AAA Arbitration Roadmap

A GUIDE TO AAA ARBITRATION
AAA Arbitration Roadmap

The American Arbitration Association’s AAA Arbitration Roadmap shows how cases proceed under AAA administration, from beginning to end, when using the AAA’s Commercial Arbitration Rules*. The AAA Arbitration Roadmap also demonstrates how parties can positively influence the arbitration process in terms of time and costs. The times portrayed here are based on a study of cases with claims between $75,000 and $500,000 and are medians, meaning that half the cases in the study took less time and half took more. For additional statistics, including timeframes for expedited and large complex cases, please refer to the appendix. Also note that actual timeframes may differ significantly based on the facts of a particular case.

### Timeline (in days)

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<th>1</th>
<th>15</th>
<th>60</th>
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<th>217</th>
<th>218</th>
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- **Filing and Initiation**
- **Arbitrator Selection**
- **Preliminary Hearing**
- **Information Exchange & Preparation**
- **Hearings**
- **Post-Hearing Submissions**
- **The Award**

### Settlement Alternatives

A full range of settlement options are available and may be appropriate prior to or during arbitration or litigation. As the parties invest time and money into the arbitration proceeding, many settlement processes lose their value. However, some processes, such as mediation, may become more viable as the parties learn about each other’s positions and can more accurately measure the cost of continuing with the arbitration. Parties often choose to mediate during the Preliminary Hearing and Information Exchange phases of an arbitration proceeding.

### Arbitration Phase Details

Each phase of the arbitration process depicted above has a full-page description, including information on time- and cost-saving opportunities, under the tab with the corresponding color.

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* Timeframes and cost references may vary depending on the AAA Rules applicable to a particular arbitration. The Commercial Arbitration Rules are used for illustrative purposes in this AAA Arbitration Roadmap.
Filing and Initiation

The AAA commences administration of an arbitration when one party submits a demand for arbitration, a copy of the arbitration provision and the appropriate Filing Fee to the AAA. The AAA will acknowledge receipt to all parties and set a 15-day deadline for the respondent to file an answer and/or counterclaim.

Expected Costs

Filing Fees are based on claim amounts and are paid by the party that asserts the claim or counterclaim.

How You Can Manage Time and Cost

Be specific in your claims and answers. Clearly defining the disputed matters will make an early settlement more likely and will also focus the proceeding if it does not settle.

The parties are encouraged to inform the AAA of any unusual or complex aspects of the case that might affect the administration so that the process can be tailored to meet the parties’ needs. Depending on the complexity of the case, the AAA may involve the parties in an administrative conference shortly after filing to address these matters.

Timeline (in days)

1 15 297

Filing and Initiation / The Award
Arbitrator Selection

After the answer period, the AAA assists the parties in selecting an arbitrator. The AAA obtains the parties’ input on the necessary qualifications and then provides a list of prospective arbitrators and their biographies for all parties to review. The parties are encouraged to agree upon an arbitrator, but if they are unable to do so the AAA will establish a deadline for each party to independently state its preferences from those candidates on the list. The AAA will then invite the most mutually agreeable arbitrator to serve on the case.

Expected Costs

Partial refunds of Filing and Counterclaim Fees are available under many of the AAA’s fee schedules. However, no refunds are given after an arbitrator has been appointed.

How You Can Manage Time and Cost

Consider using a single arbitrator rather than a panel of three. This will have a significant effect on both the cost to the parties and the time it takes to get the matter heard.

Also review the panelists’ biographies prior to selection. The biographies contain information on how much an arbitrator would charge, usually stated as an hourly or daily rate, as well as whether the arbitrator would charge for time other than that spent in hearings.

Timeline (in days)

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<td><strong>The Award</strong></td>
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The Preliminary Hearing

The Preliminary Hearing is a management meeting conducted by the arbitrator. It is usually the first time the parties and the arbitrator discuss the case and is often conducted via conference call. Working with the arbitrator, the parties will identify the steps and actions needed to prepare for the evidentiary hearing and establish a schedule for the exchange of information. The parties and the arbitrator will also establish dates for the submission of final witness lists, exhibits and possibly pre-hearing briefs, depending upon the complexity of the matter. Finally, dates for the evidentiary hearing will be set. The result is a Scheduling Order that will serve as the parties’ framework for hearing preparations.

The parties will also be asked to pay a deposit to cover the arbitrator’s estimated fees and expenses for the scheduled hearings and anticipated study time. The due date for this deposit is usually 30 days prior to the first evidentiary hearing. Unused deposits are refunded at the conclusion of the case.

Expected Costs

The parties typically will incur between one and ten hours of compensation charges by each arbitrator for time spent before and during the Preliminary Hearing and in preparation of the Scheduling Order.

How You Can Manage Time and Cost

Parties can begin exchanging information at any time. There is no need to wait for the Preliminary Hearing and Scheduling Order, especially for routine and uncontroversial documents related to the dispute. This can significantly reduce the time spent in the next phase, Information Exchange and Preparation.

Parties may also stipulate and submit their own Scheduling Order to the arbitrator prior to the Preliminary Hearing; this allows the arbitrator and parties to focus only on the unresolved scheduling matters.

In cases involving three arbitrators, parties can stipulate to allow one neutral to resolve disputes which may arise during the information exchange phase; this will dramatically reduce the time and cost associated with resolving these types of disputes.

Pre-hearing briefs should serve to reduce the time spent in the evidentiary hearings and to give the arbitrator a clearer understanding of the case. Do not submit them as a matter of course unless they will accomplish these goals.

Timeline (in days)

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<td>Preliminary Hearing</td>
<td>The Award</td>
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Information Exchange and Preparation

Working within the timeframes set forth at the Preliminary Hearing, the parties exchange information and ready their presentations. The arbitrator addresses any impasses the parties may encounter regarding the exchange of information. At the conclusion of this stage, the parties should have completed preparations for presenting evidence and arguments on the dispute. Proposed exhibits and final witness lists are often submitted at the conclusion of this phase.

Expected Costs

The time spent by the arbitrator in this phase is proportional to the number of procedural matters needing resolution. In addition, the arbitrator will spend time reviewing the parties’ pre-hearing submissions, if any.

How You Can Manage Time and Cost

It is in this phase that the parties can have a profound effect on the overall cost and time it takes to get their dispute resolved. The parties are encouraged to cooperate on reasonable information exchange, since relying on the arbitrator to resolve procedural matters will drive up costs and prolong the parties’ preparations.

Cooperative information exchange can also begin before the arbitrator is appointed, as the arbitrator’s involvement is only necessary for those matters on which the parties cannot agree.

Consider having pre-arranged status checks during this phase so that the arbitrator can facilitate any impasses as they arise. However, do not hesitate to cancel a status check if things are going smoothly—there is no need to incur unnecessary arbitrator compensation charges.

Consider preparing joint exhibits and stipulations of fact in order to streamline the hearings.

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- Information Exchange & Preparation
- The Award
Roadmap

The Hearings

Parties present evidence and testimony to the arbitrator in a format that is similar to, but
less formal than, a court proceeding. The hearings conclude when the arbitrator determines
that each side has had a full opportunity to present its evidence.

Expected Costs

The arbitrator is compensated for the time spent in hearings and in reviewing evidence.
The arbitrator is also reimbursed for reasonable expenses such as mileage, tolls and meals.

The Case Service Fee is assessed to each party that has a claim and is due before the first hearing.

How You Can Manage Time and Cost

Explore alternatives to live testimony: Stipulations, affidavits, video depositions and other
mechanisms where permissible can substitute for witnesses at evidentiary hearings.

At the hearings, make every effort to adhere to the timeframes established for case presentation
and witness testimony in order to avoid prolonging the hearings and incurring additional time
and expense.

Postponed hearings are the biggest source of delay in arbitration proceedings. If a scheduling
conflict arises, consider changing the order of witnesses, shifting the hours of the hearing or using
videoconferencing as ways to keep the case on schedule. If a postponement is unavoidable,
alert the case participants as soon as possible so that your request for a postponement can be
accommodated. Some arbitrators also charge a fee for a hearing that is cancelled on short notice;
please review the arbitrator’s terms of compensation on his/her biography to determine if such
a charge will be assessed and under what conditions.

Timeline (in days)

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<td>Hearing</td>
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The Award
Post-Hearing Submissions

The arbitrator may keep the record open at the end of the hearing for a number of reasons, including: To accept additional documentary evidence that was unavailable at the hearing, to allow the parties a final opportunity to argue their positions in writing or to receive briefs on a specific issue that may have come up during the hearing.

If post-hearing submissions are necessary, parties typically file them within 30 days although this timeframe can be adjusted to meet the parties’ needs.

Expected Costs

The arbitrator is compensated for reviewing evidence and any post-hearing submissions, as well as drafting the award.

How You Can Manage Time and Cost

Forgo or limit post-hearing briefs, especially if pre-hearing briefs were submitted. If post-hearing briefs are necessary, consider focusing on those issues that are more complex.

Make sure the discussion on post-hearing submissions clearly addresses what can and cannot be submitted, and then abide by those limitations. Submitting unexpected and unsolicited material will most-likely delay the award while the parties and arbitrator determine what to do with the new material.

Make it possible for the arbitrator to decide all matters before him or her, including any claims for interest, costs and attorneys fees, by providing specific figures for these aspects of your damages.

Timeline (in days)

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<th>Post-Hearing Submissions</th>
<th>The Award</th>
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The Award

The award is due 30 days after the arbitrator closes the record and should address all claims raised in the arbitration. The award may direct one or more parties to pay another party a monetary amount or it may direct parties to take specific actions based on how the arbitrator decided the matters in the case.

Aside from addressing administrative matters unrelated to the merits of the case, the services provided by the arbitrator and the AAA are completed when the award is issued. Although parties often voluntarily comply with awards, enforcement is accomplished through a simple court proceeding.

Allocation of Costs

In the award, the arbitrator may apportion the arbitrator’s compensation and expenses and the AAA fees among the parties in any way that the arbitrator deems appropriate.

Any unused deposits are returned to the parties.

How You Can Manage Time and Cost

Requesting the arbitrator to provide findings of fact or conclusions of law can increase costs and delay the rendering of the award.

Timeline (in days)

1  267  297

The Award
Appendix

The following statistics are the result of a study of business-to-business arbitration cases administered by the AAA under the AAA’s Commercial Arbitration Rules and awarded in 2003. The findings reflect the number of days cases took to reach certain milestones between filing and the award.

The 25th Percentile indicates the average number of days that the first 25% of the cases studied took to reach a particular milestone. The 75th Percentile indicates the average number of days that the first 75% of the cases studied took to reach a particular milestone. The Median is the mid-point, meaning that half the cases studied took less time and half took more time to reach a particular milestone.

Claim Size

<table>
<thead>
<tr>
<th>Claim Size</th>
<th>Selecting Arbitrator</th>
<th>Information Exchange</th>
<th>Hearing Days</th>
<th>The Award</th>
</tr>
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<tbody>
<tr>
<td>Up to $75,000</td>
<td>25th Percentile</td>
<td>33</td>
<td>104</td>
<td>1</td>
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<tr>
<td></td>
<td>Median</td>
<td>47</td>
<td>141</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>75th Percentile</td>
<td>75</td>
<td>196</td>
<td>2</td>
</tr>
<tr>
<td>$75,000 – $499,999</td>
<td>25th Percentile</td>
<td>43</td>
<td>161</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>Median</td>
<td>60</td>
<td>217</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>75th Percentile</td>
<td>91</td>
<td>309</td>
<td>4</td>
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<tr>
<td>$500,000 – $999,999</td>
<td>25th Percentile</td>
<td>46</td>
<td>182</td>
<td>2</td>
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<tr>
<td></td>
<td>Median</td>
<td>67</td>
<td>279</td>
<td>4</td>
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<tr>
<td></td>
<td>75th Percentile</td>
<td>98</td>
<td>344</td>
<td>6</td>
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<tr>
<td>$1,000,000 – $9,999,999</td>
<td>25th Percentile</td>
<td>50</td>
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<td>3</td>
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<tr>
<td></td>
<td>Median</td>
<td>71</td>
<td>293</td>
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<tr>
<td></td>
<td>75th Percentile</td>
<td>114</td>
<td>433</td>
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<tr>
<td>$10,000,000 &amp; Up</td>
<td>25th Percentile</td>
<td>43</td>
<td>217</td>
<td>5</td>
</tr>
<tr>
<td></td>
<td>Median</td>
<td>63</td>
<td>315</td>
<td>8</td>
</tr>
<tr>
<td></td>
<td>75th Percentile</td>
<td>90</td>
<td>447</td>
<td>13</td>
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