

**RULES AND REGULATIONS  
OF THE FEE DISPUTE COMMITTEE  
MAY 16, 2006**

The Fee Dispute Committee (FDC) of the Houston Bar Association (HBA) is appointed on an annual basis by the President of the HBA to resolve disputes over attorneys' fees. Its only authority is to resolve fee disputes between attorneys and clients and/or other attorneys. The FDC consists of practicing and non-practicing attorneys and members of the public who serve as arbitrators on a pro bono basis. The FDC provides a free, confidential and expeditious resolution of fee disputes. Decisions made by FDC panels are binding on the parties and may not be appealed.

**Section 1  
Initiation of Proceedings**

a. To initiate the complaint, the complainant must complete the complaint form, sign the consent to arbitration, and mail, fax, or e-mail both forms to the HBA. Additional, relevant documents may be included with the complaint.

b. The HBA will forward a copy of the completed complaint, consent forms, and the additionally submitted documents (if any) to the respondent with a consent form to be executed and returned.

c. If the respondent consents to arbitration and the HBA receives respondent's signed consent within 45 days from the date that the HBA forwarded complainant's consent to the respondent, a panel to hear the dispute will be appointed by the FDC chair.

d. If the respondent fails to respond timely or declines to consent, the file will be closed and the complainant will be so notified.

e. The respondent may also file a complaint (counter-claim) against the complainant, but it may only pertain to the amount of the fee in dispute. The counter-claim automatically becomes part of the dispute.

**Section 2  
Procedure for Appointment of Panel**

a. Upon receipt of the complaint form and consents from both parties, the FDC chair will appoint a panel and designate the chair of the panel. The panel shall consist of two attorney members and one lay member. In the event of a conflict of interest, the FDC chair will appoint a new panel member.

b. Upon receipt of the appointment letter from the chair, the Panel Chair, in consultation with the members of the panel and the parties, will designate a date, time and

place of hearing and notify all the parties. This Notice of Hearing will be sent by certified mail, fax, or e-mail, no less than fifteen (15) days before the date of the hearing unless the parties agree, in writing, to a shorter notice period. The Panel Chair has the discretion to re-set or adjourn a hearing for good cause.

### **Section 3**

#### **Procedure for the Conduct of Hearings**

All decisions to be made with respect to this Section, unless otherwise stated, shall be made by the Panel Chair in his/her sole discretion.

a. Any hearing of a fee dispute under these rules is intended to be informal and will not require any legal expertise or knowledge of legal rules.

b. Any communication sent by a party must be sent simultaneously to all panel members and to all other parties.

c. Prior to a hearing on any fee dispute, the parties may submit position letters to the panel, attaching any relevant information. As the resolution of a dispute is generally based upon the facts, parties should not refer to legal authorities in the letters. If any legal authority is referenced, a copy must be attached to the letter. The Panel Chair may set deadlines for filing any such position letters. In the absence of any deadlines, the parties should provide any position letters to the panel at least seven days prior to the hearing.

d. The Panel Chair shall preside over the hearing. The proceeding will be conducted in an orderly and dignified manner. The Panel Chair has the authority to remove anyone, including any party or witness, whose conduct is disruptive.

e. All parties and witnesses will be sworn by the Panel Chair. Parties may be represented by counsel, but such representation is not necessary.

f. Each side will have the opportunity to make a brief opening statement. After opening statements, each side may then present evidence, along with a narrative explanation of the evidence. No rulings on the admissibility of evidence will be made during the hearing; rather, all information will be accepted, provided it is presented within the time limits imposed by the Panel Chair, and the panel will be free to decide the credibility of the evidence. At the close of the evidence, the Panel Chair, in his or her discretion, may allow each side to make a closing statement.

g. Although the parties may call witnesses, the parties should refrain from calling witnesses unless absolutely necessary to prove a key fact. If any party desires to call a witness, the party should advise both the Panel Chair and the opposing party of the identity of the witness at least ten days prior to the hearing.

h. During the presentation of the evidence, the members of the panel may direct questions to the parties or to any witness. No party may cross-examine the other party or the other party's witnesses. Instead, a party may direct a proposed question to the Panel Chair, who in his or her sole discretion may decide whether to direct the question to a party or witness or whether to allow that party to direct questions to the other party, but only if done in a dignified, non-threatening manner.

i. The panel will consider any evidence (including evidence offered at the hearing and evidence attached to any statements of claim or pre-hearing position papers) that is material and relevant to the issues involved. The Panel Chair will be the final judge on whether the evidence is material and relevant.

j. Although these rules place no time limitations on the parties in the presentation of their case, a hearing of a fee dispute under these rules normally should not last longer than an hour and a half. The Panel Chair will stop the hearing once the panel believes that all relevant facts have been presented.

k. The hearing is private. Only parties, counsel and witnesses may attend the hearing; however, upon request by either party, a majority of the panel may permit additional, non-disruptive persons (such as a spouse, parent, or good friend) to attend.

l. The hearing will not be recorded.

m. Statements made during any hearing of a fee dispute are confidential under Section 154.073 of the Texas Civil Practice and Remedies Code.

#### **Section 4**

#### **Decision of the Panel**

a. The decision of the Panel will be in writing and any dissent will be recorded.

b. The Panel Chair shall deliver the decision to the parties by certified mail, return receipt requested, by fax, or by e-mail, within thirty (30) days after the hearing. A copy shall be delivered to the Chair of the FDC and to the HBA.

c. The decision of the panel is final and binding upon the parties and dispositive of all issues pertaining to the amount of the fee in dispute. No member of the panel shall be required to explain the reason for his/her vote or the panel decision. Any money award shall be paid within thirty (30) days. If paid within thirty (30) days, the award will bear no interest. If the award is not paid within thirty (30) days, the prevailing party shall be entitled to interest at the rate of ten percent (10%) per annum and shall commence on the date of the award. The panel, at its discretion, may structure payments of the award as it sees fit, but shall not require interest at a rate above ten percent (10%) annum.

d. If an award is not paid within thirty (30) days, a party may go to court to enforce the award. Any party who has to seek court intervention to enforce the arbitration award is entitled to attorney's fees, expenses and costs, reasonably incurred in enforcing the award. The HBA will not participate in any court proceeding.

## **Section 5 Exclusion of the Liability**

The HBA, the Chair of the FDC, the Panel Chair, and members of the arbitration panel (the arbitrators) are not necessary or proper parties in any judicial proceedings related to the arbitration award. Neither the HBA, the Chair of the FDC, the Panel Chair, nor any arbitrator, shall be subpoenaed or compelled to testify in any court pertaining to any matter presented to the FDC or the arbitration Panel by way of complaint, response, or other evidence. Neither the HBA, its officers and directors, any member of the FDC, the Chair of the FDC, the Panel Chair, nor any arbitrator participating in the arbitration hearing shall be liable to any party for any act or omission in connection with any arbitration conducted under Title 7 of the Civil Practice and Remedies Code of the State of Texas, or these Rules and Regulations.

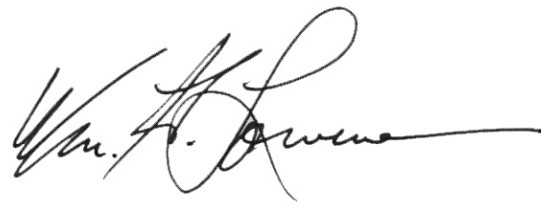
## **Section 6 Document Retention**

The HBA has established the following guidelines for document retention:

- a. If forms are sent to a potential claimant but not returned timely to the HBA, the file will not be retained.
- b. If the complainant returns the forms timely and forms are sent to a potential respondent, but the case does not proceed to arbitration, the file will be maintained until the end of the HBA's fiscal year or for six months, whichever is longer.
- c. If a panel is appointed and issues a decision, the file (consisting only of each party's

last filed complaint and reply [excluding all unnecessary exhibits and attachments thereto], each party's consent to arbitration, and the panel's decision) will be maintained for 50 months following the date of the decision.

The foregoing Rules and Regulations of the Fee Dispute Committee (FDC) were adopted and approved by the HBA Board on May 16, 2006, and are effective for all complaints after said date.

A handwritten signature in black ink, appearing to read "Wm. G. Lowerre", with a long horizontal flourish extending to the right.

William G. Lowerre  
Co- Chair of the FDC Committee

A handwritten signature in black ink, appearing to read "Joni Gaylor", with a long horizontal flourish extending to the right.

Joni Gaylor  
Co-Chair of the FDC Committee