

Bruce W. Thiele

Barrister-at-Law / Arbitrator / Mediator

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31 October 2018

Attention: «First Name» «Last Name»
«Company»
«Business_Address»

By email: «E-mail Address»

Attention: «First Name» «Last Name»
«Company»
«Business_Address»

By email: «E-mail Address»

Dear «First_Name» and «First_Name»

RE: << Test Your client's last name >> AND << Test Other party's last name >> ARBITRATION

I confirm that I have been appointed as Arbitrator by your clients who are seeking to arbitrate their dispute. I confirm the following basic details;

Party 1 / Solicitor: << Test Your client's first name >> << Test Your client's last name >> / << Test Your name >>

Party 2 / Solicitor: << Test Other party's first name >> << Test Other party's last name >> / << Test Other side solicitor's name >>

Time & date of Preliminary Meeting (Directions): 9:30 a.m. << Test Preliminary Meeting Date >>

Venue for Preliminary Meeting: by telephone

Date of arbitration: << Test Date of Arbitration >>

Venue for arbitration: TBA

I request that you, as the respective solicitors for the parties, familiarise yourselves

with, and ensure compliance with, the contents of this letter. Please also ensure that any counsel engaged by you is similarly familiar and complies.

Unless you advise me to the contrary, promptly and in writing, I will assume the contents of this letter are accepted by the parties.

PLEASE READ THE FOLLOWING IMPORTANT INFORMATION CAREFULLY

Costs agreement, standards and scheme limitation:

I proceed on the basis I am being retained as Arbitrator by you as the respective solicitors for the parties. Insofar as the *Legal Profession Act 2007* (Qld) applies to my appointment, this letter constitutes my offer to enter a costs agreement with you.

There is no scale of fees which applies to my appointment. Further:

- I am bound by the ethical and cognate standards set out in the *Legal Profession Act 2007*(Qld) and the *2011 Barristers' Rule*.
- my immunity from suit under common law and section 10P of the Family Law Act, for work done out of court and affecting the conduct of a matter in court, applies to my appointment.
- as a Class A Ordinary Member of the Bar Association of Queensland, my professional liability is limited by a scheme approved under the *Professional Standards Act 2004* (Qld). In this regard, see the statement to that effect at the base of the first page of this letter, and see also the Professional Standards Council website at <http://www.psc.gov.au/sites/default/files/BAQ.zip> for further information. Note there are exceptions to the scheme's operation specified in section 6 of the Professional Standards Act in respect of a Queensland claim.

Court ordered Arbitration / Private Arbitration

If Court Ordered:

If this arbitration is court ordered (section 13E) and you have not already done so please provide me with a copy of the filed court order.

Being a court ordered arbitration, no arbitration agreement is required. However, I draw your attention to the following applicable provisions:

- Chapter 10 of the *Family Law Rules (Cth) 2001*;
- Section 131 of the *Evidence Act (Cth)*.

If Private (Non-Court Ordered) Arbitration:

If this arbitration is not court ordered (i.e. a private arbitration) the following additional matters apply.

Being a private arbitration, no arbitration agreement is required. However, I draw your attention to the following applicable provisions:

- Section 10L and 10N of the Family Law Act;
- Regulation 67F and 67G of the Family Law Regulations.

In either case, it is in the parties' interests that they seek to reach agreement – with my assistance – about the terms of an Arbitration Agreement.

- [CLICK THIS LINK TO DOWNLOAD MY USUAL ARBITRATION AGREEMENT](#)
- [CLICK THIS LINK TO DOWNLOAD SCHEDULE A TO THE ARBITRATION AGREEMENT – this sets out the usual steps required in an arbitration and is the document that will be completed during the Preliminary Arbitration Conference.](#)

Duration of preliminary arbitration meeting (the meeting):

The duration is usually one (1) hours (not exceeding 3 hours). This includes any agreed breaks. I can extend this timeframe if requested, with such request to be implied or explicit, including on the day.

The venue for the meeting:

The venue for preliminary meeting is **by telephone**.

Any venue costs will be met directly by the parties, except if the meeting is conducted in my chamber rooms (if available and the parties are sufficiently limited in number) or via telephone.

Mediation brief:

[This link](#) is a template Joint Letter of Engagement to be provided to me no less than 48 hours prior to the meeting and signed by both representatives.

In particular, the Joint Letter should include all salient documents, filed or otherwise, which the parties, by agreement or by court order, wish me to read before the meeting.

To save printing and postage costs to the client I am happy for the brief to be emailed to me and I can establish a cloud folder (via Dropbox) for the joint contribution of scanned material.

Procedure at the meeting:

I direct the representatives and their clients to the following web-page links;

- [Planning Meeting Checklist](#). This contains details of most (but not necessarily all) matters requiring discussion with a view to preparing an Arbitration Agreement;
- Sample Arbitration Agreement - See Schedule A; (see Link above)
- [Schedule of my ADR Fees](#);

In terms of my expectations of lawyers and conduct of all participants generally the above article provides further information. I require confirmation from the lawyers that they have also read that article as it pertains to their role within the arbitration.

**"On-the-papers" type arbitrations are not contained in this schedule and are considered on a case by case basis usually starting at around \$4,000.00 plus gst.

Directions for meeting:

The Applicant will provide to the Respondent in the proceedings a draft Joint Letter of Instruction ([see attached template](#)) no less than seven (7) days prior to the meeting date. The Respondent will add (not delete) any relevant details omitted from the Joint Letter of Instruction and submit that letter signed to the Applicant for counter-signing no less than four (4) days prior to the meeting date.

The Applicant shall countersign and provide to me and the Respondent a copy of the Joint Letter no less than forty-eight (48) hours prior to the meeting date by email.

Domestic or Family Violence:

I request the practitioners to make appropriate arrangements for the separate arrival of the parties to the meeting where issues of domestic or family violence have been asserted or there exists a domestic violence protection order of a relevant jurisdiction. The parties should wait in separate rooms until I have had an opportunity to conduct the introductory sessions.

Meeting fees:

(a) Rates:

My professional charges for the meeting ("my fee") will be \$1650.00 (being **\$1,500.00** plus GST of **\$150.00**). The parties must meet any external venue fee.

My fee includes any time spent in respect of my appointment as an arbitrator, comprising all reading of the documents prior to the meeting, the meeting itself, drafting the Arbitration Agreement and prior and subsequent administration.

Any additional time in reading, (i.e. where the brief is comprised of more than two hundred pages) or in an extended meeting, with the duration beyond the period allocated (consent thereto evidenced by continued participation therein) will incur an additional fee charged at a rate of **\$400.00** plus GST per hour ("additional fee").

(b) Shares:

The parties will bear my fee, and any additional fee, in the following shares:

- **The Applicant - \$825.00**
- **The Respondent - \$825.00**

Each party is liable to me only for its share of my fee and any additional fee (i.e. the obligation is several, not joint).

(c) Monies Retained In Trust:

I am treating my appointment as a retainer by the respective solicitors, with each being responsible for their client's share of my fee and any additional fee. Accordingly, I require confirmation no less than seven (7) days prior to the meeting date of the retention of their client's respective share of my fee in the trust account of the relevant representative.

My fee and any additional fee is payable by the respective solicitors within 21 days of the date of my invoice.

(d) Meeting Fee Absorbed Into Arbitration Fee:

In the event the matter proceeds to an arbitration within 60 days the above fee will be absorbed into the Arbitration Fee as part of the agreed arbitration agreement and in such event the invoice will be deducted from the ultimate invoice payable. (See attached Schedule of Standard Rates for ADR)

(e) Cancellation:

If:

- one or more of the parties cancels or postpones the arbitration, irrespective of fault, or the matter settles, thereby dispensing with the arbitration; and
- the same is communicated to me, or to any member of my staff, later than 5.00 pm on the third last working day prior to the meeting, then:

in addition to any extended reading or preparation time, a fee based on 2 hours preparation time calculated at the rate of **\$440.00** per hour (**\$880.00** being **\$800.00** plus GST of **\$80.00**) is payable by the parties in accordance with their respective shares. This fee is payable by the respective solicitors within 21 days of the date of my invoice.

Conclusion

Any party who requires clarification of, or who does not accept, the contents of this letter must advise me and the other promptly and in writing.

Yours faithfully

Bruce W. Thiele LLB
Barrister-at-Law
Nationally Accredited Mediator

Family Dispute Resolution Practitioner
Member of the Australian Institute of Family Law Arbitrators and Mediators

Notice: Liability limited by a scheme approved under Professional Standards Legislation.