

MCLE SELF-STUDY TEST
FEE ARBITRATOR BASIC TRAINING

1. Business and Professions Code § 6200 governs attorney client fee disputes.
2. All arbitration hearings should commence within 15 days after service of the notice of assignment to the clients.
3. The deadline to submit the original fee arbitration award to the Program for a single arbitrator is 15 days after the hearing; and 25 days for a three member panel.
4. A panel of three arbitrators is assigned to cases with disputes of \$25,000 or more, unless both parties agree, in writing, to a single attorney arbitrator.
5. Fee Arbitrator Advisories covering myriad of topics that you may be called upon to decide are available on the State Bar of California website.
6. Code of Civil Procedure § 1281.91(d) requires arbitrators to disqualify themselves on "any grounds specified in Section 170.1" for disqualification of a judge.
7. Continuances must never be granted once the hearing date has been scheduled.
8. If either party intends to submit documents, copies must be mailed directly to each arbitrator and to the opposing party at least 10 days prior to the scheduled hearing date.
9. Discovery is not allowed. However, informal exchange of documents should be encouraged by the arbitrator.
10. Although B&P Code § 6200(g)(3) allows an arbitrator to issue subpoenas for good cause shown for the attendance of witnesses and the production of relevant documents, as a practical matter, only the appropriate civil court may truly compel attendance/enforcement upon application by a party.
11. Fee arbitration hearings should be conducted in the same manner as a judicial trial.
12. When you meet the client and the attorney at the hearing be extremely formal with the client and then hug the attorney and start talking shop.
13. The arbitrator should use legal terms at all times and never take time to explain anything to the unrepresented client.

14. Formal rules of evidence apply. Arbitrators should not consider any information of the type and character upon which ordinary people rely in the ordinary course of their day-to-day lives.

15. Matters that might keep evidence out of a court may be considered by the arbitrator(s) as going to the weight of the evidence.

16. Specific language must be used in preparation of the award as outlined in the "Required Award Format" prepared by the State Bar of California and distributed to all arbitrators by the CCCBA Fee Arbitration Program.

17. The award may not include an allocation of the filing fee and shall include an award for any other costs of the arbitration, including attorneys fees resulting from the arbitration proceeding.

18. A client may interpret "shop talk" as grounds for vacation of the award. CCP § 1286.2 (a), (b), and (c)

19. All testimony must be given under oath or affirmation as preferred by the party or witness, administered by the arbitrator.

20. It is within the arbitrator's discretion to admit any relevant evidence if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

21. The arbitrator should provide due process by giving the parties the opportunity to present all testimony and documents deemed appropriate.

22. Evidence of due process should be excluded from the award.

23. Witnesses should be excused from the hearing room until called to testify.

24. The arbitrator should be an advocate for the parties, interrupt testimony to show why documents do not support an issue being presented, and ask extended questions that are perceived by the client as a prejudgment of the dispute.

25. Any exhibits not returned to the client at the conclusion of the hearing or that the client has not made arrangements to retrieve from the arbitrator within 60 days of service of the award shall be destroyed by the arbitrator.

26. At the conclusion of the hearing the arbitrator should inform the parties that a notice as to their rights after arbitration will be mailed to them with the award.

27. It is not the arbitrator's place to remind the parties that there are time limitations that may or may not be applicable and their remedies or rights may be lost if they are not pursued timely once the award is served.

28. An arbitrator's failure to render an award for no stated ethical reason or attempting to provide mediation services in the course of the arbitration hearing are some acts outside the normal arbitration process that can subject the arbitrator or program to a suit for civil damages.



704 Main ♦ Street ♦ Martinez ♦ CA ♦ 94553

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ANSWER SHEET

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| 1. | <input type="checkbox"/> True | <input type="checkbox"/> False | 16. | <input type="checkbox"/> True | <input type="checkbox"/> False |
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| 14. | <input type="checkbox"/> True | <input type="checkbox"/> False | | | |
| 15. | <input type="checkbox"/> True | <input type="checkbox"/> False | | | |

Date:
Name:
Law Firm:
Address:
City/State/Zip:
Telephone:
State Bar #:

Mail completed ANSWER SHEET to:

CCCBA
Attn: Emily Day
704 Main St.
Martinez, CA 94553

Upon receipt an MCLE certificate will be returned to you.

The Contra Costa County Bar Association certifies that this activity has been approved for one hour MCLE credit by the State Bar of California (Provider #393).