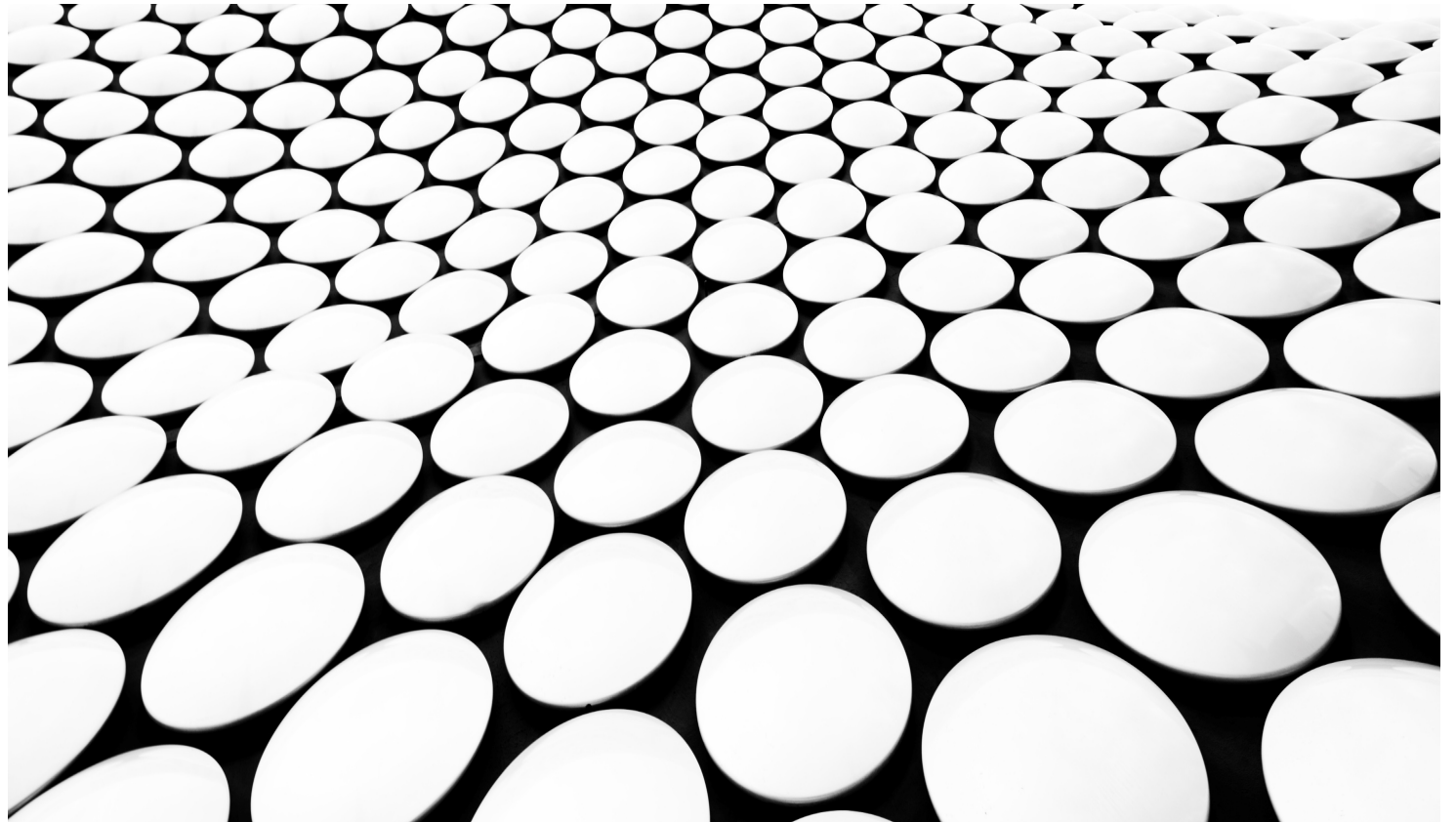


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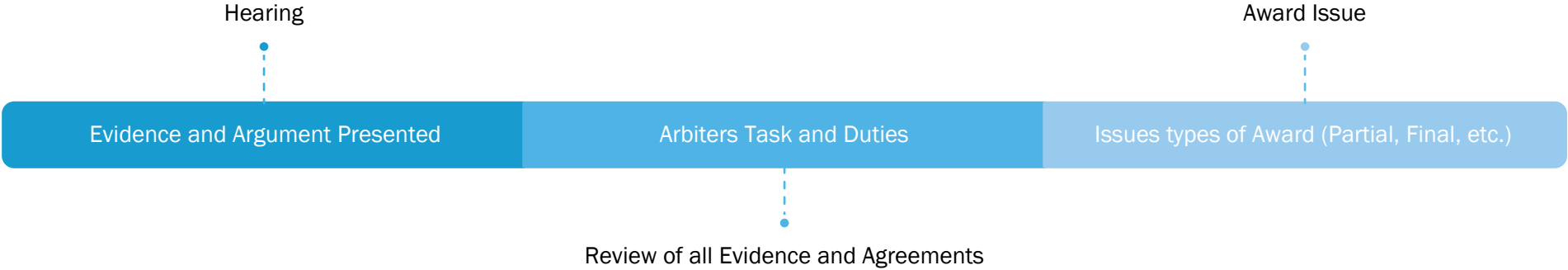
ARBITRATION AWARD TYPICAL PROCESSES

ADR ACADEMY (ADRA)





TYPICAL PROCESS





TYPES OF AWARDS

Interim Award – This is a temporary award until the tribunal has given its final decision. A provisional award can only be made if the parties have agreed that “the tribunal may have the power to order on a provisional basis any relief which it would have power to grant in a final award” (s.39 Arbitration Act 1996).

This includes;

making a provisional order for the payment of money or the disposition of property as between the parties; or
an order to make an interim payment on account of the costs of the arbitration

Partial Award – Some elements of the parties’ claim have been determined but other issues remain and need to be resolved before the final award is made. Parties can continue arbitrating the remaining issues.

Consent Award – Usually the parties have reached a settlement and agreed to terms which are then incorporated into an award which can be enforced similar to a Judgment by consent. A consent award enables one party to take enforcement proceedings when another party fails to comply with the terms of the settlement. Consent awards usually expedite the conclusion of arbitration proceedings.

TYPES OF AWARDS

Performance Award – It is most common to see awards made in monetary terms, however, a party can be ordered to perform specific works, hand over goods or rights. For example, a contractor may be required to carry out remedial works in a building to ensure work is finished to the quality required. The difficulty is that these types of award create grounds for further dispute. An arbitrator should award a monetary award where possible in these instances to avoid escalation of conflict.

Draft Award -This is not binding on the parties until it has been confirmed by the tribunal.

Final Award – This should usually be in writing and signed by all the arbitrators. The award must contain reasons and state where the arbitration took place. It must also be dated (this is important for calculating interest on payments). Once the final award is made this ends proceedings.

Additional Award – Usually once the final award is made, the tribunal has no further authority. However, the parties can request an additional award be made on an undecided issue still in dispute.

HOW DO I DECIDE WHO PREVAILS

- By the End of the hearing, you should have a sense as to which party prevails
- Review your hearing notes and the document that parties. Including post hearing briefs.
- If you are a member of a three-person panel, you should have discussion with your panel members to arrive at a joint decision.

HOW CAN I UNDERSTAND THE LEGAL ISSUES IF I AM NOT AN ATTORNEY

It is the responsibility of the parties and their attorneys to present their position to the arbitrator in a manner that the arbitrator is able to understand.

If there are Legal issues that the parties believe is critical to the case, require them to explain it to you, either orally or in writing.

If there are court decision that they believe are applicable request copies and have the parties highlight or underline the relevant

Do not be intimidate! Legal brief can be submitted before or during the hearing or as post hearing briefs

WHEN MUST I RENDER MY AWARD?

- The rules of most administering or organizations specify a period of thirty from the close of the hearing(after closing arguments or receipt of post hearing briefs)
- Time to render an award can also be specified in the parties agreement to arbitrate.

WHAT IS THE FORMAT OF THE AWARD?

- The arbitrator's award is not a lengthy documents.
- It states the amount that the claimant and respondent recover on their claims and counter claims, or that the claim or counter claim is denied.
- A date should be specified in the award for interest to commence if the award is to be paid by a certain date.
- The award also designates the party or parties who bears the administrative cost of the arbitration and the arbitrator's compensation. (usually, these costs are borne equally.
- No reasoning is given for the award.

WHAT IF I AM REQUIRED TO WRITE AN OPINION THAT INCLUDES THE REASONS FOR MY AWARD?

- The arbitration clause in the contract may require a written opinion. You should be aware of this before accepting the appointment as the arbitrator.
- When not indicated. Do not given an opinion. Discourage the patties to get one as it can be lightly.
- If there are multiple claims – suggest an itemized award which grants or denies each claims item with out further explanation.
- An opinion can be lengthy. If you are rendering a written opinion, you should include in your compensation agreement a clause which stipulates payment for writing the opinion.

WHO PAYS THE LEGAL FEES?

- Usually, the parties bear their own legal fees, regardless of who prevails in the lawsuit or arbitration.
- Exemption:
 - The contract between the parties may state in the event of litigation or arbitration
 - The non-prevailing party will pay the prevailing party's legal fee
- There are lawsuits that allow for the prevailing party to recover legal fees.
 - Because there is an request does not mean that there is a basis for awarding legal fees.
 - Request that the requesting party clearly set forth the basis for such request
 - Request them to provided evidence supporting the incurrence and basis of the fee.



SAMPLES

Sample Template

Arbitration Award

In the Arbitration Between Claimant and Respondent

I (we), _____, the arbitrator (s), in this matter, having been sworn and having heard the testimony and other proofs of the parties, AWARD as follows:

Respondent shall pay to Claimant the sum of \$_____ due on Claimant's claim against Respondent. [Claimant's claim is denied]

Claimant shall pay to Respondent the sum of \$_____ due on Respondent's counterclaim against Claimant. [Respondent's counterclaim is denied]

[Depending on which amount is greater], Claimant [Respondent] shall pay Respondent [Claimant] the balance of \$_____, within days of the date of this award, and thereafter to bear interest at the rate of _ % until paid.

The administrative fees and expenses of the [administering organization] shall be paid by [Claimant, Respondent, equally or whatever proportion the arbitrator designates.] The compensation of the arbitrator(s) shall be paid by [Claimant, Respondent, equally or whatever proportion the arbitrator designates.]

THIS AWARD IS IN FULL SETTLEMENT AND SATISFACTION OF ALL CLAIMS AND COUNTERCLAIMS SUBMITTED TO THIS ARBITRATION.

Arbitrator

Date



ARBITRATOR NAME, ADDRESS, TELEPHONE, FAX AND EMAIL [REDACTED]	STATE BAR NUMBER [REDACTED]	Reserved for stamp
RESOLUTE MEDIATION & ARBITRATION INC., ORLANDO, FLORIDA		
301 East Pine Street, Suite 150, Orlando, FL 32801		
PLAINTIFF: [REDACTED]		
DEFENDANT: [REDACTED]		
AWARD OF ARBITRATOR		CASE NUMBER [REDACTED]

INSTRUCTIONS TO ARBITRATOR: In order that this Award may be entered as Judgment, all information must be clear, complete and accurate. Please specify: the full names of all parties (as they appear on the complaint) in the body of the Award; for whom and against whom the award is rendered; precise dollar amounts for all money awards; and a disposition as to each party named on the complaint and any cross-complaint(s).

The undersigned Arbitrator, appointed pursuant to Section [REDACTED], Code of Civil procedure and Rule [REDACTED], Florida Rules of Court, having been duly sworn, and having heard the above cause on (date) enter date., and considered the evidence, awards as follows:

IN FAVOR OF: (Show FULL names)		AND AGAINST: (Show FULL names)			
1. [REDACTED]		[REDACTED]			
2. [REDACTED]		[REDACTED]			
3. [REDACTED]		[REDACTED]			
4. [REDACTED]		[REDACTED]			
MONEY AWARD FOR ABOVE PARTIES	PRINCIPAL	INTEREST	ATTORNEY FEES	COSTS	TOTAL
1. [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
2. [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
3. [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
4. [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

Pages attached for additional parties: [REDACTED]

Total volunteer hours (including travel time): [REDACTED]

Dated: enter date.

[REDACTED]
(TYPE OR PRINT NAME)

[REDACTED]
(SIGNATURE OF ARBITRATOR)

IMPORTANT!
PURSUANT TO FLORIDA RULES OF COURT, RULE [REDACTED], THIS AWARD WILL BECOME A JUDGMENT THIRTY (30) DAYS AFTER ITS FILING IF NO PARTY HAS FILED A REQUEST FOR TRIAL (DE NOVO) WITH PROOF OF SERVICE.
SATISFACTION OF JUDGMENT MUST BE FILLED WITH THE CLERK OF THE COURT WHEN PAID IN FULL.

(NAME), Executive Officer / Clerk

☐ Trial de Novo filled by:
☐ Plaintiff ☐ Defendant ☐ Other [REDACTED] on: [REDACTED]



- Question ?