

State Bar of Nevada

*Fee Dispute Committee
Orientation*



Fee Dispute Arbitration Overview

- Almost all state bar associations have implemented a fee dispute arbitration process to resolve disputes between attorneys and their clients.
- In at least 9 states, the fee dispute process is mandatory if requested by the client, which means that parties must first try to resolve the dispute through arbitration before proceeding to court.
- In Nevada, the fee dispute process is optional, unless the attorney has been the subject of three or more disputes within the past two years, in which case participation is mandatory.



Fee Dispute Arbitration Overview

- In order for the Petitioner to file a fee dispute with the State Bar, the Petitioner must sign an Agreement for Arbitration of Fee Dispute, which makes the Decision of the arbitrator binding.
- If the Respondent fails to sign the Respondent's Agreement for Arbitration, the matter will be forwarded to the arbitrator ex parte. Any involvement of the Respondent without a binding arbitration agreement is at the discretion of the arbitrator.
- Arbitrators are encouraged to ask the Respondent to sign the Agreement for Arbitration before allowing the Respondent to participate in the hearing.



Binding v. Non-Binding Arbitration

- In Nevada, fee dispute arbitration is non-binding unless both parties sign the Petition for Fee Agreement.
- If an attorney signs the Respondent's Agreement for Binding Arbitration and then does not abide by the terms of the Decision, attempts will be made by State Bar Fee Dispute staff and the Regional Chairs to persuade the attorney to cooperate. If these attempts fail, members of the Fee Dispute Arbitration may be called upon to volunteer to initiate suit for collection of the fee.
- Arbitrators who serve as collectors for the Committee can claim their time for pro bono credit if, in their estimation, the client lacks sufficient resources to hire legal counsel.

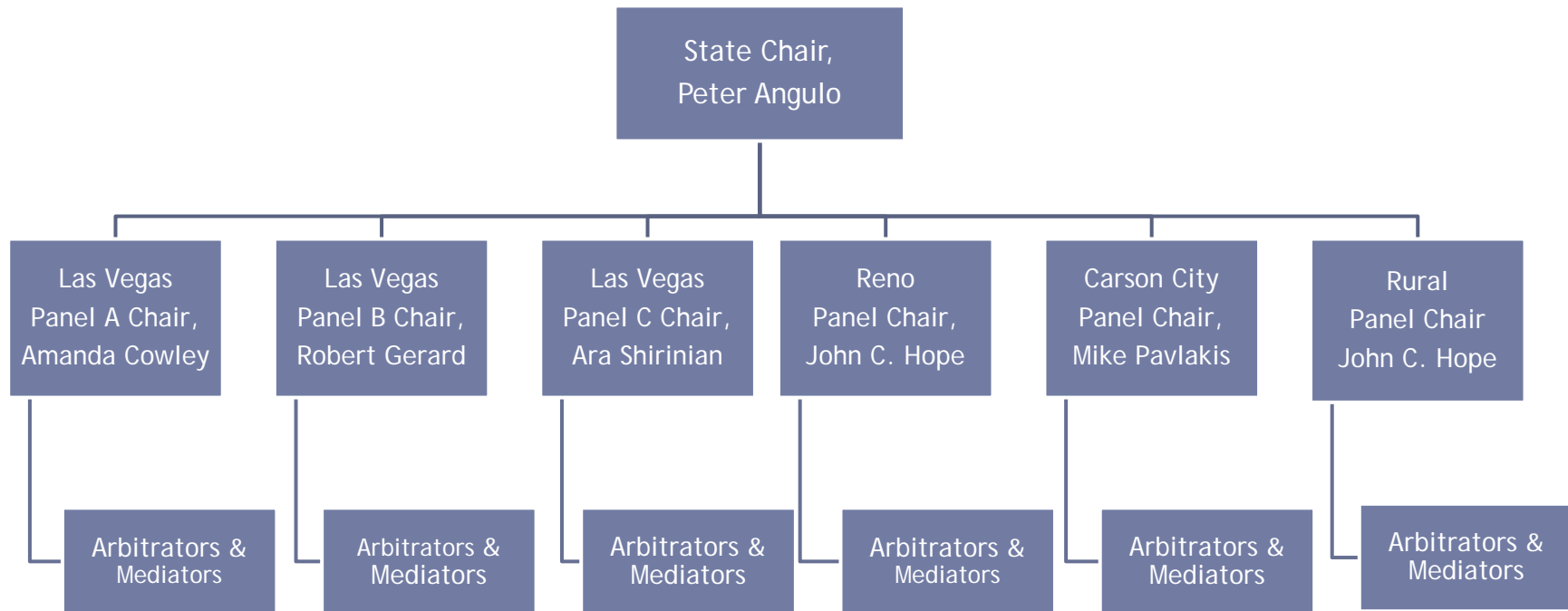


Fee Dispute Arbitration Composition

- In Nevada, the Fee Dispute Arbitration Committee is divided among six regions: 3 in Las Vegas, 1 in Reno, 1 in Carson City and 1 rural. These regions are referred to as panels.
- Arbitrators are assigned to these panels depending on where they live and the needs of each panel. Arbitrators report to their respective Panel Chairs.
- The six Panel Chairs receive advice from the State Chair.
- The Fee Dispute Arbitration program is administered by two employees at the State Bar of Nevada.



Fee Dispute Arbitration Composition



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Arbitration v. Mediation

- For all claims in which the amount in dispute is \$5,000 or less, the Fee Dispute Arbitration Committee will first appoint a mediator to see if this matter can be resolved by settlement.
- Claims of \$5,000 or more may also elect mediation as a primary means for dispute resolution. If mediation does not work, the parties will be offered the opportunity to continue the process through arbitration.
- Mediators can be attorneys or non-attorneys. Mediators on the Fee Dispute Arbitration Committee may also serve as arbitrators in other cases.



Arbitration

- Arbitrations may be conducted by a single attorney arbitrator if the amount in question is \$10,000 or less. If the dispute is for more than \$10,000, then the matter is assigned to a three-person arbitration panel consisting of at least one attorney and one non-attorney (lay member).
- Arbitrators conduct a “mini-hearing” and can hear testimony from both sides, allow cross-examination of witnesses (witness testimony must be taken under oath), and accept additional documentation presented by the parties. The arbitration may also be held telephonically or, if participation is waived by either party, the Decision may be rendered based on the written documents alone.
- Parties to the arbitration may have the proceedings recorded by a certified court reporter at their own expense.



Arbitration Timelines

- Upon receiving notice of a fee dispute, the Respondent has 25 days to respond. Extensions may be granted by State Bar staff for up to 49 days.
- The Regional Chairs assign fee disputes to individual arbitrators or to a 3-member arbitration panel. Once that assignment is made, the arbitrator or arbitration panel has between 20 and 90 days to schedule a hearing date.
- The Regional Chairs will ask you to report the status of the fee dispute to State Bar staff within 45 days.
- The single arbitrator or arbitration panel must render a decision within 30 days of the close of the hearing.



Arbitration Timelines

Respondent given 25 days to respond. Extensions may be granted for up to 49 days (total).

Arbitrators must schedule a hearing no sooner than 20 days and no later than 90 days after assignment is made by the Regional Chair. The arbitrator may continue the hearing at the request of either party, but only if good cause is shown.

Arbitrators must put their Decision in writing within 30 days of the close of hearing and submit the Decision to The State Bar of Nevada. The State Bar is responsible for transmitting a copy of the Decision to the respective Regional Chair and the parties.

Factors to Consider

- Arbitrators may consider the following factors when determining the appropriate fee in a dispute:
 - The level of skill required of the attorney to handle the matter
 - The lawyer's skill and experience
 - Unknown circumstances that required the lawyer to spend more time than originally anticipated
 - How much time the lawyer actually spent on the case
 - How much payment the lawyer has already received



Factors to Consider

- Arbitrators may also consider written documentation during the fee dispute such as:
 - Fee agreements reached at the beginning of the case between the attorney and the client*
 - Billing statements and related correspondence about the bills
 - Copies of cancelled checks or receipts showing how much the client has paid
 - Correspondence between the client and attorney showing a “good faith effort” to resolve the fee dispute

* Note: Even if there is no written fee agreement, the lawyer may still be entitled to a “reasonable fee,” based on what other lawyers of similar skill and experience level charge.



Additional Resources

- [By-Laws for the Fee Dispute Arbitration Committee](#)
- [Sample Arbitration Decision](#)
- [Sample Arbitration Hearing Notice](#)
- [Sample Mediation Notice](#)
- [Voluntary Mediation Agreement](#)

