

INSURANCE

Illinois Uninsured/Underinsured Motorist Arbitration and Mediation Rules



AMERICAN ARBITRATION ASSOCIATION®

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Rules and Fee Schedule Amended and Effective February 1, 2016

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Illinois Uninsured/Underinsured Motorist Arbitration and Mediation Rules



Introduction

The American Arbitration Association® (AAA®) is a public service, not-for-profit organization offering a broad range of dispute resolution services to business executives, attorneys, individuals, trade associations, unions, management, consumers, families, communities, and all levels of government. Services are available through AAA headquarters in New York City and through offices located in major cities throughout the United States. Hearings may be held at locations convenient for the parties and are not limited to cities with AAA offices. In addition, the AAA serves as a center for education and training, issues specialized publications, and conducts research on various forms of dispute resolution.

Automobile insurance policies written in every state may offer protection to an insured against personal injury caused by uninsured and hit-and-run motorists. The standard uninsured-motorist endorsement is one in which the insurer promises:

to pay all sums which the insured shall be legally entitled to recover as damages from the owner or operator of an uninsured automobile because of bodily injury sustained by the insured, caused by accident and arising out of the ownership, maintenance or use of such uninsured automobile; provided determination as to whether the insured is legally entitled to recover such damages, and if so, the amount thereof, shall be made by agreement between the insured and the company or, if they fail to agree, by arbitration.

This endorsement contains a provision for arbitration, which typically reads as follows:

Arbitration

If any person making claim hereunder and the company do not agree that such person is legally entitled to recover damages from the owner or operator of an

uninsured automobile because of the amount of payment which may be owing under this endorsement, then, upon written demand of either, the matter or matters upon which such person and the company do not agree shall be settled by arbitration in accordance with the rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Such person and the company each agree to consider itself bound and to be bound by any award made by the arbitrators pursuant to this endorsement.

Additionally, an endorsement may also offer to protect an insured against personal injury caused by an underinsured motorist. In Illinois, an underinsured motorist has been defined as “a motor vehicle whose ownership, maintenance or use has resulted in bodily injury or death of the insured, as defined in the policy, and for which the sum of the limits of liability under all bodily injury liability insurance policies or under bonds or other security required to be maintained under Illinois law applicable to the driver or to the person or organization legally responsible for such vehicle and applicable to the vehicle, is less than the limits for underinsured coverage provided the insured as defined in the policy at the time of the accident. The limits of liability for an insurer providing underinsured motorist coverage shall be the limits of such coverage, less those amounts actually recovered under the applicable bodily injury insurance policies, bonds or other security maintained on the underinsured motor vehicle. However, the maximum amount payable by the underinsured motorist coverage carrier shall not exceed the amount by which the limits of the underinsured motorist coverage exceeds the limits of the bodily injury liability insurance of the owner or operator of the underinsured motor vehicle.” IL ST CH 215 S 5/143a-2.

In 1956, at the request of the insurance industry, the American Arbitration Association established procedures for arbitrating such matters.

Mediation

Mediation procedures are also provided for those parties who wish to make use of them. The AAA encourages parties to submit their accident claims disputes to mediation, which has proven to be a prompt, fair, and economical method of resolving insurance claims.

The Process

In mediation, the mediator assists the parties in reaching their own settlement, but does not have the authority to make a binding decision or award.

The Mediator

Mediators appointed under this program are experienced attorneys. They have specific training or experience in mediation and are prepared to offer prompt service. The AAA makes every effort to appoint mediators who are acceptable to both parties. Upon the objection of either party, the AAA will replace a mediator.

Using the Mediation Process

Because mediation is voluntary, all parties to the dispute must consent to participate. Upon request, a mediation submission form will be provided by the AAA, or you may indicate your willingness to mediate by placing a check mark in the appropriate box on the Demand for Arbitration form. The AAA will contact the other parties and attempt to obtain their agreement to mediate.

If there is no agreement to mediate or if mediation proves unsuccessful, the parties can continue with the arbitration.

Cost

The initial administrative fee and the insurer's administrative fee are applied to the cost of administering the mediation. In addition, there is suggested mediator compensation of \$300 per case, to be paid equally by the parties. The exact compensation rate for the mediator will be agreed to by the parties in each case, with the assistance of the AAA.

Illinois Uninsured/Underinsured Motorist Arbitration Rules

R-1. Illinois Uninsured/Underinsured Motorist Arbitration

The Illinois Insurance Code requires all automobile insurers to include in all policies renewed, delivered, or issued for delivery in this state a provision that any dispute with respect to coverage and amount of damages with respect to an uninsured and hit-and-run motor vehicle claim be submitted for arbitration to the American Arbitration Association (AAA), as an option, and subject to the rules of the AAA for the conduct of arbitration hearings as to all matters except medical opinions. As to medical opinions, if the amount of damages being sought is equal to or less than the amount provided for in Section 7-203 of the Illinois Vehicle Code, then the current AAA Rules shall apply. If the amount of damages being sought in an AAA case exceeds the amount as set forth in Section 7-203 of the Illinois Vehicle Code, then the Rules of Evidence that apply in the circuit court for placing medical opinions into evidence shall govern. All remaining issues other than medical opinions are subject to the Rules of the AAA.

Additionally, the Illinois Insurance Code provides for underinsured motorist coverage. The definition of an underinsured motor vehicle and the rights and responsibilities associated with an underinsured motor vehicle claim are set forth in 215 ILCS 5/143a-2. These rules and any amendment thereof shall apply in the form in existence at the time the arbitration is initiated, except for any such provision that may be inconsistent with the arbitration agreement or with applicable law.

R-2. Administrator and Delegation of Duties

When arbitration is initiated under these rules, either by agreement or by operation of law, the parties thereby authorize the AAA to administer the arbitration in accordance with these rules. The authority and duties of the AAA are prescribed in the operation of law and in these rules, and may be carried out through such of the AAA's representatives as it may direct. The AAA may, in its discretion, assign the administration of an arbitration or mediation to any of its offices.

R-3. Panel of Arbitrators

The AAA shall establish and maintain an Accident Claims Panel of arbitrators made up of attorneys with negligence experience and shall appoint arbitrators as provided in these rules. The term "arbitrator" in these rules refers to the

arbitration panel, constituted for a particular case, whether composed of one or more arbitrators, or to an individual arbitrator, as the context requires.

R-4. Initiation of Demand for Arbitration

When the parties agree, or when either side requests initiation of arbitration under these rules when an alternate three member panel cannot be agreed upon within 45 calendar days from such a request, arbitration shall be initiated by filing a written Demand for Arbitration. The claimant shall serve the demand on the respondent by U.S. certified mail-return receipt requested. When filed by an insured, the demand shall be directed to the claims office of the insurer under whose policy arbitration is sought, at the office where the claim has been discussed, or at the office of the insurer closest to the residence of the insured.

The demand shall set forth the following information:

- a. Name, address, telephone number and email address of the injured person(s) and the filing attorney, if any;
- b. Name and address of all policyholders, policy numbers, and effective dates of policies;
- c. Identity and location of the claims office of insurer, the claim file number, and the name of the individual with whom the claim was discussed;
- d. Date and location of the accident;
- e. Nature of dispute and injuries alleged;
- f. Amount of uninsured motorist policy limits and the amount claimed thereunder; and;
- g. Address of the AAA office where a copy of the demand is being filed;

The filing party shall set forth, to the best of their knowledge, any action pending in any court or arbitration proceeding which arises out of the same accident, or which should otherwise be joined in the action being filed.

The demand must be simultaneously filed with the AAA and shall include a copy of the parts of the policy and/or regulations relating to the dispute, including the arbitration provisions, together with the administrative filing fee.

The AAA will acknowledge receipt of the demand to all parties. If, within 30 calendar days after acknowledgment of the demand by the AAA, the insurer moves in court or otherwise contests coverage, applicable policy limits, or the stacking of policy coverage, or AAA jurisdiction, the AAA will suspend its

administration of the arbitration upon its receipt of a duly executed court ordered stay of arbitration. Neither the AAA nor the arbitrator is a necessary party to such proceeding and neither shall be named as a party.

Issues as to coverage, applicable policy limits, or stacking of policy coverage may be referred to voluntary coverage arbitration with the agreement of all parties before the arbitrator appointed by the AAA. These issues will be submitted to the arbitrator on documents only, unless the parties agree otherwise or the arbitrator determines that an oral hearing is necessary. In the absence of an agreement to submit such issues to arbitration, accident claims arbitrators may only decide contested issues of coverage, applicable policy limits, or stacking of policy coverage where ordered to do so by a court or where so authorized by law.

An arbitrator may decide all issues concerning compliance with conditions precedent.

R-5. Change of Claim

If any party desires to make any new or different claim, such claim shall be made in writing, on notice to all parties, and filed with the AAA, including any and all attachments and all other required information in accordance with Rule R-4. After the arbitrator is appointed, no new or different claim may be submitted except with the consent of the arbitrator.

R-6. Discovery

The arbitrator shall have discretion to order pre-hearing exchange of information by the parties including, but not limited to, the production of requested documents, reports and records, as well as the attendance of any party for the purpose of conducting any independent medical examination(s) and sworn statement(s).

At least 20 calendar days in advance of the hearing, a party must provide to all other parties a copy of any documents that the party intends to offer to the arbitrator at a hearing. If a party fails to comply with the 20 calendar day time period, such documents and/or testimony may be disallowed at the discretion of the arbitrator. Unless otherwise limited by order of the court or the arbitrator appointed to the case, parties shall complete all discovery no later than 180 calendar days from the date the AAA forwards notification to the respondent advising that a claim has been initiated.

R-7. Fixing of Locale

The insured may designate as the locale in which the hearing is to be held either the county of residence of the insured or the county where the accident occurred. Only if all parties agree shall the hearing be held in some other locale.

R-8. Appointment of Arbitrator

Cases will be heard by one arbitrator appointed by the AAA from its Accident Claims Panel, except when the parties agree otherwise, or where the amount claimed exceeds the minimum statutory financial limits set forth in Section 7-203 of the Illinois Vehicle Code and request is made to the AAA by either party within 60 calendar days from the date the AAA forwards notification to the parties advising that a claim has been initiated; then in such an event the dispute shall be determined by three arbitrators.

Where the amount claimed is equal to or less than the statutory financial limits set forth in Section 7-203 of the Illinois Vehicle Code, the AAA will submit a list of ten names of arbitrators from the Accident Claims Panel, from which each party shall have the right to strike up to two names on a peremptory basis and shall number the remaining names in order of preference within 21 calendar days of the AAA's submission of the list. The AAA shall appoint one arbitrator from among the remaining names.

Where the amount claimed and available coverage limits exceed the minimum statutory financial responsibility limits set forth in Section 7-203 of the Illinois Vehicle Code and timely request has been made, the dispute shall be determined by three arbitrators. The AAA will submit a list of 14 names of arbitrators from the Accident Claims Panel, from which each party shall have the right to strike up to three names on a peremptory basis and shall number the remaining names in order of preference within 21 calendar days of the AAA's submission of the list. The AAA will appoint three arbitrators from among the remaining names.

If a party does not return the list within the time specified, or for any reason strikes more than the allowed number of names provided for above, all persons named therein shall be deemed acceptable. From among the arbitrators whose names remain on both lists and in accordance with the designed order of mutual preference, the AAA shall invite the acceptance of an arbitrator to serve.

If the parties fail to agree on any of the persons named, or if acceptable arbitrators are unable to act, or if for any other reason the appointment cannot

be made from the submitted lists, the AAA shall have the power to make the appointment from among other members of the Accident Claims Panel without the submission of additional lists.

R-9. Qualifications of Arbitrator

- a.** Any person appointed or to be appointed as an arbitrator, as well as the parties and their representatives, shall disclose to the AAA any circumstances likely to give rise to justifiable doubt as to the arbitrator's impartiality or independence, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their representatives. Such obligation shall remain in effect throughout the arbitration. Failure on the part of a party or a representative to comply with the requirements of this rule may result in the waiver of the right to object to an arbitrator in accordance with Rule R-25.
- b.** Upon receipt of such information from the arbitrator or other source, the AAA shall communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others.
- c.** Disclosure of information pursuant to this Section R-9 is not an indication that the arbitrator considers that the disclosed circumstance is likely to affect impartiality or independence.

If the arbitrator should resign, be disqualified, or otherwise be unable to perform the duties of the office, the AAA shall appoint a replacement from among those names remaining on the list(s) submitted to the parties. If an appointment cannot be made from the list(s), the AAA shall appoint a replacement in accordance with the provisions of Rule R-8.

R-10. Disqualification of Arbitrator

- (a)** Any arbitrator shall be impartial and independent and shall perform his or her duties with diligence and in good faith, and shall be subject to disqualification for:
 - i.** partiality or lack of independence,
 - ii.** inability or refusal to perform his or her duties with diligence and in good faith, and
 - iii.** any grounds for disqualification provided by applicable law.
- (b)** Upon objection of a party to the continued service of an arbitrator, or on its own initiative, the AAA shall determine whether the arbitrator should be disqualified under the grounds set out above, and shall inform the parties of its decision, which decision shall be conclusive.

R-11. Time and Place

The arbitrator shall fix the time and place for each hearing in accordance with Rule R-7. The AAA shall provide to each party notice thereof at least 30 calendar days in advance, unless the parties by mutual agreement waive such notice or modify the terms thereof.

R-12. Representation

Any party may be represented by counsel or other authorized representative. A party intending to be so represented shall notify the other party and the AAA of the name, telephone number, physical and email address of the representative at least 7 calendar days prior to the date set for the oral hearing at which that person is first to appear. When such a representative initiates an arbitration or responds for a party, notice is deemed to be given.

R-13. Stenographic Record

Any party wishing a stenographic record shall make such arrangements, including payment, with the stenographer directly, and the party shall notify the other parties of such arrangements at least 7 calendar days in advance of the hearing and shall provide the arbitrator, upon request, with a copy of the transcript at no charge to the arbitrator.

R-14. Interpreters

Any party wishing the services of an interpreter shall make such arrangements, including payment, with the interpreter directly, and the party shall notify the other parties of such arrangements at least 7 calendar days in advance of the hearing.

R-15. Attendance at Hearings

Any person having a direct interest in the arbitration is entitled to attend the hearings. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person or witnesses during the testimony of other witness. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any other persons.

The parties shall disclose any individual who may present testimony at the hearing ("witness list"). The parties shall exchange their witness list as determined by the arbitrator at least 20 calendar days in advance of the hearing.

R-16. Postponements

The arbitrator may postpone the hearing for good cause or upon the request of a party, the arbitrator's own initiative, or the agreement of the parties. The arbitrator has the right to deny any postponement request.

Once an arbitrator is appointed, any postponements within the specified time frame indicated in the Fee Schedule of these rules may result in arbitrator compensation being incurred and initially assessed to the party requesting the postponement, subject to allocation by the arbitrator in the award.

Any requests for postponement of a scheduled hearing shall be made only by the party's attorney of record or other representative, as described in R-12, or by the party itself, if self-represented.

R-17. Oaths

Before proceeding with the first hearing, each arbitrator may take an oath of office and, if required by law, shall do so. The arbitrator may require witnesses to testify under oath administered by any duly qualified person and, if it is required by law or requested by any party, shall do so.

R-18. Arbitration in the Absence of a Party or Counsel

The arbitration may proceed in the absence of any party or counsel who, after due notice, fails to be present, fails to submit evidence or fails to obtain a postponement. In the event one or more parties do not appear at the designated time and place for the hearing, the arbitrator or the AAA shall, in the presence of all other parties, place a call to the party or, if known, to the party's representative, who has not appeared. At that time the arbitrator shall determine whether to proceed with the hearing and/or under what conditions the hearing may be held, including but not limited to telephonic participation and supplemental written submissions. The arbitrator shall require the party present to submit such evidence as may be required for the making of an award. An award shall not be made solely on the default of a party.

R-19. Order of Proceedings in an Oral Hearing

An oral hearing shall be opened by the recording of the place, time, and date of the hearing and the presence of the arbitrator, the parties, and counsel, if any; and by the receipt by the arbitrator of the statement of the claim and answer, if any.

The arbitrator may, at the beginning of the hearing, ask for statements clarifying the issues involved. The claimant shall then present its claims, proofs, and witnesses, who shall submit to questions or other examination. The respondent may then present its defenses, proofs, and witnesses, who shall submit to questions or other examination. The arbitrator has discretion to vary this procedure but shall afford full and equal opportunity to the parties for the presentation of any material or relevant proofs.

The arbitrator shall control the proceedings with a view to expediting the resolution of the dispute. In order to expedite the proceedings the arbitrator may control the order of proof, bifurcate proceedings, and direct parties to focus the presentation of evidence on decisive issues. The arbitrator may entertain motions that dispose of all or part of a claim or that may expedite the proceedings, and may also make preliminary rulings and enter interlocutory orders.

Exhibits, when offered by either party, may be received in evidence by the arbitrator.

The names and addresses of all witnesses and exhibits in the order received shall be made a part of the record.

The parties may, by written agreement, provide for the waiver of oral hearings. If the parties are unable to agree as to the procedure, the arbitrator shall specify a fair and equitable procedure.

R-20. Evidence

The parties may offer such evidence as is relevant and material to the dispute and shall produce such additional evidence that an arbitrator deems necessary to an understanding and determination of the dispute in order to make a decision. An arbitrator authorized by law to subpoena witnesses or documents may do so upon the request of any party or independently.

The arbitrator shall be the judge of the relevancy and materiality of the evidence offered, and conformity to legal rules of evidence shall be governed by 215 ILCS 5/143a. At an oral hearing, all evidence shall be taken in the presence of all of the arbitrators and all of the parties, except where any of the parties is absent, in default, or has waived the right to be present.

A certified statement from the Department of Transportation that the owner or operator from whom the claimant is entitled to recover damages failed to file

the appropriate forms with the Safety Responsibility Section of the Department of Transportation within 120 days of the accident date shall be admissible at the hearing, provided that the other party is provided with a copy at least 20 calendar days in advance thereof.

Any party intending to offer any medical report or record at the hearing in accordance with 215 ILCS 5/143a must provide the other party with a copy at least 20 calendar days in advance of the hearing.

In the event the parties agree to submit the case by documents only, all documents shall be filed with the AAA, or as otherwise ordered, for transmittal to the arbitrator in accordance with a schedule to be set by the arbitrator. The parties shall have ten days from receipt to file with the AAA any response to the documents submitted by the other parties, unless the arbitrator sets a different response date. The hearing shall be declared closed as of the final date for the filing of such response, or on such other date set by the arbitrator.

R-21. Evidence by Affidavit and Post-hearing Filing of Documents

The arbitrator may receive and consider the evidence of witnesses by affidavit, but shall give it only such weight as the arbitrator deems it entitled to after consideration of any objection made to its admission.

If the parties agree or the arbitrator directs that documents shall be submitted to the arbitrator after the hearing, such documents shall be filed and served in accordance with the provisions of Rule R-19 document submissions.

R-22. Majority Decision

Whenever there is more than one arbitrator, all decisions of the arbitrators must be by a majority unless "unanimity" or a "unanimous decision" is expressly required by law.

R-23. Closing of Hearing

- a. The arbitrator shall specifically inquire of the parties whether they have any further evidence to offer or witnesses to be heard. Upon receiving negative replies or if satisfied that the record is complete, the arbitrator shall declare the hearing closed.
- b. If briefs or documents are to be filed as provided in Rule R-21, the hearing shall be declared closed as of the final date set by the arbitrator for the receipt of briefs. If no briefs, documents or responses are to be filed, the

arbitrator shall declare the hearing closed as of the date of the last hearing (including telephonic hearings.) If the case was heard without any oral hearings, the arbitrator shall close the hearing upon the due date established for the receipt of the final submission.

- c. The time limit within which the arbitrator is required to make the award shall commence, in the absence of other agreements by the parties, upon the closing of the hearing. The AAA may extend the time limit for rendering the award only in unusual and extreme circumstances.

R-24. Reopening of Hearing

The hearing may be reopened by the arbitrator's own motion or upon application of a party for good cause shown, at any time before the award is made. When no specific date is fixed by agreement of the parties, the arbitrator shall have 30 calendar days from the closing of the reopened hearing within which to make an award. After the award has been rendered, the hearing may not be reopened by the arbitrator without consent of all parties.

R-25. Waiver of Rules

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state an objection thereto in writing shall be deemed to have waived the right to object.

R-26. Extensions of Time

The parties may modify any period of time by mutual agreement. The AAA or the arbitrator for good cause may extend any period of time established by these rules except the time for making the award. The AAA shall advise the parties of any such extension of time in writing.

R-27. Serving of Notice

- a. With the exception of the demand, which the claimant shall serve by certified mail-return receipt requested upon the respondent, each party shall be deemed to have consented that any other papers, notices, or process necessary or proper for the continuation of an arbitration under these rules, and for any court action in connection therewith or for the entry of judgment on any award made thereunder, may be served upon such party by:
 1. Mail addressed to such party or its attorney at the last known address; or

- 2.** Personal service, within or outside the state where the arbitration has been or is to be held, provided that reasonable opportunity to be heard with regard to the dispute is or has been granted to the party.
- b.** The AAA, the arbitrator and the parties may also use overnight delivery or electronic facsimile transmission (fax), or electronic mail (e-mail) to give the notices required by these rules.
- c.** Unless otherwise instructed by the AAA or by the arbitrator, any documents submitted by any party to the AAA or to the arbitrator shall simultaneously be provided to the other party or parties to the arbitration.
- d.** Unless otherwise instructed by the AAA or by the arbitrator, all written communications made by any party to the AAA or to the arbitrator shall simultaneously be provided to the other party or parties to the arbitration.
- e.** Failure to provide the other party with copies of communication made to the AAA or to the arbitrator may prevent the AAA or the arbitrator from acting on any requests or objections contained therein.
- f.** The AAA may direct that any oral or written communications that are sent by a party or their representative be sent in a particular manner. The failure of a party or their representative to do so may result in the AAA's refusal to consider the issue raised in the communication.

R-28. Communication with Arbitrator

- a.** No party and no one acting on behalf of any party shall engage in *ex parte* communication with a neutral arbitrator or a candidate for a neutral arbitrator. Unless the parties agree otherwise or the arbitrator so directs, any communication from the parties to a neutral arbitrator shall be sent to the AAA for transmittal to the arbitrator in accordance with the provisions of Rule R-27.
- b.** If the parties have selected a party-appointed arbitrator pursuant to 215 ILCS 5/143a prior to filing the arbitration, then once the panel has been constituted, no party shall engage in *ex parte* communication with any party-appointed arbitrator.
- c.** In the course of administering an arbitration, the AAA may initiate communications with each party or anyone acting on behalf of the parties either jointly or individually.

R-29. Time of Award

The arbitrator shall render the award promptly and, unless otherwise agreed by the parties or specified by law, no later than 30 calendar days from the date of close of either (1) the hearing or (2) the reopened hearing, or if oral hearings have been waived, from the due date set for receipt of the parties' final statements and proofs.

R-30. Form of Award

The award shall be in writing and shall be signed either by the sole arbitrator or by a majority if there is more than one arbitrator. It shall be executed in the manner required by law.

R-31. Scope of Award

The arbitrator shall render a decision determining whether the injured person has a right to receive any damages under the policy and the amount thereof, not in excess of the applicable policy limits. The award shall not contain a determination as to issues of coverage except as provided in Rule R-4.

The arbitrator shall, in the award, assess administrative fees, expenses, and compensation as provided in these rules. The arbitrator may apportion such fees, expenses, and compensation among the parties in such amounts as the arbitrator determines is appropriate.

R-32. Award upon Settlement—Consent Award

If the parties settle their dispute during the course of the arbitration and if the parties so request, the arbitrator may set forth the terms of the agreed settlement in a "consent award." A consent award must include an allocation of arbitration costs, including administrative fees and expenses as well as arbitrator compensation.

R-33. Delivery of Award to Parties

Parties shall accept as legal delivery of the award the placing of the award or a true copy thereof in the mail addressed to such party or its attorney at the last known address, personal or electronic service of the award, or the filing of the award in any other manner that may be permitted by law.

R-34. Expenses

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the arbitration, including required traveling and other expenses of the arbitrator and of AAA representatives, and the expenses of any witness and the cost of any proof produced at the direct request of the arbitrator, shall be borne equally by the parties, unless they agree otherwise or unless the arbitrator in the award assesses such expenses or any part thereof against any specified party or parties.

R-35. Suspension for Nonpayment

If the AAA administrative fees have not been paid in full, the AAA may so inform the parties in order that one of them may advance the required payment. If such payments are not made or advanced, the arbitrator may order the suspension or termination of the proceedings. If no arbitrator has been appointed, the AAA may suspend the proceedings. The matter shall remain in abeyance until such time as all administrative fees have been paid to the AAA or until such time as there has been an administrative dismissal in pursuant to the Fee Schedule of these rules.

R-36. Applications to Court and Exclusion of Liability

- a.** No judicial proceeding by a party relating to the subject matter of the arbitration or mediation shall be deemed a waiver of the party's right to arbitrate.
- b.** Neither the AAA nor any arbitrator or mediator in a proceeding under these rules is a necessary or proper party in judicial proceedings relating to the arbitration or mediation.
- c.** Parties to a case proceeding under these rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.
- d.** Parties to a case proceeding under these rules shall be deemed to have consented that neither the AAA nor any arbitrator or mediator shall be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any arbitration or mediation conducted under these rules.
- e.** Parties to a case proceeding under these rules may not call the arbitrator, the AAA or AAA employees as a witness in litigation or any other proceeding relating to the arbitration or mediation. The arbitrator, the AAA and AAA employees are not competent to testify as witnesses in any such proceeding.

R-37. Release of Documents for Judicial Proceedings

Upon the written request of a party, the AAA shall furnish to the party, at the party's expense, certified copies of any papers in the AAA's possession that may be required in judicial proceedings relating to the arbitration.

R-38. Interpretation and Application of Rules

The arbitrator shall interpret and apply these rules insofar as they relate to the arbitrator's powers and duties. When there is more than one arbitrator and a difference arises among them concerning the meaning or application of these rules, it shall be decided by a majority vote. If that is unobtainable, either an arbitrator or a party may refer the question to the AAA for final decision. All other rules shall be interpreted and applied by the AAA.

Fee Schedule

(A) Administrative Fees

The party initiating the mediation or arbitration shall pay an initial administrative fee in the amount of \$400 to the AAA. The initial administrative fee is due and payable in full at the time of filing. No refund of the AAA's portion of the initial fee is made when a matter is withdrawn or settled after the filing of a Demand for Arbitration.

If the parties engage in voluntary coverage arbitration, followed by arbitration of the remaining liability and damage issues, there will be an additional administrative fee of \$100 per party, which is payable prior to any scheduled exchange of documents. In the event either party does not tender payment of the additional administrative fee, then the AAA may suspend such proceedings whether or not an arbitrator or arbitrators have been appointed. The matter shall remain in abeyance until such time as all administrative fees have been paid to the AAA.

Where a case is heard by three arbitrators, the party requesting three arbitrators shall pay an additional administrative fee of \$800.

An administrative fee of \$400 is payable by the responding party involved, due and payable in full at the time of the filing of the claim. The AAA will suspend administration of the claim if the fee is not paid in full within 30 calendar days of the filing of the claim. The matter shall remain in abeyance until such time as all administrative fees have been paid or advanced to the AAA. In the event the matter remains in abeyance for more than 60 calendar days, the AAA shall have the right to dismiss the matter without a refund.

(B) Arbitrator Compensation

- a.** Arbitrators from the AAA's Accident Claims Panel shall be compensated at the rate of \$300 per case awarded. This fee will be paid by the AAA out of the administrative fees collected in the case.
- b.** A party requesting a postponement, cancellation, or rescheduling of an oral hearing shall be responsible for additional arbitrator compensation as noted below:
 - 1.** If the request is made within 2 business days (48 hours) of the scheduled start of the oral hearing, then the requesting party shall be responsible for \$150 in arbitrator compensation.

2. If the request is made within 1 business day (24 hours) of the scheduled start of the oral hearing, then the requesting party shall be responsible for \$300 in arbitrator compensation.

(C) Hearing Fees

For second or subsequent hearings held in an AAA hearing room, each party shall pay \$75.

(D) Postponement Fees

A party requesting to postpone and/or to reschedule a hearing at any time during the arbitration process shall pay to the AAA a postponement fee in the amount of \$125 for a one-arbitrator case and \$250 for a three-arbitrator case.

(E) Abeyance Fees

In the event that a claim is placed in abeyance for any reason other than by order of the court, the AAA shall keep the claim in abeyance with consent of all parties without charge for up to 365 calendar days. If the parties consent to keeping a claim in abeyance for any additional time, the requesting party shall pay an administrative fee of \$400 to the AAA to hold the claim in abeyance for an additional 365 calendar days. Any additional requests to hold the matter in abeyance shall require consent of the parties and the payment of an additional administrative fee. In the event that the requesting party fails to pay the required fee, the AAA shall administratively dismiss the matter on notice to all parties.

Notes

Rules, forms, procedures and guides as well as information about applying for a fee reduction or deferral, are subject to periodic change and updating. To ensure that you have the most current information, please visit our Web site.

