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States' Alternative Dispute Resolution Statutes

STATE OF PENNSYLVANIA

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Arbitration

Title 42, Part VII, Chapter 73.

Current through the Regular Session of 2008

Subchapter A. Statutory Arbitration

§ 7301. Short title of subchapter

This subchapter shall be known and may be cited as the "Uniform Arbitration Act."

§ 7302. Scope of subchapter

(a) General rule.--An agreement to arbitrate a controversy on a nonjudicial basis shall be conclusively presumed to be an agreement to arbitrate pursuant to Subchapter B (relating to common law arbitration) unless the agreement to arbitrate is in writing and expressly provides for arbitration pursuant to this subchapter or any other similar statute, in which case the arbitration shall be governed by this subchapter.

(b) Collective bargaining agreements.--This subchapter shall apply to a collective bargaining agreement to arbitrate controversies between employers and employees or their respective representatives only where the arbitration pursuant to this subchapter is consistent with any statute regulating labor and management relations.

(c) Government contracts.--This subchapter shall apply to any written contract to which a government unit of this Commonwealth is a party to the same extent as if the government unit were a private person, except that where a contract to which the Commonwealth government is a party provides for arbitration of controversies but does not provide for arbitration pursuant to any specified statutory provision, the arbitration shall be governed by this subchapter.

(d) Special application.--

(1) Paragraph (2) shall be applicable where:

(i) The Commonwealth government submits a controversy to arbitration.

(ii) A political subdivision submits a controversy with an employee or a representative of employees to arbitration.

(iii) Any person has been required by law to submit or to agree to submit a controversy to arbitration pursuant to this subchapter.

(2) Where this paragraph is applicable a court in reviewing an arbitration award pursuant to this subchapter shall, notwithstanding any other provision of this subchapter, modify or correct the award where the award is contrary to law and is such that had it been a verdict of a jury the court would have entered a different judgment or a judgment notwithstanding the verdict.

§ 7303. Validity of agreement to arbitrate

A written agreement to subject any existing controversy to arbitration or a provision in a written agreement to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity relating to the validity, enforceability or revocation of any contract.

§ 7304. Court proceedings to compel or stay arbitration

(a) Compelling arbitration.--On application to a court to compel arbitration made by a party showing an agreement described in section 7303 (relating to validity of agreement to arbitrate) and a showing that an opposing party refused to arbitrate, the court shall order the parties to proceed with arbitration. If the opposing party denies the existence of an agreement to arbitrate, the court shall proceed summarily to determine the issue so raised and shall order the parties to proceed with arbitration if it finds for the moving party. Otherwise, the application shall be denied.

(b) Stay of arbitration.--On application of a party to a court to stay an arbitration proceeding threatened or commenced the court may stay an arbitration on a showing that there is no agreement to arbitrate. When in substantial and bona fide dispute, such an issue shall be forthwith and summarily tried and determined and a stay of the arbitration proceedings shall be ordered if the court finds for the moving party. If the court finds for the opposing party, the court shall order the parties to proceed with arbitration.

(c) Venue.--If a controversy alleged to be or not to be referable to arbitration under the agreement is also involved in an action or proceeding pending in a court having jurisdiction to hear applications to compel or stay arbitration, the application shall be made to that court. Otherwise, subject to section 7319 (relating to venue of court proceedings), the application may be made in any court of competent jurisdiction.

(d) Stay of judicial proceedings.--An action or proceeding, allegedly involving an issue subject to arbitration, shall be stayed if a court order to proceed with arbitration has been made or an application for such an order has been made under this section. If the issue allegedly subject to arbitration is severable, the stay of the court action or proceeding may be made with respect to the severable issue only. If the application for an order to proceed with arbitration is made in such action or proceeding

and is granted, the court order to proceed with arbitration shall include a stay of the action or proceeding.

(e) No examination of merits.--An application for a court order to proceed with arbitration shall not be refused, nor shall an application to stay arbitration be granted, by the court on the ground that the controversy lacks merit or bona fides or on the ground that no fault or basis for the controversy sought to be arbitrated has been shown.

§ 7305. Appointment of arbitrators by court

If the agreement to arbitrate prescribes a method of appointment of arbitrators, the prescribed method shall be followed. In the absence of a prescribed method or if the prescribed method fails or for any reason cannot be followed, or when an arbitrator appointed fails to act or is unable to act and his successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of an arbitrator specifically named in the agreement.

§ 7306. Action by arbitrators

The powers of the arbitrators shall be exercised by a majority unless otherwise prescribed by the agreement or provided by this subchapter.

§ 7307. Hearing before arbitrators

(a) General rule.--Unless otherwise prescribed by the agreement:

(1) The arbitrators shall appoint a time and place for the arbitration hearing and cause written notice thereof to be served personally or by registered or certified mail on all parties not less than ten days before the hearing. Appearance at the hearing constitutes a waiver of such notice.

(2) The arbitrators may adjourn the hearing from time to time as necessary, and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date.

(3) The arbitrators may hear and determine the controversy upon the evidence produced at the arbitration hearing notwithstanding the failure of a duly notified party to appear. On application by a party the court may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

(4) The parties and their attorneys have the right to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

(5) The hearing shall be conducted by all the arbitrators but a majority may determine any issue and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determine the controversy.

(b) Record.--On request of a party who shall pay the fees therefor all testimony shall be taken stenographically and a transcript thereof made a part of the record.

§ 7308. Representation by attorney

A party has the right to be represented by an attorney at any proceeding or hearing under this subchapter. A waiver thereof prior to the proceeding or hearing is ineffective.

§ 7309. Witnesses, subpoenas, oaths and depositions

(a) General rule.--The arbitrators may issue subpoenas in the form prescribed by general rules for the attendance of witnesses and for the production of books, records, documents and other evidence. Subpoenas so issued shall be served and, upon application to the court by a party or by the arbitrators, shall be enforced in the manner provided or prescribed by law for the service and enforcement of subpoenas in a civil action.

(b) Depositions.--On application of a party and for use as evidence the arbitrators, in the manner and upon the terms designated by them, may permit a deposition to be taken of a witness who cannot be served with a subpoena or who is unable to attend the hearing.

(c) Compulsory testimony.--The arbitrators shall have power to administer oaths. All provisions of law compelling a person under subpoena to testify are applicable.

(d) Fees.--Fees and expenses for attendance as a witness shall be governed by the provisions of section 5903 (relating to compensation and expenses of witnesses).

§ 7310. Award of arbitrators

(a) General rule.--The award of the arbitrators shall be in writing and signed by the arbitrators joining in the award. The arbitrators shall deliver a copy of the award to each party personally or by registered or certified mail, or as prescribed in the agreement to arbitrate.

(b) Time limitation.--The award shall be made within the time fixed by the agreement or, if not fixed by the agreement, within such time as is ordered by the court on application of a party. The parties by written stipulation may extend the time either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to delivery of the award to him.

§ 7311. Change of award by arbitrators

(a) General rule.--On application of a party to the arbitrators, or on submission to the arbitrators by the court under such conditions as the court may order if an application to the court is pending under section 7313 (relating to confirmation of award by court), section 7314 (relating to vacating award by court) or section 7315 (relating to modification or correction of award by court), the arbitrators may modify or correct the award upon the grounds stated in section 7315(a)(1) and (2), or for the purpose of clarifying the award.

(b) Time limitation.--An application to the arbitrators under subsection (a) shall be made within ten days after delivery of the award to the applicant. Written notice of presentation of the application shall be given forthwith by the applicant to all other parties stating that they must serve objections thereto within ten days from the date of the notice. The award as modified or corrected is subject to the provisions of sections 7313, 7314 and 7315.

§ 7312. Fees and expenses of arbitration

Unless otherwise prescribed in the agreement to arbitrate, the expenses and fees of the arbitrators and other expenses (but not including counsel fees) incurred in the conduct of the arbitration shall be paid as prescribed in the award.

§ 7313. Confirmation of award by court

On application of a party, the court shall confirm an award, unless within the time limits imposed by this subchapter, grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in section 7314 (relating to vacating award by court) or section 7315 (relating to modification or correction of award by court).

§ 7314. Vacating award by court

(a) General rule.--

(1) On application of a party, the court shall vacate an award where:

(i) the court would vacate the award under section 7341 (relating to common law arbitration) if this subchapter were not applicable;

(ii) there was evident partiality by an arbitrator appointed as a neutral or corruption or misconduct in any of the arbitrators prejudicing the rights of any party;

(iii) the arbitrators exceeded their powers;

(iv) the arbitrators refused to postpone the hearing upon good cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of section 7307 (relating to hearing before arbitrators), as to prejudice substantially the rights of a party; or

(v) there was no agreement to arbitrate and the issue of the existence of an agreement to arbitrate was not adversely determined in proceedings under section 7304 (relating to court proceedings to compel or stay arbitration) and the applicant-party raised the issue of the existence of an agreement to arbitrate at the hearing.

(2) The fact that the relief awarded by the arbitrators was such that it could not or would not be granted by a court of law or equity is not a ground for vacating or refusing to confirm the award.

(b) Time limitation.--An application under this section shall be made within 30 days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud, misconduct or other improper means, it shall be made within 30 days after such grounds are known or should have been known to the applicant.

(c) Further hearing.--If the court vacates the award on grounds other than stated in subsection (a)(1)(v), the court may order a rehearing before new arbitrators chosen as prescribed in the agreement to arbitrate. Absent a method prescribed in the agreement to arbitrate, the court shall choose new arbitrators in accordance with section 7305 (relating to appointment of arbitrators by court). If the award is vacated on grounds not affecting the competency of the arbitrators under subsection (a)(1)(i) through (iv), the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with section 7305. The time period within which the agreement requires the original award to be made is applicable to the rehearing and commences from the date of the court order directing a rehearing.

(d) Confirmation of award.--If an application to vacate the award is denied and no application to modify or correct the award is pending, the court shall confirm the award.

§ 7315. Modification or correction of award by court

(a) General rule.--On application to the court made within 30 days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

- (1) there was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;
- (2) the arbitrators awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or
- (3) the award is deficient in a matter of form, not affecting the merits of the controversy.

(b) Confirmation of award.--If an application to modify or correct the award is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made by the arbitrators.

(c) Alternative applications.--An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

§ 7316. Judgment or decree on award

Upon the granting of an order of court confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity with the order. The judgment or decree may be enforced as any other judgment or decree. Subject to general rules, costs of any application to the court and of the proceedings subsequent thereto, and disbursements may be imposed by the court.

§ 7317. Form and service of applications to court

Except as otherwise prescribed by general rules, an application to the court under this subchapter shall be by petition and shall be heard in the manner and upon the notice provided or prescribed by law for the making and hearing of petitions in civil matters. Unless the parties otherwise agree, notice of an initial application for an order of court shall be served in the manner provided or prescribed by law for the service of a writ of summons in a civil action.

§ 7318. Court and jurisdiction

The following words and phrases when used in this subchapter shall have, unless the context clearly indicates otherwise, the meanings given to them in this section:

"Court." As used in this subchapter means any court of competent jurisdiction of this Commonwealth.

"Jurisdiction." The making of an agreement described in section 7303 (relating to validity of agreement to arbitrate) providing for arbitration in this Commonwealth confers jurisdiction on the courts of this Commonwealth to enforce the agreement under this subchapter and to enter judgment on an award made thereunder.

§ 7319. Venue of court proceedings

Except as otherwise prescribed by general rules:

- (1) An initial application to a court under this subchapter shall be made to the court of the county in which the agreement prescribes that the arbitration hearing shall be held or, if the hearing has been held, in the county in which the hearing was held.
- (2) If an application to a court cannot be made under paragraph (1) the application shall be made to the court in the county where the adverse party resides or has a place of business or, if he has no residence or place of business in this Commonwealth, to the court of any county.
- (3) All subsequent applications to a court shall be made to the court hearing the initial application unless that court otherwise directs.

§ 7320. Appeals from court orders

(a) General rule.--An appeal may be taken from:

- (1) A court order denying an application to compel arbitration made under section 7304 (relating to proceedings to compel or stay arbitration).
- (2) A court order granting an application to stay arbitration made under section 7304(b).
- (3) A court order confirming or denying confirmation of an award.
- (4) A court order modifying or correcting an award.
- (5) A court order vacating an award without directing a rehearing.
- (6) A final judgment or decree of a court entered pursuant to the provisions of this subchapter.

(b) Procedure.--The appeal shall be taken in the manner, within the time and to the same extent as an appeal from a final order of court in a civil action.

Subchapter B. Common Law Arbitration

§ 7341. Common law arbitration

The award of an arbitrator in a nonjudicial arbitration which is not subject to Subchapter A (relating to statutory arbitration) or a similar statute regulating nonjudicial arbitration proceedings is binding and may not be vacated or modified unless it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award.

§ 7342. Procedure

(a) General rule.--The following provisions of Subchapter A (relating to statutory arbitration) shall be applicable to arbitration conducted pursuant to this subchapter:

- Section 7303 (relating to validity of agreement to arbitrate).
- Section 7304 (relating to court proceedings to compel or stay arbitration).
- Section 7305 (relating to appointment of arbitrators by court).
- Section 7309 (relating to witnesses, subpoenas, oaths and depositions).
- Section 7317 (relating to form and service of applications to court).
- Section 7318 (relating to court and jurisdiction).
- Section 7319 (relating to venue of court proceedings).
- Section 7320 (relating to appeals from court orders), except subsection (a)(4).

(b) Confirmation and judgment.--On application of a party made more than 30 days after an award is made by an arbitrator under section 7341 (relating to common law arbitration) the court shall enter an order confirming the award and shall enter a judgment or decree in conformity with the order. Section 7302(d)(2) (relating to special application) shall not be applicable to proceedings under this subchapter.

Subchapter C. Judicial Arbitration

§ 7361. Compulsory arbitration

(a) General rule.--Except as provided in subsection (b), when prescribed by general rule or rule of court such civil matters or issues therein as shall be specified by rule shall first be submitted to and heard by a board of three members of the bar of the court.

(b) Limitations.--No matter shall be referred under subsection (a):

(1) which involves title to real property; or

(2) where the amount in controversy, exclusive of interest and costs, exceeds \$50,000.

(c) Procedure.--The arbitrators appointed pursuant to this section shall have such powers and shall proceed in such manner as shall be prescribed by general rules.

(d) Appeal for trial de novo.--Any party to a matter shall have the right to appeal for trial de novo in the court. The party who takes the appeal shall pay such amount or proportion of fees and costs and shall comply with such other procedures as shall be prescribed by general rules. In the absence of appeal the judgment entered on the award of the arbitrators shall be enforced as any other judgment of the court. For the purposes of this section and section 5571 (relating to appeals generally) an award of arbitrators constitutes an order of a tribunal.

§ 7362. Voluntary arbitration of pending judicial matters

(a) General rule.--A civil matter or issue therein may be referred by consent of the parties to one or more appointive judicial officers or other persons for hearing or hearing and disposition.

(b) Government units.--Any government unit of this Commonwealth, with the consent of the solicitor or other official counsel of the unit, may agree to the reference of a civil matter pursuant to this section.

(c) Procedure.--The appointive judicial officers or other persons appointed or designated pursuant to this section shall have such powers and shall proceed in such manner as shall be prescribed by general rules.

(d) Appeal.--Any party to a matter referred under this section shall have such rights of appeal, if any, as shall be prescribed by general rules. Where no right to appeal is prescribed by general rule, all parties shall be deemed to have waived any right to appeal which they might otherwise enjoy under the Constitution of Pennsylvania or otherwise in mutual consideration of an expeditious final disposition

of the matter, but no such waiver shall apply if it is clearly shown that a party was denied a hearing or that fraud, misconduct, corruption or other irregularity caused the rendition of an unjust, inequitable or unconscionable award.

Judiciary and Judicial Procedure

Title 42, Part VI, Chapter 59, Subchapter A.

Current through the Regular Session of 2008

§ 5949. Confidential mediation communications and documents

(a) General rule.--Except as provided in subsection (b), all mediation communications and mediation documents are privileged. Disclosure of mediation communications and mediation documents may not be required or compelled through discovery or any other process. Mediation communications and mediation documents shall not be admissible as evidence in any action or proceeding, including, but not limited to, a judicial, administrative or arbitration action or proceeding.

(b) Exceptions.--

(1) A settlement document may be introduced in an action or proceeding to enforce the settlement agreement expressed in the document, unless the settlement document by its terms states that it is unenforceable or not intended to be legally binding.

(2) To the extent that the communication or conduct is relevant evidence in a criminal matter, the privilege and limitation set forth in subsection (a) does not apply to:

(i) a communication of a threat that bodily injury may be inflicted on a person;

(ii) a communication of a threat that damage may be inflicted on real or personal property under circumstances constituting a felony; or

(iii) conduct during a mediation session causing direct bodily injury to a person.

(3) The privilege and limitation set forth under subsection (a) does not apply to a fraudulent communication during mediation that is relevant evidence in an action to enforce or set aside a mediated agreement reached as a result of that fraudulent communication.

(4) Any document which otherwise exists, or existed independent of the mediation and is not otherwise covered by this section, is not subject to this privilege.

(c) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

“Mediation.” The deliberate and knowing use of a third person by disputing parties to help them reach a resolution of their dispute. For purposes of this section, mediation commences at the time of initial

contact with a mediator or mediation program.

“Mediation communication.” A communication, verbal or nonverbal, oral or written, made by, between or among a party, mediator, mediation program or any other person present to further the mediation process when the communication occurs during a mediation session or outside a session when made to or by the mediator or mediation program.

“Mediation document.” Written material, including copies, prepared for the purpose of, in the course of or pursuant to mediation. The term includes, but is not limited to, memoranda, notes, files, records and work product of a mediator, mediation program or party.

“Mediation program.” A plan or organization through which mediators or mediation may be provided.

“Mediator.” A person who performs mediation.

“Settlement document.” A written agreement signed by the parties to the agreement.

Compulsory Arbitration

PA Admin. Code Title 231, Part I, Chapter 1300, Subchapter A

Current through January of 2009

Rule 1301. Scope.

These rules apply to actions which are submitted to compulsory arbitration pursuant to local rule under Section 7361 of the Judicial Code, 42 Pa.C.S. § 7361.

Official Note

This continues the existing practice under which in the absence of a rule of the Supreme Court each common pleas court may determine whether there shall be arbitration in its judicial district, the kind of cases to be arbitrated and the jurisdictional amount within the limits fixed by Section 7361(b) of the Judicial Code.

Rule 1302. List of Arbitrators. Appointment to Board. Oath.

(a) A list of available arbitrators shall be prepared in the manner prescribed by local rule. The list shall consist of a sufficient number of members of the bar actively engaged in the practice of law primarily in the judicial district in which the court is situated so as to be fairly representative thereof.

(b) The board of arbitrators shall consist of three members of the bar appointed from the list of available arbitrators as prescribed by local rule.

(c) The board shall be chaired by a member of the bar admitted to the practice of law for at least three years.

(d) Not more than one member or associate of a firm or association of attorneys shall be appointed to

the same board.

(e) A member of a board who would be disqualified for any reason that would disqualify a judge under the Code of Judicial Conduct shall immediately withdraw as an arbitrator.

(f) Each arbitrator shall take an oath of office in conformity with Section 3151 of the Judicial Code.

Official Note

Arbitrators shall be compensated pursuant to Section 3544(a)(1) of the Judicial Code.

Rule 1303. Hearing. Notice.

(a) (1) The procedure for fixing the date, time and place of hearing before a board of arbitrators shall be prescribed by local rule, provided that not less than thirty days' notice in writing shall be given to the parties or their attorneys of record.

Official Note

See Rule 248 as to shortening or extending the time for the giving of notice.

(2) The local rule may provide that the written notice required by subdivision (a)(1) include the following statement:

'This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge.'

Official Note

A party is present if the party or an attorney who has entered an appearance on behalf of the party attends the hearing.

(b) When the board is convened for hearing, if one or more parties is not ready the case shall proceed and the arbitrators shall make an award unless the court

(1) orders a continuance, or

(2) hears the matter if the notice of hearing contains the statement required by subdivision (a)(2) and all parties present consent.

Official Note

It is within the discretion of the court whether it should hear the matter or whether the matter should proceed in arbitration. If the court is to hear the matter, it should be heard on the same date as the scheduled arbitration hearing.

In hearing the matter, the trial court may take action not available to the arbitrators, including the entry of a nonsuit if the plaintiff is not ready or a non pros if neither party is ready. If the defendant is not ready, it may hear the matter and enter a decision.

For relief from a nonsuit, see Rule 227.1 governing post-trial practice. See also Rule 3051 governing relief from a judgment of non pros.

Following an adverse decision, a defendant who has failed to appear may file a motion for post-trial relief which may include a request for a new trial on the ground of a satisfactory excuse for the defendant's failure to appear.

Rule 1304. Conduct of Hearing. Generally.

(a) Except as otherwise prescribed by these rules, the board of arbitrators shall conduct the hearing in conformity with Rule 1038(a). A voluntary nonsuit may be taken by a plaintiff as permitted by Rule 230. If the plaintiff fails to appear or if, at the conclusion of the plaintiff's case, the board deems the evidence insufficient to support an award in favor of the plaintiff, it shall enter an award in favor of the defendant. If the board does not do so, the defendant may proceed to offer evidence.

(b) The board shall have the power to administer oaths or affirmations to witnesses and to adjourn an uncompleted hearing from day to day.

(c) A stenographic record or a recording of the hearing shall not be made unless a party does so at his or her own expense. If a party has a stenographic record or a recording made, he or she shall upon request furnish a copy to any other party upon payment of a proportionate share of the total cost of making the record or recording.

Rule 1305. Conduct of Hearing. Evidence.

(a) Except as prescribed by this rule, the rules of evidence shall be followed in all hearings before arbitrators. Rulings on objections to evidence or on other issues which arise during the hearing shall be made by a majority of the board.

(b)(1) The following documents shall be admitted into evidence if at least twenty days' notice of the intention to offer them was given to every other party accompanied by a copy of each document to be offered:

(i) Bills or other documents evidencing charges incurred;

Official Note

The board of arbitrators may find a bill authentic, necessary and reasonable without extrinsic evidence but is not required to do so.

(ii) records of businesses, government departments, agencies or offices, subject to statutory restrictions, provided that these are records which would otherwise be admissible if authenticated by a custodian of records;

Official Note

The restrictions on the admissibility of evidence under this subparagraph are unique to the records specified and are not found elsewhere in subdivision (b).

(iii) records and reports of hospitals and licensed health care providers;

(iv) expert reports and descriptions of expert qualifications;

(v) written estimates of value, damage to, cost of repair of or loss of property; and

(vi) reports of rate of earnings and time lost from work or lost compensation prepared by an employer.

(2) If twenty days' advance notice of intention to offer documents in evidence was not given but copies of the documents were provided to the other parties at least twenty days in advance of the hearing or during discovery, the admissibility of the documents without authentication shall be in the discretion of the arbitrators upon a finding of the absence of prejudice.

(3) A document which is received into evidence under subparagraphs (1) or (2) may be used for only those purposes which would be permissible if the person whose testimony is waived by this rule were present and testifying at the hearing. The arbitrators shall disregard any portion of a document so received that would be inadmissible if the person whose testimony is waived by this rule were testifying in person.

(4) Any other party may subpoena the person whose testimony is waived by this rule to appear at or serve upon a party a notice to attend the hearing and any adverse party may cross-examine the person as to the document as if the person were a witness for the party offering the document. The party issuing the subpoena shall pay the reasonable fees and costs of the person subpoenaed to testify, including a reasonable expert witness fee if applicable.

(c) A written estimate of value, damage to, cost of repair of or loss of property shall be accompanied by a statement of the party offering it whether the property was repaired and, if it was, whether the repairs were made in full or in part and by whom, together with the bill therefor.

(d) A party may offer in evidence, without the certification required by Sections 5328 and 6103 of the Judicial Code, an official weather or traffic signal report or a standard United States Government life expectancy table. A party may also offer any other official record kept within the Commonwealth without such certification if the provisions of subdivision (b) are followed.

Rule 1306. Award.

The board shall make an award promptly upon termination of the hearing. The award shall dispose of all claims for relief and shall be substantially in the form set forth in Rule 1312. If damages for delay are awarded under Rule 238, the amount shall be separately stated. The award shall be signed by the arbitrators or a majority of them. A dissenting vote without further comment may be noted thereon. The award shall be filed with the prothonotary immediately after it is signed.

Rule 1307. Award. Docketing. Notice. Judgment. Molding the Award.

(a) The prothonotary shall

(1) enter the award of record upon the proper docket,

(2) immediately send by ordinary mail a copy of the award, with notice of the date and time of its entry on the docket and the amount of arbitrators' compensation to be paid upon appeal, to each party's attorney of record, or to the party if the party has no attorney of record, and

(3) note in the docket the date of mailing the notice.

(b) Rescinded.

(c) If no appeal is taken within thirty days after the entry of the award on the docket, the prothonotary on praecipe shall enter judgment on the award.

Official Note

Rule 3021(a)(3) requires the prothonotary to immediately enter in the judgment index a judgment entered on praecipe of a party.

(d) Where the record and the award disclose an obvious and unambiguous error in the award mathematics or language, the court, on application of a party within the thirty-day period allowed for appeal, may mold the award to the same extent and with the same effect as the court may mold the verdict of a jury. The filing of such an application shall stay all proceedings including the running of the thirty-day period for appeal until disposition of the application by the court. Any party may file a notice of appeal within the thirty-day appeal period prescribed by Rule 1308(a) or within ten days after disposition of the application, whichever is later.

Rule 1308. Appeal. Arbitrators' Compensation. Notice.

(a) An appeal from an award shall be taken by

(1) filing a notice of appeal in the form provided by Rule 1313 with the prothonotary of the court in which the action is pending not later than thirty days after the day on which the prothonotary makes the notation on the docket that notice of entry of the arbitration award has been provided as required by Rule 1307(a)(3), and

(2) payment to the prothonotary of the compensation of the arbitrators not exceeding fifty percent of the amount in controversy, which shall not be taxed as costs or be recoverable in any proceeding; provided that the court, in an appropriate case, upon petition may permit the appellant to proceed in forma pauperis.

Official Note

Subdivision (a)91) incorporates the holding of *Stellar Construction Inc. v. Ronald Sborz et al*, individually and trading as *Keystone Meats*, 748 A.2d 667 (Pa. 2000) with respect to the date upon

which the appeal period begins to run.

(b) The appellant shall provide the prothonotary with the required notice for mailing and properly stamped and addressed envelopes. The prothonotary shall give notice to each other party of the taking of the appeal. Failure to give the notice shall not invalidate the appeal.

(c) The appellant shall not be required to post any bond, recognizance or other security or to pay any record costs which have accrued in the action. All record costs shall abide the event.

Rule 1309. Parties to Appeal.

An appeal by any party shall be deemed an appeal by all parties as to all issues unless otherwise stipulated in writing by all parties.

Rule 1310. Discontinuance.

No appeal may be discontinued except by leave of court after notice to all parties or upon the filing of the written consent of all parties..

Rule 1311. Procedure on Appeal.

(a) The trial shall be de novo.

Official Note

Except as otherwise provided by Rule 1311.1, the provisions of Rule 1305 governing conduct of hearing shall not apply on appeal.

(b) An arbitrator may not be called to testify as to what transpired before the arbitrators.

Rule 1312. Form of Oath. Award and Notice of Entry of Award.

The oath, award of arbitrators and notice of entry shall be in substantially the following form:

(Caption)

OATH

We do solemnly swear (or affirm) that we will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that we will discharge the duties of our office with fidelity. _____ Chair _____

AWARD

We, the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award: (Note: If damages for delay are awarded, they shall be separately stated.) _____
_____ Arbitrator, dissents. (Insert name if applicable.) Date of Hearing: _____
Chair _____ Date of Award: _____

NOTICE OF ENTRY OF AWARD

Now, the day of , , at .M., the above award was entered upon the docket and notice thereof given by mail to the parties or their attorneys. Arbitrators' compensation to be paid upon appeal: _____
Prothonotary \$ _____ By: _____ Deputy

Rule 1313. Form of Notice of Appeal.

(a) The notice of appeal shall be in substantially the following form:

(Caption) NOTICE OF APPEAL FROM AWARD OF BOARD OF ARBITRATORS

TO THE PROTHONOTARY:

Notice is given that _____ appeals from the award of the board of arbitrators entered in this case on _____.

A jury trial is demanded (). [Check box if a jury trial is demanded. Otherwise jury trial is waived.]

I hereby certify that

(1) the compensation of the arbitrators has been paid,

or

(2) application has been made for permission to proceed in forma pauperis. (Strike out the inapplicable clause.) _____ Appellant or Attorney for Appellant

Official Note

The demand for jury trial on appeal from compulsory arbitration is governed by Rule 1007.1(b).

(b) No affidavit or verification is required.

Rule 1313. Form of Notice of Appeal.

(a) The notice of appeal shall be in substantially the following form:

(Caption) NOTICE OF APPEAL FROM AWARD OF BOARD OF ARBITRATORS

TO THE PROTHONOTARY:

Notice is given that _____ appeals from the award of the board of arbitrators entered in this case on _____.

A jury trial is demanded (). [Check box if a jury trial is demanded. Otherwise jury trial is waived.]

I hereby certify that

(1) the compensation of the arbitrators has been paid,

or

(2) application has been made for permission to proceed in forma pauperis. (Strike out the inapplicable clause.) _____ Appellant or Attorney for Appellant

Official Note

The demand for jury trial on appeal from compulsory arbitration is governed by Rule 1007.1(b).

(b) No affidavit or verification is required.

Rule 1314. Suspension of Acts of Assembly. Abolition of Practice and Procedure under Repealed Statutes.

After the effective date of these rules:

(1) all Acts or parts of Acts of Assembly inconsistent with these rules are suspended to the extent of such inconsistency; and

(2) the practice and procedure provided in all former Acts of Assembly governing compulsory arbitration, which have been repealed by the Judiciary Act Repealer Act (JARA), Act of April 28, 1978, No. 53, and which are now part of the common law of the Commonwealth by virtue of Section 3(b) of JARA, are hereby abolished and shall not continue as part of the common law of the Commonwealth.

Rule 1327. Confirming Arbitration Award.

Any party may file a motion to confirm an arbitration award which was entered by an arbitrator only if

(1) the party against whom an arbitration award is sought to be confirmed either

(i) attended a hearing before the arbitrator, or

(ii) signed a writing after the claim that is the basis for the arbitration award was filed with the arbitrator, agreeing to submit the claim to the arbitrator, or

Official Note

The writing under subparagraph (1)(ii) may provide for the arbitrator to decide the claim in a proceeding that does not involve a personal appearance before the arbitrator, such as a proceeding in which the hearing before the arbitrator involves only a review of documents submitted by the parties.

See Rule 1328 for the procedure to confirm an arbitration award entered as provided by either subparagraph (1)(i) or (ii).

(2) The arbitration award was entered following a court order or docket entry staying proceedings

pending arbitration as provided by Rule 1329.

Official Note

See Rule 1329 for the procedure to compel arbitration and to confirm the arbitration award.

Rule 1328. Motion to Confirm Arbitration Award as an Original Proceeding.

(a) Any party may file as an original proceeding a motion to confirm an arbitration award if the arbitration award was entered pursuant to Rule 1327(1). The motion to confirm such an award shall be filed in the county in which the defendant resides or has a place of business or, if there is no such county, then in the county in which the arbitration hearing was held.

(b) The motion shall begin with a notice substantially in the form prescribed by Rule 1331 and shall be served in the manner provided for service of original process in a civil action.

Official Note

Section 7317 of the Judicial Code, 42 Pa.C.S. § 7317, provides that, unless the parties otherwise agree, notice of an initial application for an order of court shall be served in the manner provided by law for the service of a writ of summons in a civil action.

(c) The motion shall contain factual allegations establishing that the arbitration award was entered pursuant to Rule 1327(1).

(d) A responding party who opposes the motion shall file an answer to the motion within thirty days after service of the motion.

(e) If the responding party does not file an answer, the prothonotary, upon praecipe of the moving party filed after the answer was due, shall enter judgment upon the arbitration award.

(f) If the responding party files an answer, the motion shall be decided pursuant to the court's procedures for deciding motions.

Rule 1329. Civil Action to Compel Arbitration. Motion to Confirm Arbitration Award as Ancillary to a Civil Action.

(a)(1) A plaintiff seeking to compel arbitration of a claim shall commence a civil action against the defendant. Except as otherwise provided by this rule, the procedure in the action shall be in accordance with the rules governing a civil action, including service of original process and venue.

Official Note

A defendant who seeks to compel arbitration of a claim for which a plaintiff is not seeking arbitration shall proceed by preliminary objection or a motion to compel arbitration.

(2) The complaint shall include an allegation that the claims raised in the complaint are subject to an agreement to submit these claims to arbitration.

(b) If the defendant fails to file a responsive pleading, the plaintiff may obtain a default judgment pursuant to Rules 237.1 and 1037.

(c)(1) If the defendant files an answer admitting that the claims are subject to arbitration, either party, within twenty days, may file a praecipe directing the prothonotary to enter on the docket a stay of proceedings pending arbitration.

(2) If the defendant files either preliminary objections or an answer denying that the claims are subject to arbitration, the plaintiff may within twentydays file a motion for a rule to show cause why arbitration should not be compelled. Except as otherwise provided by subdivision (d), the motion shall be governed by Rule 208.1 et seq.

Official Note

Rule 208.1 et seq. governs motion practice.

(d)(1) The motion for a rule to show cause why arbitration should not be compelled shall begin with a notice substantially in the form prescribed by Rule 1330 and shall be served pursuant to Rule 440. In the absence of a court order otherwise, the timely filing of the motion stays proceedings pending resolution of the motion.

(2) A defendant shall file an answer to the motion within twenty days after service of the motion. The answer shall set forth all of the defendant's objections to the arbitration including absence of a valid agreement to arbitrate the claims, lack of jurisdiction over the person of the defendant, improper venue or improper service of original process.

(3) If the defendant does not file an answer to the motion, the plaintiff, after the answer was due, may file a praecipe directing the prothonotary to enter on the docket a stay of proceedings pending arbitration.

(4) If the defendant files an answer, the motion shall be decided pursuant to the court's procedures for deciding motions. If the court grants the motion to compel arbitration, the court shall enter an order compelling the parties to proceed with arbitration and staying proceedings pending arbitration.

(e)(1) Any party may file a motion to confirm an arbitration award entered following a court order or docket entry staying proceedings pending arbitration. The motion to confirm shall be filed as an ancillary proceeding to the pending civil action.

Official Note

The motion to confirm will be filed with the court at the number of the action required by Rule 1329.

(2) The motion shall begin with a notice substantially in the form prescribed by Rule 1331 and shall be served pursuant to Rule 440.

(3) A responding party who opposes the motion shall file an answer to the motion within thirty days after service of the motion.

(4) If the responding party does not file an answer, the prothonotary, upon praecipe of the moving party filed after the answer was due, shall enter judgment upon the arbitration award.

(5) If the responding party files an answer, the motion shall be decided pursuant to the court's procedures for deciding motions.

Rule 1330. Notice Required by Rule 1329(d)(1). Form.

The notice required by Rule 1329(d)(1) shall be substantially in the following form:

(Caption)

Notice to File Answer

The motion attached to this notice asks the court to enforce an agreement to submit claims to arbitration. If you oppose submission of this claim to arbitration, you must file an answer to the motion with the Prothonotary within twenty (20) days of mailing or other service of this notice. If you fail to respond, this case will proceed to arbitration and may result in the entry of a money judgment against you.

Official Note

A court may by local rule require the notice to be repeated in one or more designated languages other than English.

Rule 1331. Notice Required by Rules 1328(b) and 1329(e)(2). Form.

The notice required by Rules 1328(b) and 1329(e)(2) shall be substantially in the following form:

(Caption)

Notice to File Answer

A party to these proceedings has filed a motion to confirm an arbitration award. If you oppose the motion, you are required to file an answer to the motion within thirty (30) days from the date below setting forth your objections to the motion. If you fail to file an answer, a money judgment based on the arbitration award may be entered against you without further notice. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

_____ (Name)

_____ (Address)

_____ (Telephone Number)

Date of mailing or other service:

Party Filing Motion

Official Note

A court may by local rule require the notice to be repeated in one or more designated languages other than English.