Comment, Resolving the Bill: Attorney-Fee Disputes and Limits of State-Based Mediation

I. Introduction

In May 2021, one of the most infamous defendants of the #MeToo era, Harvey Weinstein, did something few laypeople expect to see outside the pages of a dramatic movie script: he suited up not just for battle in court but for a second battle—this time over his own legal bill.[1] The convicted sex offender currently serving decades in prison filed a lawsuit against his own former lawyer, seeking the return of more than $1 million in legal fees paid in connection with his defense.[2] According to the complaint, the attorney was allegedly distracted by other matters,[3] delegated critical work to others without adequate disclosure,[4] refused to provide an accounting,[5] and may have even submitted fraudulent billing records[6]—leaving Weinstein demanding a refund of what he claimed were unjustified charges.[7]

This startling spectacle, a client, deeply enmeshed in historic criminal litigation, dragging his lawyer back into court over the cost of counsel itself, is more than a celebrity headline. It exposes a darker fault line in the legal profession: when fee disputes erupt, clients and lawyers alike can find themselves pushed into costly, acrimonious conflict with no clear path to resolution outside of formal litigation. The story of *Weinstein v. Baez* illustrates how disputes over legal fees can spiral into litigation that rivals the original underlying case in complexity, cost, and reputational risk,

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1 Compl., Weinstein v. Baez, No. 28306 (N.Y. App. Div. May 04, 2021), https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=TDjwdAzh0Nx6G8z2fXU6hQ==.

2 *Id.* at ¶ 39.

3 *Id.* at ¶ 13.

4 *Id.*

5 *Id.* at ¶ 14.

6 *Id.* at ¶ 27.

7 *Id.* at ¶ 46.

prompting urgent questions about whether existing mechanisms for resolving such disputes are adequate.[8]

Attorney-fee disputes rarely make headlines. When they do, it is usually because the underlying litigation is already extraordinary with high-stakes criminal prosecutions, complex civil litigation, or clients whose names alone command public attention.[9] An example of this would be *Campbell Harrison & Dagley L.L.P. v. Blue*, a high-profile case involving the estate of oiler and philanthropist, Margaret Hunt-Hill. The public watched as the court addressed the fee agreement dispute on top of a multitude of other complicated claims and counterclaims.[10] Similarly, the dispute between Harvey Weinstein and his former attorney over more than one million dollars in legal fees is not aberrational in kind, but in visibility. Beneath the sensational facts lies a conflict that plays out daily, quietly, and far from public scrutiny: a client claims to have been overbilled, inadequately informed, or financially exploited, while an attorney insists the fees charged reflect the true cost of professional judgment, labor, and risk.

For most clients, these disputes do not end in neatly framed complaints or judicial opinions.[11] Instead, they unfold in an opaque space where power imbalances are pronounced, information asymmetries are stark, and the cost of contesting a fee may exceed the amount at stake.[12] Clients may lack the technical knowledge to evaluate billing records, fear retaliation or reputational harm, or simply assume that challenging a lawyer's fee is futile. Attorneys, for their part, face ethical duties to charge reasonable fees while also protecting their livelihood, professional reputation, and, in some cases, outstanding balances essential to sustaining a practice.[13]

Taken together, these dynamics reveal a broader structural failure in how the legal system addresses disputes between attorneys and their clients. The result is a systemic tension: fee disputes

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8 *See, e.g.,* 1 Geoffrey C. Hazard, Jr., et al., The Law of Lawyering (CCH) § 9.02 (4th ed. updated Dec. 2025).

9 *See, e.g.,* Campbell Harrison & Dagley L.L.P. v. Blue, 843 F. Supp. 2d 673* (N.D. Tex. 2011).

10 *Id.*

11 Wittich Law Firm, P.C. v. O'Connell, 304 P.3d 375, 379 (Mont. 2013).

12 *Id.*

13 *See* Model Rules of Pro. Conduct r. 1.5 (A.B.A. 2023).

are common, consequential, and corrosive to public trust in the legal profession, yet they are frequently resolved through blunt instruments—adversarial litigation, misconduct-driven disciplinary proceedings, and unstructured informal negotiation—each ill-suited to disputes rooted in miscommunication, informational asymmetry, and contested valuation. Litigation escalates conflict and expense. Bar disciplinary systems are designed to police misconduct rather than adjudicate contested billing, and informal negotiations frequently collapse under the weight of mistrust, leaving in their wake a costly stalemate that disadvantages both parties.

In recognition of these structural weaknesses, some jurisdictions have adopted statutorily authorized dispute-resolution programs that provide a defined alternative to litigation and informal negotiation. California's Mandatory Fee Arbitration Act, for example, requires an attorney to offer the client the option of a bar-sponsored arbitration or mediation process before pursuing a fee recovery lawsuit, reflecting an effort to address bargaining imbalances and provide an expedited, low cost forum for resolving contested fees.[14]

Mediation occupies a unique and underexamined position in this landscape. Unlike litigation, this process offers a forum that is comparatively swift, confidential, and flexible, qualities particularly well-suited to disputes over legal fees, which frequently turn on misunderstandings, incomplete communication, or mismatched expectations rather than outright fraud. Properly structured, mediation allows clients to ask questions they may have felt uncomfortable raising during the representation itself, and it permits attorneys to contextualize their billing practices without the adversarial posture that litigation demands.

Recognizing these advantages, many states have developed attorney-fee dispute resolution programs that incorporate mediation, either as a standalone option or as a gateway to arbitration. For example, California, New York, North Carolina, and Texas each have established a comprehensive, standalone mediation program that authorizes parties to circumvent litigation.[15] These programs are often framed explicitly as consumer-protection mechanisms,

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14 Ron W. Makarem & Jared Walder, *Resolving Attorney Fee Disputes Under the Mandatory Fee Arbitration Act (MFAA)*, Advocate, Sept. 2022, at 1-3.

15 Cal. Bus. & Prof. Code § 6200 (2025); 22 N.Y. Comp. Codes R. & Regs. tit. 22 § 137.0 (2025); Cunningham v. Selman, 689 S.E.2d 517, 523 (N.C. Ct. App. 2009);

intended to promote confidence in the legal system and to resolve conflicts without further judicial involvement. Bar associations and courts alike have emphasized that alternative dispute resolution in this context can preserve professional relationships, reduce administrative burden, and enhance perceptions of fairness within the profession.

Yet the promise of mediation in attorney-fee disputes is unevenly realized. In some jurisdictions, mediation is readily available, low-cost, and strongly encouraged before a lawyer may sue a client for unpaid fees.[16] In others, mediation exists only where available, is administered at the local level with inconsistent coverage, or requires mutual consent that effectively allows the more powerful party to opt out.[17] As a result, access to mediation, and the protections it affords, often depends less on the nature of the dispute than on the happenstance of geography.

Although many jurisdictions recognize the value of mediation in principle, they diverge sharply in program design, accessibility, cost, procedural safeguards, and enforcement mechanisms. Some states mandate notice to clients before an attorney may initiate a fee-collection action; others impose no such obligation.[18] Some provide statewide, centralized mediation systems; others rely on local bar associations with varying resources and reach.[19] Still others fold into arbitration programs without clear guidance on when or how mediation should be used.[20]

These variations are not merely administrative. They shape whether clients ever learn that mediation is an option, whether they can afford to pursue it, and whether the process meaningfully addresses the power imbalance inherent in attorney-client relationships. The Weinstein dispute, tried not only through traditional but public litigation, illustrates what could happen if fees escalate unchecked: reputational damage, prolonged conflict, and

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1 Texas Attorneys' Fees § 8.02 (2025); Stuart v. Walker, 143 A.3d 761, 761-62 (D.C. 2016).

16 Kaufman, Litwin & Feinstein v. Edgar, 704 N.E.2d 756, 763 (Ill. App. Ct. 1998).

17 Jeld-Wen, Inc. v. Superior Ct., 146 Cal. App. 4th 536, 541 (Cal. Ct. App. 2007).

18 N.J. Court Rules, r. 1:20A-6.

19 N.C. Gen. Stat. § 7A-38.1 (2025).

20 Kernahan v. Home Warranty Adm'r of Florida, Inc., 199 A.3d 766, 780 (N.J. 2019).

a spectacle that erodes confidence in legal situations. Mediation has the potential to prevent attorney-fee disputes from metastasizing into costly and reputationally damaging litigation, yet inconsistent state program design frequently renders this protection illusory rather than effective. This current state-by-state approach to attorney-fee dispute mediation reflects a fragmented regulatory landscape that undermines both client protection and professional legitimacy.

This Comment proceeds in four parts. Part II situates attorney-fee disputes within their doctrinal and ethical foundations, examining the contract principle of quantum meruit recovery and professional responsibility rules that shape how conflicts over legal fees arise and are adjudicated. Part III then surveys the divergent state approach to attorney-fee dispute mediation, identifying significant variation in voluntariness, notice requirements, accessibility, administrative structure, and procedural safeguards. These differences are not merely structural; they determine whether mediation operates as a meaningful consumer-protection mechanism or as a discretionary alternative with uneven reach. Part IV builds on that comparative analysis to advance the case for uniform national standards—standards designed to preserve mediation's flexibility while establishing baseline protections that promote fairness, consistency, and professional legitimacy. Part V concludes by returning to the broader implications of fee-dispute resolution for public trust in the legal profession and the integrity of the attorney-client relationship.

II. Background: Attorney-Client Fee Disputes and the Turn to Mediation

Attorneys are frequently described as intermediaries and problem solvers.[21] They are professionals tasked with managing conflict on behalf of others. The dynamic changes fundamentally, however, when a dispute arises between attorney and client over legal fees. In such circumstances, the cooperative framework of representation gives way to direct adversity, placing lawyer and client on opposing sides of a disagreement over the value, fairness,

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[21] *In re* Amendment to Rules Regulating Fla. Bar, 605 So.2d 252, 346 (Fla. 1992).

and legitimacy of legal services rendered. These disputes strain professional relationships and often escalate quickly, transforming what began as a service relationship into a distinctly adversarial posture.

Unlike ordinary commercial disagreements, attorney-client disputes implicate ethical obligations, professional responsibility rules, and courts' supervisory authority over attorneys.[22] Clients may question whether fees accurately reflect the work performed or whether billing practices were transparent and justified. Attorneys, in turn, may view fee challenges as misunderstandings of the labor, expertise, and risk inherent in legal representation. When these competing perspectives harden, disputes become difficult to resolve through informal negotiation alone and increasingly prone to formal escalation.

Attorney-client fee disputes commonly arise from misunderstandings regarding the basis and calculation of attorney fees.[23] Clients often struggle to interpret billing statements, particularly when invoices lack detailed explanations or when fee structures are not clearly communicated at the outset of representation.[24] This difficulty is compounded by the technical nature of legal billing and the client's limited ability to independently assess the necessity or efficiency of legal work performed.

Disputes also arise over reasonableness of fees. Attorneys are ethically obligated to charge only reasonable fees, a determination that typically considers factors such as the time and labor required, the novelty and difficulty of the issues involved, the results obtained, and the experience and reputation of the attorney.[25] Fees may be deemed excessive when a reasonable lawyer would

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22 Rule 54(d)(2) of the Federal Rules of Civil Procedure governs motions for attorney's fees. Fed. R. Civ. P. 54(d)2). Most federal district courts then layer on local rules that can significantly change timing, evidentiary requirements, page limits, and mandatory meet-and-confer rules. *See, e.g.,* D. Kan. r. 54.2 (requiring consultation with opposing counsel about attorney's fees before a motion to the court). State courts vary even more, and specialized courts (e.g. family or probate) may have extra fee-specific rules. *See, e.g.,* Cal. Prob. Code 10810 (requiring court approval of attorney's fees in probate proceedings); Fla. Fam. L. R. P. 12.525 (imposing procedural requirements for fee motions in family law cases).

23 Anderson v. Elliott, 555 A.2d 1042, 1049 (Me. 1989).

24 *Id*.

25 Md. State & Federal Court Rules r. 19-301.5 (2026).

conclude that the amount charged exceeds what is justified under the circumstances.[26] Courts assessing the reasonableness of attorney fees often employ structured analytical frameworks that underscore the fact-intensive nature of fee disputes.[27] Under federal fee-shifting statutes, the Supreme Court has consistently endorsed the "lodestar" method, which calculates a presumptively reasonable fee by multiplying the number of hours reasonably expended by a reasonable hourly rate.[28] The lodestar figure may then be adjusted in rare circumstances, but only with "specific evidence" justifying the modification.[29] In determining both reasonable hours and rates, courts scrutinize billing records, evaluate prevailing market rates in the relevant community, and consider the degree of success achieved.[30] Although the lodestar framework arises most prominently in statutory fee-shifting contexts, its emphasis on documented time, market benchmarks, and proportionality reflects the broader judicial approach to assessing reasonableness.[31] Courts do not simply defer to billing statements; they examine whether the hours claimed were necessary, whether the rates reflect prevailing norms, and whether the results obtained justify the compensation sought. In civil litigation contexts, contingency fee arrangements commonly cluster around one-third of the recovery.[32]

Additional conflict may arise from the imposition of finance charges or interest calculations that clients perceive as improper or insufficiently disclosed, potentially implicating professional conduct rules and disciplinary scrutiny.[33] These disputes over perceived excess often intersect with formal ethical standards governing what attorneys may lawfully charge. *Florida Bar v. Fields* highlights the ethical violations that may arise from such improper calculations.[34] The attorney in question was found guilty of violating ethical rules by charging finance charges without client

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26 Mo. Sup. Ct. R. 4-1.5 (2025).

27 *See* Perdue v. Kenny A., 559 U.S. 542, 551-52 (U.S. 2010).

28 *Id*.

29 *Id*.

30 *See* Hensley v. Eckerhart, 461 U.S. 424, 433-37 (U.S. 1983).

31 *Id*.

32 1 LexisNexis Practice Guide: Illinois Personal Injury Litigation § 1.09 (2026).

33 Iowa Sup. Ct. Atty. Disciplinary Bd. v. Powell, 726 N.W.2d 397, 403-04 (Iowa 2007).

34 Florida Bar v. Fields, 482 So.2d 1354, 1356-57 (Fla. 1986).

agreement or proper disclosure.[35] Additionally, the fees were calculated in a manner that resulted in a usurious rate exceeding the statutory limit of 18% per year.[36] The court emphasized that such conduct adversely reflects on an attorney's fitness to practice law, even if the improper charges stemmed from lax office procedures rather than intentional wrongdoing.[37] Together, these disputes illustrate that conflicts over attorney fees arise not only from overtly improper charges, but also from the ordinary structure, documentation, and administration of the attorney-client financial relationship.

A. *How Attorney-Fee Disputes Arise*

Fee agreements themselves are a frequent source of dispute. Agreements that are unwritten, ambiguous, or inadequately detailed invite disagreement over the scope of representation, payment obligations, and termination rights.[38] Even written agreements may generate disputes in cases involving multiple attorneys, joint representations, or midstream termination. Courts and disciplinary authorities consistently emphasize the importance of clear and transparent fee agreements, placing the burden on attorneys to draft contracts that fully communicate financial terms and client obligations.[39]

The structure of an attorney's fee arrangement significantly influences the nature of fee disputes. Contingency fee agreements, common in civil litigation, tie compensation to the outcome of the case and therefore involve inherent uncertainty. While such arrangements expand access to legal representation for clients unable to afford hourly fees, they also create disputes when representation ends before the case concludes. In these circumstances, questions often arise regarding whether, and to what extent, the attorney is entitled to compensation for work already performed. For example, in *Francasse v. Brent*, the California Supreme Court held that a discharged attorney is entitled to recover the reasonable

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35 *Id.*
36 *Id.*
37 *Id.*
38 *In re* Davenport, 522 S.W.3d 452, 454-60 (Tex. 2017).
39 *Id.*

value of services rendered "up to the time of discharge."[40] This rule balances the client's right to discharge their attorney with the attorney's right to fair compensation.

When contingency arrangements unravel, courts are often left to determine how fairness should be measured once the original bargain no longer governs. Courts addressing disputes arising from terminated contingency fee agreements frequently apply principles of quantum meruit, permitting recovery of the reasonable value of services rendered where the agreement contemplates such recovery and fairness requires compensation. For instance, in *Faricy Law Firm. P.A., v. API, Inc. Asbestos Settlement Trust*, a law firm assisted with several asbestos cases under a contingent-fee arrangement over the course of ten years. Months before a settlement was reached, API Trust terminated Faricy's representation.[41] The Minnesota Supreme Court made clear that termination foreclosed recovery of the contractual contingent percentage: "Minnesota law prohibits a discharged contingent-fee lawyer from receiving the contingent fee as a contract remedy, instead allowing recovery only of the reasonable value of services under a theory of quantum meruit."[42] The court emphasized that quantum meruit is not a mere mechanical substitute for the contingency agreement, but "an equitable process by which the court determines the reasonable value of services."[43] In doing so, the court shifted the dispute from contractual enforcement to equitable valuation, requiring a context-sensitive assessment of what the attorney's services are reasonably worth.

In disputes over attorney fees involving breach of contract and quantum meruit claims, courts generally allow attorneys to recover the reasonable value of their services under quantum meruit when the fee agreement is invalid, unenforceable, or terminated. Quantum meruit serves as an equitable remedy to prevent unjust enrichment of the client or other parties benefiting from the attorney's services. For example, in *Olsen v. Harbison*, an attorney filed a complaint against an associated attorney, asserting claims for, among other things, quantum meruit, breach of contract, and fraud. Attorney Christopher Olsen was retained to represent a client in

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40 Francasse v. Brent, 494 P.2d 9, 14-15 (Cal. 1972).

41 Faricy Law Firm, P.A. v. API, Inc. Asbestos Settlement Trust, 912 N.W.2d 652, 654-55 (Minn. 2018).

42 *Id*. at 654.

43 *Id*. at 661.

a personal injury claim.[44] Olsen subsequently decided to associate a more experienced trial counsel.[45] The two attorneys agreed on a fee-splitting arrangement.[46] Shortly after the agreement, the client terminated Olsen and entered into a new arrangement with the more experienced trial attorney.[47] The court held that quantum meruit allows attorneys to recover reasonable compensation for services rendered when a fee-sharing agreement or contract is invalid or unenforceable, such as when client consent to fee division is not obtained in writing.[48]

At the same time, professional conduct rules impose safeguards designed to protect clients, including prohibitions on attorneys withdrawing disputed client funds to satisfy fees until the dispute is resolved.[49] These protections reflect heightened concern about potential overreach in fee disputes and seek to preserve client funds while entitlement remains contested.

Hourly fee arrangements present a different set of challenges. Although the compensation structure is generally straightforward – hours worked multiplied by an agreed-upon rate – clients may dispute the accuracy of timekeeping, the necessity of billed tasks, or the efficiency of the attorney's work. In *Hensley v. Eckerhart*, the Supreme Court emphasized that the most critical factor in determining the reasonableness of attorney's fees is the degree of success obtained.[50] The Court noted that even where claims are "interrelated, nonfrivolous, and raised in good faith" the hours expended must be reasonable in relation to the success achieved.[51]

Hybrid fee arrangements, combining elements of contingency and hourly billing, introduce additional complexity, particularly when conversion provisions are unclear or when representation terminates before the contingency is realized. For example, in *Four Winds, LLC v. Smith & DeBonis, LLC*, the court held that the original fee agreement remained enforceable even though the

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44 Olsen v. Harbison, No. C058943, 2010 Cal. App. LEXIS 216,1 at *2-3 (Cal. Dist. Ct. App. Dec. 1, 2010).

45 *Id*.

46 *Id*.

47 *Id*. at *8-9.

48 *Id*. at *7, 31.

49 Model Rules of Pro. Conduct r. 1.15(c)(2) (2023).

50 *Hensley*, 461 U.S. at 435-36.

51 *Id*. at 36.

construction company pulled itself out of foreclosure after terminating its contracted attorney.[52] Courts have upheld provisions allowing attorneys to recover hourly fees upon termination, even if the original agreement was primarily contingent, emphasizing that termination does not extinguish an attorney's right to reasonable compensation.[53] The court noted, "[C]lients may not parlay the broad right to discharge a lawyer into a device to avoid the payment of legal fees legitimately incurred."[54] These conflicts do not unfold in a doctrinal vacuum. Once a fee dispute emerges, it becomes subject to overlapping bodies of law—contract doctrine, equitable remedies, and professional responsibility rules—that collectively define both the permissible scope of attorney compensation and the mechanisms through which contested fees may be challenged.

B. *Ethical and Doctrinal Frameworks Governing Fee Disputes*

Model Rule 1.5 of the Rules of Professional Conduct governs the reasonableness of attorney fees, emphasizing that fees must not be excessive or illegal. The rule prohibits an attorney from "charg[ing] or collect[ing] an unreasonable fee," outlining factors to determine reasonableness, such as time and labor required, the complexity of the matter, customary fees in the locality, and the results obtained.[55] Disciplinary cases often arise when attorneys charge fees deemed unreasonable, fail to perform the work claimed, or engage in unethical billing practices. Courts and disciplinary boards evaluate these cases based on the specific facts and circumstances, applying the factors outlined in Rule 1.5(a).

For example, in *Ligon*, a disbarment complaint arose as a result of attorney Bruce Bennett's handling of a criminal and domestic-relations case.[56] Bennett entered into an agreement with his learning-disabled client under which he would assist with the distribution of an inheritance.[57] Bennett counseled his learning-disabled client to engage in a $745,000 unsecured loan to Bennett's

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52 Four Winds, LLC v. Smith & Debonis, LLC, 854 N.E.2d 70, 72-73 (Ind. Ct. App. 2006).

53 *Id*. at 73-75.

54 *Id*. at 75.

55 Model Rules of Pro. Conduct r. 1.5(a)(1-8) (2023).

56 Ligon v. Bennett, 544 S.W.3d 27, 29-30 (Ark. 2018).

57 *Id*.

friend at a 2% interest rate.[58] Additionally, Bennett loaned substantial additional sums to the same friend against the client's express wishes.[59] The court found that Bennett violated Model Rule 8.4(c) and Arkansas Rule 3.3(a), both of which prohibit lawyers from engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation.[60]As a result of this, the executive director of the Arkansas Supreme Court Committee of Professional Conduct sought and achieved Bennett's disbarment.[61] The court's reasoning centered on Bennett's violations of the rule, but also on the attorney himself admitting the evidence against him was sufficient.[62] The Arkansas Supreme Court accepted the findings of the special judge, who had been appointed to oversee the disbarment proceedings, and determined that disbarment was appropriate.[63]

Attorney-client fee disputes are traditionally resolved through litigation or alternative dispute resolution mechanisms such as arbitration or mediation, depending on the jurisdiction and the governing rules.[64] Courts often apply contract principles and ethical rules to interpret and enforce fee agreements, holding attorneys to high standards of conduct and fair dealing. In some jurisdictions, mandatory arbitration is required if requested by the client, as seen in California and New York, where arbitration awards may be binding unless de novo review is sought.[65] Mediation is also encouraged as a less adversarial and more cost-effective method to resolve disputes.[66]

Claims and defenses typically raised in fee disputes include challenges to the reasonableness of the fees, whether the attorney earned the fees, and whether the services provided were necessary or beneficial. Courts may evaluate the reasonableness of fees through expert testimony and evidentiary hearings. Clients may also raise defenses such as legal malpractice or breach of

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58 *Id*. at 35.

59 *Id*.

60 *Id.* at 35-36.

61 *Id*.

62 *Id*.

63 *Id*.

64 2 Commercial Damages: Remedies in Business Litigation ¶ 36.03 (2026).

65 Cal. St. Bar Fee Arb. & Enf't, r. 3.501 (2025), N.Y. Comp. Codes R. & Regs. tit. § 137.2 (2025).

66 *See, e.g.*, Cal Code Civ. Proc. § 1775 (2026).

fiduciary duty, which are often compulsory counterclaims in fee litigation.[67] Attorneys, on the other hand, may assert claims for unpaid fees or seek to enforce retainer agreements. Jurisdictions often implement specific rules to address the inherent power imbalance between attorneys and clients in fee disputes. For instance, Rule XIII in the District of Columbia mandates arbitration to ensure fairness and protect clients' ability to present meritorious claims and defenses.[68] Similarly, North Carolina and other states require attorneys to notify clients of fee dispute resolution programs and participate in good faith if requested.[69] These mechanisms aim to provide a faster resolution than protracted litigation.

State bar grievance and disciplinary procedures aim to resolve disputes effectively; however, their scope and limitations vary by jurisdiction. Rule 9 of the Maine Bar Rules establishes a binding arbitration process for attorney-client fee disputes, governed by the Maine Uniform Arbitration Act.[70] The rule allows for a "faster and procedurally less forbidding forum for fee disputes" while maintaining fairness and reliability.[71] This process ensures due process for both parties and provides judicial safeguards, such as the ability to confirm or vacate arbitration awards in court under specific circumstances. Similarly, in North Carolina, the State Bar Fee Dispute Resolution Program facilitates mediation or arbitration of fee disputes, often staying grievance proceedings until the fee dispute is resolved.[72] Lawyers are required to notify clients of this program before initiating legal action to collect fees, and participation in good faith is mandatory if the client elects to use the program.[73]

In some jurisdictions, such as California and Texas, local bar associations offer voluntary arbitration programs for fee disputes. These programs are encouraged by professional conduct rules and provide a less formal alternative to litigation.[74] However, they may

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67 *Id*.

68 Stuart v. Walker, 143 A.3d 761, 766 (D.C. 2016).

69 *See, e.g.*, Cunningham v. Selman, 689 S.E.2d 517, 522-23 (N.C. Ct. App. 2009).

70 Me. Bar R. 9(e)(1) (2025).

71 Harrington v. Lord, 704 A.2d 1211, 1214 (U.S. 1997).

72 N.C. Rules of Pro. Conduct r. 1.5(f) (2025).

73 *Id*. r. 1.5(f)(2).

74 Cal. St. Bar Mand. Fee Arb. Guidelines, Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs (2025), https://plus.lexis.com/api/permalink/3e1832b0-43da-4ad6-8c1f-b1a609b133f8/?context=1530671.

not be available if the client has pending claims of malpractice or professional misconduct against the attorney.[75] Despite their utility, these mechanisms have limitations. Disciplinary proceedings are not intended to serve as forums for litigating fee disputes, but rather focus on protecting the public and maintaining integrity. For instance, Michigan grievance administrators may decline to pursue fee disputes unless they involve serious misconduct, such as fraud or criminal violations.[76] Additionally, fee arbitration decisions are often binding and unappealable, which may limit recourse for dissatisfied parties.[77]

III. The Fragmented Landscape of Attorney-Fee Dispute Resolution

Attorney-fee arbitration programs exist in various jurisdictions across the United States, each with unique structures, functions, and associated advantages and drawbacks. The principal points of departure concern the scope of eligible disputes, whether arbitration is voluntary or compulsory, the selection and qualifications of arbitrators, confidentiality protections, procedural flexibility, cost allocation, and the scope of judicial review and appeal.

A. *Mandatory and Client-Initiated Fee Dispute Programs*

In California, under the Mandatory Fee Arbitration Act, and in New York, under the Fee Dispute Resolution Program, arbitration is mandatory for attorneys if initiated by a client, but voluntary for clients unless they have agreed otherwise in writing.[78] These programs aim to address the disparity in bargaining power between attorneys and clients by offering an effective, inexpensive remedy that does not require clients to hire additional counsel. Local bar associations administer these programs, and arbitration decisions are binding unless a trial de novo is requested.[79]

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75 1 Texas Attorneys' Fees § 8.02 (2026).

76 *In re* McWhorter, 284 N.W.2d 472, 477 (Mich.1979).

77 *See, e.g.*, *In re* Application of Li Volsi, 428 A.2d 1268, 1270-71 (N.J. 1981).

78 Cal. Bus. & Prof. Code § 6200 (2025); N.Y. Comp. Codes R. & Regs., tit. 22, § 1230.1 (2025).

79 *See* Cal. Bus. & Prof. Code § 6200 (2025); N.Y. Comp. Codes R. & Regs., tit. 22, § 1230.1.

In Alaska, the program mandates arbitration for attorneys when initiated by clients.[80] The program encourages amicable resolution and requires attorneys to cooperate, but they limit recourse for dissatisfied parties unless specific grounds are met. Under Alaska's Uniform Arbitration Act, judicial review is confined to narrowly defined procedural defects.[81] A court may vacate an award only where it was procured by fraud or undue means, where there was evident partiality or corruption, where the arbitrators exceeded their powers, or where the hearing was conducted in a manner that substantially prejudiced a party's rights.[82] Modification is similarly limited to evident miscalculations, clerical mistakes, or matters not submitted to arbitration.[83] Courts do not revisit the merits of the dispute, including factual findings or legal conclusions, absent fundamental flaws in the arbitral process.[84] Although these programs share similar goals across states, they vary considerably in their structure, scope, and implementation.

Against this doctrinal backdrop, jurisdictions have increasingly turned to alternative dispute resolution to manage attorney-fee conflicts. Alternative dispute resolution has gained prominence in resolving legal and professional disputes due to its efficiency, cost-effectiveness, and ability to foster amicable settlements. Courts and legislatures have increasingly recognized the benefits of mediation, specifically to alleviate docket burdens.[85] Mediation is often preferred because it allows parties to directly participate in crafting solutions that best serve their interests, which has the potential to foster mutual understanding and reduce the polarization associated with adversarial proceedings.[86] Confidentiality is a cornerstone of mediation, encouraging honest communication and promoting settlement discussions without fear of disclosure in subsequent litigation.[87] Public policy strongly favors settlement through mediation, as it spares parties the emotional and financial

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80 Alaska Bar R. 40 (2025).
81 Alaska Stat. § 09.43.120 (2025).
82 *Id*.
83 Alaska Stat. § 09.43.130 (2025).
84 *Id*.
85 State v. Williams, 877 A.2d 1258, 1266 (N.J. 2005).
86 *Id*.
87 *Id*.

toll of protracted litigation while providing a simplified and equitable resolution process.[88]

Legislative and judicial initiatives have further institutionalized mediation. For instance, the Alternative Dispute Resolution Act of 1998 mandates that federal district courts provide ADR processes, with many courts implementing mandatory mediation programs to expedite civil litigation and reduce costs.[89] These measures reflect a broader trend of integrating mediation into the judicial system to enhance access to justice.[90]

Further, the American Bar Association has provided significant guidance and encouragement regarding the mediation of disputes, emphasizing its role in fostering amicable resolutions and maintaining public confidence in the legal profession. The ABA strongly encourages mediation as a means to achieve informal and expeditious resolution, as reflected in the New York State Fee Dispute Resolution Program, which aligns with its principles.[91] It has also issued formal opinions and guidance under its Model Rules of Professional Conduct, which extend to attorney-client fee disputes. For instance, the ABA has stated that attorneys should conscientiously consider submitting to established procedures for resolving fee disputes, including mediation, even when participation is voluntary.[92] In addition, it has emphasized that attorneys have a fiduciary duty to fully inform clients about the advantages and disadvantages of alternative dispute resolution mechanisms.[93] This duty includes explaining the implications of such processes to ensure clients can make informed decisions.[94] The ABA highlights the importance of disclosing potential waiver of rights, such as the

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88 *Id*.

89 Laura K. Beasley, Mediation in Illinois Federal Court (Federal) (Nov. 13, 2025), https://plus.lexis.com/api/permalink/ba6e9ea1-257a-4ae0-b0c9-70c3f6d813f2/?context=1530671.

90 *See* Foxgate Homeowners' Ass'n. v. Bramalea Cal., Inc., 25 P.3d 1117, 1127 (Cal. 2001) (emphasizing the strong public policy favoring mediation and the importance of maintaining confidentiality to promote candid participation, thereby reflecting the judiciary's support for mediation as an integral component of modern dispute resolution).

91 N.Y. Comp. Codes R. & Regs. tit. 22, § 137.0 (2025).

92 Slater-Moore v. Goeldner, 113 So.3d 521, 530 (Miss. 2013).

93 Delaney v. Dickey, 242 A.3d 257, 269 (N.J. 2020).

94 *Id*.

right to a jury trial, and the procedural differences between litigation and alternative dispute resolution.[95]

Despite their similar goals, mediation and arbitration are distinct methods of ADR that differ significantly in their processes, outcomes, and implications. For instance, mediation and arbitration diverge most sharply in both process and consequence. Mediation is a voluntary, non-binding process where a neutral third party, the mediator, facilitates negotiations between the disputing parties to help them reach a mutually acceptable resolution.[96] The mediator does not impose a decision; instead, the parties retain full control over the outcome.[97] Mediation is often described as an extension of the negotiated settlement process, emphasizing collaboration and flexibility.[98] Arbitration, by contrast, can be a binding or non-binding adjudicative process where a neutral third party hears evidence and arguments from the parties and renders a decision.[99] Often, arbitration is binding, meaning the arbitrator's decision is final and enforceable, subject to limited judicial review.[100]

The methods also differ in voluntariness. Mediation is typically voluntary for both parties. For example, under California law, mediation of attorney-client fee disputes is entirely consensual, and neither party can be compelled to participate.[101] Arbitration, however, may be mandatory for attorneys and is initiated by the client, as seen in jurisdictions like California and Alaska. For instance, California's Mandatory Fee Arbitration program requires attorneys to submit to arbitration if the client elects it, unless the client has previously agreed in writing to binding arbitration.[102] Similarly, Alaska mandates arbitration for attorneys when clients initiate the process.[103] These distinctions are not merely procedural. Where mediation is entirely voluntary, a party resistant to compromise may decline to participate, effectively steering the dispute toward

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95 *Id*.
96 Cal. Bus. & Prof. Code § 6200(h) (2025).
97 Cal. Code Civ. P. § 1775.1(2026).
98 *Id*.
99 Ind. R. Alternative Disp. Resol. 1.3 (2025).
100 *Id*.
101 Cal. Bus. & Prof. Code § 6200(c) (2025).
102 *Id*.
103 Alaska Bar R. 34(b) (2025).

litigation. By contrast, client-triggered mandatory arbitration alters bargaining dynamics by compelling attorney participation and providing the client with a forum that does not require retaining additional counsel. The choice between voluntary mediation and mandatory arbitration therefore shapes leverage, cost exposure, and the timing of resolution. The divergence reflects fundamentally different regulatory judgments about how best to balance party autonomy, professional accountability, and consumer protection in the attorney-client relationship.

While no overarching federal framework governs attorney-fee mediation, most programs share core principles of fairness, impartiality, and confidentiality, reflecting a common policy goal: providing an accessible and efficient forum for resolving fee disputes without escalating conflict. Those shared values, however, do not translate into uniform procedural requirements; states diverge meaningfully in defining eligibility thresholds, participation mandates, mediator qualifications, administrative oversight, and the scope of jurisdiction. In California, attorney-fee mediation operates primarily under the Mandatory Fee Arbitration Act.[104] The structure emphasizes confidentiality, thus ensuring the settlement discussions cannot be used in later proceedings.[105] California also places significant weight on mediator qualifications, requiring formal training and disclosure of conflicts of interest, and allows local bar associations to manage programs and charge reasonable administrative fees.[106] Although arbitration may be mandatory in some contexts, mediation remains a consensual process focused on negotiated resolution.[107] States differ most sharply on a threshold question: whether mediation or arbitration is voluntary, mandatory for attorneys, or mandatory for both parties.

Some jurisdictions respond to fee disputes through centralized, statewide programs designed to promote uniformity, accessibility, and consumer protection. New York, for example, promotes the informal resolution of fee disputes through its Fee Dispute Resolution Program.[108] Mediation is strongly

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104 Cal. St. Bar Mand. Fee Arb. Guidelines, *supra* note 74.

105 *Id*.

106 Cal. Bus. & Prof. Code § 6086.14 (2025).

107 *Id*. § 6200(c).

108 N.Y. Comp. Codes R. & Regs. tit. 22, § 137.0 (2025).

encouraged as a complement to arbitration and is typically conducted by trained attorneys appointed by courts or bar associations.[109] Confidentiality protections are robust, shielding mediation communications from later disclosure.[110] Bar associations play an important administrative role, particularly in coordinating mediators and managing programs in regions with limited resources, reinforcing the states' emphasis on accessibility and efficiency.[111]

Other states adopt a more constrained approach, limiting mediation's availability based on subject matter, procedural posture, or institutional capacity. Florida's approach, governed by the Rules Regulating the Florida Bar, places clear jurisdictional limits on attorney-fee mediation programs.[112] The program's authority extends only to disputes between members of the Florida Bar or between a Florida Bar member and a client concerning fees or costs charged for legal services, and only where the parties consent through a written agreement compliant with Rule 4-1.5(i), a signed arbitration request, or a disciplinary referral.[113] The program lacks jurisdiction where a court has already assumed authority to determine reasonable fees, and it may not adjudicate disputes that themselves constitute alleged violations of the Rules Regulating the Florida Bar absent referral by the court or bar counsel.[114] Jurisdiction is further constrained by a practical limits as the dispute must be capable of resolution by an evidentiary hearing of eight hours or less.[115] The program may decline matters deemed excessively complex or requiring protracted proceedings, reflecting an institutional preference for streamlined adjudication.[116] Additionally, Florida statutes exclude certain categories of disputes—child custody, support, and indispensable third-party rights—from mediation

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109 *Id*. at § 1220.2.

110 *Id*. at § 137.12.

111 *Id*. at § 1220.2.

112 Fla. Bar Reg. R. 14-1.2(a) (2026).

113 *Id*.

114 *Id. See also In re*: Amendments to the Rules Regulating the Fla. Bar, 140 So.3d 541, 579 (U.S. 2014).

115 *Id*.

116 Fla. Bar Reg. R. 14-1.2(a) (2026).

jurisdiction.[117] These matters generally require extensive evidentiary hearings.[118]

Despite these limits, participation remains voluntary, and mediators often serve as authorized volunteers.[119] Florida also allows mediation of certain disciplinary or grievance-related issues when doing so serves both the public interest and the private rights of the parties, reflecting a broader but more carefully bounded scope.[120] Across jurisdictions, attorney-fee mediation programs share common structural elements: neutral and trained mediators, confidentiality of proceedings, local administration by bar associations or courts, and procedural safeguards to ensure fairness.

Court rules and case law play a critical role in shaping how these programs operate in practice.[121] In some jurisdictions, courts play the primary role in structuring fee dispute resolution, while in others, bar associations serve as the principal administrators.[122] Appellate decisions have clarified that bar-sponsored arbitration systems must exist not only on paper, but must function in a manner that is genuinely fair and impartial.[123] Courts have also delineated the scope of these programs—such as monetary thresholds and subject-matter limits—ensuring that fee arbitration does not overreach into disputes better suited for traditional litigation.[124]

Overlaying these state systems is the influence of the American Bar Association.[125] While the ABA does not regulate lawyers directly, its Model Rules of Professional Conduct strongly shape how jurisdictions and courts think about fee disputes.[126] The Model Rules encourage lawyers to use established fee dispute resolution mechanisms and stress the importance of informed client consent, particularly when arbitration provisions appear in engagement agreements.[127] Courts have echoed this guidance,

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117 Fla. Stat. § 44.104(14) (2026).
118 *Id*.
119 *Id*.
120 *Id*.
121 *See, e.g.,* Perez v. Grajales, 169 Cal. App. 4th 580 (Cal. Ct. App. 2008).
122 *Id.*
123 *Id*. at 598.
124 *Id*.
125 *Slater-Moore*, 113 So.3d at 530.
126 *Id*.
127 *Id*.

holding that attorneys must explain the practical consequences, benefits, and limitations before relying on such clauses.

At the federal level, mediation requirements tend to be narrower and more situational. For example, the U.S. Court of Appeals for the Third Circuit authorizes mediation in pro se matters, with courts at times appointing counsel on a limited, pro bono basis solely for mediation.[128] These appointments may terminate if mediation fails, reinforcing the view of mediation as a discrete settlement mechanism rather than a substitute for litigation.[129] Confidentiality is strictly maintained,[130] and any successful resolution must be memorialized in writing and filed with the court.[131]

A related set of jurisdictions emphasizes client protection through mandatory notice and client-initiated participation requirements. State bar-administrated systems reflect a more direct focus on attorney-client fee disputes. Alaska requires attorneys to notify clients of their right to pursue mediation or arbitration before filing suit to collect fees.[132] This notice requirement is substantive, not merely procedural: failure to comply can result in dismissal of the attorney's claims.[133] Clients are given a defined window to invoke mediation or arbitration—a signal toward strong client-protection orientation and an emphasis on informal dispute resolution.[134]

California's approach is among the most structured and comprehensive. Through its mandatory fee arbitration framework, the State Bar authorizes mediation as an alternative or complement to arbitration.[135] The system imposes detailed requirements governing mediator qualifications, disqualification procedures, and confidentiality protections.[136] These safeguards are designed to ensure

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128 U.S. Ct. App. 3d Cir. Loc. App. R. 33.2, 33.6.

129 *See id.* R. 33.6.

130 *See id.* R. 33.5(c).

131 *See id.* R. 33.5(d).

132 Alaska Bar R. 39(a) (2025).

133 *Id*.

134 *Id*. If a Petition for Arbitration for Arbitration of Fee Dispute or a Request for Mediation is not filed within twenty (20) days of receipt of notice, the right to pursue arbitration or mediation is waived.

135 Cal. St. Bar Mand. Fee Arb. Guidelines, *supra* note 74.

136 *Id*.

impartiality while promoting efficient resolution, a reflection of that state's broader regulatory posture toward attorney-client fee disputes.

New York similarly emphasizes early resolution and adopts a more flexible tone. Its statewide fee dispute resolution program strongly encourages mediation as the preferred method for resolving fee disagreements, reserving arbitration as a secondary option when mediation proves unsuccessful or impracticable.[137] Informality and speed are central features.[138] This reinforces the program's role as an alternative to prolonged litigation rather than a parallel adjudicative forum.

Other jurisdictions embed mandatory mediation obligations through professional conduct rules rather than standalone fee-dispute statutes. In North Carolina, attorneys must notify clients of the state bar's fee dispute resolution program before initiating a collection actions.[139] If a client requests mediation, the attorney's participation is mandatory and must be undertaken in good faith. This underscores the ethical dimension of fee disputes.

Some states extend mandatory mediation principles beyond attorney-fee disputes into broader domestic relations contexts, illustrating how mediation norms migrate across subject areas. Oregon and Washington, for example, require mediation in contested family law matters involving custody or parenting time, with court oversight of mediator selection, fee structures, and procedural compliance.[140] While these programs are not fee-specific, they reinforce common mediation features: good-faith participation, confidentiality, and limited judicial intervention unless necessary.

Further, appellate courts have also adopted mediation as a structural feature of dispute management. Wisconsin's Court of Appeals operates a mediation program that may require participation in presubmission conferences, with costs generally borne by

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137 22 N.Y. Comp. Codes R. & Regs. § 137.0 (2025).

138 *Id*.

139 *See* N.C. Rules of Pro. Conduct, r. 1.5(f) (2025) (requiring attorneys, at least thirty days before initiating legal proceedings, to collect a disputed fee, to notify the client in writing of the North Carolina State Bar's fee dispute resolution program and to participate in the process in good faith if the client timely elects to pursue it).

140 Grant Cnty. Super. Ct. LRMM 1 (Wash. 2025); Or. Linn Cir. SLR 12.005 (2025).

the parties unless waived.[141] The objective is not merely settlement, but the orderly and efficient administration of appellate caseloads.

Beyond purely voluntary or mandatory models, several jurisdictions employ hybrid systems that sequence mediation and arbitration.

B. *Hybrid Mediation-Arbitration Frameworks*

Across multiple U.S. jurisdictions, legislatures and courts have adopted hybrid mediation-arbitration frameworks to resolve disputes efficiently while preserving procedural fairness. These systems are designed to move disputes progressively toward resolution, typically beginning with mediation and transitioning to arbitration only if informal efforts fail. The hybrid structure reflects a policy preference for consensual settlement, backed by the availability of adjudicative finality through arbitration when agreement cannot be reached.

At the federal level, hybrid principles appear most clearly in the management of complex litigation rather than in attorney-fee disputes specifically. Federal Rule of Civil Procedure 23, which governs class actions, illustrates this approach by combining negotiated resolution with judicial oversight.[142] Although mediation is not mandated by the rule itself, class settlements, including those addressing attorney fees, must be approved by the court to ensure adequacy, equity, and transparency.[143] In practice, mediation often precedes approval, while the court functions as a final arbiter to safeguard absent parties' interests.[144]

State systems adopt more explicit mediation-to-arbitration pathways. California provides a structured example in its administrative and civil adjudication statutes.[145] Parties may attempt mediation or nonbinding arbitration as an initial step, with the option to request a de novo proceeding if they are dissatisfied.[146] This request carries strategic consequences: a party that seeks a new hearing and fails to obtain a more favorable result may bear additional

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141 Wis. Stat. § 809.17 (2025).
142 Fed. R. Civ. P. 23(e)(2) (2025).
143 *Id*.
144 *See, e.g.*, Cal Code Civ. P. § 1775 (2026).
145 Cal. Gov. Code § 11420.10 (2025).
146 Cal. Code Civ. P. § 1250.420 (2025).

costs.[147] The framework balances flexibility with accountability, encouraging meaningful participation in early dispute resolution while maintaining judicial oversight over binding outcomes.

Delaware's approach emphasizes party autonomy and procedural continuity.[148] With consent, disputes may shift seamlessly from mediation to arbitration, and mediators may serve as arbitrators if the parties agree.[149] Arbitrators are empowered to issue enforceable interim and final awards, allowing disputes to progress without unnecessary procedural duplication.[150] This model prioritizes efficiency while preserving enforceability.

Florida incorporates hybrid dispute resolution into both property and housing contexts, linking mediation outcomes to arbitration and cost recovery mechanisms.[151] For example, in condominium association disputes, parties may proceed to trial de novo following arbitration, with attorney fees and costs awarded based on the final outcome.[152] Under the same statutory framework, mediation is mandated but allows opt-out provisions, reflecting a balance between compulsory participation and party choice.[153] Cost-shifting provisions reinforce the seriousness of arbitration as a fallback mechanism rather than a procedural formality.

Minnesota adopts a more directive model, requiring unresolved disputes to proceed from mediation to binding arbitration within a defined timeframe.[154] The arbitration panel is granted broad authority, including the power to issue subpoenas and retain experts.[155] Importantly, mediation reports are excluded from arbitration proceedings, preserving confidentiality and preventing the informal phase from prejudicing the adjudicative outcome.[156] The separation reinforces the integrity of both proceedings within the hybrid system.

Pennsylvania's framework illustrates how hybrid models are used in regulated commercial relationships. Mediation is required

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147 *Id*.
148 Del. Super. Ct. Civ. R. 139 (2025).
149 *Id*.
150 Del. Bankr. Loc. Rules 9019-4(d) (2025).
151 Fla. Stat. § 718.1255 (2025).
152 *Id*.
153 *Id*.
154 Minn. Stat. § 572A.02 (2025).
155 *Id*.
156 *Id*. § 572A.01.

before formal complaints or protests may be filed, particularly in disputes between licensees.[157] Arbitration remains voluntary but is expressly contemplated as a next step if mediation fails.[158] To support candid participation, mediators and arbitrators are granted immunity for good-faith actions, reducing procedural risk and encouraging neutral decision-making.[159]

Not all states rely on centralized programs; many instead delegate fee dispute resolution to local or regional institutions.

C. *Localized and Bar-Administered Resolution Models*

In some areas, attorney-fee disputes and related civil conflicts are not resolved through centralized statewide systems, but through local or regional programs. These programs are frequently administered by local bar associations, courts, or contracted nonprofit organizations, and are tailored to the legal culture and practical needs of their jurisdictions. This decentralized structure reflects a deliberate policy choice: increasing access to mediation services while encouraging early, voluntary resolution of disputes. At the same time, it introduces a degree of variability in mediator qualifications, procedural rigor, and outcomes.

California exemplifies a robust local-bar-centered model for disputes. The state requires local bar associations to operate fee arbitration programs, many of which incorporate mediations as an initial or parallel option.[160] Mediators must satisfy defined training and qualification standards, and proceedings are governed by rules emphasizing neutrality and confidentiality.[161] Where no local program exists, the state bar steps in to ensure statewide coverage, blending local administration with centralized oversight.[162]

Other states rely on regional mediation infrastructures beyond the attorney-client context. Connecticut, for example, provides mediation services for landlord-tenant and other civil disputes through regional contracts with nonprofit organizations.[163]

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157 63 Pa. Cons. Stat. § 818.309 (2025).

158 *Id*.

159 *Id*.

160 Cal. St. Bar Mand. Fee Arb. Guidelines, *supra* note 74.

161 *Id*.

162 *Id*.

163 Conn. Gen. Stat. § 8-347a (2025).

These programs prioritize subject-matter expertise, particularly in housing law. This illustrates how regional mediation can be adapted to recurring local disputes rather than generalized civil litigation.

New York's approach combines statewide structure with other localized implementation.[164] Its Fee Dispute Resolution Program makes mediation a central feature of resolving attorney-client fee conflicts, with mediators appointed through courts or bar associations.[165] While the program is uniform in scope, mediator election and administration occur at the local level—a clear reinforcement of accessibility, baseline training, and experience requirements standards.

Oregon extends the local mediation model into public-service-related disputes, including those involving community mental health and developmental disability programs.[166] State law protects parties who request mediation from retaliation and mandates mediator impartiality and qualification, which underscores the role of mediation as a protective, rather than merely procedural, mechanism.[167]

Rhode Island applies a similar structure within professional licensing compacts, such as those governing dietitians and speech-language pathologists.[168] These programs provide mediation as an initial dispute resolution option, with binding mechanisms available if mediation fails.[169] Unlike purely voluntary systems, prevailing parties in subsequent litigation may recover costs and attorney fees, which integrates mediation into a broader enforcement framework.

Wisconsin represents one of the more comprehensive local-state hybrids. Disputes over attorney fees must be submitted to binding arbitration or mediation through the State Bar's Fee Arbitration Program, while the Court of Appeals operates a separate appellate mediation system.[170] In appellate mediation, parties

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164 N.Y. Comp. Codes R. & Regs. tit. 22, § 137.0 (2025).
165 *Id*.
166 Or. Rev. Stat. § 430.673 (2025).
167 *Id*.
168 R.I. Gen. Laws § 5-64.2-12 (2025).
169 *Id*.
170 Wis. Stat. § 809.17 (2025).

generally bear mediator costs unless waived.[171] This imposes a shared responsibility for dispute resolution while preserving judicial efficiency.[172]

Finally, some jurisdictions provide no specialized mediation framework for attorney-fee disputes at all. While some states have formal mediation, others rely primarily on court-based mechanisms, ethical rules, or general fee-shifting statutes, using litigation or arbitration as the default means of resolving disagreements when no specialized program exists. At the federal level, there is no standalone mediation framework for attorney-fee disputes. Instead, federal statutes such as the Equal Access to Justice Act and ERISA authorize courts to award reasonable attorney fees in defined categories of cases, leaving resolution to judicial discretion rather than alternative dispute resolution.[173] Several states follow a more structured bar-centered model. Alaska, the District of Columbia, Kentucky, Louisiana, New York, North Carolina, Ohio, and Utah all provide formal fee dispute resolution programs, typically involving mediation, arbitration, or both, operated by bar associations or court-appointed boards.[174] In many of these jurisdictions, attorneys are required to participate if a client requests arbitration, and some systems allow limited judicial review or de novo proceedings to safeguard fairness.

By contrast, states such as Florida, Texas, Virginia, and Washington do not maintain comprehensive attorney-fee mediation programs.[175] Instead, they address fee disputes through court proceedings, contractual enforcement, ethical rules, or discretionary fee awards in specific types of cases.[176] This wide variety underscores the absence of a uniform national approach: while bar-administered mediation and arbitration programs

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171 *Id*.

172 *Id*.

173 29 U.S.C. §§ 2412(b), 2412, 1132 (g)(1).

174 Alaska Bar R. 38 (2025); D.C. Bar Rule XIII (2025); Ky. SCR Rule 3.810 (2025); La. St. Bar Ass'n. Art. XIV § 1.5 (2025); N.Y. Comp. Codes R. & Regs., tit. 22, § 1230.1 (2025); N.C. Rules of Pro. Conduct, r. 1.5 (2025); Ohio Pro. Conduct Rules, r. 1.5 (2025); Utah R. Governing Utah State Bar 14-1112 (2025).

175 Fla. Stat. § 57.105 (2025); Tex. Civ. Prac. & Rem. Code § 38.002 (2025); Va. Code Ann. § 55.1-2169 (2025); Wash. Rev. Code § 28A.705.010 (2025).

176 Fla. Stat. § 57.105 (2025); Tex. Civ. Prac. & Rem. Code § 38.002 (2025); Va. Code Ann. § 55.1-2169 (2025); Wash. Rev. Code § 28A.705.010 (2025).

emphasize efficiency, confidentiality, and professional accountability, court-centered systems prioritize judicial control and statutory fee-shifting. Together, these models illustrate how jurisdictions tailor attorney-fee dispute resolution to local legal culture, regulatory philosophy, and institutional capacity.

IV. The Case for Uniform National Standards

Uniform national standards for attorney-fee mediation programs would offer the promise of greater consistency, fairness, and efficiency across jurisdictions that currently rely on widely varying models. Federal law already reflects a cautious version of this approach by encouraging alternative dispute resolution while allowing local courts broad discretion to tailor programs to their needs.[177] This structure illustrates both the opportunity and the challenge of national standards: a common baseline could promote reliability and public confidence, but excessive rigidity would risk undermining effective local practices that respond to regional legal cultures and case types.[178]

Drawing from existing federal and state frameworks, several core principles could anchor uniform standards without displacing local control. These include mediator impartiality and fairness, strong confidentiality protections, minimum training and qualification requirements, and respect for party self-determination.[179] Transparency around mediator fees and costs, meaningful access for parties with limited resources, and clear rules governing the enforceability of mediated agreements would further strengthen program integrity.[180] Oversight and periodic evaluation—already present in federal ADR systems—would help ensure that mediation programs remain effective, ethical, and responsive to changing needs.[181]

At the same time, any national framework must accommodate jurisdictional differences. Some states permit nonlawyers to serve as mediators, while others impose stricter professional requirements; some emphasize voluntary participation, while others

177 28 U.S.C. § 651 (2025).
178 *Id*. § 652.
179 Cal. St. Bar Mand. Fee Arb. Guidelines, *supra* note 74.
180 Ga. Alternate Disp. Resol., Appx. C (2025).
181 28 U.S.C. § 651 (2025).

mandate mediation under defined circumstances.[182] Uniform standards should therefore function as guiding principles rather than inflexible mandates, preserving the consensual nature of mediation and allowing procedural variation.[183] By balancing national consistency with local flexibility, uniform standards could enhance the resolution of attorney-fee disputes while respecting the diversity of existing mediation systems.

V. Conclusion

The spectacle of *Weinstein v. Baez* began as an anomaly—a convicted defendant turning his fire not on the prosecution, but on his own lawyer. The litigation did not yield the swift vindication Weinstein sought. In 2024, a New York Supreme Court justice denied his motion for summary judgment, concluding that Weinstein had failed to establish a prima facie entitlement to relief.[184] The court characterized his evidentiary showing as consisting of little more than a "self-serving affidavit" and a "haphazard printout" of a spreadsheet purporting to reflect time records.[185] The court further observed that even if the "nonrefundable" retainer provision was ultimately deemed unenforceable under New York law, the attorney would still be entitled to recover in quantum meruit for the reasonable value of services actually rendered.[186] Rather than resolving the dispute, the ruling ensured that the controversy over fees would continue, underscoring how attorney-client fee conflicts can persist long after the underlying representation has ended.[187]

Yet by tracing that dispute outward, this Comment has shown that the conflict was not aberrational in substance, only in scale and visibility. Beneath the celebrity headline lies a structural problem embedded in the attorney–client relationship itself: fee disputes arise at the intersection of trust, money, and professional

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182 Amendments to Rules Regulating the Fla. Bar—Florida Bar Griev. Mediation Program, 717 So.2d 498, 499-500 (Fla. 1998).

183 *Id*.

184 Craig Clough, *Harvey Weinstein Denied Win in $1M Fee Right with Jose Baez*, Law360, (May 3, 2024, 9:33 PM), https://www.law360.com/pulse/articles/1833638/harvey-weinstein-denied-win-in-1m-fee-fight-with-jose-baez.

185 *Id*.

186 *Id*.

187 *Id*.

power, and the legal system has yet to design a consistently fair and effective way to resolve this sort of dispute.

Attorney-fee disputes are uniquely corrosive. They transform lawyers from advocates into adversaries and clients from beneficiaries of professional judgment into skeptics of its value. Litigation, the profession's default tool for resolving conflict, often magnifies rather than resolves these harms—escalating costs, entrenching mistrust, and exposing both parties to reputational damage. Disciplinary systems, meanwhile, are ill-equipped to address the gray zone where disagreement over reasonableness falls short of complaints about ethical misconduct. What remains is a gap between the frequency of fee disputes and the adequacy of the mechanisms available to resolve them.

Mediation offers a principled way to close that gap. Properly structured—through mandatory pre-suit notice, client-triggered participation requirements, and trained neutral mediators—it aligns with the realities of fee disputes: their fact-intensive nature, their emotional undercurrents, and their sensitivity to power imbalance. Mediation allows clients to question, lawyers to explain, and both sides to recalibrate expectations without the zero-sum posture of litigation. It preserves confidentiality, lowers barriers to access, and advances the profession's stated commitment to fairness and transparency. For these reasons, states have increasingly turned to mediation as a consumer-protection tool in fee disputes—but they have done so unevenly, inconsistently, and without a shared baseline of standards.

This fragmentation matters. Whether a client learns of mediation, can afford it, or can compel meaningful participation often depends not on the merits of the dispute, but on geography and the individual state's particularized approach to attorney-client fee disputes. The absence of uniform guiding principles undermines both client protection and public confidence in the legal profession. It also leaves attorneys subject to divergent obligations and expectations that vary sharply across jurisdictions.

The path forward does not require federal preemption or rigid national mandates. It requires coherence. Drawing from existing state and federal models, this Comment has argued for uniform national standards that articulate core principles—impartiality, confidentiality, accessibility, informed consent, and procedural fairness—while preserving local flexibility in implementation. In

practical terms, coherence would require greater uniformity in trigger thresholds, disclosure obligations within engagement agreements, the sequencing of mediation and arbitration, and the scope of judicial review, as well as mechanisms for program oversight and data transparency. In particular, greater coherence would require standardizing the scope of judicial review across jurisdictions. As reflected in states such as Alaska, arbitration outcomes should be subject only to limited review for procedural integrity—such as fraud, evidence partiality, arbitral overreach, or conduct that substantially prejudices a party's rights—and courts should not revisit the merits of the dispute. By contrast, mediated agreements, once reduced to writing, should be enforceable absent traditional contract defenses. Clarifying these standards would promote both finality and fairness while reducing uncertainty about when judicial intervention is appropriate. Such standards would not displace successful state programs; they would strengthen them, ensuring that mediation's promise is realized not sporadically, but systematically.

The legal profession asks clients to trust its judgment, its billing, and its ethics. That trust is strained when disputes over fees are resolved through blunt, adversarial mechanisms that leave both sides diminished. Mediation cannot eliminate fee disputes, but it can prevent them from metastasizing into spectacles that damage lawyers, clients, and the profession as a whole. If the lesson of *Weinstein v. Baez* is that even the most powerful clients can find themselves trapped in costly fee litigation, the broader lesson is more urgent: a system that resolves ordinary fee disputes more wisely will rarely produce extraordinary disputes at all.

Doug Grace