

-  
-

# Investigative Binding Arbitration

## Your Way to a

· **Faster,**  
**Less Expensive**

## **Legal Decision**

### **What is Investigative, Binding Arbitration (IBA)?**

In IBA, two or more people agree to submit their problem to a neutral Arbitrator instead of going to court. The Arbitrator makes a decision the people have agreed to obey. The people describe their dispute to the Arbitrator. The Arbitrator investigates by gathering testimony and documents needed for a decision. The Arbitrator's decision is filed at the courthouse. It is enforceable just like a judge's decision. IBA can be used with almost any kind of dispute.

### **Why use IBA?**

Compare IBA to a typical court case and you can see why IBA is less expensive and faster. In a court case, each side hires an attorney. Each attorney investigates the case. After investigation, a trial date is set and both attorneys sort through the evidence and prepare and give a presentation of evidence to a judge. It is difficult to go to court without an attorney. A judge expects each side to the dispute to know what evidence the judge needs and to bring the evidence into the courtroom. Generally, a judge will not investigate the facts outside of the courtroom.

With IBA, the Arbitrator gathers the evidence for both sides and makes a decision. An additional presentation of evidence is not needed. The work of two attorneys and one judge is combined in the efforts of one person – the Arbitrator. The people involved in

the dispute share the cost of the Arbitrator and save money. The Arbitrator can render a decision as soon as the investigation is finished. There is no waiting for a court date.

## **An Example of IBA**

Pam wants a divorce from Jeff. She contacts the Arbitrator who first determines that serving Jeff and Pam would not conflict with the work the Arbitrator is doing for other people. The Arbitrator sends Jeff a letter explaining IBA. Jeff agrees to arbitrate the divorce. Pam and Jeff meet with the Arbitrator to discuss the terms of Arbitration contract. The contract is signed. The Arbitrator provides Jeff and Pam general information about divorce law. At the next appointment with the Arbitrator, Pam and Jeff sort through the issues they can agree upon and the ones they wish the Arbitrator to decide. They agree that Jeff should be the primary caretaker of the children and have the house. They ask the Arbitrator to decide the issues of visitation, child support, debt and asset division. The Arbitrator interviews the people Jeff and Pam have identified as potential witnesses. Jeff and Pam provide the documents the Arbitrator wants. The Arbitrator writes a decision which explains the evidence and law supporting the Arbitrator's conclusions.

## **A Word about Attorneys and Arbitrators**

Most people who use IBA do not hire an attorney. A person using IBA to settle disputes can always hire an attorney. The attorney can function as an outside advisor or be actively involved in the whole process.

You may have questions about whether you should do this or that. An Arbitrator is neutral and therefore can not give advice.

## **The Costs of IBA**

While a person can expect to pay 1/3 to 1/2 of what they would pay an attorney to represent them in court, the costs of IBA can still be substantial. An Arbitrator charges by the hour. Each side pays for each hour the Arbitrator works. The hourly rate charged may be on a sliding scale according to the person's income. If there are charges for expert witnesses, photographs, subpoenas and court costs, etc., these charges are split between the parties. Each person will be asked to pay a retainer which functions like a down payment. As the Arbitrator works on the case, he draws his pay from the retainers. Each month you re-fill the retainer. If money is left over after the final decision, it is returned.

## **How to Get Started**

Provide people on the other side of the dispute with copy of this brochure. Ask if they would consider using IBA to settle the dispute. You can also ask the Arbitrator to contact the other side with a request to arbitrate.

There are many types of arbitration. Be sure your arbitrator is familiar with **I**nvestigative **B**inding **A**rbitration.

**This brochure was authored by:**

**Daniel W. Willems, J.D.**  
**Attorney, Mediator and Arbitrator**

**Ph. 319-366-0811**