

PROFESSIONAL LIABILITY UPDATE

MANDATORY FEE ARBITRATION ACT

By John B. Sullivan

***Giorgianni v. Crowley* (2011) 197 Cal.App.4th 1462**

The Sixth District holds that filing a small claims action is an effective rejection of a MFAA arbitration award even if the arbitration award exceeds the small-claims jurisdictional limit.

Crowley represented Giorgianni in a family law proceeding. Giorgianni paid Crowley all but \$11,000 of his fees and requested fee arbitration under the Mandatory Fee Arbitration Act claiming she was overcharged by approximately \$40,000. The arbitrators awarded Giorgianni reimbursement of over \$29,000. Crowley responded by filing a complaint in small claims court seeking \$5,000 in additional attorney's fees. Giorgianni filed a petition to confirm the award asserting that the small claims action was not an effective rejection because the award exceeded the small claims jurisdictional limit.

The Court of Appeal reversed the trial court's confirmation of the award. Pursuant to Business & Professions Code § 6204(c) the award is not binding if either side timely rejects it by commencing an action "in the court having jurisdiction over the amount of money in controversy" within 30 days of notice of service of the award.

Giorgianni argued Crowley's complaint should have been filed in the superior court because the amount in controversy was within its jurisdiction and over the jurisdiction of the small claims court. Crowley contended that jurisdiction in small claims court was proper

because he waived any recovery over that court's jurisdictional limit.

The Court of Appeal noted that the amount of the demand in the complaint is the decisive factor in determining whether a court has subject matter jurisdiction. Thus, it construed the "amount of money in controversy" clause in § 6204(c) to mean the amount of the demand or recovery sought by the plaintiff filing a complaint to reject a MFAA arbitration award. Crowley's complaint effectively rejected the arbitration award because he limited his affirmative claim to the small claims court jurisdictional limit.

Comment: Although the attorney in this case followed the proper procedures, this case should serve as a reminder to attorneys to be sure to understand the provisions of the MFAA in the event of a fee dispute.

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