

**DENTON COUNTY BAR ASSOCIATION
FEE ARBITRATION COMMITTEE
FEE ARBITRATION RULES**

1. ARBITRATION OF FEE DISPUTES.

1.01 Purpose. The Denton County Bar Association ("Bar Association") has an obligation to clients of attorneys subject to these Rules and to the public in general to verify that such attorneys charge fair and reasonable fees for legal services actually rendered. Conversely, attorneys are entitled to just compensation for work well performed. Therefore, the Fee Arbitration Committee (the "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 Agreement Required. No attorney or client can be compelled to use these Rules to resolve a fee dispute without first having entered into an Agreement to Arbitrate as set forth in Paragraph 3.03 of these Rules, or another binding contract to arbitrate such dispute.

1.03 Attorneys and Non-Resident Attorneys. Attorneys and non-resident attorneys who practice before the Courts of Denton County or who render legal services to residents of Denton County, and who enter into binding agreements with their clients to arbitrate fee disputes, shall be subject to these Rules and the requirements thereof.

1.04 Fee Arbitration Guidelines. Panel members may rely generally on Disciplinary Rule 1.04 of the Texas Disciplinary Rules 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 the fee filed by the attorney involved in the fee dispute; provided, however, the request to arbitrate must be timely

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

2. **FEE ARBITRATION COMMITTEE**

2.01 **Creation of Committee.** In order to facilitate dealings between the members of this Association and their clients, the Denton County Bar Association, Inc., created in its Bylaws a Fee Arbitration Committee. Pursuant thereto, these Rules have been created to establish and govern the Committee.

2.02 **Fee Arbitration Committee Members.** The Committee shall consist of a Chairperson appointed by the President promptly following his election and a sufficient number of panels composed of at least three (3) and not more than seven (7) persons each as may be deemed necessary by the Bar Association Officers and Directors to expeditiously process fee arbitration disputes. The Chairperson shall be appointed for a one-year term and shall serve until his successor has been duly appointed. Committee members shall be appointed by the President for up to

three-year terms with one-third of the total Committee membership expiring each year. Each panel shall consist of no more than five (5) member attorneys and two (2) community representatives. Arbitration Committee members whose terms have expired the previous year shall automatically be substitute Committee 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.

2.03 Acceptance of Appointment. Upon appointment to Committee, the appointee shall file a statement in writing with the Executive Secretary of the Association setting forth his agreement to judge disputes submitted to him fairly and in accordance with these Rules, and acknowledging that it shall be his duty as a member of the Committee 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 he has a financial interest or in which he is prejudiced for or against either party.

2.04 Duties of the 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. NO MEMBER OF THE COMMITTEE, THE COMMITTEE, OR THE DENTON COUNTY BAR ASSOCIATION SHALL EVER BE LIABLE TO ANY PARTY TO AN ARBITRATION PROCEEDING FOR ERRORS OF JUDGMENT OR FOR ANY DAMAGE OR LOSS SUFFERED BY REASON OF ANY ACTS TAKEN IN CONNECTION WITH THE COMMITTEE.

2.05 Duties of the Chairperson. Annually, the Chairperson of the Committee shall divide the membership of the Committee into a sufficient number of panels to promptly and expeditiously

process the Committee's activities. He shall designate a Chairman of each panel. The Chairperson of the Committee 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. He 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.

2.06 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 2.02 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.

2.07 Interpretation and Application of Rules. The Committee and the panels shall interpret and apply these Rules insofar as they relate to their powers and duties. Such interpretation shall be by majority vote.

2.08 Disqualification of Member. A member of the Committee shall be disqualified to serve in any arbitration proceeding:

- A. If he or a member of his law firm is a party to the proceeding or has a financial interest in the outcome of the proceeding; or
- B. If he states that he is prejudiced in the proceeding; or
- C. If he is related by blood or marriage to a party; or
- D. If either party to the arbitration proceeding requests that he be disqualified for cause. The Panel Chairperson shall be the sole and exclusive judge of the sufficiency of

such cause.

3. **PROCEDURE.**

3.01 **Initiation of a Proceeding.** An arbitration proceeding may be initiated by filing a written request for arbitration with the Chairperson of the Committee. 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 Chairperson of the Committee 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 Denton County, Texas;
- 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 in Denton 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 Denton County.

3.02 **Preliminary Examination by the Chairperson.** Upon receipt of a written request to arbitrate, the Chairperson of the Committee 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, he shall advise the party who filed the written request for arbitration that the Committee declines to accept the dispute for arbitration. In the event the Chairperson determines that any matter outside the powers of the Committee and is properly within the jurisdiction of the Grievance Committee, he shall immediately refer the matter to the Secretary or Chairperson of the Grievance Committee or

Office of General Counsel and advise the party who filed the written request for arbitration that the Fee Arbitration Committee declines to arbitrate the dispute and that the matter has been referred to the District Grievance Committee. The Chairperson of the Committee shall have exclusive discretion to accept or reject any disputes on behalf of the Committee.

3.03 Agreement to Arbitrate. If the Chairperson of the Committee receives a written request for arbitration, he shall first determine that the dispute should be accepted by the committee. Once this determination is made, he shall determine whether an agreement to arbitrate has been entered into between the parties. If no such agreement has been made, he shall immediately mail to each party to the dispute, by Certified Mail, an Agreement to Arbitrate in a form prescribed by the Board of Directors of the Association. The agreement to arbitrate shall be executed by each party to the dispute and shall be returned to the Chairperson 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 within fifteen (15) days, the Committee may decline to entertain the proceeding.

3.04 Notification of Filing of Agreements to Arbitrate; Assignment to the Panel. Upon receipt of executed agreements to arbitrate, the Chairperson shall notify each party by Certified Mail that the agreements have been received and that the dispute has been assigned to a panel of the Committee. The notice shall also contain the name and address of the Chairman of the panel to which the dispute has been assigned.

3.05 Notice of Hearing. Upon receipt of notice that a dispute has been assigned to a panel, the Chairman of that panel shall immediately schedule a hearing and notify the parties of the time, date, and place of the hearing. The hearing shall be held not less than ten (10) days nor more than thirty (30) days after the date of transmittal of the notice of hearing. Contemporaneously with

transmittal of the notice of hearing, the Chairman of the panel may request both parties to submit copies of any documents in their possession which might aid the panel in its deliberations.

3.06 Hearing. Each party shall have the right to appear in person and by counsel at the hearing. 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 Chairman 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 their 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. Each party may demand that a stenographic transcript be made of the hearing by filing a written request with the Chairman of the panel not less than five (5) days before the date set for the hearing. The written request shall be accompanied by a cashier's check or money order payable to the Association in an amount set by the Committee Chairperson sufficient to reimburse the court reporter's anticipated fee and expense. 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. 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 due process of law.

4. AWARD.

4.01 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 ground for the award. The award shall be signed by the members of the panel who join it. The Chairman of the panel shall deliver a copy to

each party personally or by Certified Mail. A copy of the executed award shall be submitted to the Committee Chairperson to be filed among the permanent records of the Arbitration Committee.

4.02 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.

4.03 Failure to Pay Award: Enforcement. 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.

5. AMENDMENT.

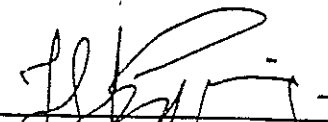
5.01 Amendment Process. These Fee Arbitration Rules, Section 1 through Section 4, may be amended from time to time upon a two-thirds vote of the total number of Denton County Bar Association Officers and Directors. All amendments shall be presented for approval in accordance with Article IX of the Bylaws of Denton County Bar Association, Inc.

6. ADOPTION.

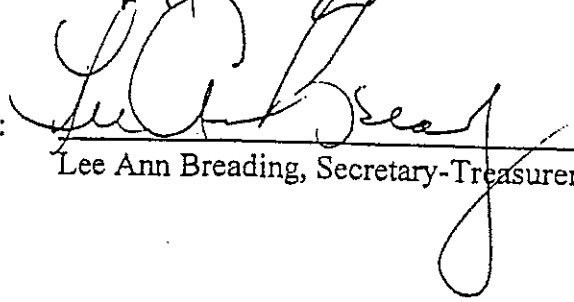
6.01 These Rules were adopted by a two-thirds vote of the total number of the Denton County Bar Association Officers and Directors on April 30, 1998. They were approved by Denton County Bar Association on June 1, 1998.

6.02 These Rules shall be effective June 1, 1998.

Denton County Bar Association, Inc.

By: 

Jeff Springer, President

By: 

Lee Ann Breeding, Secretary-Treasurer