

CCCBA FEE ARBITRATION
MEDIATOR STATEMENT OF DISCLOSURE

Plaintiff: _____

Plaintiff's counsel: _____

Respondent: _____

Respondent's counsel: _____

1. I have read and understand the "CCCBA Advisory-Avoiding Mediator Bias" and can state that none of those factors would preclude me from serving as a mediator in the above matter.

2. Is there a present or past relationship, direct or indirect, with any of the people identified in this dispute that might create any concern of bias or impartiality?

_____ NO _____ YES (please explain*)

3. Are there any other factors that might create a concern about your impartiality which ought to be disclosed to the parties?

_____ NO _____ YES (please explain*)

*(If you have had prior contact with a party to the mediation proceeding or there are other factors which cause concern, please advise whether the prior matter is concluded; how long ago the prior matter was concluded; and, whether the prior matter ended in a manner which would affect your ability to be impartial.)

Signature

Date

RETURN BY _____, TO:
Emily Day, Fee Arbitration Coordinator
Contra Costa County Bar Association
704 Main St.
Martinez, CA 94553
Fax (925) 686-9867

CCCBA ADVISORY AVOIDING MEDIATOR BIAS

The obligation of the mediator at the time of the hearing is one of impartiality. The mediator should have no interest, financial or otherwise, in the outcome of the fee dispute.

The grounds for disqualification of a judge under Code of Civil Procedure section 170.1 are grounds for disqualifying a mediator. In brief summary, CCP §170.1 prevents a person from serving as a mediator if the person:

- (a) has personal knowledge of disputed facts or is likely to be a witness,
- (b) served a lawyer for one of the parties or practiced with one of the parties within the past two years, or
- (c) has a financial interest in a proceeding.

These specific disqualification factors are defined broadly in CCP § 170.1, which also provides for disqualification if the above factors apply to:

- (a) the mediator's or party's family, including in some instances relatives within the third degree, or
- (b) business associates such as partners, officers or directors.

Section 170.1 also provides for disqualification if "a person aware of the facts might reasonably entertain doubt that the [mediator] would be able to be impartial."

It has been the practice of many judges to apply broader recusal and disclosure standards in matters appearing before them than are required by statute.

The CCCBA will consider any challenges to the nominated mediator if it would appear that substantial rights of the parties may be affected or in the event that the mediator nominated appears to have an interest in the matter pending before the mediator.

If, you, as mediator, for any reason, may not be impartial as to each party, please disqualify yourself from any further consideration of the proceedings by notifying the Fee Arbitration Coordinator promptly. Please disclose any prior or present relationship to any party or participant in this proceeding and any other fact that may bear upon your disqualification as an arbitrator.

If, during the course of this proceeding, you, as mediator, become aware of facts upon which disqualification should occur, such disqualification should take place in as prompt a fashion as possible, with due regard for the rights of the parties in protection of their lawful rights and remedies.