

Faster, Better, Cheaper ... and Modernized!

On March 1, 2024 the AAA revised its Construction Arbitration Rules and Mediation Procedures, in major part because the World has changed since the last revision in 2015. The new Rules are generally intended to speed things up, to keep costs down, and to conform to new technologies.

For example, as fax machines have now gone the way of VHS players, parties are no longer required to give their facsimile information. Preliminary hearings may now be held by video conference, and arbitration proceedings may now be recorded in other ways besides just stenographic.



The AAA says the rule revisions are part of its commitment to advance arbitration and mediation efficiency in the Construction Industry. Two notable areas of change include increased dollar thresholds and incorporating technology updates.

Fast track procedures are now available for cases up to \$150,000, and the threshold for a 3-panel arbitration has been increased to \$3,000,000.

The most extensive revision has been to the joinder rule: Rule R-7. All consolidation or joinder requests now generally must be made before the merits arbitrator has been confirmed. Any party requested to be joined must affirmatively object within the 14-day objection period or the objection to joinder is waived (previously failure to respond was deemed to be a denial of the request).

All arbitrators now have the power to rule on jurisdictional issues, and the AAA now has the authority to limit the number of arbitrator strikes per party.

The dispositive motion rule has also been amended. Arbitrators can now consider time and cost associated with briefing dispositive motions in deciding whether to allow dispositive motions. Arbitrators may also assess fees, expenses, and compensation associated with any request to file dispositive motions or any dispositive motion filed, which is similar to the “prevailing party” rule in some courts.



Texas • Florida
Oklahoma • Arkansas

Texas (Dallas Area)

8813 N. Tarrant Parkway
Suite 224
North Richland Hills, TX 76182
(214) 722-7160

Florida (Miami Area)

P.O. Box 654303
Miami, Florida 33265

info@l-llp.com

www.l-llp.com

To "Go Green", our firm uses recyclable paper or ceramic cups and no longer uses Styrofoam cups. In addition, we have adopted a less-paper office environment.

We hope that these changes make big differences in the future.

Well done is better than well said.

- Benjamin Franklin



The AAA has now adopted e-filing as the default process for filing documents, and parties can serve notice of filings through electronic file repository platforms, such as SharePoint (which Langley LLP now uses for all of its cases).

Rule 52 expands the arbitrators' post-award authority to "clarify" awards.

Rule 61 expressly grants arbitrators the authority to impose sanctions on their own initiative, such as for spoliation of electronic evidence or discovery abuse.

We believe these new rule changes will even further improve arbitration as an attractive alternative to expensive and protracted litigation.



Keith Langley is a Partner at Langley LLP and may be contacted at klangley@l-llp.com or mobile (214) 207-5324.

This publication is for information purposes only and does not contain or convey legal advice. The information herein should not be used or relied upon in regard to any particular facts or circumstances without consulting a lawyer.