

## Arbitration With Michael Louden

Thank you for your inquiry regarding arbitration. I provide arbitration in family law matters in Washington State. A separate arbitration agreement can be provided upon request.

There is no single format for arbitration; each matter is resolved using procedures appropriate to the parties and issues. That said, here are common arbitration questions and answers.

**All Arbitrations.** In all arbitrations, certain rules should be followed:

1. **Any communication with my office should include the other party or attorney.** If the other side is *not* included, then we will include the other party and your message in our response.
2. **Arbitration authority** typically arises through a signed agreement of the parties, or a court order. If I do not have arbitration authority (due to lack of agreement or court order), then I cannot resolve any issues in your case.
3. If an attorney at Wechsler Becker, LLP, has represented either party, then you should look outside of Wechsler Becker for an arbitrator. This is a conflict of interest and no attorney at Wechsler Becker can arbitrate your case.
4. When inquiring with our office, please let us know the names of the parties, so that we can run our own conflict check.
5. Once a case is ripe for resolution, I will often consider the matter over the following weekend.
6. I generally request full payment prior to releasing a decision. I will send out an invoice, and once payment is received, the decision will be released. My cost may be reallocated within the decision, if I have that authority.
7. For most smaller matters, I am generally available to resolve it within 7-10 days of briefing being complete. More substantial matters (e.g. complicated property issues) may require more time.
8. If there is a time-critical matter, please feel free to include in the subject line of your e-mail something to that effect, e.g., "TIME CRITICAL, PROMPT DECISION REQUESTED." I will do my best to accommodate those needs.
9. If your submissions are brief (under 100 pages, with few exhibits), then we are happy to accept submissions via e-mail. If your submissions are lengthy, then we request tabbed hard copies, in addition to electronic submissions. We may charge for time to compile and organize submissions.
10. Please copy Kristin House ([kristin@wechslerbecker.com](mailto:kristin@wechslerbecker.com)) on your submissions.

**Post-Mediation Drafting Disputes.** Occasionally, there will be drafting disputes which the parties are unable to resolve after a mediation. I have found that often, the problem arises from one side not responding promptly, or not drafting materials in a timely manner.

1. Before requesting a briefing schedule, counsel for the parties should "meet and confer" and see if agreement regarding the schedule can be reached.

2. If no agreement can be reached, or a party isn't responding, then either side may request arbitration; please propose a briefing schedule in your request.
3. Arbitration will most often occur via written submission. If argument or testimony is required, then please request this specifically. This may delay resolution, as my schedule fills up quickly.

#### **Arbitration of Parenting Plan Disputes.**

1. Arbitration authority is either granted by the parenting plan itself, or by separate agreement. If I am not named as the sole arbitrator in the parenting plan, then the parties will have to sign a separate arbitration agreement.
2. If arbitration of a parenting plan dispute is requested, I ask that the parties or their attorneys meet and confer regarding process. If an agreement can be reached, then that will save time (and fees) for everyone. If not, then I can resolve the procedural issues, including a briefing schedule and whether there will be argument or testimony.

#### **Arbitration of Temporary or Final Family Law Orders**

1. Arbitration authority will be based on the parties' agreement, or a separate court order. The agreement or order should specifically set forth the scope of arbitration authority.
2. The parties/counsel should meet and confer regarding process and deadlines. After arbitration authority exists, then I can resolve any disputes regarding the process.
3. If recording of testimony or argument is requested, then please work with my office to make the necessary arrangements in advance.
4. Proposed Orders in Word format are welcomed.

#### **Arbitration Under the Uniform Family Law Arbitration Act**

Effective January 1, 2024, Washington's Uniform Family Law Arbitration Act is in effect, creating an array of uncertainty and ambiguity. If a protection order is in place, or if a party has been convicted of a domestic violence offense, then arbitration will have to be confirmed via court order, a version of which is available on my website. Many ambiguities will be resolved in the years to come.