

Superior Court Rules Governing Arbitration of Civil Actions

Rule 1. Actions Subject to Arbitration and Mandatory Electronic Filing. -

(a) **Types of Actions; Exceptions.** All civil actions filed in the Superior Court in which there is a claim or there are claims for monetary relief not exceeding \$100,000 total, exclusive of interest, costs, and attorneys' fees and district court appeals as determined from the arbitration certificate filed by counsel, are subject to court-annexed arbitration under these Superior Court Rules Governing Arbitration of Civil Actions (Arbitration Rules) except actions:

(1) Involving a class;

(2) In which there is a substantial claim for injunctive or declaratory relief;

(3) Involving:

(A) Family law issues;

(B) Title to real estate;

(C) Wills and decedents' estates;

(D) Landlord and tenant; or

(E) Bank accounts.

(4) Which are cognizable on the formal and special cause calendar;

(5) Involving a claim for monetary recovery in an unspecified amount later to be determined by an accounting or otherwise, if the claimant certifies in the pleading asserting the claim that the amount of the claim will actually exceed \$100,000; or

(6) Which are certified by a party to be companion or related to similar actions pending in other courts with which the action might be consolidated but for lack of jurisdiction or venue.

(b) **Arbitration by Agreement.** The court may submit any other civil action to arbitration under these Arbitration Rules or any modification thereof, pursuant to agreement by the parties approved by the court provided that the parties agree in writing that the award shall be binding.

(c) **Court-Ordered Arbitration in Cases Having Excessive Claims.** The court may order any case submitted to arbitration under these Arbitration Rules at any time before trial if it finds that the amount actually in issue is \$100,000 or less, even though a greater amount is claimed.

(d) **Exemption and Withdrawal from Arbitration.** The court may exempt or withdraw any action from arbitration on its own motion or on motion of a party made not less than ten (10) days before the arbitration hearing and a showing that:

(1) The amount of the claim(s) exceed(s) \$100,000;

(2) The action is excepted from arbitration under Arbitration Rule 1(a); or

(3) For good cause shown.

(e) **Arbitration Certification.** Upon the filing of the last responsive pleading counsel for a party, within three (3) days thereof shall, with the exception of actions under section (a)(1) through (6) hereof, file a Court Annexed Arbitration Certificate specifying the amount of the claim. The most current version of the Court Annexed Arbitration Certificate is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(f) **Mandatory Electronic Filing.** In accordance with Article X of the Rhode Island Supreme Court Rules Governing Electronic Filing, electronic filing is mandatory for arbitration cases in the Superior Court using the Rhode Island Judiciary's (Judiciary) Electronic Filing System. All parties are required to use the Judiciary's Electronic Filing System except for incarcerated individuals or where a waiver is granted in accordance with Article X, Rule 3(c). Self-represented litigants may electronically file documents in accordance with Article X, Rule 3(b) but are not required to do so. The Arbitration Rules must be read in conjunction with Article X, the Rhode Island Judiciary Rules of Practice Governing Public Access to Electronic Case Information, and the Rhode Island Judiciary User Guide for Electronic Filing.

(1) *Definitions.* For further definitions, see Article X, Rule 1(c) of the Rhode Island Supreme Court Rules Governing Electronic Filing.

(A) *Case Initiating Document(s).* The first document(s) filed in a case.

(B) *Certificate of Service.* Where the Arbitration Rules require service of a document to be certified by an attorney of record or a self-represented litigant, the following certification may be used:

CERTIFICATE OF SERVICE

I hereby certify that, on the _____ day of _____, _____:

I filed and served this document through the electronic filing system on the following parties: _____.

The document electronically filed and served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I served this document through the electronic filing system on the following parties: _____.

The document electronically served is available for viewing and/or downloading from the Rhode Island Judiciary's Electronic Filing System.

I mailed or Empty Checkbox hand-delivered this document to the attorney for the opposing party and/or the opposing party if self-represented, whose name is _____ at the following address _____.

/s/ NAME

(C) *Electronic Filing System (EFS)*. An approved Judiciary-wide system for the filing and service of pleadings, motions and other documents or information via electronic means such as the Internet, a court-authorized remote service provider or through other remote means to and from the Judiciary's case management system (CMS).

(D) *Filing*. Where the Arbitration Rules require a document to be filed, it shall mean electronic filing using the EFS unless stated otherwise.

(E) *Notice*. Where the Arbitration Rules require notice to be given, it shall mean electronic notice using the EFS unless stated otherwise.

(F) *Registered User*. An individual or entity with an assigned username and password authorized by the Judiciary to access and utilize the EFS.

(G) *Service*. Where the Arbitration Rules require a document or information to be served, sent, delivered, or forwarded, service shall be in accordance with Super.R.Civ.P. 5(b).

(H) *Signature*. Where the Arbitration Rules require an electronic signature on any document, the signature shall be reflected as /s/ NAME unless stated otherwise.

(2) *Electronic Filing of Documents*. When using the EFS:

(A) All Case Initiating Document(s), including any required documents, attachments, or exhibits, shall be submitted individually as separate files within the same initial submission or filing;

(B) All subsequent pleadings, motions, and other papers, shall be submitted individually with related documents submitted as separate files within the same submission or filing (for example, a motion and memorandum or other supporting attachments or exhibits filed in support of a motion); and

(C) Categories of items such as bills, receipts, invoices, photographs, etc. may be submitted in one attachment.

For specific requirements, see the Superior Court's Electronic Filing System Guidelines.

(3) *Clerk Review; Acceptance/Rejection Procedure*: Following submission, the Arbitration Office shall timely review the electronically filed document(s) and shall notify the filing party as to whether the filing is accepted or rejected. Upon acceptance, the submitted document(s) shall be entered into the docket of the case and the docket shall reflect the date and time of filing as set forth in Article X, Rule 5(b) of the Rhode Island Supreme Court Rules Governing Electronic Filing. In accordance with Article X, Rule 5(c), grounds for the rejection of a document submitted to the EFS for arbitration cases in the Superior Court are limited in scope as follows:

(A) Documents filed without a signature where required;

(B) Pleadings filed without the required documents as set forth in the Superior Court's Electronic Filing System Guidelines;

- (C) Documents not filed in accordance with Rule 1(f)(2);
- (D) Documents, including any required documents, attachments, or exhibits, scanned in the wrong orientation, e.g., upside down or backwards;
- (E) Documents scanned and filed that are unreadable or illegible;
- (F) Documents filed in a fillable portable document format (PDF);
- (G) The document filed does not match the selected filing code type;
- (H) The document is filed into the wrong case;
- (I) The document contains the wrong or incomplete case caption;
- (J) The document is filed with no case identification;
- (K) The document was improperly scanned or uploaded;
- (L) The party name, party address, or document name exceeds the number of allotted characters in the EFS;
- (M) The filer added a party or participant that is not configured in the CMS or does not match the information in the case;
- (N) A payment processing error occurred; and/or
- (O) A technical submission error occurred.

Rule 2. Arbitrators. - (a) Selection. The court shall develop and maintain a list of qualified arbitrators, which shall be a public record. The parties may file a stipulation identifying their mutual selection as an arbitrator from the court's list within thirty (30) days from the date the action is submitted to the court for arbitration and the initial fees have been paid. If the parties do not select an arbitrator within thirty (30) days, the court shall provide each party with an identical list of five (5) candidates from which they may strike no more than two (2) names, and which shall be returned to the Arbitration Office within fifteen (15) days. If one (1) mutually satisfactory name remains, that individual shall be appointed as the arbitrator. If more than one (1) name on the list is acceptable to both parties, the remaining candidate whose surname comes first alphabetically shall be appointed. Failure of a party to return the list within the required time will result in the court appointing from the list of qualified arbitrators, and thereafter, any substitution of arbitrators shall only be made upon written motion, duly filed.

(b) **Eligibility for the Panel of Arbitrators.** An arbitrator shall have been a member of the Rhode Island Bar in good standing for at least ten (10) years and must be approved by the court for such service, provided, however, that the presiding justice may approve a prospective arbitrator with less than ten (10) years of membership in the Rhode Island Bar, who is otherwise qualified. Each attorney wishing to serve as an arbitrator shall participate in an orientation and training session on the program and the role of an arbitrator. The court shall oversee the preparation of a manual outlining selection criteria and describing for arbitrators their role and functions in the program.

(c) **Fees and Expenses.** Arbitrators shall be paid for their services (including but not limited to preparation, hearing, reasonable expenses, and rendering of an award or decision) at the rate of \$400.00 per case. Arbitrators shall be paid promptly when they file their awards with the court. Arbitrators may petition the court and on a showing of good cause may be granted an increased fee in cases lasting longer than a day.

(d) **Disqualification.** An arbitrator shall disclose to the parties any circumstances likely to affect impartiality, including any bias or any financial or personal interest in the result of the arbitration or any past or present relationship with the parties or their attorney and shall be disqualified on the motion of any party to the arbitrator.

(e) **Replacement of Arbitrator.** If any arbitrator is disqualified or unable or unwilling to serve, a replacement shall be appointed by the court within ten (10) days.

(f) **Duties of Arbitrators.** In addition to the provisions and duties specifically assigned by these Arbitration Rules, arbitrators shall abide by all administrative directives promulgated by the presiding justice to ensure the timely adjudication and conclusion of hearings. This obligation shall include, but not be limited to, reporting the status of pending cases to the arbitration office on the Report of Arbitrator form every sixty (60) days from their designation or appointment and/or to provide to the Arbitration Office any original dismissal stipulation or settlement agreement which may arise as a result of the Arbitration process.

The Report of Arbitrator shall be submitted in a timely manner to receive payment for services. The most current version of the Report of Arbitrator is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

Rule 3. Arbitration Hearings. - (a) **Hearing Scheduled by Arbitrator.** Arbitration hearings shall be scheduled by the assigned arbitrator on a date, time, and place agreed to by the parties or, if they do not agree, selected by the arbitrator; but in no event shall the process extend beyond 240 days of appointment/designation exclusive of the arbitrator's time to render an award.

(b) **Pre-hearing Exchange of Information.** At least ten (10) days before the date set for the hearing, the parties shall exchange and furnish to the arbitrator:

(1) Lists of witnesses they expect to testify;

(2) Copies of documents or exhibits they expect to offer in evidence; and

(3) A brief statement of the issues and their contentions. Parties may rely on stipulations and/or statements, sworn or unsworn, rather than a formal presentation of witnesses and documents, for all or part of the hearing.

The information referred to in paragraph (b) shall not be filed with the court.

(c) **Exchanged Documents Considered Authenticated.** Any document exchanged may be received in the hearing as evidence without further authentication; however, the party against whom it is offered may subpoena and examine as an adverse witness anyone who is the author, custodian, or a witness through whom the document might otherwise have been introduced. Documents not so exchanged may not be received if to do so would, in the arbitrator's opinion, constitute prejudicial surprise.

(d) **Copies of Exhibits Admissible.** Copies of exchanged documents or exhibits are admissible in arbitration hearings.

(e) **Witnesses.** Witnesses may be compelled to testify under oath or affirmation and produce evidence by the same authority and to the same extent as if the hearing were a trial. The arbitrator is empowered and authorized to administer oaths and affirmations in arbitration hearings.

(f) **Subpoenas.** Super.R.Civ.P. 45 shall apply to subpoenas for attendance of witnesses and production of documentary evidence at an arbitration hearing under these Arbitration Rules.

(g) **Authority of Arbitrator to Govern Hearings.** Except for the power to punish for contempt, arbitrators shall have the authority of a trial justice to govern the conduct of hearings in accordance with these Arbitration Rules. The arbitrator shall refer all contempt matters to the court.

(h) **Law of Evidence Used as a Guide.** The Rhode Island Rules of Evidence do not apply, except as to privilege, in an arbitration hearing but shall be considered as a guide toward full and fair development of the facts. The arbitrator shall consider all evidence presented and give it the weight and effect deemed appropriate.

(i) **No Ex Parte Communications with Arbitrator.** No ex parte communication as to substantive matters by a party or an attorney with an arbitrator is permitted.

(j) **Failure to Appear; Defaults; Rehearing.** If a party who has been notified of the date, time and place of the hearing fails to appear without good cause thereof, the hearing may proceed and an award may be made by the arbitrator against the absent party upon the evidence offered by the parties present, but not by default for the failure to appear. If a party is in default for any other reason but no judgment has been entered upon the default pursuant to Super.R.Civ.P. 55(b) before the hearing, the arbitrator may hear evidence and may issue an award against the party in default. The court may order a rehearing of any case in which an award was made against a party who failed to obtain a continuance of a hearing and failed to appear for reasons beyond a party's control. Such motion for rehearing shall be filed with the court within the time allowed for rejection of the award as stated in Rule 5(a).

(k) **No Record of Hearing Made.** No transcript or other recording of an arbitration hearing shall be made.

(l) **Sanctions.** Any party failing or refusing to participate in an arbitration proceeding in a good faith and meaningful manner shall be subject to sanctions by the court on motion of a party, or report of the arbitrator, as provided in Super.R.Civ.P. 37 and which shall be heard by the assignment justice.

(m) **Proceedings in Forma Pauperis.** The right to proceed in forma pauperis is not affected by these Arbitration Rules.

(n) **Limits of Hearings.** Arbitration hearings shall be limited to four (4) hours unless the arbitrator determines at the hearing that more time is necessary to ensure fairness and justice to the parties.

(1) A written application for an enlargement of time for a hearing, which shall not exceed sixty (60) days, must be filed with the arbitrator and must be served on opposing parties at the earliest practicable time, and no later than the date for prehearing exchange of information under Rule 3(b). The arbitrator will rule on these applications subject to review by the court.

(2) An arbitrator is not required to receive repetitive or cumulative evidence.

(o) **Hearing Concluded.** The arbitrator shall declare the hearing concluded when arguments, if permitted, have been completed and all the evidence is in. In exceptional cases, the arbitrator has discretion to receive post-hearing briefs, but not evidence, if submitted within ten (10) days after the hearing has been concluded.

(p) **Parties Must be Present at Hearings; Representation.** All parties shall be present at hearings in person or through representatives authorized to make binding decisions on their behalf in all matters in controversy before the arbitrator. Individuals may be represented by an attorney but it is not required. All other parties, except individuals, shall be represented by an attorney.

(q) **Motions.** Designation of an action for arbitration does not affect a party's right to file any motion with the court.

(1) The court, in its discretion, may consider and determine any motion at any time. It may defer consideration of issues raised by motion to the arbitrator for determination in the award. Parties shall state their contentions regarding pending motions deferred to the arbitrator in the exchange of information required by Rule 3(b).

(2) Pendency of a motion shall not be cause for delaying an arbitration hearing unless the court so orders.

Rule 4. The Award. - (a) **Filing the Award.** The award shall be in writing, signed by the arbitrator, and filed with the court within ten (10) days after the hearing is concluded or the receipt of post-hearing briefs, whichever is later. Post hearing briefs shall be filed with the Arbitrator within ten (10) days after the hearing is concluded.

(b) **Findings; Conclusions; Opinions.** No findings of fact and conclusions of law or opinions supporting an award are required unless requested by a party which in no event shall exceed two (2) pages.

(c) **Scope of Award.** The award must resolve all issues raised by the pleadings and may exceed \$100,000 however the costs, interest, and attorney's fees shall not be computed and/or included in an award.

(d) **Copies of Award to Parties.** The arbitrator shall forward copies of the award to counsel of record or to a party not represented by counsel.

Rule 5. Trial. - (a) **Trial as of Right.** Any party not in default for a reason which may result in judgment by default who is dissatisfied with an arbitrator's award may have a trial as of right upon filing a written rejection of the award on an approved form within thirty (30) days after the arbitrator's award has been filed or within thirty (30) days after an adverse determination of a Rule 3(j) motion to rehear. The most current version of the Rejection of Arbitrator's Award is located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(b) **Filing Fee.** A party rejecting an award shall post a filing fee of \$300.00 with the Superior Court Arbitration Office.

(c) **Multi-Party Case.** In consolidated cases and in those involving multiple parties, cross-claims, counterclaims, and third party claims, a rejection by any one (1) party will cause the entire civil action or actions to proceed to trial in the normal course.

(d) **No Reference to Arbitration.** A trial shall be conducted as if there had been no arbitration proceeding. No reference may be made to prior arbitration proceedings in the presence of jury without the consent of all parties to the arbitration and/or the approval of the court.

(e) **No Evidence of Arbitration Admissible.** No evidence that there have been arbitration proceedings or any fact concerning them may be admitted in a trial, or in any other proceedings, without the consent of all parties to the arbitration and/or the approval of the court.

(f) **Arbitrator not to be Called as Witness.** An arbitrator may not be deposed or called as a witness to testify concerning anything said or done in an arbitration proceeding. The notes of the arbitrator are privileged and not subject to discovery.

(g) **Arbitrator's Immunity.** The arbitrator shall have immunity to the same extent as a trial justice with respect to actions of the arbitrator in the arbitration proceeding.

Rule 6. The Court's Judgment. - (a) **Termination of Action by Agreement Before Judgment.** The parties may file with the court a stipulation of dismissal or consent judgment at any time before entry of judgment on an award.

(b) **Judgment Entered on Award.** If the case is not terminated by agreement of the parties, and no party files a written rejection of the award within thirty (30) days after the award is filed, provided all required fees have been paid the court shall enter judgment to include interest and costs, if any, on the arbitrator's award.

Rule 7. Administration. - (a) Actions Designated and Time Schedules. In all actions subject to arbitration the court shall designate such actions for arbitration sixty (60) days after the filing of the arbitration certificate required by Rule 1(e) provided the provisions of Arbitration Rules 7.1(a)(1) and (c) have been fulfilled. The designation date may coincide with the date of selection/appointment of the arbitrator. The court shall set a date of not more than 240 days after selection/appointment, by which time the arbitration hearing must be concluded.

(b) **Notice.** Notice that a case has been assigned to arbitration shall be served on the selected arbitrator and all parties within five (5) days of such selection. Within five (5) days of receiving such notice, the selected arbitrator shall notify the Arbitration Office and all parties to the matter in accordance with Super.R.Civ.P. 5(b) that the arbitrator has received and accepted the designation.

(c) **Date of Hearing Advanced by Agreement.** A hearing may be held earlier than the date set by the arbitrator by agreement of the parties with arbitrator approval.

(d) **Forms.** Forms for use in these arbitration proceedings must be approved by the Superior Court. The most current versions of the forms are located on the Judiciary's website at www.courts.ri.gov under the heading of Public Resources, Forms.

(e) **Delegation of Nonjudicial Functions.** To conserve judicial resources and facilitate the effectiveness of these Arbitration Rules, the court may delegate nonjudicial administrative duties and functions to supporting court personnel and authorize them to require compliance with approved procedures.

(f) **Definitions.** "Court" as used in these Arbitration Rules means, depending upon the context in which it is used, the presiding justice or a designee of the presiding justice.

Rule 7.1. Administration and Proration of Reasonable Costs of Arbitration Pursuant to G.L. 1956 § 8-6-5. - (a) Payment Schedule. The reasonable cost of an arbitration performed within these Arbitration Rules shall not exceed five hundred dollars (\$500.00) and shall be apportioned as follows:

(1) Except in consolidated cases, wherein one (1) or more parties is different, each party, (a party shall be all the plaintiffs and all the defendants, if more than one (1) of each) shall pay \$100.00 in accordance with Arbitration Rules 7.1(c) 1 and 2.

(2) If, at the conclusion of the arbitration hearing an award is rendered for the plaintiff and no rejection is filed, each party shall pay \$100.00.

(3) If, at the conclusion of the arbitration hearing an award is rendered for the defendant and no rejection is filed, the defendant shall pay \$200.00 and the plaintiff will pay no fee.

(b) **Rejecting an Award.** All matters rejected by any party shall be subject to Rule 5(b) regarding the filing fee for rejecting an award.

(c) **Billing.** The Supreme Court Finance Office shall be responsible for establishing a process for billing. The Arbitration Office shall be responsible for collecting and transmitting to the Supreme Court all of the funds received by it pursuant to these Arbitration Rules, which shall be maintained and used exclusively for arbitration purposes.

The monies assessed and apportioned as directed in paragraph (a) shall be collected by the Arbitration Office in the following manner:

(1) As to all cases certified to arbitration pursuant to Arbitration Rules 1(a), (b), and (c), all funds due to the court must be delivered to the Arbitration Office no later than thirty (30) days after the arbitration certificate has been received and filed by the Arbitration Office;

(2) As to all cases designated to arbitration or otherwise placed into arbitration where the arbitrator is to be selected or appointed within thirty (30) days, the funds due must be paid before the arbitrator is notified of the appointment or selection; or

(3) As to all cases not rejected under Rule 5(b), the funds due shall be paid no later than forty (40) days after the arbitrator's award was received and filed by the Arbitration Office.

Rule 7.2. Sanctions. - If a party(ies) does not comply with the Arbitration Rules stated herein and does not deliver the monies to the Arbitration Office when required, the case may be removed from Arbitration and/or sanctions may be imposed by the presiding justice or his or her designee upon a showing that notice was properly sent by the Arbitration Office in accordance with Super.R.Civ.P. 5(b) and payment was not received within the time provided by these Arbitration Rules. If an award has been filed and no rejection is timely filed, the judgment usually entered pursuant to said award shall not be entered until payment has been made. The court, after a hearing, may impose such other sanctions as may be warranted.

Rule 8. Application of Arbitration Rules. - These Arbitration Rules shall apply to cases filed before or after their effective date or cases referred to arbitration by order of the court; provided that the amendments to Arbitration Rules 1, 2(a), 2(c), 3(a), 3(n)(1), 5(a), 5(b), 7(a), 7(b) and 7.1 shall apply to cases certified to Arbitration after the effective date of the amendments.