

21.0 ARBITRATION

(A) Eligible Cases.

- (1) At any time during the litigation, a judge may enter an order referring a civil case to be heard and decided by an arbitration panel or single arbitrator. Actions involving real estate, equitable relief and appeals are excluded.
- (2) A case is suitable for arbitration when the amount in controversy is \$100,000 or less per claimant, exclusive of interest. In cases where the amount in controversy exceeds the jurisdictional limit, the parties may agree to waive the limit. The court must indicate in the order of referral that the parties have consented to waive the jurisdictional limit.
- (3) Once a case is referred for arbitration, ruling on all pending motions will be held in abeyance and no further filings, except a motion for continuance of the arbitration, will be permitted.

(B) Arbitrators.

- (1) **Selection of the Panel.** Upon receipt of the referral order, the dispute resolution administrator will appoint a chairperson and two non-chairpersons from the list of arbitrators to serve as the arbitration panel. The list of arbitrators will be maintained by the administrator and divided into two groups: chairpersons and non-chairpersons. A chairperson must be admitted to the Ohio Bar for at least three years and have one year in service as a non-chairperson. Non-chairpersons must be admitted to the Ohio Bar for at least one year. The dispute resolution administrator may assign up to three cases to each panel at the time of its selection.
- (2) **Selection of a Single Arbitrator.** In any case referred to arbitration and where all parties agree, the court may refer the matter to be heard by a single arbitrator in lieu of an arbitration panel. The dispute resolution administrator will appoint an attorney named on the arbitration list or a lawyer experienced in and who would qualify as an expert in the area of law that is the subject of the action. The single arbitrator will receive the same compensation as the chairperson of an arbitration panel. All the procedures in this rule will govern an arbitration heard by a single arbitrator.
- (3) **Compensation.**
 - (a) Each signatory to the report and award will receive a fee of \$150.00. A consolidated case will be considered one case for purpose of compensation of the arbitrators. In cases requiring hearings of unusual duration or involving questions of unusual complexity, the dispute resolution administrator may allow additional compensation at the written request of the chairperson of the panel or single arbitrator. The members of the panel or single arbitrator are entitled to receive their fees after filing the report and award with the administrator. Fees paid to arbitrators will not be taxed as costs.
 - (b) The chairperson will receive an additional \$50.00 for each case heard by the panel. The single arbitrator will receive the same compensation as a chairperson.
 - (c) If a case is settled or dismissed more than two days prior to the date scheduled for the hearing, the panel members or single arbitrator will not be entitled to a fee. If a case is settled or dismissed on the day of the hearing, the panel members or single arbitrator may be entitled to receive the fee upon completing and signing the report and award. The report and award should state that the "case settled at the time of the hearing."
- (4) **Disqualification from Appointment.**
 - (a) If the chairperson or single arbitrator fails to set an arbitration hearing within the deadline set forth in the referral order, the chairperson or single arbitrator will be removed from the panel and the dispute resolution administrator will appoint a replacement.

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- (b) If the administrator, an arbitrator, counsel, or a party becomes aware that there is an issue with an arbitrator's neutrality, the arbitrator will be removed from the panel or relieved of their appointment and the administrator will appoint a replacement.

(C) General Hearing Procedures.

- (1) **Location.** The chairperson or single arbitrator will set the date, time, and location of the hearing. Hearings may be held in a private office, hearing rooms at the dispute resolution office, or a bar association office. In instances of conflict with location, the dispute resolution administrator will determine the location of the hearing.
- (2) **Time for Hearing.** The chairperson or single arbitrator must set the hearing within any deadline set forth in the referral order and must provide at least ten days written notice to the arbitrators, counsel, and unrepresented parties of the time and place of the hearing.

(D) Communications with Arbitrators.

- (1) Counsel or parties may not communicate with arbitrators regarding the merits of the controversy or any offers of settlement prior to the commencement of the hearing.
- (2) The dispute resolution administrator will deliver a copy of the complaint and answer to the chairperson or single arbitrator prior to the scheduled hearing date.
- (3) Parties may communicate with the panel or single arbitrator when requesting a continuance of the hearing. If a party requests a continuance beyond the arbitration deadline ordered by the judge, the party must file a written motion to the judge assigned to the case.
- (4) The parties must provide notice of settlement or dismissal to the chairperson, panel members, single arbitrator, and the dispute resolution department either by phone, fax or email.

(E) Default of Party.

- (1) The arbitration may proceed in absentia as to any party who, after due notice, fails to appear or fails to obtain a continuance. An award may not be made solely on the default of a party. The arbitration panel or single arbitrator must require the non-defaulting party to submit evidence necessary to justify the award.
- (2) The failure of a party or counsel to appear and participate in an arbitration proceeding will operate as consent to the entry of judgment and a waiver of the right to file an appeal de novo.
- (3) A party who fails to appear for an arbitration hearing may file a motion for leave to file an appeal de novo with the dispute resolution department in conformance with the provisions in paragraph (G) of this rule. The motion may be granted or denied at the judge's discretion.

(F) Conduct of Hearing.

- (1) **Supervisory Powers of the Court.** The assigned judge will have full supervisory powers with regard to all questions that arise in the arbitration proceedings and in the application of these rules.
- (2) **Attendance at hearing.** Counsel will produce, when possible, a party, or witness at the hearing without the necessity of a subpoena.
- (3) **Powers of the Arbitration Panel and Single Arbitrator.**
 - (a) **Rule on Evidentiary Matters.** The chairperson should rule on evidentiary matters with the advice of the other panel members. Strict conformity to the Rules of Evidence is not necessary. All evidence will be taken in the presence of the arbitrators and the parties unless there is a default or waiver of the right to be present. Evidence may be presented by sworn testimony of the witnesses, affidavits, or written reports and it will receive such weight as the panel or single arbitrator deems proper after consideration of any objection made to its admission. All expert

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reports, medical or otherwise, must be on the expert's letterhead and signed to be received into evidence.

- (b) **Issue Subpoenas.** Subpoenas may be issued as provided in Civ.R. 45 and the Ohio Revised Code as in any other case filed in common pleas court. The subpoena forms should include the date, time, and location of the hearing.
 - (c) **Compel the Production of Documents.** The panel or single arbitrator has the power to compel the production of all books, papers, and documents which are material to the case. If a party or witness fails to produce documents, the panel or single arbitrator may treat that particular matter as uncontroverted and proceed accordingly.
 - (d) **Administer Oaths.** The panel or single arbitrator has the power to administer oaths to witnesses, to determine the admissibility of evidence, to permit testimony to be offered by deposition, and to decide the law and the facts of the case.
 - (e) **Consider Medical Bills, Property Damage Bills, or Estimates.** In actions involving personal injury or property damage, bills, write-offs, or estimates may be offered and received in evidence to prove the value and reasonableness of charges for services, labor, materials, or items contained therein, including:
 - i. Bills of doctors, dentists, nurses, physical therapists, and hospitals may be received in evidence when submitted on the official letterhead of the provider and sufficiently itemized to show the date, amount charged, and nature of the services rendered.
 - ii. Bills for medicines, eyeglasses, prosthetic devices, and similar items may be received in evidence when submitted on the official letterhead of the provider and sufficiently itemized to show the amount charged.
 - iii. Property repair bills or estimates may be received in evidence when submitted on the letterhead of the provider and itemized to show the charges for labor and materials.
- (4) **Witness Fees.** Witness fees in any case referred to arbitration will be the same amount as for trial witnesses.
- (5) **Transcript.** The arbitration panel or single arbitrator is not required to record the hearing or prepare a transcript of the proceedings. If any party desires a transcript, that party must provide and pay for the court reporter to record and transcribe the hearing. These costs will not be considered costs in the case. If both parties desire a transcript, they will split the costs of the reporter.
- (6) **Report and Award.**
- (a) Within seven days following the hearing, the arbitration panel or single arbitrator must file the report and award in the office of the dispute resolution administrator and provide copies to all parties or their counsel. An award may not exceed \$100,000 per claimant, exclusive of interest, unless the parties have waived the monetary limits. The report and award must be signed by all of the members of the panel. If all three members of the arbitration panel do not concur, the dissenting arbitrator must write the word "dissents" before signing. A dissenting report is not required, however, a dissenting arbitrator may elect to submit a written report. The dispute resolution administrator will file a notice of the report and award on the docket and file the original report with the clerk.
 - (b) The report and award, unless appealed, will be final with all attributes and legal effect of a verdict. If no appeal is filed within the appeal time and in the manner specified in paragraph G of this rule, the court will enter judgment. After entry of judgment, the clerk must serve the judgment as prescribed by Civ.R. 58 and Civ.R 5.

(G) Appeal of Arbitration Award.

- (1) **Appeal De Novo.** Any party may appeal the arbitration award to the assigned judge . The filing of a single appeal is sufficient to require a de novo trial of the entire case on all issues and as to all parties. The appeal must be filed within 30 days after the report and award is filed with the clerk in compliance with the following conditions:
 - (a) A notice of appeal de novo, with an affidavit of the party averring that the appeal is not being for delay, must be filed in the office of the dispute resolution administrator.
 - (b) Upon filing the notice of appeal de novo and affidavit, the appellant must repay the clerk for all fees received by members of the arbitration panel or the single arbitrator. These fees will not be taxed as costs in the case and will not be recoverable by the appealing party. The clerk will be ordered to deposit the fees, or some portion thereof as directed by the court, into a designated account.
 - (c) A poverty affidavit with a motion requesting waiver of the appeal fees may be filed with the notice of the appeal de novo. The affidavit must aver that by reason of poverty the party is unable to make the payments required for an appeal and request that the court allow an appeal de novo without payment of the amount specified in paragraph G(1)(a)(2). The judge will rule on the motion and enter an order accordingly.
 - (d) No appeal can be withdrawn without consent of all parties.
- (2) **Trial de novo.** All appeals shall be de novo proceedings at which members of the arbitration panel or single arbitrator are barred as witnesses. The case will be returned to the docket of the assigned judge for trial.
- (3) **Objections as to Arbitrator Misconduct.**
 - (a) Objections to the decision of the arbitration panel or the single arbitrator based on either misconduct or corruption of the arbitration panel or single arbitrator may be filed by any party within 30 days from the filing of the report and award.
 - (b) Copies of the objection must be served upon each arbitrator and the dispute resolution administrator within 48 hours after filing and will be heard by the assigned judge
 - (c) If such objection is sustained, the report and award of the panel shall be vacated by the court and the case set for trial. The filing of an objection will toll the running of the 30 day appeal period until the court has ruled upon the objection.

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