

NOTICE OF YOUR RIGHTS AFTER FEE ARBITRATION

Your arbitration about attorneys's fees has been decided. The award of the arbitrator(s) is enclosed. Please read the award carefully.

This notice will tell you about the rights you may have now that the arbitration is finished. To understand your rights, you must find out if the award is **binding or non binding**. The award should tell you. If you are unsure of your rights or have questions, you should see a lawyer.

If the Arbitration Award is Non-Binding, Please Read Part 1 of this Notice.

Part 1 Will answer the following questions:

- A What are my rights if the arbitration award is non-binding?
- B How long to I have to act?
- C What must I do to get a trial in court?
- D What papers must I file? In what court must I file them?
- E Do I risk anything by filing for a trial in court?
- F What if I am satisfied with the award?
- G What are my rights if the award becomes binding?
- H Is there anything else I should know?

To Find our about Your Rights after Binding Arbitration, Please Read Part 2 of this Notice.

Part 2 will answer the following questions:

- A What are my rights if the award is binding?
- B What if I am unhappy with the award?
- C What if I am unsatisfied with the arbitration award?
- D What if the arbitration award says I owe money?
- E Is there anything else I should know?

Everyone Should Read Part 3.

WATCH THOSE DEADLINES! As you read this notice, you will learn about deadlines you must meet to protect your rights. Pay attention to the deadlines. They are real. If a deadline passes and you have not acted, you may lose your rights. If, after reading this notice, you are not sure how to protect or enforce your rights, you may need a lawyer's help.

AFTER FEE ARBITRATION

PART 1 - Rights After Non-Binding Arbitration

A. WHAT ARE MY RIGHTS IF THE ARBITRATION AWARD IS NON-BINDING?

If the enclosed arbitration is non-binding, you may have a right to a trial in court. However, if you did not appear at your fee arbitration hearing, 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 thirty (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 this notice.

C. WHAT MUST I DO TO GET A TRIAL IN COURT?

You must file papers in the proper court within the thirty (30) day limit.

D. WHAT PAPERS MUST I FILE?

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 a "Rejection of Arbitration Award and Request for Trial" with the same court. This bar association does not have forms you can use. You may need a lawyer's help to file your complaint.

(2) NO - lawsuit not yet filed.

If no lawsuit about the fees has been filed then you must bring your own lawsuit in the proper court.

(a) Proper Court - The Municipal Court is the proper court if the amount in dispute is \$25,000 or less. If the amount is more than \$25,000, then the Superior Court is the proper court.

(b) How to bring a lawsuit.

You bring a lawsuit by filing a "complaint" with the court. A complaint is a technical legal document that tells the court what you want and why you are entitled to it. The court may have forms to use for your complaint. This bar association does not have such forms. You may need a lawyer's help to file your complaint.

E. DO I RISK ANYTHING BY FILING FOR A TRIAL IN COURT?

Yes. The "losing party" in court may be ordered to pay the winner's attorney's fees. You will be the "losing party" if you do no better in court than you did in the arbitration.

F. 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 thirty (30) day limit.

G. WHAT ARE MY RIGHTS IF THE AWARD BECOMES BINDING?

Read on to Part 2.

H. IS THERE ANYTHING ELSE I SHOULD KNOW?

Yes - Read Part 3.

**NOTICE OF YOUR RIGHTS
AFTER FEE ARBITRATION**

PART 2 - Rights After Binding Arbitration

A. WHAT ARE MY RIGHTS IF THE ARBITRATION AWARD IS BINDING?

If the enclosed 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 UNHAPPY WITH THE AWARD?

A court has the power to “vacate” (overturn) an arbitration award, but only on very narrow grounds. A court can also correct obvious mistakes in the award, like an arithmetic mistake.

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 one hundred (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 one hundred (100) days after the date the arbitration award was mailed to you. The date the arbitration award was mailed is at the end of this notice.

(b) However, if you receive a 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/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. This bar association does not have forms for these petitions. You may need a lawyer’s help to write your petition.

(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 Municipal Court is the proper court if the amount of the arbitration award is \$25,000 or less. For awards over \$25,000, the Superior Court is the proper court.

NOTICE OF YOUR RIGHTS AFTER FEE ARBITRATION

PART 2 - Rights After Binding Arbitration, cont.

(5) Do I risk anything by asking the court to correct or vacate the award?

Yes. If you lose, the court may order you to pay the winner’s attorney’s fees.

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 judgement after a trial after arbitration or 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

You may be required to complete a State Bar form asking for assistance. The attorney will be given an opportunity to respond to your request and agree to a payment plan. The attorney will also be able to ask for a hearing in the State Bar Court to prove that he or she is not responsible for paying you or cannot afford to pay you.

The State Bar may place the attorney on temporary inactive status until the award is paid. If this happens, the attorney will not be able to practice law until the attorney is returned to active status (Business and Professions Code section 6203(d)). Any party can contact the State Bar at the address above to ask for a copy of the rules that govern this procedure.

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 pay check, 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 an arbitration award you must petition for confirmation with the proper court.

(a) What is a petition for confirmation?

A petition for confirmation is a technical legal document that tells the court what you want and why you are entitled to it. This bar Association does not have forms for these petitions. You may need a lawyer's help to write your petition.

(b) What is the proper court?

That depends on the amount you are owed. If it is \$25,000 or less, the Municipal Court is the proper court. File in the Superior Court if the amount owed is 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 (4) years of the date the arbitration award is mailed to you. That date appears at the end of this notice.

NOTICE OF YOUR RIGHTS AFTER FEE ARBITRATION

PART 2 - Rights After Binding Arbitration, cont.

(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 "execute". That means you can get court orders allowing you to collect your money by taking money from the other party's paycheck and bank accounts, and by

taking and selling his or her property. Execution can be very technical and very complicated. The court has forms to use when you execute.

D. 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.

E. IS THERE ANYTHING ELSE I SHOULD KNOW?

Yes - Read Part 3.

PART 3
Important Information For All Parties

We know that we probably have not answered all your questions. We have only told you where to start, and how to act. If we tried to do more, we would probably be practicing law without a licence. That we cannot do. But, we can point you in the right direction.

A. WHERE CAN I GET MORE INFORMATION?

We have attached excerpts from the California Business and Professions Code and the California Code Procedure. These are laws passed by the California Legislature. The first excerpt, from the Business and Professions Code, is the law that governs fee arbitrations between attorney's and their clients. The second excerpt from the Code of Civil Procedure, sets forth the law on confirming, vacating or correcting arbitration awards.

You can find further information at your county law library.

B. WHO CAN HELP ME?

You may need a lawyer's help. If you do, and you do not know a lawyer, you can call your local Bar Association's Lawyer Referral Service. The service will try to match you with a lawyer who can help.

C. WATCH THOSE DEADLINES!

The deadlines we have explained in this notice are real. You can lose your rights if you do not act before the deadline passes. None of the deadlines in this notice are extended because the award was sent to you by mail.

Watch those deadlines!

SOLANO COUNTY BAR ASSOCIATION

Address: _____

Telephone No.: _____

Date the Arbitration Award was Mailed: _____