

27 NCAC 01D .0707 PROCESSING REQUESTS FOR FEE DISPUTE RESOLUTION

(a) A request for resolution of a disputed fee must be submitted in writing to the coordinator of the Fee Dispute Resolution Program addressed to the North Carolina State Bar, PO Box 25908, Raleigh, NC 27611. A lawyer is required by Rule of Professional Conduct 1.5 to notify in writing a client with whom the lawyer has a dispute over a fee (i) of the existence of the Fee Dispute Resolution Program and (ii) that if the client does not file a petition for fee dispute resolution within 30 days after the client receives such notification, the lawyer will be permitted by Rule of Professional Conduct 1.5 to file a lawsuit to collect the disputed fee. A lawyer may file a lawsuit prior to expiration of the required 30-day notice period or after the petition is filed by the client only if such filing is necessary to preserve a claim. If a lawyer does file a lawsuit pursuant to the preceding sentence, the lawyer must not take steps to pursue the litigation until the fee dispute resolution process is completed. A client may request fee dispute resolution at any time before either party files a lawsuit. The petition for resolution of a disputed fee must contain:

- (1) the names and addresses of the parties to the dispute;
- (2) a clear and brief statement of the facts giving rise to the dispute;
- (3) a statement that, prior to requesting fee dispute resolution, a reasonable attempt was made to resolve the dispute by agreement;
- (4) a statement that the subject matter of the dispute has not been adjudicated and is not presently the subject of litigation.

(b) A petition for resolution of a disputed fee must be filed (i) before the expiration of the statute of limitation applicable in the General Court of Justice for collection of the funds in issue or (ii) within three years of the termination of the client-lawyer relationship, whichever is later.

(c) The State Bar will process fee disputes and grievances in the following order:

- (1) If a client submits to the State Bar simultaneously a grievance and a request for resolution of disputed fee involving the same attorney-client relationship, the request for resolution of disputed fee will be processed first and the grievance will not be processed until the fee dispute resolution process is concluded.
- (2) If a client submits a grievance to the State Bar and the State Bar determines it would be appropriate for the Fee Dispute Resolution Program to attempt to assist the client and the lawyer in settling a dispute over a legal fee, the attempt to resolve the fee dispute will occur first. If a grievance file has been opened, it will be stayed until the Fee Dispute Resolution Program has concluded its attempt to facilitate resolution of the disputed fee.
- (3) If a client submits a request for resolution of a disputed fee to the State Bar while a grievance submitted by the same client and relating to the same attorney-client relationship is pending, the grievance will be stayed while the Fee Dispute Resolution Program attempts to facilitate resolution of the disputed fee.
- (4) Notwithstanding the provisions of subsections (c)(1),(2), and (3) of this section, the State Bar will process a grievance before it processes a fee dispute or at the same time it processes a fee dispute whenever it determines that doing so is in the public interest.

(d) The coordinator of the Fee Dispute Resolution Program or a facilitator will review the petition to determine its suitability for fee dispute resolution. If it is determined that the dispute is not suitable for fee dispute resolution, the coordinator and/or the facilitator will prepare a letter setting forth the reasons the petition is not suitable for fee dispute resolution and recommending that the petition be discontinued and that the file be closed. The coordinator and/or the facilitator will forward the letter to the vice-chairperson. If the vice chairperson agrees with the recommendation, the petition will be discontinued and the file will be closed. The coordinator and/or facilitator will notify the parties in writing that the file was closed. Grounds for concluding that a petition is not suitable for fee dispute resolution or for closing a file include, but are not limited to, the following:

- (1) the petition is frivolous or moot; or
- (2) the committee lacks jurisdiction over one or more of the parties or over the subject matter of the dispute.

(e) If the vice-chairperson disagrees with the recommendation to close the file, the coordinator will schedule a settlement conference.

*History Note: Authority G.S. 84-23;
Adopted Eff. May 4, 2000;
Amendments Approved by the Supreme Court: March 8, 2007; March 11, 2010; September 25, 2019.*