

## Arbitration Rules of Procedure

### 1. SCOPE

These rules, as in place at the time of proceeding, shall govern all arbitration proceedings at ADR Options. This agreement to arbitrate will be final, binding and conducted under the Pennsylvania Revised Statutory Arbitration Act. Rulings on legal issues are based on the principles of law which would be applicable if the case were heard in the appropriate court of public jurisdiction. This may be modified or voided by a written agreement of all parties to the dispute.

### 2. FILING

All Documents filed with ADR Options are deemed to be filed on the date they are received by ADR Options. The filing party shall send copies of all documents filed with ADR Options, to all other parties to the proceeding, within 24 hours of a filing.

### 3. REPRESENTATION

Any party to a proceeding under the ADR Options rules may be represented by any attorney who is a member in good standing of the bar of any state or federal court.

### 4. PROCEEDINGS

a. Arbitrations are binding and subject to limited appeal rights and offer the opportunity to present evidence in a manner like a non-jury trial in the public courts.

b. The parties may also agree to a High/Low Arbitration, a hearing whereby the parties agree beforehand to limit the award within high and low parameters. We strongly recommend this form of arbitration.

c. The parties may also agree to "Baseball" (final offer) arbitration, a hearing in which the arbitrator selects either the last best demand or the last best offer, without modification.

d. The parties may also agree to Uninsured Motorist (UM) arbitration or Underinsured Motorist (UIM) arbitration, which shall be decided pursuant to the terms of the insurance policy at issue and the law of the appropriate jurisdiction. The parties shall agree to utilization of one of the following procedures:

- 1) One ADR Options arbitrator, or
- 2) Three ADR Options arbitrators, or
- 3) Two arbitrators, one selected by the plaintiff and one selected by the defendant, and one ADR Options neutral arbitrator.

Whenever there is more than one arbitrator, all decisions of the arbitrators must be made by a majority of the arbitrators, unless the policy of insurance at issue provides otherwise. An ADR Options binding agreement must be signed.

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## 5. ARBITRATORS

The parties to a dispute usually agree on an arbitrator from the ADR Options panel of arbitrators. The ADR Options panel of arbitrators shall include former judges and experienced attorneys.

In such case as ADR Options is named in any contract's arbitration clause, or a court order compels arbitration at ADR Options, the following shall apply:

1. ADR Options shall proceed with the scheduling of the matter as notified by any party. The selection of the neutral can be suggested by the party initiating the arbitration or by ADR Options.
2. The ADR Options arbitrator will complete a conflict check form and provided there are no conflicts, ADR Options will schedule the arbitration with this neutral and send notifications to all parties. Notice can be by registered mail and/or email. Emails will include a delivery and read notifications. A delivery/relay receipt confirms the receipt of the notice.
3. If no party expressly objects to the selection of the arbitrator within seven days of receiving notice, their agreement to proceed with the selected arbitrator is implied and the arbitration will proceed as scheduled.
4. If a Party that is obligated to arbitrate fails to agree to participate in the Arbitration process (including signing the arbitration agreement and sending a deposit), ADR Options shall proceed to schedule the matter with an Arbitrator and provide appropriate notice of a Hearing.
5. If a party fails to respond, sign the agreement and send a deposit, the opposing party can pay all deposits required for the hearing to proceed as scheduled.
6. If one Party advances the payment owed by a non-paying Party, the Arbitration shall proceed, and the Arbitrator may allocate the non-paying Party's share of such costs as part of the arbitration award.

## 6. DISCOVERY

The parties shall have the right to take depositions and to obtain discovery based on the discovery rules of the court where the case was previously filed, or if no case is pending, then discovery shall be governed by the State Rules of Civil Procedure of the appropriate court of public jurisdiction. Notwithstanding the above, the scope and time for discovery may be modified by agreement of the parties and the ADR Options arbitrator. Prior rulings of a court from which a case is transferred to ADR are, of course, the law of the case unless otherwise agreed. The arbitrator may review any prior court ruling, to the extent the trial judge could review his or her prior rulings. All ADR proceedings are, however subject to the arbitrator's discretion within the meaning of due process. See 42 Pa.C.S.A §7321.16. The parties agree that the ADR Options arbitrator may decide any discovery disputes not resolvable by this rule. See 42 Pa.C.S.A §7321.18.

## 7. PRE-HEARING PROCEEDING

Pre-hearing proceeding may be scheduled to handle such matters as:

- 1) obtaining admission of fact
- 2) limiting the number of witnesses
- 3) scheduling discovery
- 4) rulings on discovery

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## 8. AUTHORITY OF ARBITRATOR

The selected arbitrator shall have the following powers:

- 1) to examine any object or site relevant to the case
- 2) to make rulings on any matter or motion submitted
- 3) to administer oaths and affirmations to witnesses
- 4) to allow testimony to be offered by deposition
- 5) to rule on the admissibility of evidence
- 6) to allow evidence to be introduced, as discussed below

## 9. EVIDENCE

Rules of Evidence of the appropriate court of public jurisdiction shall apply unless otherwise agreed to by the parties. If the case is not in suit the appropriate State Rules of Evidence will apply. Seven calendar days prior to an arbitration; each party must send to all other parties a list of documents to be submitted and witnesses to be presented at the arbitration, and copies of all documents not previously provided to all parties, except for witnesses, documents or evidence intended exclusively for rebuttal or impeachment.

Any document not sent in accordance with Rules 2 and 9 or any witnesses not so identified, may be excluded at the time of arbitration, at the sole discretion of the ADR Options arbitrator.

Any party may subpoena any witness who offers testimony through deposition, document or records, provided the subpoena is filed with ADR Options and all parties prior to arbitration. Any adverse party may cross-examine those witnesses.

If notice has been given as stipulated in Rule 9, a party may offer into evidence without further proof, provided no other attorney or party objects, the following:

- 1) bills, records and reports of licensed health care providers.
- 2) bills or written estimates of value, damage, cost of repair or property loss.
- 3) reports on earnings and lost time prepared by an employer.
- 4) verified reports, statements, affidavits or declarations by any witness, expert or lay, whose testimony would otherwise be admissible.

Any issue as to admissibility shall be decided by the ADR Options arbitrator.

## 10. SUBSTANTIVE LAW

The law of the case shall be the substantive law of the jurisdiction where the case was filed or as defined by a choice of law provision in a relevant contract. If no case was filed, Pennsylvania law will apply, unless counsel agrees on a different substantive law. See Rule 4d for uninsured/ underinsured motorist law. In the event of a dispute as to the applicability of substantive law, all parties shall submit briefs to the ADR Options arbitrator, who shall decide the appropriate law of the case.

## 11. DISMISSAL

Any action commenced before ADR Options may be dismissed before the arbitration by filing a Stipulation of Dismissal signed by all parties. Unless otherwise stated, the Dismissal is Without Prejudice.

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## **12. DEFAULT AWARD/CONTINUANCES**

If a matter is scheduled for an arbitration and the plaintiff appears but the defendant does not, the ADR Options arbitrator may hear the case and, based on the evidence presented, enter an award. If the defendant appears but the plaintiff does not, the ADR Options arbitrator may enter an award in favor of the defendant. The ADR Options arbitrator may grant continuances to any party upon good cause shown by the requesting party.

## **13. FINDINGS**

All arbitration findings shall be in writing and signed by the ADR Options arbitrator issuing the finding. The decision is final and binding and judgment may be entered in the public court of appropriate jurisdiction.

The award may be monetary, injunctive or declaratory provided it was within the scope of the agreement made by the parties. In most cases, the award will be provided within 10 business days of the conclusion of the arbitration and sent by mail.

Subject to relevant substantive legal principles, no monetary award shall be imposed for delay damages or pre-judgment interest, unless all parties agree, in advance and in writing, that the prevailing party would be entitled to such an award.

## **14. FEES AND COSTS**

ADR Options will periodically publish a Fee Schedule setting forth all fees. The expense of witnesses, cost of proofs and the costs of a stenographic record, if any, shall be borne by the party requesting such services, and shall be paid directly to the provider of such services.

A retainer of the estimated arbitration cost might be required for the matter to proceed. The party enforcing an arbitration agreement can prepay for the full cost to allow the case to go forward. The arbitrator can decide who is responsible for the cost of the arbitration in the final award.