



AMERICAN
ARBITRATION
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INTERNATIONAL CENTRE
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Mass Arbitration

Agenda

- 01 What is Mass Arbitration?
- 02 Recent Changes to the AAA's Rules
- 03 Merits Arbitration
- 04 Efficiencies, Technology, and other considerations



01.

What is Mass Arbitration?

Mass Arbitration

- *A group of similar Demands for Arbitration filed against or on behalf of the same party or related parties, where representation of all parties is consistent or coordinated across the cases.*
- *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 2011 – permitted class action waivers in favor of individual arbitration for consumers.
- Consumer/Employment/Workplace threshold: 25 cases
- Non-consumer/employment/workplace threshold: 100 cases



Mass Arbitration

- Rules revised in 2024
- Two stages: Process Arbitrator followed by Merits Arbitrators.
- Process Arbitrator decides non-merits issues.
- Merits Arbitrators decide the merits of each case and render individual awards.

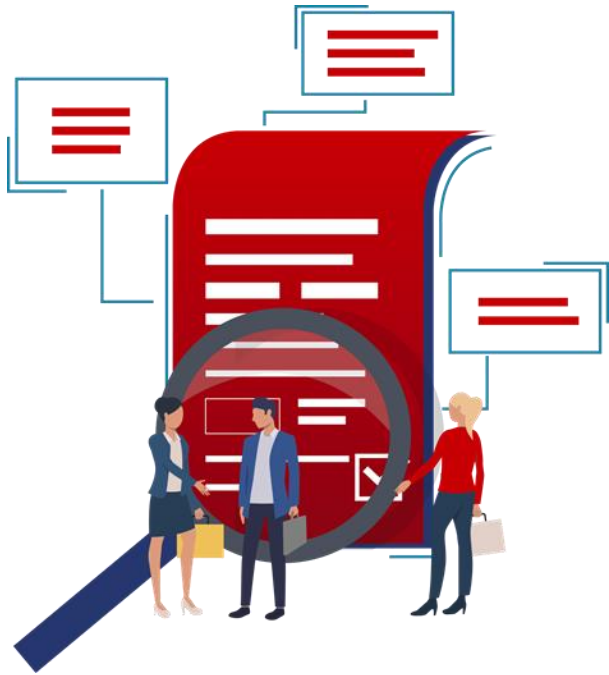


Types of claims

- Consumer
- Employment
- Commercial
- Construction
- International



02. **Recent Changes to the Rules**



Attestation

Demands and Answers must now include an affirmation similar to that required in the FRCP regarding the truthfulness of information provided therein.



Common procedural objections



- Filing requirements, disputes about application of the arbitration agreement.
- Contractual pre-conditions to filing
- Applicable rules
- Number of cases filed



The Process Arbitrator

Can decide non-merits issues (not limited to):

- Filing requirements
- Contractual pre-conditions to filing
- Payment of AAA fees and/or arbitrator's compensation
- Scope of the mass arbitration (which demands are included)
- Which AAA rules apply
- Any other non-merits issue

- Merits arbitrators are bound by Process Arbitrator Rulings unless the Merits Arbitrator finds that the PA abused their discretion.



03. Merits Arbitration

- Merits arbitrator selection
- Merits arbitrator authority



Merits Arbitrator – Selection



- Merits arbitrators are appointed after the answer deadline has passed and parties are ready to move forward.
- **Consumer** – List or appointment
- **Employment/Workplace** – List
- **Non-consumer / non-employment/ workplace** – List
- Merits Arbitrators may be asked to serve on multiple cases at a time. An individual Oath is required for each case.



Merits Arbitrator - Authority

- Has authority over all issues not decided by a Process Arbitrator, unless they find that the Process Arbitrator abused their discretion.
- Determines the merits of the case.
- Issues the final and binding Award.



Fees



- **New Initiation Fee** - flat administrative fee, not based on the number of cases. Credited to per case fees.
- **Additional Administrative fees** - now staged as cases move through administrative steps.
 - **Consumer** – Per Case Fee, Arbitrator Appointment Fee and Final Fee
 - **Employment/Workplace** – Per Case Fee, Arbitrator Selection Fee and Final Fee.
 - **Non-Consumer and Non-Employment/Workplace** – Per Case Fee, Final Fee.
- **Arbitration Compensation** – paid by the business in consumer and employment/workplace disputes. Split by the parties in non-consumer and non-employment/workplace cases.



04.

Efficiencies, Technologies, and Other Considerations

Efficiencies

- Mediation
- Merits Arbitrator selection
- Agreed-upon scheduling order
- Limited Service Neutral
- Format of hearings
- Number of cases per arbitrator
- Form of award
- Limitations on briefs and motions
- Alternative methods of presenting evidence



Innovative Technology



Experimentation with AI tools is underway!

- The American Arbitration Association offers API Services designed for parties involved in Mass Arbitrations and beyond.
- APIs offer parties the ability to simplify the case-filing process and expedite document exchange, with more on the way.
- Embracing APIs enables parties to significantly streamline and enhance the efficiency of their Mass Arbitration proceedings, resulting in both reduced time and cost.



Other Considerations

- Choice of law
- Contractual modifications to the rules
- Registration of consumer clauses







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