

COMPULSORY ARBITRATION

RULE 1301 SCOPE OF PROCEDURE.

- (a) All civil cases, where the amount in controversy (exclusive of all interest and costs) is less than the compulsory arbitration amount for fourth class counties as set forth in the Judicial Code [42 Pa. C.S.A. 7361 (b)], including claims or mechanics liens and all appeals from a civil judgement of a Magisterial District Judge, excepting those involving title to real property and those involving equitable or other than monetary relief, shall be submitted to compulsory arbitration.
- (b) In addition, cases, whether or not at issue and without regard to the amount in controversy, may be referred to a Board of Arbitrators by an agreement of reference signed by all of the parties and their counsel. The agreement of reference may contain stipulations as to facts agreed upon or defenses waived. In such cases, the agreement of reference shall take the place of the pleadings and shall be filed of record.
- (c) The Court, on its own motion or on the motion of either party at pre-trial settlement conference, after depositions, after hearing or otherwise, may determine that the amount actually in controversy does not exceed the compulsory arbitration amount as set forth at 42 Pa. C.S.A. §7361(b) and may enter an order of reference to a Board of Arbitration.

RULE 1302 LIST OF ARBITRATORS, APPOINTMENT OF BOARD, OATH.

- (a) A list of available arbitrators shall be prepared annually by the Court Administrator, consisting of members of the bar actively engaged in the practice of law in the 21st Judicial District and who have not notified the Court Administrator in writing of his or her desire not to participate as an arbitrator.
- (b) The Court Administrator shall appoint from said list three members to each Board of Arbitrators, at least one of whom shall have been admitted to the practice of law before the Supreme Court of Pennsylvania for more than five years prior to his or her appointment.
- (c) Each Board shall be chaired by the member senior in years admitted to the practice of law in the 21st Judicial District.
- (d) Not more than one member or associate of any firm or association of attorneys shall be appointed to the same Board.

INDEX

Rules of Civil Procedure

- (e) A member of a Board who will be disqualified for any reason that would disqualify a judge under the Code of Judicial Conduct shall immediately withdraw as an arbitrator. Any request for recusal of an appointed Board member shall be submitted to the Office of the Court Administrator within seven days of the appointment of the arbitrator setting forth specifically the reason the Board member should not act an arbitrator. The Court Administrator shall immediately contact that member of the Board with regard to the request for recusal, and the Board members shall advise the Court Administrator as to whether or not voluntary withdrawal as an arbitrator will take place. In the event that the arbitrator does not voluntarily withdraw, the request for recusal shall be transmitted to the Court for appropriate action.
- (f) Members of the Board of Arbitration will generally be assigned to a panel for a period of one day. The chairperson and each associate member of the panel shall receive the payment rate established by the President Judge. Fees to arbitrators shall not be taxed as costs nor follow the award as other costs.

RULE 1303 HEARING, NOTICE AND CONTINUANCES.

- (a) The scheduled date for arbitration, which will generally consist of two consecutive days, shall be set forth on the annual court calendar as compiled but the Court Administrator, as well as such other dates as may be ordered by President Judge as caseloads warrant. The Court Administrator shall designate the place, time, and specific date for hearings, and give at least 30 days written notice thereof to the arbitrators, the parties, or their attorneys of record. The Notice shall include the following language:

“The matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to trial de novo on appeal from a decision entered by a judge.”
- (b) When a case is at issue, the case may be ordered upon the next available arbitration list by filing with the Prothonotary an arbitration certificate of readiness on or before 45 days preceding the next arbitration schedule. The Prothonotary shall promptly serve the certificate upon the Court Administrator. The certificate shall be on forms provided by the Prothonotary and shall contain the following:

INDEX

Rules of Civil Procedure

1. the caption of the case;
 2. name, address and phone number of trial counsel for all parties;
 3. certification that all outstanding motions are resolved;
 4. certification that discovery has been completed and disclosure made to the other parties of any and all reports to be utilized at the arbitration hearing; and
 5. a complete list of all witnesses who are to be called at the time of the arbitration hearing and an estimate of the time that will required to present that parties portion of the case.
- (c) Within 10 days of the notice of the arbitration hearing, any opposing party or opposing counsel shall submit a written report to the Court Administrator listing the names of their witnesses who will be used at the hearing and an estimate of the time required to present their case.

ONLY THOSE WITNESSES LISTED BY THE PARTIES, AND REPORTED AS REQUIRED IN THE RULE, WILL BE PERMITTED TO TESTIFY AT THE ARBITRATION HEARING, UNLESS THE COURT DIRECTS OTHERWISE.

ANY PARTY THAT DOES NOT TIMELY PROVIDE THE ESTIMATE OF THE TIME REQUIRED TO PRESENT THEIR CASE MAY, IN THE DISCRETION OF THE BOARD OF ARBITRATION, BE LIMITED TO 30 MINUTES TO PRESENT THEIR CASE

- (d) At the time the moving party files an arbitration certificate of readiness specified in subsection (b) above, the moving party shall also file a Pre-Arbitration Memorandum which sets forth: (1) a narrative statement of the facts which will be offered into evidence by that party; (2) a statement of legal theory upon which the cause of action or defense is predicated; (3) a complete list of witnesses to be called and the anticipated areas of each witness's testimony; (4) a complete list of exhibits to be presented; (5) a statement setting forth an itemized list of the damages that a party intends to claim and prove; (6) a rough sketch illustrating the incident giving rise to the cause of action (where appropriate); and (7) a statement of any unusual or intricate legal issues or claims together with a citation of legal authorities relied upon.

The non-moving party shall file its Pre-Arbitration Memorandum within (20) days of receipt if the moving party's Memorandum. The non-moving party's Pre-Arbitration Memorandum shall contain the same seven topic as the moving party's Memorandum.

INDEX

Rules of Civil Procedure

THE FAILURE IF THE MOVING PARTY TO FILE ITS PRE-ARBITRATION MEMORANDUM AT THE TIME AN ARBITRATION CERTIFICATE OF READINESS IS FILED SHALL RENDER THE CERTIFICATE OF READINESS A NULLITY. THE FAILURE OF THE NON-MOVING PARTY TO FILE ITS PRE-ARBITRATION MEMORANDUM MAY RESULT, AT THE DISCRETION OF THE ARBITRATION PANEL, IN THE EXCLUSION OF SOME OR ALL OF THE ARBITRATION HEARING, TO THE EXTENT THAT THE MOVING PARTY CAN DEMONSTRATE PREJUDICE.

- (e) Arbitrators may not grant continuances. Applications for continuances of any scheduled arbitration hearing shall be on the Application for Continuance Form available from the Prothonotary or Court Administrator's Office. The Application for Continuance must be filed with the Prothonotary and the Continuance Fee must be paid upon filing. Continuance requests should be submitted to the Prothonotary at least twenty (20) days before such hearing and after written notice of such application has been provided to the opposing counsel. The application shall indicate the number of continuances previously requested and whether or not the continuance is opposed.

The Prothonotary shall promptly serve the Continuance Form upon the Court Administrator.

Whenever any case has been continued twice after assignment of a board of arbitration, the case shall be certified by the Court Administrator to the President Judge or his designee, to rule upon the request for continuance. In the interest of expediting disposition of the case the judge may order a conference or enter an appropriate order including but not limited to an order for non pros or an order directing the board to proceed with hearing whether or not the defendant appears and defends.

Continuances within 20 days of an arbitration hearing shall not be granted without approval of the President Judge or his designees and only upon exigent circumstances. In the event of an emergency continuance, the Court may assess actual expenses against the moving party or counsel which may have been incurred by the Court or the opposing party. The actual costs which may include added arbitration fees, actual work loss, travel expenses, expert fees, etc., shall be certified to the Court by the party incurring such fees for appropriate consideration. Added arbitration fees may likewise be assessed where a late continuance results in the need for additional payment to a Board of Arbitration.

- (f) The Court may assess a late settlement fee for arbitration cases which are settled within three days of the scheduled arbitration hearing.

RULE 1305 CONDUCT OF HEARING/EVIDENCE.

- (a) The matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge. A party is present if the party or an attorney who has entered an appearance on behalf of the party attends the hearing.
- (b) Where all parties are present, the chairman of the board of arbitration shall be responsible for the conduct of the hearing. The chairman shall make preliminary rulings on objections and evidentiary matters, which shall be binding unless overridden by a majority of the board of arbitration.

RULE 1306 AWARD, DAMAGES FOR DELAY.

- (a) Arbitrators shall not consider the subject of damages for delay until an award has been made on the merits of the case, including the determination of the amount of damages, if any to be awarded.
- (b) After the determination and announcement of the award on the merits and damages, the arbitrators shall make a determination as to any delay by:
 - 1) Accepting a stipulation from the parties which contains the following:
 - a) whether an offer was made in writing;
 - b) the amount of the offer;
 - c) the date of the offer, or
 - 2) If no stipulation is reached, the panel shall take evidence regarding damages for delay from counsel following the original deliberation and announcement of the award.
- (c) The arbitrators shall separately enumerate the delay damages as to each party on the appropriate form, and then add this amount to the principal sum awarded in order to reach a total amount of award. Only the total amount shall be shown on the Report and Award but the computation form must be appended when the Award is filed.

RULE 1308 APPEAL COMPENSATION.

- (a) In filing an appeal, the appellant shall make payment to the Prothonotary for compensation of the arbitrators. The compensation assessed by the Prothonotary of Northumberland County shall be the arbitration daily compensation rate established by the President Judge. The parties thereafter shall proceed as set forth in Sch.R.C.P. No. 212.1.