

**TARRANT COUNTY BAR ASSOCIATION
FEE ARBITRATION COMMITTEE**

FEE ARBITRATION RULES

1. ARBITRATION OF FEE DISPUTES.

1.01 Purpose.

The Tarrant County Bar Association has an obligation to clients of attorneys subject to these Fee Arbitration Rules and to the public in general to strive to ensure that such attorneys charge fair and reasonable fees for legal services actually rendered. Conversely, attorneys are entitled to their just compensation for work well performed. Therefore, the Fee Arbitration Committee (hereinafter referred to as “Committee”), created by these Rules shall have as its purpose the prompt and equitable disposition of fee disputes between attorneys subject to these Rules and their clients.

1.02 Tarrant County Attorneys and Non-Resident Attorneys.

Tarrant County Attorneys and non-resident attorneys who practice before the Courts of Tarrant County or who render legal services to residents of Tarrant County shall be subject to these Rules and the requirements thereof.

1.03 Voluntary Arbitration.

Fee Arbitration pursuant to these Rules is voluntary for both clients and lawyers. Although participation in the Fee Arbitration Program is strictly voluntary, such arbitration is consistent with the Texas Lawyers Creed and all attorneys should conscientiously consider agreeing to such arbitration. Once arbitration is agreed to the process and the award are binding and enforceable in a court action.

1.04 Fee Arbitration Guidelines.

Panel members may rely generally on Disciplinary Rule 1.04 of the Texas Disciplinary Rule of Professional Conduct in the arbitration of fee disputes under these Rules.

1.05 Pending Litigation.

A fee arbitration request may be filed and accepted by the Committee Chairperson notwithstanding the existence of a pending lawsuit to collect or to challenge the fee charged by the attorney involved in the fee dispute; provided, however, the request to arbitrate must be timely filed with the Committee Chairperson prior to the occurrence of substantial proceedings in the pending fee litigation.

The determination whether substantial proceedings have occurred shall be vested in the absolute discretion of the Committee Chairperson. If a matter is submitted to Fee Arbitration under these Rules, the parties to any lawsuit concerning the fee dispute must, as a condition of Arbitration, agree to request the court stay the fee

dispute lawsuit pending the outcome of the Arbitration proceedings. The written rendition of final award by the Fee Arbitration Panel shall be submitted to the Court in which the fee litigation is pending for entry in final disposition of the lawsuit and all other costs.

1.06 Minimum Jurisdiction.

The Committee Chairperson shall have the discretion to decline jurisdiction on disputes involving attorney's fees in which the amount in controversy is \$500.00 or less. The Chairperson, in the Chairperson's sole discretion, may elect to act as sole arbitrator or may designate a Panel Chairperson to act as sole arbitrator in the processing and hearing of disputes involving amounts of less than \$1,000.00, and following the hearing pursuant to Section 3 of these Rules, the written award of the Committee Chairperson or designated Panel Chairperson shall be binding and final pursuant to Section 4 hereof.

1.07 Disputes Not Subject to Arbitration.

Disputes are not subject to arbitration under these Rules if the request for Arbitration has been filed more than two (2) years after the lawyer-client relationship has been terminated or more than two (2) years after the final billing has been received by the client, whichever is later.

1.08 Costs.

The services of the Committee are without cost to Tarrant County residents, Tarrant County attorneys, and non-resident attorneys who practice before the Courts of Tarrant County or who render legal services to residents of Tarrant County.

2. FEE ARBITRATION COMMITTEE.

2.01 Creation of Committee.

In order to facilitate dealings between the members of this Association and their clients, there is hereby created a Fee Arbitration Committee.

2.02 Fee Arbitration Committee Chairperson

a. Appointment of Committee Chairperson

The Committee shall consist of a Committee Chairperson appointed by the President of the Tarrant County Bar Association promptly following the President's election. The Committee Chairperson shall be appointed for a two-year term and shall serve until a successor has been duly appointed by the President.

b. Duties of Committee Chairperson

Annually, the Committee Chairperson shall divide the membership of the Committee into a sufficient number of panels to promptly and expeditiously process the Committee's activities. The Committee Chairperson shall designate a Panel Chairperson of each panel. The

Committee Chairperson shall be responsible for assigning disputes to the panels, for obtaining consents of the parties to arbitrate and for the general administrative affairs of the Committee. The Committee Chairperson shall not regularly sit with a panel, but shall be eligible to serve in the event a member of a particular panel cannot hear a dispute. The Committee Chairperson shall be responsible for the interpretation and application of these rules. The decision of the Committee Chairperson shall be final in all disputes. The Committee Chairperson may delegate any administrative function under these rules to an employee of the Tarrant County Bar Association staff.

2.03 Fee Arbitration Committee - Panel Chairperson and Panel Members

a. Duty of Committee

It shall be the duty of the Committee to hear and decide all disputes between attorneys and clients regarding any attorney's fee, which are submitted to it in accordance with these Rules.

b. Panel Chairperson

Each panel shall consist of one Panel Chairperson who shall be appointed by the Committee Chairperson for an initial one-year term and shall serve until a successor has been duly appointed.

c. Panel Members

The Committee shall consist of a sufficient number of panels composed of three (3) or five (5) persons each as may be deemed necessary by the Committee Chairperson to expeditiously process fee arbitration disputes.

If a panel consists of three (3) persons, two (2) of the panel members shall be lawyers and one (1) shall be a "nonlawyer community representative". If a panel consists of five (5) persons, three (3) of the panel members shall be lawyers and two (2) shall be nonlawyer community representatives.

Any member of the Tarrant County Bar Association may serve on a panel. A panel shall not consist of members related to each or other working with each other at the same law office or firm.

d. Acceptance of Appointment to Panel

Upon appointment to a panel, the appointee shall file a statement in writing with the Executive Director of the Association setting forth the appointee's agreement to judge disputes submitted fairly and in accordance with these Rules, and acknowledging that it shall be the appointee's duty as a member of the panel to make an award to one party or the other in all disputes submitted for arbitration. The statement shall also provide that the appointee will not serve in any arbitration proceeding in which the appointee has a financial interest or in which the appointee is prejudiced for or against either party.

e. Substitution, Resignation or Removal of Panel Members

Arbitration Committee members who have not been reappointed to their prior panel, shall automatically be substitute Committee panel members for any panel with a vacancy at the time of a fee dispute hearing. The Committee Chairperson may designate Committee members not assigned to panels as substitute members. The Committee Chairperson, any Panel Chairperson, or any panel member may voluntarily resign or be removed by majority vote of the Tarrant County Bar Association Board of Directors.

2.04 Exclusion of Liability.

The Committee Chairperson and members of the Committees are not necessary or proper parties in any judicial proceeding related to the arbitration award. Neither the Chairperson, nor any member of the Committee shall be subpoenaed or compelled to testify in any court pertaining to any matter presented to the Chairperson or the Committee by way of complaint, response, or other evidence. Neither the Tarrant County Bar Association, its officers or directors, the Committee Chairperson, any member of a Committee, nor any person participating in the hearing shall be liable to any party for any act or omission in connection with any arbitration proceedings conducted under Title 7 of the Texas Civil Practice and Remedies Code or these Rules.

2.05 Quorum.

A quorum of a particular panel shall consist of three (3) members of that panel. An award may be made by majority vote of the panel. In the event of a vacancy or absence, substitute Committee members as defined in Section 2.03(f) of these Rules may be added to a panel at the discretion of the Panel Chairperson. It is the policy of the Association to encourage the participation of community representatives in panel hearings. In the event a community representative is not available for hearing, a quorum may consist of only attorney members.

2.06 Disqualification of a Panel Member.

A member of the Committee shall be disqualified to serve in any arbitration proceeding:

- a. If the Committee member or a member of the Committee member's law firm is a party to the proceeding or has a financial interest in the outcome of the proceeding; or
- b. If the Committee member states that the Committee member is prejudiced in the proceeding; or
- c. If the Committee member is related by blood or marriage to a party; or
- d. If either party to the arbitration proceeding requests that the Committee member be disqualified for cause. The Panel Chairperson shall be the sole and exclusive judge of the sufficiency of such cause.

If a party requests the disqualification of a Panel Chairperson, the Committee Chairperson may, in his sole discretion, reassign the arbitration to another panel.

3. FILING A REQUEST FOR FEE ARBITRATION

3.01 Initiation of a Proceeding.

An arbitration proceeding may be initiated by filing a written request for arbitration with the Committee Chairperson, or the Chairperson's designee. Such written request shall describe the nature of the dispute and set out the names and addresses of the parties involved. A written request for arbitration may be filed with the Committee Chairperson by any of the following:

- a. A client who has a fee dispute with a member of the Association or with a member of the State Bar of Texas who is not a member of the Association but who is a resident of Tarrant County, Texas or who practices or provides services to residents in Tarrant County;
- b. By a member of the Association;
- c. By a member of the State Bar of Texas who is not a member of the Association but who resides or regularly practices or provides services in Tarrant County, Texas;
- d. By the Chairperson or the Secretary of any District Grievance Committee of the State Bar of Texas or the Office of General Counsel; and/or
- e. Any Judge of a Court located in Tarrant County.

3.02 Preliminary Examination by the Chairperson.

Upon receipt of a written request to arbitrate, the Committee Chairperson shall make a preliminary determination whether the matter is appropriate for consideration by the Committee. In the event the Chairperson determines that the matter is one which should be declined as outside the powers of the Committee, the Chairperson shall advise the party who filed the written request for arbitration that the Committee declines to accept the dispute for arbitration. The Committee Chairperson shall have exclusive discretion to accept or reject any disputes on behalf of the Committee.

3.03 Agreement to Arbitrate.

If the Committee Chairperson, after receiving a written request for arbitration, determines that the committee should accept the dispute, the Chairperson, or the Chairperson's designee, shall within ten (10) days mail to each party to the dispute an agreement to arbitrate in a form prescribed by the Board of Directors of the Association and a copy of these Arbitration Rules. The agreement to arbitrate shall be executed by each party to the dispute and shall be returned to the Chairperson, or the Chairperson's designee, within fifteen (15) calendar days from the date of its transmittal to the parties. In the event the agreement to arbitrate is not received by the Chairperson, or the Chairperson's designee, within fifteen (15) days, the Committee may decline to entertain the proceeding or the Chairperson, or the Chairperson's designee, may notify the party who has not agreed to arbitration that they have one final fifteen (15) day period to accept arbitration. In the event the agreement to arbitrate is not received by the Chairperson, or the Chairperson's designee, within this second fifteen (15) period, the Committee may decline to entertain the proceeding. Once the Chairperson

has received timely written agreements to arbitrate from the parties, the matter may not be withdrawn from arbitration except by mutual consent of all parties. Failure to obtain a written consent to arbitrate shall not waive the binding nature of the arbitration award if both parties participate in the arbitration hearing without objection.

4. FEE ARBITRATION HEARING

4.01 Notice of Hearing.

Upon receipt of notice that a dispute has been assigned to a panel, the Chairperson of that panel shall promptly schedule a hearing and notify the parties of the time, date, and place of the hearing. The hearing shall be held not less than thirty (30) days nor more than seventy-five (75) days after the date of transmittal of the notice of hearing. Contemporaneously with transmittal of the notice of hearing, the Chairperson of the panel may request both parties to submit copies of any documents in their possession, which might aid the panel in its deliberations.

4.02 Prehearing Matters.

Prehearing discovery is not available to the parties through the Committee. Notwithstanding, the parties may and are encouraged to voluntarily exchange information and documents between themselves. While the Committee may, in its discretion, consider the failure to provide such information or documents before the hearing, the Committee will not act as a referee in regard to such exchanges.

4.03 Hearing.

Each party shall appear in person at the hearing, unless otherwise agreed to or allowed by the Committee Chairperson as provided in 4.04 below. The parties may represent themselves or be represented by counsel at the hearing, but may not be represented by non-attorneys. The parties shall be entitled to be heard, present evidence and witnesses material to the controversy, and to examine witnesses appearing at the hearing. The Chairperson of the panel shall preside, but all members of the panel shall be entitled to participate in the hearing. The panel may adjourn the hearing from time to time as necessary and on request of a party and for good cause, or upon its own motion postpone the hearing. The panel may hear and determine the dispute upon the evidence and witnesses produced notwithstanding the failure of a party duly notified to appear. Either party may require that a stenographic transcript be made of the hearing by filing a written request with the Chairperson of the panel not less than five (5) days before the date set for the hearing. The party requiring a stenographic transcript must make arrangements directly with a court reporter service for scheduling and paying for such transcript. All expenses in connection with the services of a court reporter shall be borne by the party requesting the transcript. If both parties request a transcript, the expenses shall be borne equally by the parties. No audio or videotape record of the hearing shall be taken or permitted to be taken by the Committee, any party, or other person. Conformity to the Texas Rules of Evidence shall not be required. The panel Chairman shall be the final judge as to

scheduling of hearings, continuances, and the competency, authenticity, relevance or materiality of the evidence after considering all objections and argument thereon. The panel shall have exclusive control of the procedure in any proceeding before it; provided, however, that in exercising such control, the panel shall always conduct itself in such a manner as to guarantee each party a fair and impartial hearing.

4.04 Appearance by Telephone or Videoconferencing

A party may make a request to the Committee Chairperson to appear at the Fee Arbitration hearing by telephone or videoconferencing. Such request must be made within (5) days of the party's receipt of the date that such hearing has been scheduled and such request must include a reason that the party is requesting to appear by telephone or videoconferencing. If approved by the Committee Chairperson and the opposing party, the party may be allowed to appear by telephone or videoconferencing.

4.05 Burden of Proof.

The burden of proof shall be on the attorney to prove the reasonableness of the fee by a preponderance of the evidence.

5. FEE ARBITRATION AWARD.

5.01 Rendition of Award.

The panel shall make an award as soon as possible after the hearing. All awards shall be in writing and shall set forth grounds for the award. The Committee shall have no authority to make an award for the attorney's fees and expenses incurred in the prosecution or defense of a complaint before the Committee. The members of the panel who join it shall sign the award; however, the panel Chairperson's signature alone shall suffice if there is a unanimous award. The Chairperson of the panel shall deliver a copy to each party by email, personally or by Regular Mail within thirty (30) days after the hearing, or as soon as practicable. A copy of the executed award shall be submitted to the Committee Chairperson to be filed among the records of the Arbitration Committee.

5.02 Modification of Award.

Upon written application filed with the Panel Chairperson and Committee Chairperson made by either party within ten (10) days from the date of the award, the panel may modify, correct, or vacate the award for good cause shown. If the panel does not act within forty (40) days of the date of the award, the award shall be deemed final and shall be binding upon the parties.

5.03 Failure to Pay Award; Enforcement.

All decisions of the Committee shall be final and binding upon the parties, fully and finally resolving all questions, issues and disputes pertaining to the fee dispute. All awards shall be paid within thirty (30) days absent a specific finding to the contrary by the Committee panel. In the event the party against whom an award is rendered fails to pay the award, the party in whose favor the award was

rendered shall have the right to enforce the award in a court of competent jurisdiction.

6. CONFIDENTIALITY.

All aspects of an arbitration pursuant to these Rules, including the hearing and record of the proceeding, shall be confidential and shall not be open to the public, except (1) to the extent both parties agree otherwise in writing, (2) as may be appropriate in any subsequent proceeding between the parties, or (3) as otherwise may be required by law or appropriate in response to any governmental agency or legal process.

7. RETENTION OF FEE ARBITRATION FILE.

Upon the award being deemed final and binding, the file shall be returned to the Tarrant County Bar Association for storage for a period of not less than two (2) years. Files that are closed prior to consideration by the Committee will be retained for a period of not less than one (1) year.

8. AMENDMENT OF FEE ARBITRATION RULES.

These Fee Arbitration Rules, Section 1 through Section 5, may be amended from time to time upon a two-thirds vote of the total number of Tarrant County Bar Association Officers and Directors.

9. ADOPTION OF FEE ARBITRATION RULES.

These Bylaws were adopted by a two-thirds vote of the total number of the Tarrant County Bar Association Officers and Directors on the 8th day of June, 2015.