



Rules on Arbitration of Fee Disputes

1. PURPOSE

The purpose of these rules is to provide for the arbitration of fee disputes between attorneys maintaining offices in North Dakota and their clients.

2. ARBITRATION PANEL

The Board of Governors of the State Bar Association of North Dakota, has appointed two fee arbitration panels, one for the Southeast, East Central, Northeast Central and Northeast Judicial Districts, and one for the South Central, Southwest and Northwest Judicial Districts. Each panel is composed of not less than five lawyers and four lay persons. The term of appointment is indefinite.

3. INITIATION OF PROCEEDINGS

(a) Proceedings are initiated by a written petition. (A suggested form is attached.) The petition must be signed by one of the parties to the dispute and filed with the Executive Director of the State Bar Association of North Dakota. When filing the petition, the petitioner must also sign and file two copies of an arbitration agreement, in the form attached hereto. If a court has statutory authority to fix the fee, or if the fee is the subject of pending litigation, it cannot be arbitrated under these rules.

(b) Upon receiving the signed petition and arbitration agreement, the Executive Director will forward by certified mail, return receipt requested, a copy of the petition and arbitration agreement to the other party named in the petition. If the other party agrees to submit the dispute to arbitration, he/she shall also sign a copy of the arbitration agreement and return it to the State Bar Association within twenty days after receipt. Failure to sign and return the arbitration agreement within twenty days is a rejection of arbitration.

(c) If arbitration is rejected the Executive Director will notify the parties. No further action will be taken by the State Bar Association of North Dakota, and the parties are left to their respective remedies.

4. ARBITRATION BOARD

(a) Each party to the dispute will be sent a list of the members of the arbitration panel for the area in which the attorney to the dispute maintains his/her law office,

unless the parties agree the matter should be referred to another panel. Each of the parties to an arbitration agreement is permitted up to three preemptory challenges to the arbitration panel.

(b) Any amount in controversy may be arbitrated. Disputed amounts up to \$1,000 will be arbitrated by one unchallenged panel member designated by the Executive Director. Disputed amounts of \$1,000 or more will be arbitrated by a board of three persons, unless both parties agree in writing to arbitration by a single panel member.

(c) A three-member arbitration board will consist of two lawyers and one lay person. The Executive Director will select a board of arbitrators from the unchallenged members of the panel, and will name a chairperson for the board. If necessary, arbitrators can be appointed by the Executive Director from both panels.

5. ARBITRATION HEARING

(a) The arbitration board appointed will determine a convenient time and place for hearing, and cause written notice thereof to be mailed to the parties not less than ten days before the hearing. Appearance at the hearing waives the right to notice.

(b) The hearing may be postponed or continued from time to time by the presiding arbitrator upon his/her own motion or upon request of a party for good cause shown.

(c) The Chair (or the sole arbitrator) presides at the hearing, is the judge of the admissibility of evidence offered, shall rule on questions of procedure, and may exercise all powers necessary to conduct the hearing; conformity to legal rules of evidence is not required.

(d) The parties to the arbitration are entitled to be heard, to present evidence and to cross examine witnesses appearing at the hearing. Any party to the arbitration has the right to be represented at that party's own expense by an attorney at any stage of the arbitration.

(e) With the consent of both parties, the arbitration board may decide the dispute upon verified written statements of position and supporting documents submitted by each party, without personal attendance at the arbitration hearing.

(f) If any party to the arbitration who has been notified fails to appear at the hearing, the presiding arbitrator may either postpone the hearing or proceed with the hearing and determine the controversy upon the evidence produced, notwithstanding such failure to appear.

(g) Any party may have the hearing reported at that party's own expense. In such event, any other party to the arbitration is entitled to a copy of the reporter's transcript of the testimony, at his/her own expense, and by arrangements made directly with the reporter.

(h) The hearing shall be held within thirty days of receipt by the Executive Director of the arbitration agreement and petition signed by both parties, subject to the authority granted in paragraph 5(b) above.

6. ARBITRATION DECISION

(a) The decision of the arbitration board shall be rendered within fifteen days after the matter has been submitted for decision.

(b) The arbitration decision must be made by a majority of the members of the arbitration board. The decision must be in writing and signed by the members concurring therein. It shall state the amount of the award, if any, and the terms of payment, if applicable. The decision may also contain a statement of the reasons for the decision.

(c) The decision must be forwarded to the Executive Director, who will mail a copy of the decision to each party to the arbitration.

(d) If a majority of the arbitration board cannot agree on a decision the matter shall be resubmitted, de novo, to a new arbitration board appointed by the Executive Director within thirty days of the failure of the majority of the arbitrators to agree.

(e) A decision is final and binding on both parties, and may be submitted to the District Court under the provisions of Chapter 32-29.3 of the North Dakota Century Code for confirmation and entry of judgment.

ATTN: PETITIONER

In addition to the brief statement of facts included on the Petition for Arbitration of Fee Disputes, it is helpful to include supporting documents such as a summary of the dispute, including the bill and a copy of the itemized bill. This information will be forwarded to the panel members for their review prior to the hearing.

**STATE BAR ASSOCIATION OF NORTH DAKOTA
ARBITRATION OF FEE DISPUTES**

Petitioner	)	
	)	PETITION FOR ARBITRATION
	)	OF FEE DISPUTES
	)	
Respondent	)	

TO: STATE BAR ASSOCIATION OF NORTH DAKOTA

I, _____ of _____
(Name of Petitioner) (Street Address and Mailing Address)

_____, _____, () _____
(City) (State/Zip) (Telephone No.)

hereby request arbitration of the fee between myself and the Respondent

_____ who's address is _____
(Name) (Street Address)

_____, _____, () _____
(City) (State/Zip) (Telephone No.)

The amount of fee in dispute is \$_____. I certify that the amount of the fee in dispute is not the subject of pending litigation and is not a fee which a court has statutory authority to determine.

A brief statement of the facts giving rise to the dispute is as follows:

Dated this _____ day of _____, 20_____.

Petitioner (MUST BE SIGNED)

**STATE BAR ASSOCIATION OF NORTH DAKOTA
ARBITRATION OF FEE DISPUTES**

Petitioner	)	
	)	
	)	ARBITRATION AGREEMENT
	)	
Respondent	)	
	)	

This agreement is made between the above Petitioner and Respondent regarding a fee dispute which exists between them, the nature of which is set forth in the Petition on file with the State Bar Association of North Dakota. Both parties acknowledge receipt of a copy of the Petition.

It is agreed that the fee dispute will be heard and decided by the arbitrator(s) appointed by the Executive Director of the State Bar Association of North Dakota, in accordance with the Bar Association's Rules on Arbitration of Fee Disputes.

It is agreed that the decision of the arbitrator(s) shall be final and binding upon the parties hereto in accordance with North Dakota Century Code, Chapter 32-29.3.

It is further agreed that the client will promptly pay any fee determined to be due by the arbitrator(s). It is also agreed that the attorney will promptly refund any excess determined to be due to the client by the arbitrator(s) and will not attempt to collect fees determined not to be due.

Each party acknowledges receipt of a copy of this Agreement and a copy of the State Bar Association of North Dakota Rules on Arbitration of Fee Dispute.

Dated this _____ day of _____, 20 _____.

Petitioner (MUST BE SIGNED)

Dated this _____ day of _____, 20 _____.

Respondent (MUST BE SIGNED)