

April 10, 2005

I am an arbitrator in the NASD system,

The system proposes to pay each of the panel an extra \$200.00 to write the opinion. With such compensation an opinion will have little meaning to the parties for it will be a one page opinion with no meat in it. Why? The experience of the FMCS explains why.

I am an arbitrator with FMCS. Statistics from the agency and my own experience has shown that for every day of testimony in an FMCS case the arbitrator must spend three days on writing and research. Thus when I hear an average FMCS case with a hearing lasting one day with my billing rate which is \$650.00 per day (an average per day billing for FMCS arbitrators) I will prepare a 15 page or more opinion.

These cases are more complex and will surely take at least three days of writing and research for each day of hearing and more since the lawyers will be submitting extensive briefs and transcripts which I suggest will increase the time spent on the opinion. And that's for a one day hearing! What about the multiple day hearing? Additional time must also be spent, assuming the chair writes the opinion, for the other panel members to approve the opinion.

To remedy this apparent bow to the parties for explanations, may I suggest one of two things. Either change the rule to authorize the chair to write the opinion and pay the chair at least \$1000.00. **Or** devise a two page form that the panel can fill out as its opinion. If the latter is the case, at least you will have an opinion that has the essentials, i.e., the contentions of the parties, the issues, the decision and the rationale behind the decision.

Very truly yours,

Allen D. Schwartz