

PRACTICAL CONSIDERATIONS BASED UPON AAA CONSTRUCTION RULES

A. Carefully Consider the Amount in Controversy

The claim amount will determine track for arbitration. The track impacts filing fees, time for resolution, arbitrator compensation, and breadth of discovery.

1. Less than \$25,000 – Document only/Fast Track
2. Less than \$150,000 – Fast Track with one day hearing within 45 days. Discovery Limited to what is being used at hearing.
3. Less than \$1 million – Regular Track, but may use another track by agreement. (R-1(d)). Reasonable discovery requests permitted.
4. Over \$1 million – Large Complex. Discovery as agreed. Depositions in “exceptional” cases. Reasoned award.
5. Over \$3 million – Large Complex with 3 arbitrator panel mandatory.

Standard Fee Schedule			Flexible Fee Schedule			
Amount of Claim	Initial Filing Fee	Final Fee	Amount of Claim	Initial Filing Fee	Proceed Fee	Final Fee
Less than \$75,000	\$925	\$800	Less than \$75,000	Only available for claims \$150,000 and above		
\$75,000 to less than \$150,000	\$1,925	\$1,375	\$75,000 to less than \$150,000	Only available for claims \$150,000 and above		
\$150,000 to less than \$300,000	\$2,900	\$2,200	\$150,000 to less than \$300,000	\$1,825	\$1,875	\$2,200
\$300,000 to less than \$500,000	\$4,400	\$3,850	\$300,000 to less than \$500,000	\$2,200	\$3,300	\$3,850
\$500,000 to less than \$1,000,000	\$5,500	\$6,825	\$500,000 to less than \$1,000,000	\$2,750	\$4,725	\$6,825
\$1,000,000 to less than \$10,000,000	\$7,700	\$8,475	\$1,000,000 to less than \$10,000,000	\$3,850	\$6,275	\$8,475
\$10,000,000 and above	\$11,000 plus .01% of the claim amount above \$10,000,000 up to \$65,000	\$13,750	\$10,000,000 and above	\$5,500	\$10,000 plus .01% of the claim amount above \$10,000,000 up to \$65,000	\$13,750
Undetermined Monetary Claims	\$7,700	\$8,475	Undetermined Monetary Claims	\$3,850	\$6,275	\$8,475
Nonmonetary Claims*	\$3,500	\$2,750	Nonmonetary Claims*	\$2,200	\$2,475	\$2,750
Deficient Filing Fee	\$500		Deficient Filing Fee	\$500		
Additional Party Fees	If there are more than two separately represented parties in the arbitration, an additional 10% of each fee contained in these fee schedules will be charged for each additional separately represented party. However, Additional Party Fees will not exceed 50% of the base fees contained in these fee schedules unless there are more than 10 separately represented parties. See below for additional details.		Additional Party Fees	If there are more than two separately represented parties in the arbitration, an additional 10% of each fee contained in these fee schedules will be charged for each additional separately represented party. However, Additional Party Fees will not exceed 50% of the base fees contained in these fee schedules unless there are more than 10 separately represented parties. See below for additional details.		

B. Determine the Parties

Consolidation or Joinder must be requested prior to appointment of merits arbitrator. Single arbitrator decides if not agreed. (R-7).

May arbitrate without prior agreement by submission agreement (R-5)

C. Raise Issues Early

Dispute regarding locale submitted within 14 days of initiation of case. (R-12)

Counterclaim within 14 days after notice of demand (R-4). No new claim or counterclaim without arbitrator consent once arbitrator appointed. (R-6)

Arbitrator has authority to rule on jurisdiction. Any objection must be made no later than answering statement. (R-9). Answer not required. Deemed denied. (R-4)

Party may represent itself unless choice prohibited by applicable law. (R-27)

Mediation if claim over \$100,000 but may opt out unless mandatory in agreement. (R-10)

D. Arbitrator Selection

Fast Track: Select from 5 person panel of arbitrators (F-5)

Regular Track: AAA provides list of 10 for selection, except if two or more claimants or respondents may be appointed without list. (R-14). Default is one arbitrator unless agreement is otherwise or AAA decides. Parties may request three arbitrators in answer for AAA's consideration. (R-18). Any request for increase or decrease made within seven days of R-6 notice of change of claim amount. R-6 allows change any time prior to close of hearing or date established by arbitrator.

Large, Complex: Three arbitrators if claim exceeds \$3 million unless parties agree otherwise. (L-3). Parties are encouraged to agree on method of appointment.

E. Hearing

Arbitrator may subpoena witnesses or documents. (R-35).

Party may make arrangements for transcription. No other means of recording. (R-29).

Arbitrator shall maintain privacy of hearing. May invoke the "Rule". (R-26)

Everything confidential unless required by applicable law. (R-45).

Arbitrator may decide to make site inspection. (R-37).

No award on default. Party must present sufficient evidence. (R-32).

Right to object to non-compliance with rules waived by proceeding with arbitration unless written objection. (R-42).

Deemed to consent to entry of judgment on award. (R-55(c)).