

VIRGINIA STATE BAR FEE DISPUTE RESOLUTION PROGRAM

The Fee Dispute Resolution Program (FDRP) was created to help attorneys and clients resolve disputes over fees and costs paid, charged, or claimed for legal services provided by a member of the Virginia State Bar (VSB). The program achieves this goal by providing conciliation, mediation and binding arbitration services.

Since the program began, Circuit Committees for the Resolution of Fee Disputes (CCRFDs), appointed by the VSB President, have arbitrated fee disputes in their localities. As of November 15, 2006, the CCRFDs also will provide mediation services. The program is administered by the chair of the CCRFD in each locality, who may also offer to conciliate the dispute in an appropriate case.

Glossary of Terms

Dispute Resolution Terms

Arbitration. A trial-type process in which two parties agree to submit their dispute to a neutral third party, and to abide by that third party's decision. In the Fee Dispute Resolution Program, the arbitration process is voluntary, in that parties may choose to mediate their dispute, or not to use the program at all. Once the parties have chosen arbitration, and both have signed the Agreement To Participate, however, they may not opt out of the process.

Arbitration Award. The arbitrator's decision, or in the case of an arbitration panel, the panel's decision.

Conciliation. An informal process in which the conciliator speaks with both parties to a dispute to assist them in resolving it. Conciliation is often described as shuttle diplomacy because the parties are in different places and the conciliator is transmitting proposals back and forth between them until a settlement is reached.

Dispute Resolution Proceeding. Settling a dispute without a full formal trial. The term encompasses a variety of different processes. In the FDRP it refers to conciliation, mediation or arbitration.

Mediation. An informal dispute resolution process, in which an impartial third person, the mediator, seeks to facilitate communication between the parties to a fee dispute and, without deciding the issues or imposing a solution on the parties, helps them reach a mutually agreeable resolution to their dispute.

Legal Fees

Contingent Fee. A fee that depends on the outcome of the matter for which the service is rendered, except in criminal cases or in other matters in which such a fee is prohibited by law. Contingent fees are generally described as a percentage of the outcome, and must state the method by which the fee is determined.

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Fixed Fee. A sum certain charged by a lawyer to complete a specific legal task.

Retainer. A payment by a client to an attorney to insure the attorney's availability for future legal services and/or as consideration for his or her unavailability to a potential adverse party in the future.

Other Legal Terms

Deposition. The taking and recording of testimony of a witness under oath before a court reporter in a place away from the courtroom; or, in this program, away from the place where the arbitration is held. The court reporter prepares a transcript which assists in preparing for arbitration and can be used at the arbitration hearing to contradict or refresh the memory of the witness or be read into the record if the witness is unavailable.

Expert Witness. One who has skilled experience or extensive knowledge in his calling, or in any branch of learning. Persons selected by the court or parties in a cause, on account of their knowledge or skill, to examine, estimate and ascertain things and make a report of their opinions.

Non suit. A ruling by the judge in a lawsuit that terminates the lawsuit without deciding the issues on the merits. Such a ruling may be issued when the plaintiff (the party who filed the lawsuit) does not proceed to trial at the appointed time, or does not prove his or her case.

Quantum Meruit. As much as he has deserved. When a person employs another to do work for him, without any agreement as to his compensation, the law implies a promise from the employer to the workman that he will pay him for his services, as much as he may deserve or merit. In the FDRP this means that when there is no written contract for legal fees, if the attorney can substantiate the claim during the arbitration hearing, the arbitrators will most likely award to the attorney the reasonable value of the legal services provided to the client.

Rules of Civil Procedure. The rules and process by which a civil case is tried and appealed, including the preparations for trial, trial conduct, and the procedure for pursuing appeals.

Rules of Evidence. Standards governing whether evidence is admissible.

Subpoena. An order of the court for the witness to appear at a particular time and place to testify and/ or produce documents in the control of the witness.