

David Ashby

From: Carlson, Susan [Susan.Carlson@calbar.ca.gov]
Sent: Wednesday, March 13, 2013 2:50 PM
To: Alameda - Hadassah Hayashi; Antelope Valley - Andrew Ward; Beverly Hills - Elaine Glass; Contra Costa - Emily Day; Desert - Robert Gilliland; Fresno - Bobbie Lee; Glendale - Faye Golden; Humbolt - David Dibble; Inyo & Mono - Richard Olson; Kern - Caroline Wilson; Long Beach - Debra Williams; Los Angeles - Sharron McLawyer; Marin - Robynn Gaspar; Mendocino - Geraldine Rose; Monterey - Julie Tirflinger; Monterey - Regina Gage; Napa - Nick Van Male; Nevada - Andrew Harris; Nevada - Susie Bellows; Orange - Carole Martinez; Orange - Jossie Diaz; Orange - Kami Riley; Palo Alto - Brian Newcomb; Palo Alto - Charlene Cachopo; Placer - Patrick Keegan; Placer - Sandra Kellams; Riverside - Lisa Yang; Riverside - Lisa Yang; Sacramento - Daisy Guzman; Sacramento - Larkin Chenault; San Bernardino - Claire Furness; San Bernardino - Tina Harris; San Diego - Michelle Chavez; San Diego - Julia Dominguez; San Diego North - Mary Cervantes; San Fernando Valley - Irma Mejia; San Fernando Valley - Liz Post; San Francisco - Marilyn King; San Francisco - Michelle Avelino; San Francisco ADR; San Gabriel Valley - Julia Zuniga; San Luis Obispo - Karen Schmidt; San Luis Obispo - Nancy Warren; San Luis Obispo - Susie Richardson; San Mateo - Alma Valencia; San Mateo - Deborah Kemper; Santa Barbara - Lida Sideras; Santa Barbara Northern - Stacie Rappleye; Santa Clara - Irene Cortez; Santa Monica - Linda Cain; Santa Monica - Linda Cain; Santa Monica - Stephanie Gordon; Solano - Julie Hilt; Sonoma - Win Rogers; Tulare - Shari Pratt; Ventura - Alex Varela; Yuba-Sutter - David Ashby; aaron moore; Aaron Smith; andrew harris; AnnaMary E. Gannon; Carl Herbold; caroline vincent; Charles Warner; cheryl browns; Christopher Blank; David Cunningham; Edward Pomeroy; Frank Blundo; gary powell; George Zugsmith; John McDonald; judith cohen; Ken Bacon; Linda Barney; Malcolm Sher; Mark Schnitzer; Myer Sankary; patricia munoz-muro; Richard Christenson; Richard Lorenzi; robert brumfield; Robert Koligian; Sandra Blair; scott bowersock; Sharon Hightower; stephen moore; Tana L. Coates; Thomas Hinshaw

Cc: Hull, Doug

Subject: Notice of Client's Right to Fee Arbitration - revised form

Importance: High

Attachments: NOTICE_OF_CLIENTS_RIGHT_TO_ARB-MAR2013_APPROVEDBYBOT.pdf

To Local Bar Associations and Committee Chairs:

The State Bar Board of Trustees has approved modifications to the ***Notice of Client's Right to Fee Arbitration*** form. This is the form that all attorneys *must* send to their clients prior to or at the time of initiating a lawsuit or other proceeding to collect fees (Bus. & Prof. §6201(a)). Use of any other form, or incorporation of the same or similar language contained in the form on independent stationery or in the body of a letter from the attorney to the client is not legally acceptable as a substitute.

The modifications became effective March 7, 2013, but the previously approved form can be used until July 1, 2013.

As you can see by the attached copy, the form now bears the seal of the State Bar of California. This will help to ensure that attorneys use this exact form when notifying clients of their rights relating to the mandatory fee arbitration process.

Some other changes made to the form:

- **TITLE:** The word "Fee" was added to the title and an asterisk was added to "Client" which is defined in the footnote. The definition informs parties that a third party payor may request fee arbitration in conformance with *Wager v. Mirzayance* (67 Cal.App.4th 1187)
- **IDENTIFICATION OF APPROPRIATE PROGRAM:** The following language was stricken: "The address

of the arbitration program you should contact is:" and replaced with "The arbitration program listed below is available to you:" Also the following language was added: "You may wish to check the State Bar's website at www.calbar.ca.gov to see if there are other programs available to you."

- The footer was updated to indicate this is a mandatory form

Please replace any previous versions of the Notice of Client's Right to Arbitration with this Notice of Client's Right to Fee Arbitration, especially if you've posted this on your program's website.

If you have any questions, feel free to contact me at doug.hull@calbar.ca.gov.

As always, thank you for your dedication to this program.



Notice of Client's* Right To Fee Arbitration

Client's Name: _____
Client's Address: _____
Client's City, State & Zip: _____

Attorney's Name: _____
Attorney's Address: _____
Attorney's City, State & Zip: _____

You have an outstanding balance for fees and/or costs for professional services in the amount of \$ _____
charged to you in the matter of _____

I have filed a lawsuit against you in the: Court: _____ Case No.: _____
Address: _____

I have filed an arbitration proceeding against you with the: Agency: _____ Case No.: _____
Address: _____

No lawsuit or arbitration proceeding has yet been filed but may be filed if we do not resolve this claim.

You have the right under Sections 6200-6206 of the California Business and Professions Code to request arbitration of these fees or costs by an independent, impartial arbitrator or panel of arbitrators through a bar association program created solely to resolve fee disputes between lawyers and clients.

You will LOSE YOUR RIGHT TO ARBITRATION UNDER THIS PROGRAM if:

1. YOU DO NOT FILE A WRITTEN APPLICATION FOR ARBITRATION WITH THE BAR ASSOCIATION WITHIN **30 DAYS** FROM RECEIPT OF THIS NOTICE USING A FORM PROVIDED BY THE LOCAL BAR ASSOCIATION OR STATE BAR OF CALIFORNIA FEE ARBITRATION PROGRAM; OR
2. YOU RECEIVE THIS NOTICE AND THEN EITHER (1) ANSWER A COMPLAINT I HAVE FILED IN COURT; OR (2) FILE A RESPONSE TO ANY ARBITRATION PROCEEDING THAT I HAVE INITIATED FOR COLLECTION OF FEES, AND/OR COSTS, WITHOUT FIRST HAVING SERVED AND FILED A REQUEST FOR ARBITRATION UNDER THIS PROGRAM; OR
3. YOU FILE AN ACTION OR PLEADING IN ANY LAWSUIT WHICH SEEKS A COURT DECISION ON THIS DISPUTE OR WHICH SEEKS DAMAGES FOR ANY ALLEGED MALPRACTICE OR PROFESSIONAL MISCONDUCT.

I have the right to file a lawsuit against you if you give up your right to mandatory fee arbitration. If I have already filed a lawsuit or arbitration, you may have the lawsuit or arbitration postponed after you have filed an application for arbitration under this program.

I have determined that:

There is a local program which may have jurisdiction to hear this matter. The arbitration program listed below is available to you:

Name of Program: _____
Address: _____
City, State & Zip: _____
Telephone No.: _____

You may wish to check the State Bar's website at www.calbar.ca.gov to see if there are other programs available to you.

There is no approved local program which has jurisdiction to hear this matter.

The State Bar of California will conduct fee arbitration (1) where there is no approved local program, (2) where there is a local program but it declines for any reason to hear your case, (3) where there is a local program and you wish non-binding arbitration of this dispute and the local program refuses to allow non-binding arbitration of your dispute, or (4) if you believe you cannot receive a fair hearing before the local bar named above. If you need assistance, please contact Mandatory Fee Arbitration, State Bar of California, 180 Howard Street, San Francisco, CA 94105-1639, (415) 538-2020.

Date: _____ Attorney: _____

*The request for arbitration may also be made by a person who is not the client but who may be liable for or entitled to a refund of attorney's fees or costs.