

HBA Fee Dispute FAQ



The Houston Bar Association's 12,000+ member attorneys have a continued commitment to serving the legal profession and the community. Established in 1870, the Association's purpose was to maintain high standards in the legal profession and provide legal education for Harris County attorneys. Today, the HBA, the fifth largest voluntary bar association in the nation, still adheres to those basic principles, but has expanded its goals to include public service and better access to legal services for all citizens in the Greater Houston area. The HBA is a non-profit organization supported solely by member dues.

What is Fee Dispute Arbitration?

The Fee Dispute Committee (FDC) provides a free, confidential and expeditious resolution of fee disputes involving attorneys. Fee arbitration is a procedure in which a dispute is submitted, by agreement of the parties, to a panel of three volunteer arbitrators (two attorneys and one non-lawyer member of the FDC) assigned by the FDC Chair. The arbitrators may consider the written submissions by the parties, witness testimony, and other documentary evidence before issuing a final and binding written award.

Why do both parties need to consent to the arbitration?

As arbitration is a voluntary process, it requires the consent of both parties. The complaining party may choose to seek other legal actions if the responding party refuses to participate in the arbitration process. *After all parties have agreed in writing to be bound by an arbitration decision, a party may not withdraw from that agreement unless all parties agree to the withdrawal in writing.*

What types of fee disputes are submitted to the FDC?

- **Client/Attorney Fee Disputes**
The FDC arbitrates any disagreement between a client or former client and attorney concerning the fee paid, charged or claimed for legal services where there is an expressed or implied contract establishing an attorney-client relationship.
- **Attorney/Attorney Fee Disputes**
The FDC arbitrates any disagreement between two or more attorneys concerning division of fees.

The FDC does not resolve:

- Disputes where the client has a pending lawsuit or counterclaim for damages against the attorney based upon alleged malpractice or professional misconduct.
- Disputes where the client has a pending grievance with any state or local Grievance Committee against the attorney based upon alleged professional misconduct.

- Disputes where the request for arbitration is filed more than 4 years after the attorney-client relationship has been terminated or more than 4 years after the final billing has been received by the client, whichever is later.
- Disputes where the attorney is also admitted to practice in another jurisdiction, the lawyer maintains no office in Texas, and no portion of the legal services was rendered in Texas.
- Disputes where entitlement to and the amount of the fees and/or costs charged or paid to a lawyer by the client or on the client's behalf have been determined by court order, rule, or decision.

How much does fee dispute arbitration cost?

There is no cost for the dispute resolution service provided by the FDC.

How do I submit a fee dispute for resolution by the FDC?

- A **client or former client** with a fee dispute involving an attorney may contact the HBA and request forms to initiate the fee dispute process.
- Any **attorney** may request forms to initiate the fee dispute process.
- Any **judge** may order participation of parties involved in a fee dispute with an attorney by forwarding a copy of the order to the HBA.

Should I try to resolve the fee dispute on my own?

It is best if an attorney and client can come to an agreement by taking time to communicate. Often, a meeting between the attorney and client, during which concerns are openly discussed, can resolve the problem. However, if all efforts at agreement have failed, any attorney or client may wish to take advantage of the dispute resolution process offered by the FDC.

Do I need to hire an attorney?

You do not need to hire an attorney to participate in the fee dispute process. Any party may be represented by counsel, but the fees for such counsel shall not be collectable in the arbitration.

Is it possible that I could end up having to pay the attorney more money?

You will not have to pay the attorney more money than the amount in dispute; however, if you claim that the attorney owes you a refund and the attorney files a counter-claim for fees owed, then the FDC would consider the merits of both claims. The attorney cannot send you a bill for his/her participation in the fee dispute process, regardless of the outcome.

How do I initiate a complaint or request a fee dispute arbitration?

Upon receipt of the approved Complaint form (including any relevant documents), the HBA will forward a copy to the Respondent along with a consent form to be executed and returned. If the Respondent consents to arbitration, the FDC Chair will assign a panel to hear the fee dispute. If the Respondent fails to respond timely or declines to consent, the file will be closed and the Complainant will be so notified. The Respondent

may also file a Complaint (counter-claim) against the Complainant, but it may only pertain to the amount of the fee in dispute.

Can I contact the Panel Chair or any of the panel members before the arbitration?

Attempting to communicate with the Panel Chair or any of the panel members before the arbitration is against the rules and regulations. The panel cannot give either party legal advice. If you have an emergency and need to reschedule your arbitration, please contact the Houston Bar Association office at 713-759-1133.

What happens at the arbitration?

The arbitration is scheduled by the Panel Chair and usually conducted in a conference room setting. After the Panel Chair makes introductory remarks, the Complainant and Respondent are each given an opportunity to make a brief opening statement; call witnesses; present supporting documentary evidence; and make a closing argument. The panel may direct questions to the Complainant, Respondent, or any witness. When the hearing is concluded, all parties will be excused. Thereafter, the panel will deliberate and render a decision. All statements made during any hearing of a fee dispute are confidential.

How do I find out the decision of the arbitrators?

The decision of the panel will be in writing. The Panel Chair shall deliver the decision to the parties by certified mail, return receipt requested within thirty days after the hearing.

How can I enforce an arbitration award?

If an award is not paid within thirty days, a party may go to court to enforce the award. *The HBA will not participate in any court proceeding.*

Who should I call if I have questions?

For general questions, please call the HBA at **713.759.1133**. Information and forms to initiate the fee dispute process may also be downloaded from the HBA's web site at www.hba.org. If you have any questions about the procedures to be followed at the hearing or the scheduling of the hearing, you may contact your Panel Chair directly. *Do not attempt or expect to discuss the merits of the case with the Panel Chair prior to the hearing. Neither the Panel Chair nor members of the FDC can offer you legal advice.*

For more information, please contact the HBA at 713.759.1133 or go to our web site at www.hba.org.