Fee Dispute Settlement
One West Main Street
Rochester, New York 14614

ATTORNEY FEE DISPUTE ARBITRATION DOCUMENTS

Enclosed are the documents needed for an attorney to participate in a fee dispute proceeding pursuant to Part 137 of the Rules of the Chief Administrator. The documents that the attorney should provide to the client consist of the following:

1. Notice of Right to Arbitrate an Unpaid-Fee Dispute
   -OR-
   Notice of Right to Arbitrate a Prepaid-Fee Dispute

2. The Client Fee Dispute Arbitration Documents, which include:
   Definitions
   Standard Instructions to Clients pursuant to Part 137
   The Monroe County Bar Association Fee Arbitration Rules and Procedures
   Request for Fee Arbitration

Also enclosed for the attorney to keep and review are the MCBA Dispute Settlement Rules.

If you have any questions, please feel free to call the Monroe County Bar Association at (585) 546-1817.

NOTICE OF RIGHT TO ARBITRATE
A PREPAID-FEE DISPUTE

You claim that you are entitled to a refund in connection with legal fees you have paid the undersigned in the matter of :

The undersigned disputes the refund that you are claiming. You have the right to elect to resolve this fee dispute by arbitration under Part 137 of the Rules of the Chief Administrator of the Courts. To do so, you must file the attached Request for Fee Arbitration within 30 days from the receipt of this Notice, as set forth in the attached instructions.

If you do not file a Request for Fee Arbitration within 30 days from the receipt of this Notice, you waive the right to resolve this dispute by arbitration under Part 137.

Dated:_____ _____

(Attorney's Signature)
[print Attorney's name, address and telephone number below]

Mail the Request to:
Monroe County Bar Association
Fee Dispute Settlement
One West Main Street
Rochester, New York 14614

Fee Dispute Arbitration Program
One West Main Street
Rochester, New York 14614

CLIENT FEE DISPUTE ARBITRATION DOCUMENTS

Enclosed are the documents needed for a client to start a fee dispute proceeding pursuant to Part 137 with the Monroe County Bar Association's Fee Dispute Arbitration Program. The documents consist of the following:

1. **Fee Dispute Definitions and Standard Instructions.**

2. **Monroe County Bar Association (MCBA) Fee Dispute Settlement/Arbitration Rules -** Please review this document and keep it for your records.

3. **Request for Fee Arbitration -** Please complete this document and send it to the Monroe County Bar Association with the required filing fee in order to commence the arbitration process.

A filing fee based upon the amount in dispute is required. The filing fee is indicated on the last page of the enclosed Request. The arbitrator(s) may apportion of the filing fee as part of the Award.

If you should have any questions, please feel free to call the Monroe County Bar Association at (585) 546-1817.

One West Main Street
Rochester, New York 14614

FEE DISPUTE RESOLUTION PROGRAM DEFINITIONS

For your information, the following terms are used in the Monroe County Bar Association Fee Settlement/Arbitration Rules and Procedures:

A. "Client" means a person or entity who receives legal services or advice from an attorney on a fee basis in the attorney's professional capacity.

B. "Board" means the Board of Governors of the Attorney-Client Fee Dispute Resolution Program established under Part 137 of the Rules of the Chief Administrator.

C. "Program" means the Attorney-Client Fee Dispute Resolution Program established under Part 137 and these Standards and Guidelines.

D. "Local program" means a bar association-sponsored fee dispute resolution program approved by the Board.

E. "Neutral" means a person who serves as an arbitrator or mediator in a local program under Part 137 and these Standards and Guidelines.

F. "Approval" by the Board of Governors means, where so required by Part 137, recommendation by the Board of Governors with approval of the appropriate Presiding Justice of the Appellate Division.

Approved by the New York State Fee Dispute Resolution Program Board of Governors
in accordance with Part 137 of the Rules of the Chief Administrator
August 2002

UCS 137-3 (9/05)

STANDARD WRITTEN INSTRUCTIONS AND PROCEDURES TO CLIENTS FOR THE RESOLUTION OF FEE DISPUTES PURSUANT TO PART 137 OF THE RULES OF THE CHIEF ADMINISTRATOR

Part 137 of the Rules of the Chief Administrator of the Courts provides a procedure for the arbitration (and in some cases mediation) of fee disputes between attorneys and clients in civil matters. Your attorney can provide you with a copy of Part 137 upon request or you can download a copy at www.nycourts.gov/admin/feedispute. Fee disputes may involve both fees that you have already paid to your attorney and fees that your attorney claims are owed by you. If you elect to resolve your dispute by arbitration, your attorney is required to participate. Furthermore, the arbitration will be final and binding on both your attorney and you, unless either of you seeks a trial *de novo* within 30 days, which means either of you reject the arbitrator's decision by commencing an action on the merits of the fee dispute in a court of law within 30 days after the arbitrator's decision has been mailed. Fees disputes which may not be resolved under this procedure are described in Part 137.1 of the Rules of Chief Administrator of the Courts: representation in criminal matters; amounts in dispute involving a sum of less than $1,000 or more than $50,000 unless the parties consent; and claims involving substantial legal questions, including professional malpractice or misconduct. Please consult Part 137.1 for additional exclusions.

Your attorney may not bring an action in court to obtain payment of a fee unless he or she first has provided written notice to you of your right to elect to resolve the dispute by arbitration under Part 137. If your attorney provides you with this notice, he or she must provide you with a copy of the written instructions and procedures of the approved local bar association-sponsored fee dispute resolution program ("Local Program") having jurisdiction over your dispute. Your attorney must also provide you with the "Request for Fee Arbitration" form and advise that you must file the Request for Fee Arbitration with the local program within 30 days of the receipt of the notice. If you do not file the Request within those 30 days, you will not be permitted to compel your attorney to resolve the dispute by arbitration, and your attorney will be free to bring a lawsuit in court to seek to obtain payment of the fee.

In order to elect to resolve a fee dispute by arbitration, you must file the attached "Request for Fee Arbitration" with the approved local program. An updated list of local programs is available at www.nycourts.gov/admin/feedispute or by calling toll-free 1-(877)-FEES-137 (1-877-333-7137). Filing of the Request for Fee Arbitration must be made

with the appropriate local program for the county in which the majority of legal services were performed. Once you file the Request for Fee Arbitration, the local program will mail a copy of the request to your attorney, who must provide a response within 15 days of the mailing. You will receive at least 15 days' notice in writing of the time and place of the hearing and of the identity of the arbitrator(s). The arbitrator(s) decision will be issued no later than 30 days after the date of the hearing. You may represent yourself at the hearing, or you may appear with an attorney if you wish.

Some local programs may offer mediation services in addition to arbitration. Mediation is a process by which those who have a fee dispute meet with the assistance of a trained mediator to clarify issues and explore options for a mutually acceptable resolution. Mediation provides the opportunity for your attorney and you to discuss your concerns without relinquishing control over the outcome and of achieving a result satisfactory to both of you. Participation in mediation is voluntary for your attorney and you, and it does not waive any of your rights to arbitration under these rules. If you wish to attempt to resolve your dispute through mediation, you may indicate your wish on the Request for Fee Arbitration form.

More information, including an updated list of local programs, is available at

http://www.nycourts.gov/admin/feedispute

or by calling 1-(877)-FEES-137 (1-877-333-7137).

Fee Arbitration Rules and Procedures

The procedures of the Fee Arbitration Committee are consistent with Part 137 of the Rules of the Chief Administrator "Fee Dispute Resolution Program" with the Association acting as an impartial administrator.

A. Designation

The Executive Director of the Association is designated Administrator of dispute settlement procedures under these rules and may delegate duties to such officers, members and employees of the Association as he or she may direct. The chair of the Fee Arbitration Committee shall preside over the Fee Arbitration Committee and be selected by the President of the Association.

B. Arbitrations Panels

The Association shall establish and maintain a sufficient number of arbitrators to meet the caseload of the tribunal. Disputes involving a sum of less than $10,000.00 shall be submitted to one attorney arbitrator. Disputes involving a sum of $10,000.00 or more shall be submitted to a panel of three arbitrators, which shall include at least one non-lawyer.

1. Attorney members – The Chair shall appoint attorney arbitrators. The attorney shall serve as chair of a three-member panel. Attorney members shall be appointed to provide representation from as broad a spectrum of the Bar as possible from the standpoint of both firm organization (i.e., non-profit, large, small or sole practitioners) and practice (i.e., general, litigation, corporate, domestic, criminal, non-profit, public sector, etc.) Attorney panel members as a whole shall constitute and function as the Fee Arbitration Committee and serve as a resource for the operation of the arbitration program.
2. Lay Members – Lay member arbitrators shall be appointed by the Chair from as broad a spectrum of the general public as possible, i.e., business, labor, commerce, industry, education, religion, homemakers, etc.

C. Jurisdiction

Effective January 1, 2002, the program shall have jurisdiction over every disagreement concerning a fee paid, charged or claimed for legal services in civil matters in which the majority of the legal services were performed in Monroe County despite the residence of the client or the office location of the attorney. The program will not handle disputes arising from domestic relations matters, as those matters will remain, subject to approval by the Board of Governors, with the

7th Judicial District Arbitration Program. Excluded from tribunal jurisdiction are disputes over which the court has jurisdiction to fix fees and matters involving substantial legal questions, including professional malpractice or misconduct. In addition, the program shall not cover the following matters; claims against an attorney for damages or affirmative relief other than adjustment of the fee; disputes where no attorney's services have been rendered for more than two years; disputes where the attorney is admitted to practice in another jurisdiction and maintains no office in the State of New York; and disputes where the request for arbitration is made by a person who is not the client of the attorney or the legal representative of the client. The program will also provide arbitration services in disputes arising from criminal representation and in civil matters when the amount in dispute is less than $1,000.00, upon the consent of the complainant and the attorney.

D. Scope

The program has a dual component of settlement investigation and arbitration. All incoming complaints are first assigned to a committee member for settlement investigation, unless the party has declined settlement investigation services. If settlement is unsuccessful, arbitration follows.

E. Procedure

Each complaint is reviewed by the chair of the Fee Arbitration Committee for a determination of whether or not a complaint exists within the purview of the program's jurisdiction. Complaints rejected by the Chair shall be logged with the Association, together with a brief reason for rejection and maintained with the records of the Association for further reference if necessary. The Chair of the Fee Arbitration Committee will assign an investigating attorney or a lay member for a settlement attempt. Each complaint is assigned a file number by the MCBA Liaison, who then sends a copy of it to the respondent attorney with a cover letter explaining the procedures and the name of the investigating attorney (assigned by the chair). A receipt acknowledgment letter is sent to the complainant explaining the procedures. The investigating attorney, or lay member, upon receipt of the information, will assure that the respondent attorney responds to the complainant's letter within 10 days and will then forward the attorney's response to the complainant who will have 10 days in which to respond. The investigator will also immediately forward to the respondent attorney an Agreement to Arbitrate in cases outside of Part 137 to be executed and returned to the investigator. For cases outside of Part 137, complainants must submit an Agreement to Arbitrate with their request for arbitration. The investigator attempts to complete settlement within 30 days of the date the complaint was assigned to the investigator. No investigation is to exceed 30 days.

When settlement is successful, the terms of the settlement must be reduced to writing and disseminated to the complainant and the attorney.

When settlement fails, the Agreements to Arbitrate, where applicable, and the file are immediately returned to the MCBA Liaison by the investigator for assignment to an arbitration panel. A single Arbitrator will sit for matters where the fee in dispute is up to $10,000.00. For disputes $10,000.00 and above a panel of three, including one non-attorney member is formed. Adjournments should be discouraged but may be arranged by the parties through the panel chair. One adjournment is allowed after which the arbitration is rescheduled according to the availability of the parties involved. The arbitration will be held, and a determination made on the documentation submitted, if both parties are not able to be present. The panel chair (or sole arbitrator) must notify the parties of the time and place of the hearing in writing.

The panel is empowered to find facts, decide questions of law and to fashion an award. The decision must state the amount of and the basis for the award. Promptly upon reaching a decision, the panel chair must prepare three (3) original Decisions including facts and conclusions. The Decision must state the amount of and the basis for the Award. All must bear original signatures, be notarized, and be returned to the MCBA Liaison for distribution with a cover letter to the parties. The Decision and Award is to be distributed by the MCBA liaison within thirty (30) days of the Arbitration Hearing. The Decision shall be binding upon the parties only when the parties have consented in advance to binding arbitration. In all other cases, the Decision shall be subject to trial de novo.

The file is closed and sent to MCBA by the chair of the panel. “Dispute Docket” matters are matters referred by Grievance. Inquiry Docket matters are matters that came directly to MCBA from complainants. The files on the Inquiry Docket will remain with the Bar Association if the problem is resolved either by investigative settlement or by arbitration. The MCBA will send those files on the Dispute Docket back to the Grievance Committee with a copy kept in the Bar closed file if the complaint came to the MCBA from the Grievance Committee.

F. Oaths of Service

All arbitrators must sign a written oath or affirmation to faithfully and fully arbitrate all disputes that come before them, which written oath or affirmations shall be kept on file by the local program. All arbitrators must conduct a conflict of interest check prior to accepting a case.

G. Disqualification of Arbitrators and Investigators

An arbitrator or settlement investigator shall disclose any circumstances likely to create a presumption of bias that might disqualify him or her as an impartial arbitrator or investigator or whenever an arbitrator or investigator cannot in his or her opinion ethically or conscientiously serve. No person shall serve as an arbitrator or investigator if he or she has any financial or personal interest in the case. Either party may advise the Chair of the Fee Arbitration Committee of any reason why an arbitrator or investigator should withdraw or be disqualified or be declared unable to perform his or her duties. Such request must be made no later

than five (5) day prior to a hearing. The Association shall have the final decision on the removal of an investigator/arbitrator. The chair shall appoint arbitrators to fill panel vacancies. A settlement investigator may not serve as an arbitrator in a subsequent arbitration involving the parties to the settlement investigation.

H. Hearing

The Arbitration Panel Chair (single arbitrator if less than $10,000.00) shall fix a time and place for the hearing and notify the parties in writing personally or by regular mail not less than 15 days before the hearing. The Arbitrator may adjourn or postpone hearings as indicated in Section E above.

(See attached Arbitration Hearing Procedures & Arbitrator's Opening Statement)

I. Interpretation of Rules

Where there is more than one arbitrator, differences arising among them concerning the meaning or application of these rules shall be decided by majority vote. If that is unobtainable, either an arbitrator or party may refer the question to the Chair for final decision. All other rules shall be interpreted and applied by the Administrator.

J. Serving of Notices

The initial notice of client's right to arbitrate shall be served by certified mail or personal service. All papers, notices or process necessary or proper for the continuation of the arbitration under these rules and for any court action in connection therewith or for the entry of judgment of any award may be served upon a party by regular mail direct to that party at his or her last known address, or to his or her attorney, or by personal service within or without the State of New York.

K. Confidentiality

All records, documents, files, proceedings and hearings pertaining to settlement investigation or arbitration of disputes under these rules may not be open to the public or any person not involved in the dispute, except to the extent necessary in connection with ancillary legal action with respect to a fee matter.

L. Trial De Novo

A party aggrieved by the arbitration award may commence an action on the merits of the fee dispute in a court with jurisdiction over the amount in dispute within 30 days after the arbitration award has been mailed. If no action is commenced within 30 days of the mailing of the arbitration award, the award shall become final and binding. Each party seeking de novo review must send the MCBA a notice of intent to do so simultaneously with or prior to the commencement of an

action for de novo review. Any party who fails to participate in the arbitration hearing shall not be entitled to a trial de novo absent good cause for such failure to participate. Arbitrators shall not be called as witnesses nor shall the arbitration award or record of the proceedings be admitted in evidence at the trial de novo action.

M. Fee Policies

In order for the bar association to provide arbitration and investigative settlement services to the public, it is necessary to charge an administrative processing fee. The following fees will be charged by the bar association in the form of user fees to complainants; $50.00 for matters where the amount in dispute is up to and including $3,500.00; $150.00 for matters where the amount is over $3,500.00 and up to and including $10,000.00; $250.00 for matters where the amount in dispute is over $10,000.00 and up to and including $20,000.00; and $500.00 for any matter where the amount in dispute exceeds $20,000.00. These fees are nonrefundable by the bar association and must accompany any application for investigative settlement or arbitration services. If settlement is unsuccessful, there is no additional charge for arbitration. These same fees apply to matters initiated by attorneys for settlement services and will be charged against the attorney in those instances. A separate fee will be charged for each complaint or dispute. Investigators and arbitrators retain the right to shift the payment of these fees as part of their efforts to settle and as part of their authority to determine arbitration awards and decisions. The complaint application form shall clearly state the above fee structure. It shall also contain a statement as to the association's fee waiver policy. The association will waive fees to individuals who can demonstrate that payment of the requested fee would be a financial hardship. As part of its criteria for review of hardship cases, the staff administrator will consider the income of the individual's household and any other circumstances the individual wishers to present to the association. As a general consideration, those individuals whose household income is at or less then the poverty level established by the federal government for their household size, or who are on public assistance or other public benefit programs will be exempt from payment of a fee.

N. Periodic Review

The functioning of the tribunal shall be reviewed periodically from reports submitted by the Administrator to the President. The President shall then report any recommendations for change to the Board of Directors.

O. Effective Date

These rules shall take effect immediately upon approval by the Board of Directors of the Association. These rules and any amendments shall apply in the form in effect at the time arbitration is initiated.

ARBITRATION HEARING PROCEDURES

1. Arbitrator's Opening Statement
2. Attorney's Presentation
3. Client's Questions for Attorney
4. Client's Presentation
5. Attorney's Questions for Client
6. Arbitrator's Questions for Attorney and Client
7. Rebuttal or Additional Statement by Client
8. Rebuttal or Additional Statement by Attorney
9. Closing Statement by Attorney
10. Closing Statement by Client
11. Arbitrator(s) Invite(s) Parties to Explore Voluntary Agreement
12. Arbitrator Closes Hearing

Fee Dispute Settlement
One West Main Street
Rochester, New York 14614
Tel: (585) 546-1817

CLIENT REQUEST FOR FEE ARBITRATION

1. Please write your name, address, telephone number, and email address:
   Name:
   Address:

   Telephone Number:
   Email:

2. Write the name, address, office telephone number, and email address (if known) of the attorney who handled the case:

   Name:
   Address:

   Telephone Number:
   Email:

3. If a lawsuit was filed, in which county and court was it filed?

   Court:_____ County: _____

4. If the fee you are disputing involves a domestic relations case, indicate what type of domestic relations case it was (check all that apply)

__Divorce	__Separation	__Annulment
__Maintenance	__Alimony	__Child Support
__Visitation	__Custody	__ Not a Domestic Relations Case

5. On what date did the lawyer first agree to handle the case?
   _____, 20___

6. Briefly describe the services contemplated in the representation and attach a copy of the written retainer agreement, letter of engagement, or other papers describing the fee arrangement, if any:

7. In the space below, indicate the date, amount and purpose of each payment made to the attorney. Attach additional sheets if necessary.

Date	Amount	Purpose
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____
_____	$_____	_____

8. How much of the attorney's fee is in dispute (attach a copy of the attorney's bill, if available):

   $_____

9. Briefly describe why you believe your attorney is not entitled to the amount set forth in question 8 (use additional sheets if necessary):

10. Indicate whether you wish to attempt to resole this fee dispute through settlement (Participation in settlement is voluntary for your attorney and you, and it does not waive your rights to arbitration under these rules in the event that settlement is unsuccessful or the attorney refuses to participate in settlement).

☐ Yes, I wish to attempt to resolve this fee dispute first through settlement. My election of arbitration will apply if the settlement is unsuccessful.

☐ No, I do not wish to attempt to resolve this fee dispute through settlement.

Dated:_____ Signed: _____

IMPORTANT**:** You must file this Petition with the Fee Dispute Settlement Program, Monroe County Bar Association, One West Main Street, Rochester, NY 14614, along with a check for the filing fee or Credit Card information. The filing fee is based on the amount in dispute. The filing fee is based on the following scale:

Amount in dispute	Filing fee
$1,000.00 - $3,500.00	$50.00
$3,500.01 - $10,000.00	$150.00
$10,000.01 - $20,000.00	$250.00
Exceeds $20,000.00	$500.00

Make checks payable to the Monroe County Bar Association. Send this Request and your check to Fee Dispute Arbitration Program, Monroe County Bar Association, One West Main Street, Rochester, NY 14614.

To pay by Credit Card, enter in the following information: Visa MasterCard American Express

Name on card _____ Amount Charged _____

Card Number: _____ Exp. Date _____

Please Note: The Fee Dispute/Arbitration Program cannot address claims of lawyer malpractice. If you believe that your attorney committed malpractice in your case, you should not utilize the Fee Dispute/Arbitration program because it is possible that an arbitration decision against you with regard to the fee dispute could adversely affect your ability to pursue malpractice in court at a later date.