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ILLINOIS LAW MANUAL

CHAPTER I

CIVIL PROCEDURE

G. MANDATORY COURT-ANNEXED ARBITRATION

Mandatory arbitration is a system of dispute resolution used as an alternative to a trial in civil actions for claims in Cook County not exceeding \$30,000 excluding interest or costs. Juszczyk v. Flores, 334 Ill. App. 3d. 122, 126 (1st Dist. 2002). The rules regarding arbitration proceedings are found in Illinois Supreme Court Rules 86 through 95.

The pool of arbitrators consists of members of the bar and retired judges. An arbitration panel consists of three persons (or a minimum of two, if agreed by the parties) appointed from the pool of arbitrators. The panel is chaired by a member of the bar who has engaged in trial practice for at least three years, or by a retired judge. Ill. Sup. Ct. Rule 87.

The panel may not consist of more than one member or associate of a firm or office association of attorneys. Ill. Sup. Ct. Rule 87. Parties should receive at least 60 days notice of the date of an arbitration hearing. Hearings are to be held on the scheduled date and within one year of the date of filing of the action unless continued by the court upon a showing of good cause. Ill. Sup. Ct. Rule 88.

Discovery is conducted according to the rules established by the Illinois Code of Civil Procedure and must be completed prior to the arbitration hearing.. No discovery is permitted after the arbitration hearing unless leave of court is obtained upon a showing of good cause. Ill. Sup. Ct. Rule 89.

Arbitrators act as the "judge and jury" at arbitration hearings. The established rules of evidence apply at arbitration hearings except for some exceptions, which relax the established evidence rules making the arbitration hearing more informal than a full trial. Ill. Sup. Ct. Rule 90.

For example, certain documents are presumptively admissible at arbitration hearings. At arbitration, documents may be admitted without foundation if a party gives his/her opponent at least 30 days written notice of the intent to offer any of the following:

- (1) medical records and bills;
- (2) drugs, medical appliance or prosthesis bills;
- (3) property repair bills or estimates;
- (4) lost wage reports;
- (5) the written opinions of experts and the statements or depositions of witnesses, not parties; and
- (6) any other document which is otherwise admissible under the rules of evidence

This process is typically referred to as serving a Supreme Court Rule 90(c) packet, which outlines evidence to be submitted at arbitration without an evidentiary foundation. The 90(c) packet shall include a summary listing each of the above-mentioned items to be submitted at arbitration. The arbitration rules also provide for full subpoena power, which allows for live witness testimony at the arbitration, as authorized by the Code of Civil Procedure and the applicable Supreme Court Rules.

After conclusion of the arbitration hearing, the arbitrators enter an award. The award may not exceed the monetary limit authorized by the Supreme Court for that circuit or county within that circuit, exclusive of interest and costs. The majority (two out of three arbitrators) are empowered to enter the award. The award may identify the dissenting arbitrator. A party has thirty (30) days after entry of the award to either reject the award or request a correction of any technical errors appearing in the award. Ill. Sup. Ct. Rule 92. However, the party rejecting the award must pay a \$200 fee. Ill. Sup. Ct. Rule 93.

If a party fails to appear at an arbitration hearing, that party waives his or her right to reject the arbitrator's award. This rule has two exceptions. The first is that a party may, in certain circumstances, be deemed present if his or her counsel appears, but the actual plaintiff or defendant is absent. Second, a party who fails to appear at an arbitration hearing may file a motion to vacate any arbitration award and request this matter be reset for arbitration hearing. It is within the court's discretion to grant any relief regarding a party's failure to attend an arbitration. However, the court has other allowable sanctions as a condition for granting such a request. Ill. Sup. Ct. Rule 91. If the award is not rejected in thirty (30) days, then judgment is entered on the award on a court date scheduled following the arbitration hearing.

In rejecting the award, an initial trial intake date is set at which time a trial judge will set this matter for a jury trial within 30 days after the award is filed.