

Executive Summary

JAMS EFFICIENCY GUIDELINES FOR THE PRE-HEARING PHASE OF INTERNATIONAL ARBITRATIONS

Effective February 1, 2011

JAMS and JAMS International have adopted “Efficiency Guidelines for the Pre-Hearing Phase of International Arbitrations” to assure parties around the world that an international arbitration before JAMS or JAMS International will be conducted in accordance with internationally accepted standards and practices, and will be a fair, focused and cost-effective proceeding. As used herein, “JAMS International” shall refer to either JAMS or JAMS International, whichever is the administering body.

THE KEY ELEMENT: AN ARBITRATOR’S SOUND JUDGMENT AS INFORMED BY AN INTERNATIONAL PERSPECTIVE.

In international matters, JAMS arbitrators adapt pre-hearing disclosure for each case while adhering to a strong presumption against pre-hearing disclosure levels that might be expected in a U.S. court. Exhibit A to the Guidelines lists factors JAMS International arbitrators consider when imposing limits on disclosure.

EARLY ATTENTION TO THE PRE-HEARING PROCESS. JAMS International arbitrators understand the importance of establishing ground rules governing an arbitration early. They study the facts and issues and prepare to preside over the early stages of the case. This includes placing meaningful limitations on pre-hearing disclosure, including the strong presumption against the use of discovery devices, such as depositions.

WRITTEN WITNESS STATEMENTS. In international arbitrations, the use of written witness statements in lieu of direct testimony is a common and broadly accepted practice, and JAMS International arbitrators encourage the use of such statements.

E-DISCOVERY. Pre-hearing disclosure of information in electronic form will be narrowly circumscribed to promote efficiency while allowing parties to obtain necessary and pertinent evidence. JAMS International arbitrators are trained to deal with the technological issues that arise in connection with electronic data, and will deny requests for electronic discovery where the cost and burden of production is disproportionate to the complexity of the dispute or to the amount in controversy.

DISPUTES REGARDING PRE-HEARING DISCLOSURES. JAMS International arbitrators encourage the consensual resolution of disclosure disputes. In doing so, they promote the prompt and efficient resolution of such disputes in a manner that does not impede the progress of the case.

DISPOSITIVE MOTIONS. Dispositive motions can sometimes enhance the efficiency of an arbitration if addressed to discrete legal issues. Broader motions, accompanied by lengthy submissions, often raise issues of fact and may affect the scope and efficiency of the process. In order to avoid such delay, a JAMS arbitrator in an international case will typically pre-screen a proposed dispositive motion and will either reject its filing or place limits on the briefing permitted.

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