to be inappropriate by the Chairperson in his/her sole discretion.

Initiation of Proceedings

4.1 A party (i.e., either counsel or a client of counsel) shall commence proceedings before the Committee by completing and submitting the following documents to the Committee:

- (a) Petition (Form 1), which shall have attached to it copies of any relevant correspondence, pleadings, fee/retainer agreement, billing statements, etc.; and
- (b) An executed Agreement to Arbitrate (Form 2).

The party commencing the proceeding shall be referred to as the "Petitioner".

4.2 Upon receipt of the documents identified in Paragraph 4.1(a) and (b), the Chairperson of the Committee shall determine whether the Committee has jurisdiction over the matter. The decision of the Chairperson shall be final.

4.3 If the Chairperson determines that the Committee does not have jurisdiction, the Chairperson shall promptly notify both parties in writing of the lack of jurisdiction and the case shall be closed.

4.4 If the Chairperson determines that the Committee has jurisdiction, the Chairperson, or his/her designee, shall serve on the opposing party, hereinafter referred to as the "Respondent", a copy of all documents received from the Petitioner, along with an Agreement to Arbitrate (Form 2) and a copy of the Rules and Procedures of the Committee. Service shall be by regular mail at the address provided by the Petitioner on the Data Sheet. The Respondent shall be notified that he/she has twenty (20) days from the date of the letter to respond in writing.

4.5 If the Respondent declines to execute the Agreement to Arbitrate, either by responding in writing that he/she does not agree to submit the matter to binding arbitration or by not responding in writing within the twenty (20) day time limit, the Respondent shall be deemed not to consent to binding arbitration before the Committee, and the Chairperson, or his/her designee, shall notify both parties in writing of that fact and the case shall be closed.

4.6 If the Respondent executes the Agreement to Arbitrate and returns it within the twenty (20) day time limit, the Chairperson, or his/her designee, shall schedule a hearing pursuant to the rules and procedures set forth below.

4.7 If the Chairperson receives an Order of Court from the Court of Common Pleas of Allegheny County directing him/her to schedule a hearing, a hearing shall be scheduled pursuant to the rules and procedures set forth below.

Scheduling of Arbitration Hearings

5.1 Within twenty (20) days of receiving the executed Agreement to Arbitrate from the Respondent, the Chairperson shall appoint an Arbitrator.

5.2 The Arbitrator shall be selected from members of the Committee in good standing, with a preference for the appointment of an Arbitrator who practices in the area of law involved in the dispute.

5.3 No Arbitrator shall be appointed to serve on a Panel if he/she has an actual or potential conflict of interest in the matter.

5.4 The parties shall not have the right to object to the appointment of an Arbitrator absent proof to the Chairperson of an actual conflict of interest.

5.5 For all disputes, a single Arbitrator shall be appointed.

5.6 Upon designation of the Arbitrator, the Chairperson, or his/her designee, shall arrange a hearing date and time as promptly as possible, but ordinarily not more than sixty (60) days from the date of the filing of the Petition.

5.7 Written notice of the hearing date shall be provided to the parties and the Arbitrator via regular mail. Said written notice shall also inform the parties of the following:

- (a) the right to be represented by counsel, at the party's sole expense;
- (b) the right to present witnesses; and
- (c) the right to present exhibits.

5.8 The hearing date shall only be continued due to an emergency or exigent circumstances. The Chairperson shall make the determination of what constitutes an emergency or an exigent circumstance on a case-by-case basis. Said determination shall be final.

5.9 Neither party shall have the right to withdraw his/her consent to arbitrate.

5.10 In the event that a party does not appear at the time designated for the hearing, the hearing shall proceed in his/her absence. The Arbitrator shall take testimony and evidence from the party who appears and render an award based thereon. An award shall not be made solely on default or failure to appear.

Conduct of Arbitration Hearings

6.1 The statute governing Common Law Arbitration, as set forth in 42 Pa.C.S.A. §§7341 and 7342, shall apply to proceedings within the jurisdiction of this Committee.

6.2 The hearing before the Arbitrator shall be conducted in the following manner:

- (a) The Petitioner shall present his/her case first, with the Respondent presenting his/her response thereafter;
- (b) Testimony may be via narrative or examination;
- (c) Witnesses, at the option of the Arbitrator, may be required to testify under oath;
- (d) Witnesses shall be subject to cross-examination;
- (e) The Arbitrator may question a party or a witness;
- (f) The Rules of Evidence shall not apply;
- (g) The hearing may be transcribed by a certified court reporter, at the expense of the party seeking to have the hearing transcribed and with prior notice to the Chairperson and the other party.
- (h) Evidence in the form of an Affidavit may be admitted at the discretion of the Arbitrator; and
- (i) Rulings with regard to relevancy or materiality of evidence shall be made by the Arbitrator and shall be final.

6.3 The award of the Arbitrator shall ordinarily be rendered at the close of the hearing, but in no event more than five (5) days after the hearing.

6.4 The award shall be in writing and signed by the Arbitrator.

6.5 The award may, at the option of the Arbitrator, include an explanation.

6.6 The award shall be served on the parties via regular mail.

6.7 The award may be reduced to judgment upon application of a party pursuant to 42 Pa.C.S.A. §7342(b) and Pennsylvania Rules of Civil Procedure 1327, 1328, and 1331.

Waiver of a Hearing

7.1 By agreement of all parties, a hearing may be waived and an award may be rendered on the basis of written submissions only. This option may be helpful in the event that a party is incarcerated.

7.2 If a request for waiver of a hearing is made, the Chairperson, or his/her designee, shall send the request to the opposing party with a request to respond in writing as to whether he/she agrees to waive the hearing.

7.3 If the opposing party does not agree to waive the hearing and the other party is unable to attend a hearing in a timely fashion, no hearing shall occur and the case will be closed.

7.4 If the opposing party agrees to waive the hearing, the Chairperson, or his/her designee, shall notify both parties that the hearing has been waived. The Petitioner shall be given twenty (20) days to submit any additional information for consideration by the arbitrator(s). The Respondent shall be given twenty (20) days to respond to the Petition and submit any information for consideration by the arbitrator(s). No further submissions will be accepted. The Arbitrator shall render an award within twenty (20) days of the submission by the Respondent, in accordance with Paragraphs 6.3 through 6.7.

Conclusion

8.1 At the conclusion of the case, the entire file, including all exhibits produced at the hearing, shall be returned to the Chairperson or his/her designee.

8.2 The file shall be maintained for a period of one year from the date of the hearing. Thereafter, it may be destroyed at the option of the Chairperson.