

## Attorney Properly Rejects Attorney Fee Arbitration Award by Filing a Small Claims Action

September 29, 2011 by [David J. McMahon](#)

In [Giorgianni v. Crowley](#), the [California Court of Appeal for the Sixth District](#) decided a novel question arising under the [California Mandatory Fee Arbitration Act](#) for attorney fees disputes.

An attorney, John Crowley (“Crowley”), represented Carrie Giorgianni (“Giorgianni”) in family law proceedings. Crowley was retained to enforce a judgment against her former husband. He billed Giorgianni over \$77,000 for those efforts. Giorgianni paid over \$69,000, and then requested fee arbitration, claiming that she had been overcharged. Crowley claimed that she owed him \$11,000. After a hearing, the arbitrators awarded Giorgianni \$29,714 in fees previously paid.

Thereafter, Crowley filed a small claims court action against Giorgianni, seeking an amount “not to exceed \$5,000” in unpaid fees and costs. Giorgianni filed a petition in the superior court to confirm the award, asserting that more than 30 days had passed since the mailing of the award and no party had filed a proper rejection. In response, Crowley argued that the award had rejected by the filing of the small claims court action. The trial court disagreed with Crowley and approved the arbitration award.

The court of appeal reversed the trial court’s decision. Pursuant to the provisions of the Mandatory Fee Arbitration Act, arbitration of fee disputes is mandatory for an attorney if commenced by a client. If mutually agreed, the arbitration is binding. A party dissatisfied with the arbitration award must make a timely rejection by filing a *de novo* request. If no action is pending, the losing party must initiate a new action.

The court of appeal noted that the amount claimed by Crowley in small claims court was an amount “not to exceed \$5,000.” Thus, the small claims court had jurisdiction. For these reasons, the court of appeal concluded that Crowley made a timely rejection of the arbitration award by requesting a small claims trial.