

ATTORNEY-CLIENT FEE DISPUTE (ATTACHMENT TO PLAINTIFF'S CLAIM)
(Attach to Plaintiff's Claim)

- 1. Parties. At the arbitration hearing, plaintiff was [] attorney [] client.
2. Arbitration award. The award made after the arbitration hearing
a. [] requires the [] attorney [] client to pay the other party this amount: \$
b. [] requires neither the attorney nor the client to pay the other anything.
3. Amount in dispute. The amount of fees and costs in dispute is (may not exceed \$5,000): \$
4. [] Binding award. The award made after the arbitration hearing was binding because (check at least one box):
a. [] the attorney and client agreed in writing to have binding arbitration. (Attach a copy.)
b. [] the award document was mailed on (date): , and more than 30 days have passed since then.
5. [] Nonbinding award. The award made after the arbitration hearing was NOT binding because
a. the attorney and client did NOT agree in writing after the dispute arose to have binding arbitration; and
b. thirty days have NOT passed since the award document was mailed on (date):

6. Plaintiff's request.

- [] (Trial after arbitration) I reject the arbitration award and request a TRIAL ("hearing de novo") in small claims court to resolve the dispute. (NOTE: Do NOT check a box unless you also checked item 5, "Nonbinding award," above.)
(1) [] I appeared at the arbitration hearing..
(2) [] I did not appear at the arbitration hearing, but the award does not contain a finding that my failure to appear was willful.
(3) A court action (case) involving this attorney-client fee dispute
(i) [] is not pending.
(ii) [] is pending. (Your request for a trial must be filed in that court using the same case number.)

(NOTE: Do not check boxes b, c, or d, unless you also checked item 4, "Binding award," above.)

- b. [] (Correct award) I request that the court correct the award as follows:
(1) Reason award should be corrected (specify in this box a letter from item 3 on page three): []
(2) Change requested (specify):

- c. [] (Vacate award) I request that the award be vacated ("canceled") as follows:
(1) Reason award should be vacated (specify in this box a letter from item 4 on page three): []
(2) Explain the circumstances (specify):

(3) I [] do not [] do request a new arbitration hearing.

- d. [] (Confirm award) I request that the award be confirmed.

7. Copy of award. A copy of the arbitration award is attached. (Attach a copy and check this box: [])

.....
(TYPE OR PRINT NAME)

▶
(SIGNATURE OF PLAINTIFF)

— The county provides small claims advisor services free of charge. Read the information on the reverse. —

ATTORNEY-CLIENT FEE DISPUTE (ATTACHMENT TO PLAINTIFF'S CLAIM)
(Small Claims)

INFORMATION
ATTORNEY-CLIENT FEE DISPUTE CASES IN SMALL CLAIMS COURT

1. Rights After Nonbinding Arbitration

A. What are my rights if the arbitration award is nonbinding?

If the arbitration award is nonbinding, you may have a right to a trial in court. If you did not appear at your fee arbitration hearing, however, you will have to prove to the court that you had a good reason for not being there. If a court determines that your failure to appear was willful, you may not be entitled to a trial after arbitration.

If you are not satisfied with the award, you should follow the instructions below to protect your rights.

B. How long do I have to act?

If you want a trial in court, you must act within 30 days after the date the arbitration award was mailed to you. The date the arbitration award was mailed is written at the end of the notice you received with the award.

C. What must I do to get a trial in court?

You must file papers in the proper court within the 30-day limit.

D. What papers must I file? In what court must I file them?

That depends. Has a lawsuit about the fees already been filed?

(1) *YES—lawsuit already filed*

If a lawsuit about the fees has already been filed, then you must file in that same court. You may need a lawyer's help to file your complaint if it is not a small claims court.

(2) *NO—lawsuit not yet filed*

If no lawsuit about the fees has been filed, then you must file your own lawsuit in the proper court. The small claims court is not the proper court if the amount in dispute is more than \$5,000. Also consult the Venue Table on the back of the Plaintiff's Claim (*form SC-100*).

E. What if I am satisfied with the award?

If you are satisfied with the award, do nothing. The award will become binding if the other party does not file papers for a trial in court within the 30-day limit.

F. What are my rights if the award becomes binding? (Read item 2 below.)

2. Rights After Binding Arbitration

A. What are my rights if the arbitration award is binding?

If the arbitration award is binding, you must abide by it. There is no appeal from a binding award. Even so, a binding award can be corrected or "vacated" (overturned) by a court, but only in rare cases.

Please read on to learn more about your rights after a binding arbitration.

B. What if I am dissatisfied with the award?

A court has the power to "vacate" (overturn) an arbitration award, but only on very narrow grounds. (*See item 4 on page three.*) A court can also correct obvious mistakes in the award, like an arithmetic mistake. (*See item 3 on page three.*)

If you think you are entitled to correct or vacate the arbitration award, please follow the instructions below to protect your rights.

(1) *What must I do to vacate or correct the arbitration award?*

You must file a petition in the proper court within the 100-day limit.

(2) *How long do I have to act?*

(a) If you want to correct or vacate the award, you must act within 100 days after the date the arbitration award was mailed to you. The date the award was mailed is at the end of the notice mailed with the award.

(b) If, however, you receive notice from a court that the other side has filed a petition to confirm the award, you no longer have 100 days to file your petition. You must then respond by filing your petition to vacate or correct the award within the time stated on the notice from the court.

(3) *What is a petition?*

A petition is a technical legal document that tells the court what you want and why you are entitled to it.

(4) *In what court do I file my petition?*

That depends. Has a lawsuit about the fees already been filed?

(a) *YES—lawsuit already filed*

If a lawsuit about the fees has already been filed, you will file your petition to vacate or correct with that same court.

(b) *NO—lawsuit not yet filed*

If no lawsuit about the fees has been filed, then you will file your petition with the court that has jurisdiction over the amount of the arbitration award. The small claims court is not the proper court if the amount of the arbitration award exceeds \$5,000. For awards over \$5,000, the municipal court or the superior court (over \$25,000) is the proper court.

(Continued on page three)

INFORMATION
ATTORNEY-CLIENT FEE DISPUTE CASES IN SMALL CLAIMS COURT
—Continued—

C. What if I am satisfied with the arbitration award?

If the arbitration award says that you are owed money, you should write the other party a letter and demand payment. If you are not paid, and you are the client and your arbitration request was filed on or after January 1, 1994, you have the right to ask the State Bar to assist you. If you want the State Bar to assist you and

- (1) 100 days have passed from service of the award and the award is binding, or
- (2) the award has become a final judgment after a trial following arbitration or after a petition to vacate, correct, or confirm the award, you can reach the State Bar at

Mandatory Fee Arbitration
100 Van Ness Avenue, 28th Floor
San Francisco, CA 94102
(415) 241-2020

D. How do I confirm the arbitration award?

Any party who is owed money has the right to request court orders allowing that party to take property or money from the other party's paycheck and/or bank accounts. To get those court orders, you must first confirm the arbitration award.

(1) *How do I confirm the arbitration award?*

To confirm the arbitration award, you must petition for confirmation with the proper court.

(a) What is a petition for confirmation?

A petition for confirmation is a legal document that tells the court what you want and why you are entitled to it.

In small claims court, request confirmation by checking box 6d on page one.

(b) What is the proper court?

That depends on the amount you are owed. If it is \$5,000 or less, you may choose to file in small claims court or municipal court. If it is \$25,000 or less, the municipal court is the proper court. File in superior court if you are owed more than \$25,000.

(2) *How long do I have to file my petition for confirmation?*

You must file your petition for confirmation within four years of the date the arbitration award is mailed to you. That date appears at the end of the notice mailed with the award.

(3) *What are my rights after the arbitration award is confirmed?*

When the arbitration award is confirmed, it becomes a judgment of the court. Once you have a judgment, you have a right to enforce the judgment. That means you can get court orders allowing you to collect your money. Enforcing judgments can be very technical and very complicated. The court has forms to use for this procedure.

E. What if the arbitration award says I owe money?

If you owe money, pay it. If you do not, the other party has a right to get court orders allowing him or her to collect the debt by taking and selling your property and by taking money from your paycheck and your bank account.

3. Reasons to Correct the Award (See item 6b(1) on page one)

- A. The numbers were not calculated correctly or a person, thing, or property was not described correctly.
- B. The arbitrators exceeded their authority.
- C. The award is imperfect as a matter of form.

4. Reasons to "Vacate" (Cancel) the Award (See item 6c(1) on page one)

- A. The award was obtained by corruption, fraud, or other unfair means.
- B. One or more of the arbitrators was corrupt.
- C. The misconduct of a neutral arbitrator substantially prejudiced my rights.
- D. The arbitrators exceeded their authority and the award cannot be fairly corrected.
- E. The arbitrators unfairly refused to postpone the hearing or to hear evidence useful to settle the dispute.
- F. An arbitrator should have disqualified himself or herself after I made a demand to do so.