

ALABAMA SUPREME COURT COMMISSION ON DISPUTE RESOLUTION  
GUIDELINES FOR ARBITRATION PROCEEDINGS IN ALABAMA  
(Published December 3, 2023)

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I. INTRODUCTION

The Alabama Supreme Court Commission on Dispute Resolution (the Commission) has developed this exemplar arbitration model for parties to utilize by agreement in arbitration proceedings in which no forum has been specified in the arbitration agreement, or in which the parties jointly prefer to proceed with arbitration utilizing this model rather than the arbitration forum specified in the arbitration agreement. It is important those utilizing this model understand that the Commission does not serve as a forum for resolving disputes in arbitration, and that the Commission does not administer matters in arbitration. Instead, this model is offered primarily to provide a general framework for an arbitration proceeding when selected by the parties and where there might otherwise be no specific guidelines for the arbitration proceeding.

These are guidelines to assist parties with arbitrations. Violation of the guidelines shall not give rise to a cause of action nor shall it create any presumption that a legal duty has been breached. Nothing in these guidelines should be deemed to establish or augment any substantive legal duty on the part of arbitrators.

II. GENERAL PRINCIPLES

Arbitration involves the submission of a dispute to a neutral party who renders a decision following a hearing. The guiding principle of all proceedings conducted utilizing this model should be to secure the just, speedy, and inexpensive determination of the matter in dispute. In so doing, much is left to the discretion of the arbitrator to oversee the procedures provided for herein and ultimately to decide the dispute at issue.

III. SELECTION OF THE ARBITRATOR

When the arbitration agreement provides for a method of selecting the arbitrator or arbitrators, the method set out in the agreement should be followed by the parties. When no selection method is set out in the agreement, the parties should first attempt to mutually agree on an arbitrator. The Alabama Center for Dispute Resolution maintains a roster containing the

names of arbitrators who have met the Center's standards for registration as an arbitrator, and the parties should consider utilizing the Center's roster of arbitrators in their effort to select an arbitrator. If the parties are unable to agree on an arbitrator, the parties should petition an appropriate Court to select an arbitrator. The parties should mutually contact prospective arbitrators to determine if they are willing to serve as the arbitrator for the matter, obtain information concerning the prospective arbitrator's rates, and provide information sufficient to allow the prospective arbitrator to determine if conflicts exist or if arbitrator's disclosures need to be made to the parties. Information provided to any prospective arbitrator should include a general description of the matter at issue, the names of the parties, the identity of counsel for the parties, and the names of insurers with a potential interest in the outcome of the matter at issue. Once the arbitrator has been selected, the parties should promptly notify the arbitrator so that the arbitration process can proceed with the participation of the selected arbitrator.

#### IV. DEFINING THE ISSUES

After the arbitrator has been selected, the parties should provide the arbitrator with an agreed statement of issues for determination by the arbitrator. In addition, the complaining party should within 20 calendar days of selection of the arbitrator provide the arbitrator with a statement of its claims. Within 20 calendar days thereafter, the respondent should provide a response setting out those matters with which it agrees and disagrees, and a statement of its affirmative defenses. Ex parte communications with the arbitrator concerning the matters at issue are not permissible. All written communications with the arbitrator throughout the entire arbitration proceeding should be simultaneously served on the other parties via electronic means.

#### V. THE PLANNING CONFERENCE

Following receipt of the statements of claims and defenses from the parties, the arbitrator shall set a date for a planning conference. Attendance at the planning conference may be in person, by telephone or through virtual means as agreed upon by the arbitrator and counsel. Prior to the planning conference the parties should confer and seek to agree upon a proposed scheduling order to present to the arbitrator. At the planning conference, the arbitrator may make inquiry into the matters at issue, as well as the claims and defenses of the parties. With input from the parties, the arbitrator should determine the types and limits of permissible discovery to be conducted during the course of the arbitration proceeding. Dates should be agreed upon, or determined by the arbitrator, for the following: a) the completion of discovery; b) exchange of expert discovery (if any); c) the filing and hearing of dispositive motions (if any); d) exchange of witness and exhibit lists; e) a prehearing conference; and f) the arbitration hearing. Once the planning conference is completed, the arbitrator shall issue a scheduling order memorializing the matters determined at the planning conference.

## VI. DISCOVERY

If agreed upon by the parties and approved by the arbitrator at the planning conference, discovery may be conducted through written interrogatories, requests for production, requests for admission, and depositions. Depositions may be conducted in person or through virtual means. Methods of discovery and limits on discovery should be decided at the planning conference and memorialized in the scheduling order issued by the arbitrator. In the event discovery issues arise between the parties, the parties should attempt to resolve any issues between themselves. If the parties are unable to resolve a discovery issue, the matter should be submitted to the arbitrator for determination. In the event a party fails to comply with a discovery order, the arbitrator may sanction the party, exclude evidence offered by that party, or reach a determination adverse to that party based upon the failure to comply with discovery.

## VII. MOTIONS FOR SUMMARY DISPOSITION

Motions for Summary Disposition and responses to such motions may be filed by the parties in a manner and within deadlines established in the scheduling order issued by the arbitrator. The party filing a motion for summary disposition has the burden of establishing that there is no genuine issue of material fact and that the moving party is entitled to a favorable determination as a matter of law. The arbitrator shall rule on any Motion for Summary Disposition only after holding a hearing on the motion. Parties may attend the hearing in person or by virtual means as ordered by the arbitrator.

## VIII. MEDIATION/SETTLEMENT

At the planning conference the parties may agree to submit their dispute to mediation and establish a deadline for mediation. Mediation should be conducted in accordance with the Alabama Civil Court Mediation Rules. Following completion of mediation, the mediator shall report to the arbitrator only that a settlement was reached or not reached. Settlement offers and settlement discussions, whether made in the course of mediation or not, are confidential and are inadmissible at the arbitration hearing or in submissions presented to the arbitrator by the parties.

## IX. THE ARBITRATION HEARING

At a time and place determined by the arbitrator a hearing shall be held at which the parties present evidence. The hearing will be conducted in person or by virtual means as ordered by the arbitrator. At the hearing, the arbitrator will determine the admissibility of evidence and give admitted evidence the weight and credence the arbitrator believes is appropriate under the circumstances. Testimony may be received in person or through virtual means. Whether testifying in person or through virtual means, each witness shall take an oath, or otherwise affirm, to speak only the truth while testifying. Witnesses may be sworn in by the arbitrator or by a court reporter if a court reporter has been retained by the parties. Once each party has

completed the presentation of its evidence, the arbitrator shall close the hearing and proceed with issuing an award in the case.

#### X. THE AWARD

Within 30 calendar days of the close of the arbitration hearing, the arbitrator shall issue a written award. In proceedings involving more than one arbitrator, a majority of the arbitrators shall make the award. Unless otherwise requested by one or more of the parties, the arbitrator's award need not provide reasons for the arbitrator's decision. The arbitrator's award should be signed and dated by the arbitrator and should include the following affirmation by the arbitrator: "After full consideration of the applicable law, I hereby affirm I have impartially determined the matter submitted to me, according to the manifest justice and equity of the case, to the best of my judgment and without favor or affection."

#### XI. ENFORCEMENT OF ARBITRATION AWARDS

Enforcement of arbitrator awards shall be in accordance with ALABAMA RULE OF CIVIL PROCEDURE 71C.

#### XII. APPEALS OF ARBITRATOR AWARDS

Appeals of arbitrator awards shall be in accordance with ALABAMA RULE OF CIVIL PROCEDURE 71B. *See, e.g., Alabama Psychiatric Services, P.C. v. Lazenby*, 292 So. 3d 295, 298 (Ala. 2019).