

## [Disclosure of the Nature of Legal Practice and Representation is Required by Arbitrator in Fee Dispute Matter](#)

Posted on October 20, 2010 by [David J. McMahon](#)

In [Benjamin, Weill and Mazer v. Kors](#), 2010 DJDAR 15842 (2010) the [First Appellate District](#) decided a novel case involving the disclosure requirements under the [California Arbitration Act](#).

Plaintiffs, the Temples, sued Nancy Kors for her activities as a professional adoption facilitator. Kors retained the law firm of [Benjamin, Weill & Mazer](#) (BWM) to represent her in the litigation. The Temples voluntarily dismissed their complaint without prejudice, after expensive litigation ensued. Kors moved for attorney fees and her motion was denied. Thereafter, BWM requested that Kors pay the fees which had been billed to her. Kors failed to pay the bills, and BWM sued Kors seeking the balance owed to the firm of \$68,986.38.

The trial court granted Kors' motion to compel fee arbitration and Sean SeLegue was designated chief arbitrator. The arbitration panel concluded that Kors was required to pay BWM \$102,287.39 in unpaid fees, costs and interest. BWM then moved to confirm the award in the Superior Court. Kors responded by alleging that SeLegue failed to disclose the nature of his law practice, which could cause a person to doubt his impartiality.

Kors claimed that at the time of arbitration, SeLegue was representing a prominent law firm in an attorney-client fee dispute. Kors also contended that SeLegue's practice involved the representation of law firms in client disputes. The court granted BWM's petition to confirm the award and denied Kors' disqualification request.

The Court of Appeal reversed the trial court's decision, noting that the California Arbitration Act requires arbitrators to disclose:

**all matters that could cause a person aware of the facts to reasonably entertain a doubt that the proposed neutral arbitrator would be able to be impartial.”** ([CCP § 1281.9\(a\)](#)).

The Court of Appeal stated that the arbitrator's failure to disclose the facts relating to the nature of his law practice justified vacation of the arbitration award.

The court specifically noted that SeLegue's extensive practice involving attorneys and their professional responsibilities to clients, was an important factor that, if not disclosed, could create an impression of bias.

On these grounds, the court ruled that SeLegue had a duty to disclose the nature of his practice and his representation of clients in fee disputes. Because there was a failure to disclose important facts, the court of appeal remanded the case, with directions to grant Kors' motion to vacate the arbitration award.