

American Arbitration Association Issues Rule Update for Commercial Arbitration

by Robert Levy on September 12, 2013

The American Arbitration Association (AAA), which handles over 100,000 disputes each year, recently issued revisions to its Commercial Arbitration Rules. The changes take effect on October 1, 2013.

According to the AAA, the changes are intended to “directly address preferences of users for a more streamlined, cost effective, and tightly-managed arbitration process that avoids the high costs of litigation.” They are the product of over three years of internal and external research.

The most significant rule change involves the addition of mediation. While any party can opt out of the mediation process at any time, all cases with claims in excess of \$75,000 will be required to mediate their dispute at some time during the arbitration process.

Other key rule changes revolve around the arbitrator’s authority to manage the arbitration process, including:

- **Discovery:** The new rules are intended to reign in discovery during arbitration. They give the arbitrator greater control over the scope of information exchanged “with a view toward achieving an economical resolution, while also balancing each party’s ability to present their case.” The new rules also address the exchange of documents in electronic format.
- **Preliminary hearings:** The new rules provide that a preliminary hearing should be scheduled as soon as practicable following the appointment of the arbitrator. Logistical issues to be discussed include the location and timing of hearings, the identities of key witnesses and the exchange of discovery. The arbitrator must issue a written order memorializing decisions made or agreements reached during the hearing.
- **Emergency relief:** The new rules formalize the process for obtaining injunctive relief. They provide that a party may seek emergency relief by notifying the AAA and the other parties to the arbitration. The AAA will then quickly appoint an emergency arbitrator who will promptly establish a schedule for consideration of the relief sought.
- **Dispositive motions:** The new rules specifically grant arbitrators the authority to make rulings upon a dispositive motion provided the moving party has shown that the motion is likely to succeed and to dispose of or narrow the issues in the case.
- **Sanctions:** The new rules authorize the arbitrator to order sanctions at the request of a party where another party fails to comply with its obligations under the rules or with an order of the arbitrator.

If you have any questions about the arbitration rule changes or would like to discuss how they may impact your business, please contact me, Robert Levy, or the Scarinci Hollenbeck attorney with whom you work.