Attorney/Client Arbitration Board

Annual Report | Fiscal Year 2021 - 2022

The Attorney/Client Arbitration Board of the District of Columbia Bar (ACAB) has conducted an arbitration program since 1982 for the adjudication of fee disputes between members of the District of Columbia Bar and their clients.

The dispute must: (1) be between a lawyer and a client; (2) be limited to the fees paid, charged or claimed for legal services; (3) involve a lawyer subject to the disciplinary jurisdiction of the District of Columbia Court of Appeals when the legal services were provided; (4) arise in the District of Columbia; and (5) be filed with the ACAB within the three-year statute of limitations.

The D.C. Bar had conducted a voluntary fee arbitration program since 1982. Fee arbitration became mandatory on January 1, 1995, with the adoption of Rule XIII of the Rules Governing the Bar ("Rule XIII"). Subject to the jurisdictional requirements of Rule XIII, arbitration of disputes over legal fees and disbursements is mandatory for members of the Bar if requested by a client. The ACAB will enforce an attorney/client agreement to arbitrate a fee dispute if the pre-dispute agreement (1) is valid and enforceable, (2) is signed by all parties to the dispute, and (3) encompasses fees disputed in the scope of the dispute to be arbitrated. Further, the client must have been adequately informed of the scope and effect of a mandatory arbitration provision, consistent with D.C. Bar Legal Ethics Committee Opinion 376. In this instance, the ACAB can compel a client to arbitrate a fee dispute filed by a lawyer. A non-binding voluntary mediation option for parties to a fee dispute was added in 1999.

The ACAB Fee Arbitration Service has 100 volunteers who serve as arbitrators – 67 lawyers and 33 non-lawyers. Seventeen of the arbitrators – 12 lawyers and five non-lawyers – also serve as volunteer mediators. Arbitrator and mediator applicants are screened by Bar staff and members of the ACAB Committee. The ACAB reviews applications and appoints and trains its arbitrators and mediators. Arbitrators serve for three-year terms, after which they must request reappointment and their credentials are again reviewed by the ACAB.

The arbitration process may be initiated by either a client or an attorney. An information packet that explains the arbitration process and contains the required forms is available on the Bar's website. The initiating party submits a petition to arbitrate, which includes the parties' names, a brief description of the claim and the relief requested, and a signed agreement to arbitrate. The petition is reviewed by the Associate Director for jurisdiction and completeness before being docketed.

The ACAB has a governing committee of seven members of the District of Columbia Bar and four non-lawyers. Each member is elected by the Board of Governors to serve a three-year term. No member may serve more than two consecutive terms. Charles A. McCullough, II, an attorney member, served as chair during Fiscal Year (FY) 2021-22. DeAndra Roaché, a non-lawyer member, served as vice-chair.

FY 2021-2022 ACAB Committee

- **Chair:** Charles A. McCullough, II (Lawyer member)
- **Vice-Chair:** DeAndra Roaché (Non-lawyer member)
- **Lawyer Members:** Linda Fienberg, Lisa Fishberg, Ariel Glasner, Joseph Gomes, Maryam Hatcher, Karla Letsche
- **Non-Lawyer Members:** Tina Patterson, Nima Patel-Edwards, Sonia Shukla

FY 2021-22 AT-A-GLANCE

28 Cases Opened
- 16 (57%) initiated by a client
- 12 (43%) initiated by an attorney

22 Arbitration Awards issued
- 13 (59%) in favor of attorney
- 8 (36%) in favor of client
- 1 (5%) neither (both parties sought affirmative relief, and none was granted to either party)

9 counterclaims filed
30 cases assigned to arbitrators
1 mediation session held

34 Cases Concluded
- 22 Arbitration Awards
- 5 Settled
- 4 Closed
- 2 Consent Decisions
- 1 Mediated

Amount of relief sought in 28 cases opened
- 8 (29%) Less than $10,000
- 9 (32%) Between $10,001 and $49,999
- 5 (18%) between $50,000 and $149,999
- 6 (21%) $150,000 or greater

Key Accomplishments

- Conducted 22 fully remote arbitration hearings.
- Held a fully remote training for arbitrators with 47 volunteers participating (47% of the arbitrators). Training received an overall rating of 4.6 out of 5 from participants.
- Created and implemented a new survey to seek feedback from parties about their remote hearing experience.
- Amended the rules of procedure to address remote and hybrid proceedings, affirming the Chairperson or sole arbitrator the discretion to decide the method of hearing. New Rule 19(a)(i) states, "At the discretion of the sole arbitrator or Chairperson, ACAB hearings may be conducted by way of remote hearing either telephonically or using video conferencing technology. The precise method in which a remote hearing will be conducted remains within the discretion of the sole arbitrator or Chairperson assigned to the individual case, within the bound of applicable law, rules, and these rules of procedure." Approved by the Board of Governors on April 12, 2022.

FEATURED PROGRAM

Chairperson and Sole Arbitrator Certification Training

June 29, 2022

ACAB provided free online certification and refresher training for all current volunteer arbitrators wishing to serve as a sole arbitrator or Chairperson.

- **47** attendees
- **4.6 out of 5.0** attendee rating

"The arbitration training was excellent and I am happy I attended. Please let the presenters know the training was excellent. Charles is amazing and his presentation could not be improved."