
**LOCAL RULES OF COURT
FROM THE US DISTRICT COURT, FLORIDA, MIDDLE DISTRICT
[CHAPTER EIGHT]**

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TBD 0.080

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CHAPTER EIGHT | LOCAL RULES OF COURT | USFLMD

RULES: 8.01 through 8.06

TITLE: COURT ANNEXED ARBITRATION

Rule 8.01 | ARBITRATION

(a) It is the purpose of the Court, through adoption and implementation of this rule, to provide an alternative mechanism for the resolution of civil disputes in accord with 28 U.S.C. Sections 651-658.

(b) The Chief Judge shall certify those persons who are eligible and qualified to serve as arbitrators under this rule. An individual may be certified to serve as an arbitrator under this rule if admitted to The Florida Bar for at least five (5) years, admitted to practice before this Court, and determined by the Chief Judge competent to perform the duties of an arbitrator. An advisory committee or committees comprised of members of the bar in each Division of the Court, respectively, may be constituted to assist the Chief Judge in screening applicants and aiding in the formulation and application of standards for selecting arbitrators.

(c) Each individual certified as an arbitrator shall take the oath or affirmation prescribed by 28 U.S.C. Section 453 before serving as an arbitrator. Depending upon the availability of funds from the Administrative Office of the United States Courts, or other appropriate agency, arbitrators may be compensated for their services in such amounts and in such manner as the Chief Judge shall specify from time to time. No arbitrator shall charge or accept for services any fee or reimbursement from any other source. Any member of the bar who is certified and designated as an arbitrator pursuant to these rules shall not for that reason be disqualified from appearing and acting as counsel in any other case pending before the Court.

Rule 8.02 | CASES FOR ARBITRATION

(a) Any civil action may be referred to arbitration in accordance with this rule if the parties consent in writing to arbitration, except that referral to arbitration may not occur if:

(1) the action is based on an alleged violation of a right secured by the Constitution of the United States:

(2) jurisdiction is based in whole or in part on 28 U.S.C. Section 1343; or

(3) the relief sought consists of money damages in an amount greater than \$150,000.

(b) No party or attorney can be prejudiced for refusing to participate in arbitration by consent.

Rule 8.03 | REFERRAL TO ARBITRATION

Within twenty-one (21) days after referral to arbitration, the Court shall select three (3) certified arbitrators to conduct the arbitration proceedings. Not more than one member or associate of a firm or association of attorneys shall be appointed to the same panel of arbitrators. Any person selected as an arbitrator may be disqualified for bias or prejudice as provided in 28 U.S.C. Section 144, and shall disqualify himself in any action in which he would be required to do so if he were a justice, judge, or magistrate judge governed by 28 U.S.C. Section 455.

Rule 8.04 | ARBITRATION HEARING

(a) Immediately upon selection and designation of the arbitrators pursuant to Rule 8.03, the Clerk shall communicate with the parties and the arbitrators in an effort to ascertain a mutually convenient date for a hearing, and shall then schedule and give notice of the date and time of the arbitration hearing which may be held in space provided in the United States Courthouse. The hearing shall be scheduled within ninety (90) days from the date of the selection and designation of the arbitrators on at least twenty-one (21) days notice to the parties. Any continuance of the hearing beyond that ninety (90) day period may be allowed only by order of the Court for good cause shown.

(b) At least fourteen (14) days prior to the arbitration hearing each party shall furnish to every other party a list of witnesses, if any, and copies (or photographs) of all exhibits to be offered at the hearing. The arbitrators may refuse to consider any witness or exhibit which has not been so disclosed.

(c) Individual parties or authorized representatives of corporate parties shall attend the arbitration hearing unless excused in advance by the arbitrators for good cause shown. The hearing shall be conducted informally; the Federal Rules of Evidence shall be a guide, but shall not be binding. It is contemplated by the Court that the presentation of testimony shall be kept to a minimum, and that cases shall be presented to the arbitrators primarily through the statements and arguments of counsel.

(d) Any party may have a recording and transcript made of the arbitration hearing at the party's expense.

Rule 8.05 | ARBITRATION AWARD AND JUDGMENT

(a) The award of the arbitrators shall be filed with the Clerk within fourteen (14) days following the hearing, and the Clerk shall give immediate notice to the parties. The award shall state the result reached by the arbitrators without necessity of factual findings or legal conclusions. A majority determination shall control the award.

(b) At the end of thirty (30) days after the filing of the arbitrator's award the Clerk shall enter judgment on the award if no timely demand for trial de novo has been made. If the parties have previously stipulated in writing that the award shall be final and binding, the Clerk shall enter judgment on the award when filed.

(c) Pursuant to 28 U.S.C. Section 657(b), the contents of any arbitration award shall be sealed and shall remain unknown to any judge assigned to the case --

(1) Except as necessary for the Court to determine whether to assess costs or attorney fees under 28 U.S.C. Section 655 or

(2) Until the District Court has entered final judgment in the action or the action has been otherwise terminated, at which time the award shall be unsealed.

Rule 8.06 | TRIAL DE NOVO

(a) Within thirty (30) days after the filing of the arbitration award with the Clerk, any party may demand a trial *de novo* in the District Court. Written notification of such a demand shall be filed with the Clerk and a copy shall be served by the moving party upon all other parties.

(b) Upon a demand for a trial *de novo* the action shall be placed on the calendar of the Court and treated for all purposes as if it had not been referred to arbitration, and any right of trial by jury shall be preserved inviolate.

(c) At the trial *de novo* the Court shall not admit evidence that there has been an arbitration proceeding, the nature or amount of the award, or any other matter concerning the conduct of the arbitration proceeding, except that testimony given at an arbitration hearing may be used for any purpose otherwise permitted by the Federal Rules of Evidence, or the Federal Rules of Civil Procedure.

(d) No penalty for demanding a trial *de novo* shall be assessed by the Court.

APPENDIX

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