

JAMS Class Action Procedures

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Rule 1. Applicability

(a) These Class Action Procedures (“Procedures”) shall apply to any dispute arising out of an agreement that provides for arbitration pursuant to any of the JAMS Arbitration Rules where a party submits a dispute to arbitration on behalf of or against a class or purported class, and shall supplement any other applicable JAMS Rules. These Procedures shall also apply whenever a court refers a matter pleaded as a class action to JAMS for administration, or when a party to a pending JAMS arbitration asserts new claims on behalf of or against a class or purported class.

(b) Where inconsistencies exist between these Procedures and other JAMS Rules that apply to any dispute, these Procedures shall control. The Arbitrator has the authority to resolve any inconsistency between any agreement of the parties and these Procedures and in doing so shall endeavor to avoid any prejudice to the interests of absent members of a class or purported class.

Rule 2. Construction of the Arbitration Clause

Once appointed, the Arbitrator shall determine as a threshold matter whether the applicable arbitration clause permits the arbitration to proceed on behalf of or against a class. In construing the applicable arbitration clause, the Arbitrator shall not consider the existence of these Supplementary Rules to be a factor either in favor of or against permitting the arbitration to proceed on a class basis.

The Arbitrator may set forth his or her determination in a partial final award subject to immediate court review.

Rule 3. Class Certification

(a) Prerequisites to a Class Arbitration.

The Arbitrator shall determine whether the arbitration should proceed as a class action, provided that:

- (i) the Arbitrator is satisfied that the arbitration clause permits the arbitration to proceed as a class arbitration, as provided in rule 2; or
- (ii) a court has ordered that an Arbitrator determine whether a class arbitration may be maintained.

In making that determination, the Arbitrator shall consider the criteria enumerated in this Rule 3 and any law or agreement of the parties that the Arbitrator determines applies to the arbitration. The Arbitrator also shall determine whether one or more members of a class may act in the arbitration as representative parties on behalf of all members of the class described. The Arbitrator shall permit a class member to serve as a representative only if all of the following conditions are met:

- (1) the class is so numerous that joinder of all members is impracticable,
- (2) there are questions of law or fact common to the class,
- (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and
- (4) the representative parties will fairly and adequately protect the interests of the class.

(b) Class Actions Maintainable.

An action may be maintained as a class action if the prerequisites of subdivision (a) are satisfied, and in addition:

- (1) the prosecution of separate actions by or against individual members of the class would create a risk of (A) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or (B) adjudications with respect to individual members of the class that would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; or
- (2) the party opposing the class has acted or refused to act on grounds generally appli-

cable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole; or

(3) questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and a class action is superior to other available methods for the fair and efficient adjudication of the controversy. The matters pertinent to the findings include: (A) the interest of members of the class in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already commenced by or against members of the class; (C) the desirability or undesirability of concentrating the arbitration of the claims in a single forum; (D) the difficulties likely to be encountered in the management of a class action.

(c) In the discretion of the Arbitrator, his or her determinations with respect to the matter of Class Certification may be set forth in a partial final award subject to immediate court review.

Rule 4. Notice of Class Determination

The Arbitrator shall direct that class members be provided the best notice practicable under the circumstances (the "Notice of Class Determination"). The Notice of Class Determination shall be given to all members who can be identified through reasonable effort. The Notice of Class Determination must concisely and clearly state in plain, easily understood language:

- (1) the nature of the action;
- (2) the definition of the class certified;
- (3) the class claims, issues, or defenses;
- (4) that a class member may enter an appearance through counsel if the member so desires, and may attend the hearings;
- (5) that the Arbitrator will exclude from the class any member who requests exclusion, with information about when and how members may elect to be excluded;
- (6) the binding effect of a class award on class members; and
- (7) the identities of, and biographical information about, the Arbitrator, and the class

representative(s) and class counsel that have been approved by the Arbitrator to represent the class.

Rule 5. Final Award

The final award on the merits in a class arbitration, whether or not favorable to the class, shall be reasoned and shall define the class with specificity. The final award shall also specify or describe those to whom the notice provided in Rule 4 was directed, those whom the Arbitrator finds to be members of the class, and those who have elected to opt out of the class.

Rule 6. Settlement, Voluntary Dismissal, or Compromise

(a) (1) Any settlement, voluntary dismissal, or compromise of the claims, issues, or defenses of an arbitration filed as a class arbitration shall not be effective unless approved by the Arbitrator.

(2) The Arbitrator must direct that notice be provided in a reasonable manner to all class members who would be bound by a proposed settlement, voluntary dismissal, or compromise.

(3) The Arbitrator may approve a settlement, voluntary dismissal, or compromise that would bind class members only after a hearing and a finding that the settlement, voluntary dismissal, or compromise is fair, reasonable, and adequate.

(b) The parties seeking approval of a settlement, voluntary dismissal, or compromise under this Rule must submit to the Arbitrator any agreement made in connection with the proposed settlement, voluntary dismissal, or compromise.

(c) The Arbitrator may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(d) Any class member may object to a proposed settlement, voluntary dismissal, or compromise that requires approval under this Rule. Such an objection may be withdrawn only with the approval of the Arbitrator.