

Santa Barbara County Bar Association  
Modifications to Fee Arbitration Rules of Procedure

~~[delete begins]RULE [delete ends]~~22.0 Arbitrator ~~[delete begins]Disclosures[delete ends]~~[insert begins]Recusal, Disclosure and Disqualification[insert ends]

~~[delete begins]Each Panel Chair and member of a Hearing Panel shall disclose all matters that could cause a person aware of the facts to reasonably entertain a doubt that the proposed neutral arbitrator would be able to be impartial. Without limiting the generality of the foregoing, each Panel Chair and member of a Hearing Panel shall disclose whether he or she: 1) has a financial interest in the fee arbitration; 2) has represented the client or the attorney who is the subject of the fee arbitration; 3) has practiced with the attorney who is the subject of the fee arbitration; 4) has socialized with the client or the attorney who is the subject of the fee arbitration; 5) is related to the client or the attorney who is the subject of the fee arbitration; or, 6) has any connection with the attorney, client, potential witnesses or any attorney representing the attorney or client in the arbitration.[delete ends]~~

[insert begins]22.1 Arbitrator Recusal[insert ends]

[insert begins]An arbitrator who believes that he or she cannot render a fair and impartial decision shall recuse himself or herself. An arbitrator who believes that there could be an appearance that he or she cannot render a fair and impartial decision may recuse himself or herself. If an arbitrator (1) has a financial interest in the fee arbitration (2) has represented any Party to the arbitration, or (3) has practiced with any Party to the arbitration, then such arbitrator shall recuse himself or herself.[insert ends]

[insert begins]22.2 Arbitrator Disclosure[insert ends]

[insert begins]An arbitrator who has not voluntarily recused himself or herself should disclose all information that might cause a person aware of the facts to believe that the arbitrator cannot render a fair and impartial decision. An arbitrator should nevertheless disclose any connection, past or present, with the attorney, client, potential witnesses, or any attorney representing the attorney or client in the arbitration.[insert ends]

[insert begins]22.3 Party Disqualification of Arbitrator(s)[insert ends]

[insert begins]Each Party may disqualify one arbitrator without cause, and shall have unlimited disqualification challenges for cause. Any disqualification challenge of an arbitrator without cause shall be ineffective unless made in writing and served on the Program and other Parties within 15 days of the service of a notice of assignment of the arbitrator. Any disqualification challenge of an arbitrator for cause based on information disclosed by the arbitrator shall be ineffective unless made in writing and served on the Program and other Parties within 15 days of the service of the disclosures. If a Party challenges an arbitrator for cause the arbitrator shall accede to the challenge if the arbitrator believes he or she cannot render a fair and impartial decision, or there could be an appearance that he or she cannot render a fair and impartial decision. If the arbitrator does not agree to be disqualified, the challenge shall be decided by the Committee Chair. All decisions of the Committee Chair are final.[insert ends]