

This form is attached to Form SC-100, item 7. It tells the court that you are suing about a disagreement for \$5,000 or less in attorney fees and that you have tried to solve the disagreement through arbitration. Read page 2 of this form before you fill out this form. It explains your rights and some small claims terms.

1 How much money is in dispute? \$ _____ 2 You are (check one): [] Attorney [] Client

3 What did the arbitrator decide? (Check one):
a. [] The [] attorney [] client has to pay the other party this amount: \$ _____
b. [] Neither party has to pay the other party anything.

4 Write the date your Notice of Award was mailed here: _____ (Look at the bottom of the Notice.)

5 Why are you filing in small claims court now? (Check what you are asking the judge to do):
a. [] I want the court to confirm the award.
b. [] I want the court to correct the award because (check only one and explain below):
1. [] It contains an error in calculation or a mistake in describing someone or something in the award.
2. [] The arbitrator considered legal issues not allowed in this kind of hearing and the award can be corrected so it is fair.
3. [] It doesn't follow the rules for proper wording, information, or signature. (State Bar Rule 37.2 et seq.)

Explain: _____

c. [] I want the court to vacate (cancel) the award because (check only one and explain below):
1. [] It was obtained by fraud, corruption, or other unfair means.
2. [] The arbitrator was corrupt.
3. [] The arbitrator did something wrong that substantially hurt my case.
4. [] The arbitrator considered legal issues not allowed in this kind of hearing and the award cannot be corrected so it is fair.
5. [] The arbitrator unfairly refused to postpone my case or refused to consider important evidence that could help settle the dispute or conducted the hearing in another way that is not allowed.
6. [] The arbitrator knew of reasons why he or she could have been disqualified but did not disclose this information or did not disqualify himself or herself after I asked the arbitrator to do so at the proper time.

Explain: _____

[] Check here if you are asking for a new arbitration hearing.
d. [] I want a trial in small claims court to decide the fee dispute. (You can check this option only if you did not agree in writing to a binding award and you file this form within 30 days after the Notice of the Award.)

6 [] []

7 Attach a copy of the Arbitration Agreement and the Notice of Award (the arbitrator's decision). If you do not attach them, explain why here: _____

Date: _____ Type or print your name Sign your name

Your name: _____

What is arbitration?

Arbitration is when a neutral person (an arbitrator) hears evidence from each side and then makes a decision (award) in your case. It is less formal than a trial in court.

Do I *have* to use arbitration for this dispute?

In most cases, yes. The only exceptions are:

- Parties who did not sign an agreement to arbitrate fee disputes *and*
- Clients who do not want to use arbitration. The attorney *must* use arbitration if the client asks for it.

What is *nonbinding* arbitration?

Nonbinding arbitration allows you *or* the other side to ask for a trial if either of you does not like the arbitrator's decision. You have 30 days after the notice is mailed to ask for a trial.

What is *binding* arbitration?

Binding arbitration means you and the other side gave up your right to a trial and must accept the arbitrator's decision. Your arbitration is binding if:

- Both sides agreed to binding arbitration in writing (after they disagreed about fees or costs) *or*
- 30 days or more have gone by since the nonbinding decision was mailed.

What if I agree with the award?

If your award is *nonbinding* and the other party does not file papers asking for a trial, the award becomes binding in 30 days.

If the award is *binding* and it says the other party owes you money, send a letter asking to be paid within a reasonable time. If you don't get paid, ask the court to "confirm" the award. This allows you to ask the court to order payment from the other party's paycheck, bank accounts or property. You must do this within 4 years after the notice of award. (See page 1, item 5a.)

What if I am not happy with the award?

You can ask the court to **correct** the award if it contains an obvious mistake in calculating a number or describing a person, thing, or property. (See page 1, item 5b.)

You can ask the court to **vacate (cancel)** the award if certain kinds of misconduct or mistakes happened in the arbitration. (See page 1, item 5c.)

You can reject the award and **ask for a trial** if you and the other party did not agree in writing to binding arbitration. (See page 1, item 5d.)

How long do I have to ask for a trial?

You have up to 30 days after the date the Notice of Award was mailed to you. Look for the date on the bottom of the notice. If you do not ask for a trial within 30 days, the award will become binding.

How long do I have to ask the court to vacate or correct the award?

In most cases you have up to 100 days after the date the Notice of Award was mailed to you. But if the other side asks the court to confirm, correct, or vacate the award, you must ask the court to correct or vacate the award before the court's deadline to answer the other side's request. Your Small Claims Advisor can give you more information on court deadlines.

Which court do I use for a trial or to confirm, correct, or vacate the award?

If a lawsuit has already been filed about the fee disagreement, file your papers in the same court and use same case number as in that lawsuit. (Before filing, you must serve all parties named in the claim.)

If no lawsuit has been filed about the fee disagreement, file in the court of the county where the arbitration was held and ask for a trial or ask the court to confirm, correct, or vacate the award.

- If the amount in disagreement is \$5,000 or less, file in small claims court. Use Forms SC-100 and SC-101.
- If the amount in disagreement is more than \$5,000, file in superior court. See Form ADR-105.

What if an attorney doesn't pay the award?

If an attorney doesn't pay the award, the State Bar can help you. If you don't receive the award in 100 days after receiving the Notice of the Award, or if the award becomes a final judgment, contact the State Bar at:

Mandatory Fee Arbitration
180 Howard Street, 6th Floor
San Francisco, CA 94105-1639
415-538-2020

More Information

California has special laws for arbitration of disputes over attorney fees. For more information, see:

- State Bar of California Web site: www.calbar.org
- Form ADR-105, *Information Regarding Rights After Attorney-Client Fee Arbitration*
- Cal. Business & Professions Code, §§ 6200–6206