

Arbitration Rules

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AMENDED MANDATORY ARBITRATION RULES OF THE TWENTIETH JUDICIAL CIRCUIT - ST. CLAIR COUNTY

The arbitration program of St. Clair County in the Twentieth Judicial Circuit is governed by Illinois Supreme Court Rules 86-95 for the Conduct of Mandatory Arbitration Proceedings as authorized by 735 ILCS 5/2-1001A et seq., and the following local rules as adopted, effective May 11, 1993, amended May 21, 1996, amended April 1, 1999. The following amended local rules shall become effective on

August 2, 2004.

CIVIL ACTIONS SUBJECT TO MANDATORY ARBITRATION (Supreme Court Rules 86). (a) Mandatory arbitration proceedings are undertaken and conducted in the County of St. Clair of the Twentieth Judicial Circuit, pursuant to approval of the Illinois Supreme Court given on the 11th day of May, 1993, and as amended May 21, 1996, April 1, 1999 and August 2, 2004. (b) Mandatory arbitration proceedings are a part of the underlying civil action, and therefore, all rules of practice contained in the Illinois Code of Civil Procedure and Illinois Supreme Court Rules shall apply to these proceedings. (c) All civil actions will be subject to Mandatory Arbitration on all claims exclusively for money in an amount exceeding \$5,000.00 but not exceeding \$50,000.00 exclusive of interest and costs. The civil actions shall be assigned to the Arbitration Calendar of the Circuit Court of the Twentieth Judicial Circuit at the time of initial case filing with the Clerk of the Circuit Court, St. Clair County, Illinois. (d) Any civil actions filed on or after August 2, 2004 seeking money damages in excess of \$15,000.00 but not exceeding \$50,000.00, shall continue to require the filing fees for cases filed in the "L" division. Persons filing such cases shall either attach a statement to the complaint, or prominently note on the face of the complaint, that the pleading seeks damages in excess of \$15,000.00 but not in excess of \$50,000.00. (e) Any claimants in civil actions presently filed in the "AR" division seeking damages of \$15,000.00 or less may file motions seeking to increase their addendums to \$50,000.00 effective August 2, 2004 however the claimant must also pay the difference between the filing fee for an "AR" case and the filing fee for an "L" case.

- (f) Any claimants in civil actions presently filed in the "L" division may file motions seeking to limit their addendums to no more than \$50,000.00, and thereby have their cases transferred to the "AR" docket. In such cases there will be no adjustment to

the filing fee previously paid. (g) Cases not originally assigned to the Arbitration Calendar may be ordered to arbitrate on the motion of either party, by agreement of the parties or by order of court at a status call or pretrial conference when it appears to the court that no claim in the action has a value in excess of \$50,000.00 irrespective of defenses. (h) When a civil action not originally assigned to the Arbitration Calendar is subsequently assigned to the Arbitration Calendar, pursuant to Supreme Court Rule 86(d), the Arbitration Administrator shall promptly assign an arbitration hearing date. The arbitration hearing date shall be not less than 60 days nor more than 180 days from the date of the assignment to the Arbitration Calendar. In cases where the addendum is in excess of \$30,000.00 the hearing date shall not be less than 60 days nor more than 180 days from the date of assignment to the Arbitration Calendar and extension may be granted upon good cause shown. (i) Consistent with Supreme Court Rules, these rules may be amended from time to time by order of a majority of the Circuit Judges of the Twentieth Judicial Circuit.

APPOINTMENTS, QUALIFICATIONS AND COMPENSATION OF ARBITRATORS (Supreme Court Rule 87)a)

Applicants shall be eligible for appointment to serve as

members of an arbitration panel, other than as chairpersons, by filing with the Arbitration Administrator (Administrator) an application form certifying that the applicant:

1) has attended a mandatory arbitration seminar, and; has read and is informed of the rules of the Supreme Court Act relating to mandatory arbitration, and; is presently licensed to practice law in Illinois, and;3) has engaged in the practice of law in Illinois for a minimum of three years; or is a retired judge, and;4) all applicants must maintain a law office in St. Clair County, Illinois.b) Applicants who further certify in their applications that they have engaged in trial practice in Illinois for a minimum of five years, or who are retired judges, shall be eligible to serve as chairpersons.

(c) The Administrator shall maintain an alphabetical list of persons qualified to serve as arbitrators who shall be assigned on a rotating basis. The Administrator shall also maintain a list of those persons who have indicated on their application a

willingness to serve on an emergency basis. Such individuals, when appointed, shall also be assigned on a rotating basis. Each panel will consist of three arbitrators or such lesser number as may be agreed upon in writing by the parties.

(d) Except for those persons requested to serve on an emergency basis, all other persons assigned as arbitrators shall receive not less than 60 days' notice of the dates, time and place of service.

(e) Upon completion of each day of service each arbitrator shall file a voucher with the Arbitration Administrator. Administrator shall process the appropriate vouchers for the prompt payment of the arbitrators.

An Arbitrator may not be contacted, nor publicly comment, nor respond to questions regarding a particular arbitration case heard by that arbitrator during the pendency of that case.

SCHEDULING OF HEARINGS (Supreme Court Rule 88).

(a) On the effective date of these Rules, and on or before the first day of each July thereafter, the Arbitration Administrator will provide the Clerk of the Circuit Court a schedule of available arbitration hearing dates for the next calendar year.

(b) Upon the filing of a civil action subject to Article 13, the Clerk of the Circuit Court shall set a return date for the summons not less than 21 days nor more than 40 days after filing, returnable before the Supervising Judge for Arbitration. The summons shall require that the plaintiff or the plaintiff's attorney and all defendants or their attorneys shall appear at the time and place indicated. The complaint and all summonses shall state in upper case letter on the upper right-hand corner: "THIS IS AN ARBITRATION CASE."

(c) Upon the return date of the summons and the Court finding that all parties have appeared, the Court shall assign an arbitration hearing date on the earliest available date thereafter, provided that not less than sixty (60) days written notice be given to the parties or their attorneys of record. If one or more defendants have not been served within eighty-nine (89) days from the date of filing, the Court may in its discretion dismiss the case as to unserved defendants for lack of diligence.

(d) Any party to a case may request advancement or postponement of a scheduled arbitration hearing date by filing a written motion with the Clerk of the Circuit Court requesting the change. The notice of hearing and motion shall be served upon counsel for all other parties, upon pro se parties as provided by Supreme Court Rule and Rules of the Circuit Court of the Twentieth Judicial Circuit, and upon the Arbitration Administrator. The motion shall be set for hearing on the calendar of the Supervising Judge for Arbitration. The motion shall be verified, contain a concise statement of the reason for the change of hearing date, and be subject to Supreme Court Rule 231 (Motions for Continuance). The Supervising Judge may grant such advancement or postponement upon good cause shown.

(e) Consolidated cases shall be heard on the hearing date assigned to the latest case.

(f) Upon settlement of any case scheduled for arbitration, counsel for plaintiff shall immediately notify the Arbitration Administrator in writing. Failure to do so may result in the imposition of sanctions.

(g) It is anticipated that the majority of cases to be heard by an arbitration panel will require a maximum of 2 hours for presentation and decision. It shall be the responsibility of counsel for the plaintiff to confer with counsel for all other parties, obtain an approximation of the length of time required for presentation of the case and advise the Arbitration Administrator at least 14 days in advance of the hearing date as to any additional time required.

DISCOVERY (Supreme Court Rule 89)

(a) Discovery may be conducted in accordance with the established rules and shall be completed (unless the parties otherwise agree) not less than thirty (30) days prior to the arbitration hearing. No discovery shall be permitted after the hearing, except upon leave of court and good cause shown. This is the same standard to be used in cases with awards in excess of \$30,000.00 except that due deference will be given according to the magnitude of the case. (b) All parties shall comply completely with the provisions of Supreme Court <!--[endif]-->

Rule 222 as to those cases to which said Rule applies. Failure to serve the disclosure statement as provided by rule as the court may allow, prior to arbitration hearing, may result in the imposition of sanctions as prescribed in Supreme Court rule 219(c), both at hearing, and at any subsequent trial. In all AR (Arbitration) cases in St. Clair County, disclosure shall be filed within 60 days of the filing of a responsive pleading.

CONDUCT OF THE HEARING (Supreme Court Rule 90 and 91).

(a) Hearings shall be conducted in general conformity with the procedures followed in civil trials. The chairperson shall administer oaths and affirmation to witnesses. Rulings concerning admissibility of evidence and applicability of the law

shall be made concerning admissibility of evidence and applicability of law shall be made by the chairperson.

(b) At the commencement of the hearing, the attorneys for the parties will provide a brief written statement of the nature of the case which shall include a stipulation as to all of the relevant facts to which the parties agree. The stipulation shall include, if applicable, relevant contract terms, dates, times, places, location of traffic control devices, year, make and model of automobiles or other vehicles, equipment or goods and products which are involved in the litigation and other relevant and material facts. The time devoted to the presentation of evidence should be limited to those facts upon which the parties genuinely disagree.

(c) Established rules of evidence shall be followed in all hearings before arbitrators, except as follows:

All documents referred to under this provision shall be accompanied by a summary cover sheet listing each item that is included detailing the money damages incurred by the categories as set forth in this rule and specifying whether each bill is paid or unpaid.

If at least thirty (30) days written notice of the intention to offer the following documents in evidence is given to the other party, accompanied by a copy of the document, a party may offer in evidence, without foundation or other proof:

1. Bills (specified as paid or unpaid), records and reports of hospitals, doctors, dentists, registered nurses, licensed practical nurses and physical therapists, or other licensed health care providers; 2. Bills for drugs, medical appliances and prostheses (specified as paid or unpaid); 3. Property repair bills or estimates, when identified and itemized, setting forth the charges for labor and material used or proposed for use in the repair of the property; 4. A report of the rate of earnings and time lost from work or lost compensation prepared by an employer; 5. The written opinion of an expert, the deposition of witnesses, the statement of a witness which the witness would be allowed to express if testifying in person, if the statement is made by affidavit or certification as provided by Section 1-109 of the Code of Civil Procedure; 6. Any other document not specifically covered by any of the foregoing provisions, and which is otherwise admissible under the rules of evidence.

(d) Notwithstanding the provisions of Supreme Court Rule 220, a party who proposes to use a written opinion of an expert witness or the testimony of an expert witness at hearing may do so provided a written notice of such intention is given to every other party not less than thirty (30) days prior to hearing, accompanied by a statement containing the identity of the expert, his qualifications, the subject matter and the basis of his conclusions, and his opinion.

(e) Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense and examine the author or maker as if under cross-examination. Section 2-1101 of the

Code of Civil Procedure shall be applicable to arbitration hearings.

(f) The provisions of Sections 2-1102 of the Illinois Code of Civil Procedure, and the provisions of Supreme Court Rule 237 shall be applicable to arbitration hearings.

(g) If any party or attorney fails to attend an arbitration hearing, the hearing shall proceed in the absence of said party or attorney and the panel shall require the other party or parties to submit such evidence as the panel may require for the making of an award. The failure of a party or attorney to be present at an arbitration hearing shall constitute a waiver of the right to reject the award and a consent to the entry by the Court of a judgment on the award. Upon vacation of an award entered in the absence of a party or attorney, or the judgment entered thereunder, costs and fees as provided in Supreme Court Rule 91 may be imposed by the Court as a condition of vacating the award or judgment. (h) A stenographic record or recording of the hearing shall not be made unless a party does so at his own expense. If a party has a stenographic record made, a copy shall be furnished to any other party requesting same upon payment of a proportionate share of the total cost of the making of <!--[endif]-->

the record or recording and the duplication of the same. The party providing the reporter shall inform the chairperson of the reporter's name, address and reporting firm before commencing.

(i) Witness fees and costs shall be in the same amount and shall be paid by the same party or parties as provided for trials in the Circuit Court of the County of St. Clair.

(j) The arbitrators shall determine the admissibility of evidence and decide the law and facts of the case. Rulings on objections to evidence or on other issues which arise during the hearing shall be made by the chairpersons of the panel. (k) All exhibits submitted by any party shall be received by the panel until the entry of the award. It is the duty of the attorneys or parties to retrieve such exhibits from the Arbitration Center on or before the court ordered motion date for entry of judgment. All exhibits not retrieved shall be destroyed. AWARD AND JUDGMENT ON AWARD (Supreme Court Rule 92).

(a) The panel shall render its decision and enter an award on the same day of the hearing. The chairperson shall

present the award to the Arbitration Administrator who shall then file same with the Clerk of the Circuit Court. The Clerk of the Circuit Court shall serve a notice of the award upon all parties who have filed an appearance.

REJECTION OF AWARD (Supreme Court Rule 93).

Rejection of the award of the Arbitrators shall be in strict compliance with Supreme Court Rule. In all cases where the arbitration award exceeds \$30,000.00, the rejection fee shall be \$500.00 and the award shall be marked to make this clear to all parties.

LOCATION OF HEARINGS

The location of hearing shall be determined by the Chief Judge of the Twentieth Judicial Circuit.

FORMS (Supreme Court Rule 94 and 95).

All forms shall be as prescribed by Supreme Court rule or by administrative order by the Chief Judge not inconsistent with Supreme Court rule.

ADMINISTRATION OF MANDATORY ARBITRATION

(a) The Chief Judge of the Twentieth Judicial Circuit shall appoint a Judge of the Twentieth Judicial Circuit to act as Supervising Judge for arbitration.

(b) The Chief Judge of the Twentieth Judicial Circuit shall designate an Arbitration Administrator and any assistants deemed necessary for the Mandatory Arbitration system.

The Circuit Judges of the Twentieth Judicial Circuit hereby adopt the Amended Mandatory Arbitration Rules on this 2nd day of August, 2004.