

EXAMPLE OF POORLY WRITTEN DRAFT AWARD

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BEFORE THE [REDACTED] BAR ASSOCIATION
ATTORNEY CLIENT MEDIATION & ARBITRATION SERVICES

In the Matter of the Arbitration Between)
)
 [REDACTED])
 Client,)
)
 and)
)
 [REDACTED])
 Attorney.)
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CASE NO. [REDACTED]

**ARBITRATION FINDINGS
AND AWARD**

Date of Hearing: [REDACTED]
Time of Hearing: [REDACTED]

INTRODUCTORY STATEMENT

Pursuant to a Petition for Attorney-Client Fee Dispute Arbitration between Client and Attorney, due notice of hearing was given to the parties, and, the hearing was conducted by Arbitrator(s), [REDACTED], on [REDACTED] at [REDACTED], California.

Client, [REDACTED], did not appear but through her filings have requested a non-binding arbitration.

Attorney, [REDACTED], an attorney at law, appeared in person with(out) counsel, and has agreed to binding/non-binding arbitration.

Accordingly, the Arbitration Findings and Award is NON-BINDING and is subject to *Business and Professions Code § 6204*, regarding the finality of non-binding awards and the time limit on the right to a trial *de novo*.

1 For purposes of this arbitration Award, the “responsible attorney” is Attorney [name].

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3 FEES INCURRED AND AMOUNT IN DISPUTE

- 4 1. The amount that the Client claims should have been charged: \$ **Dispute over \$10,000**
- 5 2. The amount that the Attorney claims should have been charged: \$ 28,275.75
- 6 3. The amount that Client has paid to Attorney: \$ 2500.00
- 7 4. If there was a written fee agreement, under the agreement,
- 8 what fees were charged: \$ 28,275.75
- 9 5. **Amount of the filing fee paid and requested:** \$ 0

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11 **UNDISPUTED FACTS**

12 Petitioner retained Respondent, an attorney, for assistance in connection with DISSOLUTION
13 OF MARRIAGE. The fee and cost agreement was in writing at the rate of \$375 per hour.
14 Respondent was retained on or **about 11/11/17**, at which time a file was created (according to the
15 billing statement). According to the Respondent, no periodic billing was sent to the Respondent
16 allowing for any objections. It is apparent that the billing statement was prepared in connection to
17 Respondent’s filing for fees the attachment of which is mandatory.

18 Respondent assisted the Petitioner to obtain a fee waiver, however the cost of the assistance
19 appears to be greater than the actual filing fee (\$435).

20 Due to the wrong venue, originally Petitioner filed for a Legal Separation. Soon after on
21 11/15/17 a Temporary Restraining Order (TRO) was prepared by the Petitioner. It appears than on
22 11/15/17, Respondent billed 17.54 hours to prepare Petitioner’s TRO.

23 According to the billing statement and Respondent’s testimony, he personally made 2
24 appearances on for the TRO hearing. The TRO was never tried and it was continued and
25 subsequently parties reached an agreement. Respondent has charged 3.5 hours for each appearance,
26 which is reasonable.

27 On or about 12/20/17, Respondent filed his Request for Order (RFO) for fees against the
28 Petitioner’s husband. The RFO hearing was set for 3/14/18.

1 According to the Respondent, on or about 12/29/17 he was informed that the parties have
2 reconciled. RFO remained on calendar and was actually heard on 3/14/18 when the court dismissed
3 the case due to the parties reconciliation. As reflected on the transcript of 3/14/18, upon
4 Respondent's request for fees, Petitioner's counsel objected to Respondent's excessive billing which
5 is confirmed by the arbitrators of the matter.

6 Since there was no appearance made by the Petitioner at the arbitration hearing, it is unclear
7 whether the Respondent was aware of the reconciliation prior to his filing of his RFO or not. The
8 only evidence is Respondent's statement. However, arbitrators believe that the RFO should have
9 been handled differently without costs to either side.

10 CLAIMS OF PARTIES

11 ISSUES: Petitioner's filing states that fees are excessive
12 Respondent wishes to recover full amount of his bill

13 The matters placed in issue by the Petition, Response and the testimony of the Respondent,
14 despite proper notice to all parties, Petitioner failed to appear, as follows:

15 **1. Whether the time expended was reasonable and necessary.**

16 FINDINGS

17 Reasoning and Determination of Questions Presented

18 [*Business & Professions Code §6203(a)*]

19 After reviewing the pleadings presented by the Respondent and thorough review of the
20 Respondent's billing statements. The only question is whether Respondent's services were
21 reasonable and necessary.

22 The core of the case is filing of the Legal Separation and a TRO.
23 TRO had 2 appearances with no litigation and resulted in a stipulation.
24 Legal Separation, was filed in the LA county.
25 Subsequently, parties reconciled while Respondent's RFO was pending which was heard on 3/14/18.
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1 Arbitrators (2 of which are family law attorneys) thoroughly reviewed Respondent's billing
2 statement. Upon inquiry of the software Respondent uses, time for preparation of the forms was
3 considered. Considering Respondent's testimony that he was willing to discount the bill by 15% was
4 taken into consideration but not calculated into the award.

5 Arbitrators agree that a large sums of multiple charges were made and were considered not
6 reasonable either as to the time or for the amount.

7 Petitioner requested this arbitration but failed to pay the filing fee and did not show up for the
8 arbitration. Respondent paid the fee in full.

9
10 ALLOCATION OF FILING FEE

11 *Business & Professions Code* §6203(a) permits the allocation of the arbitration filing fee paid
12 by [Client or Attorney]. However, the Code is silent as to when and how arbitration filing fees
13 should be allocated. Given the facts of this fee dispute, [Attorney and/or Client – Arbitrator makes
14 this determination based on what the evidence revealed to the Arbitrator] shall bear the cost of the
15 arbitration filing fee of \$1854.00.

16 AWARD

17 The Arbitrator(s) finds that the total amount of fees and/or costs which should have been
18 charged in this matter is for 21.99 hours at the rate of \$375/hour: \$8246.50

19 Of which the Client is found to have paid: \$2500.00

20 In addition, the fee arbitration filing fee shall be allocated:

21 Client: \$1500.00

22 Attorney: \$354.00

23 For a net amount of: \$7146.50

24 Accordingly, the following award is made:

25 Client, [REDACTED], shall pay Attorney, [REDACTED]: \$7146.50
26

27 plus interest in the amount of the prevailing legal rate per annum from the 30th day after the
28 date of service of this award