



Presenting your Case in Arbitration

Although arbitration does not have many of the formal rules and procedures used in court, it is important to remember the arbitrator's decision is final and binding on the parties. Courts can only overturn or change an arbitrator's final award for very limited reasons; therefore, parties need to be prepared to present their best arguments.

In order for the arbitrator to decide in favor of a party, the party must provide sufficient clear and convincing evidence to support their claims. This is known as meeting the "burden of proof." The arbitrator will determine whether the party has met their burden of proof. Similarly, the arbitrator will determine what evidence is admissible in arbitration. Neither the AAA nor the arbitrator may provide advice as to whether a party's evidence is sufficient to support their claims. It is up to the party to determine what evidence they need to present to support the claims they are making.

Parties will need to provide material evidence during the arbitration process. Some arbitrators may require that some types of evidence (such as invoices, pictures, and party correspondence) be presented in a specific format, such as in a binder and labeled in a certain order. You may consider asking the arbitrator during the preliminary hearing how evidence should be organized if he or she does not specifically bring it up.

Please keep in mind that all evidence will have to be exchanged between the parties, with a copy given to the arbitrator. Parties are not required to give copies of evidence to AAA, except as is necessary for us to provide a copy to the arbitrator. The arbitrator will determine what method will be used to exchange exhibits (electronic, hard copy, or both). The arbitrator will set the date when this evidence has to be exchanged. Evidence which has not been exchanged by the deadline may not be allowed in the arbitration hearing and the arbitrator may not consider it when making the final decision.

Parties will not only need to provide evidence to support their claims and defenses, but should also be prepared to explain how each piece of evidence is relevant and how it supports the claim or defense the party is raising. Parties should keep in mind that while they are very familiar with the case and how the evidence relates to the claims and defenses raised, the arbitrator has no prior knowledge of the facts in the case, other than what the parties share with the arbitrator. Even though parties may consider the case to be simple, the parties should still be prepared to provide a thorough walkthrough of the case from their perspective.

If the case proceeds to an in-person hearing, the arbitrator may allow the parties to present witnesses. If the parties will have witnesses, they will need to exchange a list of the witnesses who will appear prior to the hearing. If a party presents a witness at the hearing, that party will have the opportunity to ask questions of the witness. The other party will then have the opportunity to cross-examine that witness and ask their own questions; the arbitrator may also ask questions of the witness.

In most cases, the party that started the arbitration initially by filing a claim will present their case first and the opposing party will then have an opportunity to present their defense, but the arbitrator will ultimately decide the order. Once the parties have completed presenting their claims and defenses, or the arbitrator decides there is enough information to make a decision, the arbitrator will declare the hearings closed. Once the hearing is closed, the arbitrator will work on the award so that it is ready by the timeframe set out in the Rules.