

CELEBRATING OUR 24TH YEAR IN BUSINESS

What if the Party is Unable or Unwilling to Pay for Arbitration?

Parties who have entered into a valid arbitration agreement understand that under the Federal Arbitration Act (FAA), the matter generally must be resolved through arbitration rather than court litigation. Only after such resolution may they seek enforcement of the - arbitration award or other relief in court.

But what if a party is unable to pay the costs of the arbitration? Conversely, what if a party has the financial wherewithal, but simply refuses to pay? May the arbitration be dismissed by the arbitrator; and, if dismissed, may a court, nonetheless, consider the dispute on the merits?



Judge Abraham J. Gafni
(Ret.)

This issue was addressed recently by a federal appellate court in the case of *Tillman v. Tillman*, No. 13-56624, (9th Cir., June 15, 2016).

Renee Tillman brought a malpractice action against her law firm claiming that it had failed to advise her of the need to include other heirs in a wrongful death action arising from the death of her husband.

The court granted the law firm's motion to stay the court litigation and compel arbitration in accordance with the arbitration clause in its retainer agreement with Tillman. The arbitration proceeded with Tillman objecting to what she characterized as "unnecessarily increasing costs." Eventually, Tillman was unable to deposit the \$18,562.50 required by the AAA as a condition of continuing with the arbitration.

The law firm declined the AAA's inquiry as to whether it was prepared to cover the required deposit. Then, Tillman requested that the AAA require "the firm to pay the deposit going forward under AAA Rules

authorizing interim relief." The arbitrator, however, did not grant this motion. Rather, a deadline was set for Tillman to submit the funds. Ultimately, the arbitrator "terminated the arbitration due to the - missing deposits." [READ MORE](#)

To schedule a mediation or arbitration with [Judge Gafni](#) or any of our [neutrals](#), please email mcarney@adoptions.com or click below:

[Submit a Case](#)



[ADDRESS](#) | [EMAIL](#) | [PHONE](#) | [WEBSITE](#)

ADR Options, Inc., Two Commerce Square, Suite 1100,
2001 Market Street, Philadelphia, PA 19103-7044

[SafeUnsubscribe™ {recipient's email}](#)

[Forward this email](#) | [Update Profile](#) | [About our service provider](#)

Sent by mcarney@adoptions.com in collaboration with



Try it free today