Streamlined Three-Arbitrator Panel Option for Large Complex Cases

In cases where the rules or the parties' agreement requires a panel of three arbitrators to hear and decide the case, the **Streamlined Three-Arbitrator Panel Option** allows parties to move through the preliminary and exchange of information (discovery) stages of a case working with a *single* arbitrator. The full panel would then participate in the evidentiary hearing and render the final award on the case.

The AAA's statistics show that approximately 60% of business cases filed with the AAA are resolved without the issuance of an award. The **Streamlined Three-Arbitrator Panel Option** allows parties to take advantage of this by utilizing a single arbitrator to manage the early stages of the case, decide issues related to the exchange of information and resolve other procedural matters without incurring the costs associated with the entire panel. The AAA has found that a three-arbitrator panel can actually cost five times as much as a single arbitrator. By maximizing the use of a single arbitrator, the parties will be able to capitalize on the cost savings provided by a single arbitrator while still preserving their right to have the case ultimately decided by a panel of three arbitrators.

Option 1

During the arbitrator selection phase of the case, the entire panel is selected and appointed pursuant to the applicable rules or parties' agreement. Once the panel is in place, the chairperson is selected who then serves as the sole arbitrator to manage the preliminary and exchange of information stages of the case. The chairperson is also empowered to hear and decide any dispositive motions that may be filed.

For cases where each party has directly appointed a neutral arbitrator, the chairperson will be the third arbitrator appointed by the two party selected arbitrators. In all other cases, the parties may mutually agree on the chairperson. If there is no mutual agreement then the AAA will appoint the chairperson. The remaining arbitrators are placed in an inactive status on the case with the expectation that they will become active and participate only in the evidentiary hearing and in making the final decision.

As part of the preliminary scheduling order, the parties and chairperson would agree on what process, if any, would be used to keep the remaining arbitrators informed about the case and any issues resolved. This could take the form of periodic updates that are shared with the wing arbitrators as the case progresses or this could be covered in a section of each party's prehearing brief. Unless the parties mutually agree to proceed with the Single Arbitrator Option (see below), the wing arbitrators must be notified by the chairperson regarding their active status on the case no later than 30 days prior to the evidentiary hearing.

The wing arbitrators would be expected to keep their disclosure statements up to date. It is expected that these arbitrators would be permitted to bill for any time spent in conjunction with this requirement as well as in connection with the initial disclosure process.

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Hearing Availability

The wing arbitrators would be consulted with regarding their availability for the scheduling of any hearings prior to the finalization of the preliminary scheduling order.

Dispositive Motions

The chairperson is empowered to hear and decide any dispositive motion that may be filed. However, if either side requests that a dispositive motion be heard and decided by the full panel, the full panel shall be made available to hear and decide the motion.

Single Arbitrator Alternative

Within Option 1, the parties would also be free to agree that the chairperson would continue to hear and decide the evidentiary portion of the matter and render the final award as a single arbitrator. In that case, the remaining arbitrators would be thanked for their service and excused from the case.

Option 2

During the arbitrator selection phase of the case, the parties select and appoint a single arbitrator. That arbitrator manages the preliminary and exchange of information stages of the case as a sole arbitrator. The sole arbitrator is also empowered to hear and decide any dispositive motions that may be filed.

At least 60 days in advance of the evidentiary hearings, the parties would work with the AAA to appoint the two remaining arbitrators. The original arbitrator would then serve in the role as the chairperson of the panel. As part of the preliminary scheduling order, the parties and chairperson would agree on what process, if any, would be used to provide a summary of the case for the wing arbitrators in advance of the evidentiary hearings. This could be covered in a section of each party's prehearing brief or the parties or chairperson could prepare a summary specifically for the panel.

Single Arbitrator Alternative

Within Option 2, the parties would also be free to agree that the chairperson would continue to hear and decide the evidentiary portion of the matter and render the final award as a single arbitrator. Once the parties have entered into this agreement, the panel would be considered complete with the appointment of the single arbitrator and there would be no need to appoint the remaining arbitrators.

Opt Out

A party may withdraw their consent to the **Streamlined Three-Arbitrator Panel Option**. Such withdrawal must be made in writing. For Option 1, the wing arbitrators will immediately be made active and will participate in any future proceedings for the case. For Option 2, the AAA will work with the parties to appoint the remaining arbitrators. During this time, the chairperson will cease any activity on the case until the full panel is constituted. However, if a dispositive motion has been argued and/or briefed before the chairperson or sole arbitrator, the chairperson or sole arbitrator shall decide such dispositive motion prior to the wing arbitrators being made active or the full panel being constituted.

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