RULES OF

THE FEE DISPUTE COMMITTEE

A STANDING COMMITTEE

OF

THE DELAWARE STATE BAR ASSOCIATION

Pursuant to Section 6.14 of the Bylaws, there is hereby established a Fee Dispute Committee (the “Committee”) of the Delaware State Bar Association for the purpose and under the procedures hereafter set forth:

1. **Purpose.** The Committee shall concern itself with the resolution of controversies between lawyer and client, and between lawyers who succeed each other in the representation of a client.

2. **Composition and Jurisdiction.** The Committee shall consist of members of the Delaware State Bar Association and laypersons appointed by the President of the Bar.

   The Committee shall have jurisdiction to determine any fee dispute submitted to it for arbitration by all parties to the dispute, subject to the limitations set forth below and except those matters (a) subject to resolution by a court or administrative agency, (b) matters in which fees are fixed by law, or (c) matters involving a question of ethical misconduct falling within the jurisdiction of the Board of Professional Responsibility of the Supreme Court.

   In any proceeding involving a dispute where the amount in controversy does not exceed the sum of $100,000.00, one (1) attorney member of the Committee, appointed by the Chairperson, shall hear and decide the matter. In a fee dispute where the amount in controversy is
greater than the sum of $100,000.00, two (2) members of the Committee, one of whom shall be a layperson, all appointed by the Chairperson, shall hear and decide the matter. In the event that the fee dispute is between attorneys, then the two (2) members of the Committee may, at the discretion of the Chairperson, both be attorneys. The lawyer appointed by the Committee shall be the chairperson of any hearing wherein the sum in controversy exceeds $100,000.00. If the Committee consists of two (2) attorneys then the Chairperson of the Fee Dispute Committee shall appoint the Chairperson of the hearing.

3. Procedure.

3.1. Proceedings before the Committee shall be initiated by or on behalf of a lawyer or client (the “Petitioner”) by written Petition addressed to the Association or to the Chairperson of the Committee. The Petition on behalf of the Petitioner shall be on a form as set forth in Appendix A and provided by the Association.

3.2. Concurrently with the submission of a Petition, the Petitioner shall also execute and deliver to the Committee a written Agreement to Submit to Common Law Arbitration in the form attached as Appendix B and provided by the Association.

3.3. Upon receipt of a Petition and Agreement to Submit to Common Law Arbitration, the documents shall be forwarded to the Committee Chairperson unless the Petition is addressed to the Chairperson in the first instance. The Chairperson shall thereupon cause the Petition and Agreement to be transmitted to the Respondent along with a request that the Respondent participate in the program and agree to be bound by the decision of the Committee. The Respondent shall have twenty (20) days in which to return the submission and to respond to the Petition. Upon request, a Respondent shall be granted up to thirty (30) additional days to respond upon an indication of good cause.
3.4. In the event that a Respondent shall fail to answer a Petition or shall fail to agree to submit to common law arbitration, the Chairperson shall so notify the Petitioner.

3.5. In any case where an attorney shall fail to respond or to submit to common law arbitration, the Chairperson shall attempt to persuade the attorney to agree to submit in the best interests of the profession.

4. Hearing.

4.1. Within sixty (60) days following receipt of the response referred to in paragraph 3.3, a hearing shall be held by the Committee, unless such time is extended by the Chairperson.

4.2. Written notice of such hearing shall be given to all the parties concerned at least twenty (20) days in advance of such hearing and will specifically notify all parties of their right to have counsel or other assistance if they so desire, and to bring evidence and witnesses. Petitioners who may be unable to appear at a hearing may be represented by a person chosen by such Petitioner in the event that a delayed hearing would not promote justice.

4.3. The Committee member or Chairperson shall stress at the beginning of each hearing that the hearing is to be conducted in as informal a manner as is consistent with justice and that all evidence which possessed probative value commonly accepted by reasonably prudent persons in the conduct of their affairs, will be considered.

4.4. The Committee shall proceed to hear the dispute, giving both parties ample opportunity to present their cases and giving each party the right to question the other and any witnesses which are brought by either party. Each Committee member shall also have the opportunity to question any participant in the hearing. The length and breadth of the hearing shall be at the discretion of the Committee.
4.5. Upon conclusion of the hearing, the Committee shall refrain from further discussing the matter with either party until a decision has been rendered by the Committee.

5. **Opinion of Committee.**

5.1. Immediately upon conclusion of the hearing, the Committee shall determine their opinion, which opinion shall be upon the unanimous vote of the Committee. In the case of two (2) member Committee, if the members of the Committee are unable to reach a unanimous decision, the Chairperson of the Fee Dispute Committee shall be so notified. In such case, the hearing shall be reconvened and the dispute shall be reheard with the Chairperson of the Fee Dispute acting as the third person of the Committee, or such other person as appointed by the Chairperson of the Fee Dispute Committee. The decision of the three (3) member committee shall be by a majority vote.

5.2. Within seventy-two (72) hours of the completion of the hearing of the Committee, the Chairperson shall submit, in writing, a report of the opinion of the Committee to the parties. Such opinion shall include a reference to the time, place and names of the participants; a short resume of the facts; and the conclusion of the Committee, all in terms and language which shall be easily understood by the parties.

5.3. In any case where a submission has been signed by both parties, the Decision and Award of the Committee shall be final and binding on the parties and shall be in the form of Decision and Award which is attached hereto as Appendix C.

6. **Other Matters.**

6.1. If all parties, in writing, waive a hearing, the Committee may, in its discretion, dispense with a hearing and decide the matter on written submissions. If the Committee, after reviewing the written submissions, concludes that a hearing is necessary, it shall call one; otherwise, it shall render its opinion.
6.2. In any case in which a hearing is scheduled and one of the parties fails to appear, the Committee shall proceed based upon any written evidence submitted to it in advance of the hearing, shall decide the matter and issue an opinion based upon the evidence available at the hearing.

6.3. All records, documents, files, proceedings and hearings pertaining to the arbitration of any fee dispute under these rules, shall be confidential and shall not be opened to the public or any persons not involved in the dispute. Following completion of the hearing, the panel shall, if requested, return all records, documents, files and other matters to the appropriate parties.
DELAWARE STATE BAR ASSOCIATION
FEE DISPUTE COMMITTEE
PETITION

1. Please provide your full name, address, telephone number, and email address (if you have an email address).

2. Please provide the name and address of the lawyer or client with whom you have the fee dispute.

3. What was the nature of the case handled by the attorney? (i.e. criminal, divorce, personal injury, estate, etc.)

4. When did you first have contact with the lawyer or client concerning this case?

5. When was the case concluded? If the case is not yet concluded, please indicate the current stage or status of the matter.

6. Does a written fee agreement exist? (Please attach a copy.)

7. What was the fee charged? Please provide billing statements and related back up from the law firm if not voluminous.

8. What part of the fee, if any, has been paid?

9. Have you communicated with your attorney about the fee dispute and tried to informally resolve the fee dispute?

10. Has a civil action been commenced in a Court concerning the fee dispute?

11. Please summarize the nature of your complaint and the relief sought. Please state whether you filed a complaint against this attorney with the Office of the Disciplinary Counsel. (You may use the other side or attach additional pages. Any documents you wish to submit with this petition will be considered as part of the file.)

________________________________________  ______________________________
Date            Petitioner
DELAWARE STATE BAR ASSOCIATION
FEE DISPUTE COMMITTEE

AGREEMENT TO SUBMIT TO COMMON LAW ARBITRATION

This Agreement of Submission to Common Law Arbitration is entered into by and between/among _________________, Petitioner and _________________, Respondent.

WHEREAS, a dispute has arisen between the parties on the amount of legal fees _________________ is entitled to receive from _________________ with respect to services rendered; and

WHEREAS, the parties hereto expressly agree to submit the dispute to Common Law Arbitration (and not pursuant to the Uniform Arbitration Act, 10 Del. C. Ch. 57) by submitting to the procedures of the Fee Dispute Conciliation and Mediation Committee of the Delaware State Bar Association on the following conditions:

(a) That the final Award of the Committee shall be final and binding on the parties hereto and shall have the force and effect of a verdict by a jury;

(b) That no confirmation of the Award by a Court shall be needed or required; and

(c) That judgment may be entered on the Award in any Court of competent jurisdiction by filing therein, a copy of this Agreement, the Award and a Praecipe to the Prothonotary or Clerk to enter a judgment.

This Agreement may be executed in several counterparts, each of which shall be an original, so that all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties intending to be legally bound herewith do hereby affix their hands and seals this _____ day of________________, 201_.

WITNESS:

_____________________________    ______________________________
(Seal)                          Petitioner

_____________________________    ______________________________
(Seal)                          PRINT NAME: ____________________
             Respondent
AWARD OF PANEL

The parties to this dispute, having voluntarily agreed to submit to arbitration by this Committee and agreed in writing to be legally bound by the Award of this Committee:

After hearing before this Committee, which has issued its Opinion for the reasons set forth therein, the Committee makes the following Award:

___________________________  _________________________________
Date       Arbitrator