

MEMORANDUM

TO: All Santa Clara County Bar Association Fee Arbitrators

FROM: Fee Arbitration Executive Committee

DATE: July, 1995

RE: Fee Arbitration Awards and Arbitrator Immunity 95-01

Thank you again for giving your time to the fee arbitration program. Your efforts are appreciated and we realize that the success of our endeavor is dependent on your participation. Thank you.

- 1. When drafting your arbitration awards, please remember that the Reasons for Decision section of the award must be filled out completely. The section must “include a determination of all the questions submitted to the arbitrators, the decision of which is necessary in order to determine the controversy” (B&P Code §6203[a]).**

Complete awards are important both as a requirement of the law as well as for their public relations function. Both clients and attorneys appreciate knowing that their concerns were heard during the arbitration and an award that addresses each issue raised indicates your attention to their concerns.

- 2. Remember, when conducting fee arbitrations, you are an arbitrator. You are not a mediator or settlement conference judge. You may put your immunity and the immunity of the Fee Arbitration program in danger if you step out of your role as arbitrator and act as a mediator of a dispute.**

However, you may encourage the parties to settle their dispute without the necessity of arbitration. If the parties wish to attempt to settle their dispute, please excuse yourself from any settlement negotiations or discussions. Excusing yourself will preserve your immunity and the immunity of the program.