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

(a) Requests 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 1.5 of the Rules of Professional Conduct to notify in writing a client with whom the lawyer has a dispute over a fee of the existence of the Fee Dispute Resolution Program and to wait at least 30 days after the client receives such notification before filing a lawsuit to collect a disputed fee. A lawyer may file a lawsuit prior to expiration of the required 30-day notice period 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; and
(4) a statement that the subject matter of the dispute has not been adjudicated and is not presently the subject of litigation.

(b) All petitions for resolution of a disputed fee must be filed:

(1) before the expiration of the statute of limitations applicable in the General Court of Justice for collection of the funds in issue; or
(2) within three years of the termination of the client-lawyer relationship, whichever is later.

(c) The coordinator of the Fee Dispute Resolution Program or a facilitator will investigate 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 dismissal letter setting forth the facts and a recommendation for dismissal. The coordinator and/or the facilitator will forward the dismissal letter to the vice-chairperson. If the vice chairperson agrees with the recommendation, the petition will be dismissed. The coordinator and/or facilitator will notify the parties in writing of the dismissal. Grounds for dismissal include, but are not limited to, the following:

(1) the petition is frivolous or moot;
(2) the committee lacks jurisdiction over one or more of the parties or over the subject matter of the dispute;
(3) the fee has been earned; or
(4) the expenses were properly incurred.

(d) If the vice-chairperson disagrees with the recommendation for dismissal, the coordinator will schedule a settlement conference.

History Note: Authority G.S. 84-23;
Adopted Eff. May 4, 2000;