



Colorado Mediators & Arbitrators Med-Arbitration Rules of Procedure

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Introduction

Colorado Mediators & Arbitrators™ (COMA) provides timely dispute resolution that is affordable. The following procedures were written in simple language and organized in a way that can be easily referenced throughout the tenure of the case. Colorado Mediators & Arbitrators offers an accessible means of resolving disputes by embracing and promoting the traditional values of arbitration: affordability, expediency, and equity.

Administrative Procedures

Rule S-1. Administrative Services

When parties agree to mediate or med-arbitrate utilizing these rules, they thereby authorize Colorado Mediators & Arbitrators to administer all services:

1. Receiving the initial submission agreement and responses from the parties
2. Addressing procedural questions and concerns
3. Appointing mediator or med-arbitrator: the med-arbitrator may address parties' procedural questions ex-parte
4. Disbursing the required med-arbitrator oath and disclosures to the parties
5. Scheduling mediation, med-arbitration, and facilities
6. Managing timeliness of fees; notifying all parties when fees have not been received
7. Delivering med-arbitration award to the parties and/or legal counsel
8. Retaining documentation submitted directly to COMA for one (1) year after the closing of med-arbitration when an award is delivered

Rule S-2. Agreement of the Parties

The parties shall be deemed to have made these rules a part of their med-arbitration agreement upon submission of their case for med-arbitration by the Colorado Mediators & Arbitrators. The rules in place at the time of the initial submission agreement shall govern.

Rule S-3. Limitation of Liability

Colorado Mediators & Arbitrators, its agents and any med-arbitrator or mediator assigned to a matter shall not be liable for any act or omission in connection with a case administered pursuant to these rules.

Rule S-4. Non-use of Legal Proceedings

No party shall, during the med-arbitration of any matter, prosecute or commence any suit, action, or proceeding against any other party touching upon any of the matters referred to pursuant to these rules.

Rule S-5. Fees

1. Colorado Mediators & Arbitrators demonstrates fairness and neutrality to the parties beginning with the administrative fees. COMA's administrative fees are evenly divided between the claimant and respondent.

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2. Each party shall bear their own costs of preparing documentation, mailing or delivery fees, process service, photocopying, and printing prior to mediation or med-arbitration, and during each session.
3. Fee schedules appear in a supplement to these rules. *The Fee Agreement Terms and Conditions* are incorporated into the fee schedule upon filing the submission agreement or response.
4. If fees have not been paid in full according to the fee agreement terms and conditions, Colorado Mediators & Arbitrators may inform the parties in order that one of them may advance the required payment. If such payments are not made within 10 business days after notification, the case may be suspended or terminated.
5. An additional filing fee shall not be charged if parties to a COMA-administered mediation request conversion to med-arbitration.
6. The Mediation Fee Schedule shall apply to Med-Arbitration.

Med-Arbitration Rules

Rule MA-1. Purpose of Med-Arbitration Proceedings

Med-Arbitration is a form of dispute resolution that combines the self-determination of mediation with the finality of arbitration. In the initial stage of a Med-Arbitration proceeding, the parties attempt to reach a voluntary settlement through negotiation that is facilitated by a single, neutral Med-Arbitrator. If settlement is not reached, the parties are given a full and fair hearing by the same Med-Arbitrator. After considering the evidence and testimony presented, the Med-Arbitrator shall render a simple written decision which is binding on the parties.

Rule MA-2. Med-Arbitration Submission and Conversion

1. A Med-Arbitration Submission Agreement may be filed in any case where mediation is required and where all parties are in agreement.
2. A Med-Arbitration Conversion Agreement may be filed jointly by the parties after the Mediation Submission Agreement has been filed and responded to.
3. The mediator assigned to a mediation case may suggest med-arbitration as an option for guaranteed settlement.

Rule MA-3. Appointment of Med-Arbitrator

The Med-Arbitrator is appointed by Colorado Mediators & Arbitrators. If the case is converted from mediation to med-arbitration, the same mediator shall remain on the case in the new role as Med-Arbitrator.

Rule MA-4. Communications between Parties and Med-Arbitrator

Parties have a duty to read all mediation and med-arbitration procedures upon submission of the case. Procedural questions may be submitted to the med-arbitrator via email with a carbon copy to all parties involved. The med-arbitrator has no responsibility to respond to questions that are plainly addressed in the procedural rules. Questions posed by one or more parties that are not addressed in the procedural rules shall be addressed by the med-arbitrator with a carbon copy to all parties involved.

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Rule MA-5. Representation by Counsel

All parties shall have the right to representation by persons of the party's choice or legal counsel at any stage of the proceedings. Legal counsel shall file an entry of appearance with COMA and all parties within two (2) days of being retained, but not less than five (5) days prior to a scheduled teleconference or med-arbitration. A scheduled teleconference or med-arbitration shall be rescheduled if the entry of appearance is filed within five (5) days. The arbitrator may, in his or her sole discretion, assign all associated costs of rescheduling resulting from untimely entry of appearance to the party(s) retaining such counsel. Postponements shall not exceed 14 days due to the entry of appearance of legal counsel.

Rule MA-6. Mediation Statements, Documentation, and Exhibits

Any mediation statements, documentation, and exhibits must be presented simultaneously to the mediator and the other parties in med-arbitration proceedings.

Rule MA-7. Scheduling

A minimum 3 hour block of time shall be scheduled, whether used in part or in whole. The Mediation process shall be immediately followed by the Arbitration hearing as a continuous, uninterrupted process unless unanimously agreed otherwise by the parties.

Rule MA-8. Confidentiality

1. A written, audio, video or visual record of mediation shall not be made.
2. Med-arbitration awards shall not be published by Colorado Mediators & Arbitrators.

Rule MA-9. Conduct of Session

1. The initial step in Med-Arbitration is a mediation session in which all parties and the med-arbitrator are present together. No ex-parte (private) sessions with the med-arbitrator shall be held. If the parties are able to reach a voluntary settlement of their dispute during the mediation, the terms and conditions of the settlement shall be reduced to writing by the med-arbitrator in the form of an award, signed by the arbitrator and delivered to the parties either immediately or within 10 days of the med-arbitrator session. The proceedings shall then be closed.
2. Lack of settlement in mediation shall trigger the commencement of an arbitration hearing in which the parties are given a full and fair hearing by the med-arbitrator.
 - a. Opening statements will begin with the claimant(s) proceeding first, followed by the respondents. Rebuttal is not permitted during opening statements.
 - b. Presentation of the claimant's case will be followed by the respondent's presentation. This practice may be varied to allow for each witness to be examined in one contiguous stretch, with time for breaks allowed, so that such witness would not have to be recalled for presentation in another party's case.
 - c. Closing arguments will be first presented by the claimant(s), followed by the respondent(s). Rebuttal argument is permitted during closing arguments. Claimants may reserve their entire closing for rebuttal.

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- d. The hearing procedures may be varied in the discretion of the med-arbitrator, provided all parties are allowed a full and fair opportunity to present their respective cases.

Rule MA-10. Attendance at Med-Arbitration

The attendance of persons other than the parties and their representatives during the hearing phase of the med-arbitration, including witnesses, shall be determined by the med-arbitrator. However, all parties to the med-arbitration and their counsel shall attend the hearing.

Rule MA-11. Simple, Written Award

1. The med-arbitrator may render an oral bench decision if comfortable doing so, followed by a simple, written award. The med-arbitrator shall endeavor to render a simple award within five (5) days of the close of the med-arbitration hearing. All awards shall be in writing and signed by the med-arbitrator in such manner as is required by applicable law. Such awards may be entered as a judgment in any court of competent jurisdiction.
2. Unless the applicable law directs otherwise, all awards rendered pursuant to these procedural rules shall be deemed final and not subject to review or appeal.
3. Colorado Mediators & Arbitrators will serve a copy of the award on each party, or the representative of the party. Colorado Mediators & Arbitrators will serve the award by using any method available and convenient to the parties, and that is reasonably expected to cause the award to be delivered to all parties, or their counsel, on the same day. Methods Colorado Mediators & Arbitrators may use include, but are not limited to, registered or certified mail, hand delivery, and facsimile or other electronic transmission.
4. The award shall contain the names of the parties, the name of counsel, if any, a summary of the issues in controversy, the damages and other relief requested, the damages and other relief awarded, a statement of any other issues resolved, the name and signature of the med-arbitrator, the dates the claim was filed and the award rendered, the number and dates of hearing sessions, and the location of the hearings.
5. All monetary awards shall be paid within thirty (30) days of receipt unless a motion to vacate has been filed with a court of competent jurisdiction. An award shall bear statutory interest from the date of the award:
 - a. if not paid within thirty (30) days of receipt,
 - b. if the award is the subject of a motion to vacate which is denied, or
 - c. as specified by the med-arbitrator in the award.

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