



JAMS Mass Arbitration Procedures and Guidelines

Effective May 1, 2024

These Mass Arbitration Procedures and Guidelines (“Procedures”) are intended to facilitate the fair, expeditious and efficient resolution of Mass Arbitrations, as defined in Procedure 1(c) hereof.

The filing of dozens, hundreds or even thousands of individual claims may create administrative burden and onerous fees, as well as delay and potential unfairness to all Parties, all of which may impair the integrity of the Arbitration process. To alleviate that burden and those concerns, JAMS has determined that certain proceedings may benefit from the designation of a Process Administrator, as defined in Procedure 3 of these Procedures, but only where the Parties have agreed to the application of these Procedures in a pre- or post-dispute written agreement. When these Procedures are in effect, filing and other fees and expenses are billed according to the applicable Mass Arbitration Fee Schedule, and the Process Administrator’s compensation is at the rate set forth in the Process Administrator’s General Fee Schedule.

The focus of these Procedures is on leveraging administrative and procedural decision-making. The authority and duties of JAMS, as prescribed in the Agreement of the Parties, are typically carried out by administrative staff, the National Arbitration Committee (“NAC”) or the office of JAMS General Counsel or their designees. Under these Procedures, JAMS designates a Process Administrator to carry out those functions so that the Process Administrator can work with the Parties, and make such determinations as necessary, to set a procedure for the hearing of the Mass Arbitration claims by the Arbitrator(s), consistent with the core arbitration values of efficiency and fairness. Unlike other providers, JAMS does not include either mandatory mediation or test cases in these Procedures. While mediation is always encouraged, the impetus of these Procedures is to enable the Process Administrator to work with the Parties to design a reasonable process so that cases can be heard as soon as practicable.

Procedure 1

Scope of Procedures

(a) These Procedures shall apply to Mass Arbitrations, as defined in Procedure 1(c) hereof, that are administered by JAMS, provided the Parties have agreed to the application of these Mass Arbitration Procedures and Guidelines in a pre- or post-dispute written agreement.

(b) These Procedures, and decisions of the Process Administrator hereunder, supplement the Arbitration Rules that otherwise apply, except that where inconsistencies exist between these Procedures or the Process Administrator’s decisions, on the one hand, and the applicable Arbitration Rules or JAMS Minimum Standards, on the other, the Process Administrator has the authority to determine whether these Procedures and decisions hereunder shall control.

(c) For purposes of these Procedures, a Mass Arbitration is defined as 75 or more similar Demands for Arbitration, or such other amount as is specified in the Parties' agreement(s), filed against the same Party or related Parties by individual Claimants represented by either the same law firm or law firms acting in coordination.

(d) Once designated, the Process Administrator, as defined in Procedure 3 hereof, operates as the designee of the NAC and performs functions typically performed by the NAC, as further set forth in Procedure 3. The Process Administrator may consult with JAMS after designation.

(e) JAMS may, in its discretion, assign the Mass Arbitration to a Process Administrator based out of any of its Resolution Centers.

(f) JAMS may amend these Procedures without notice. The Procedures in effect when the first Demands are filed shall apply to the Mass Arbitration unless the NAC or the Process Administrator, if designated, determines otherwise.

(g) If any of these Procedures is determined to be in conflict with a provision of applicable law, the provision of law will govern over the Procedure in conflict, and no other Procedure will be affected.

(h) These Procedures do not apply to class action arbitrations.

Procedure 2

Filing Requirements

(a) A Demand for Arbitration Form and applicable arbitration agreement must be submitted for each Claimant.

(b) Each Demand must include the first and last name, physical address and email address of the Claimant, as well as representative information.

(c) Each Demand also must be accompanied by a sworn declaration from counsel averring that the information in the Demand is true and correct to the best of the representative's knowledge.

(d) The time for filing Answers, Counterclaims, and Amended Claims will be determined at the initial administrative conference referred to in Procedure 3(c) hereof or as soon as practicable thereafter.

Procedure 3

Process Administrator

(a) JAMS may designate a Process Administrator to hear and determine preliminary and administrative matters in a Mass Arbitration. Following designation, the Process Administrator may consult as needed with JAMS.

(b) Although an adjunct of the NAC and not an Arbitrator, upon designation, the Process Administrator shall, within three business days, notify the Parties of any circumstance likely, based on the information provided by the Parties, to affect the Process Administrator's ability to be impartial or independent. Any challenge to the Process Administrator shall be made within five business days of the designation of the Process Administrator. JAMS will promptly review and decide any such challenge. JAMS' decision shall be final.

(c) The Process Administrator shall convene an initial administrative conference as soon as practicable to discuss procedural matters relating to the administration of the Arbitration. After consultation with the Parties at the initial administrative conference, or such adjourned conferences as may be necessary, the Process Administrator shall establish a schedule for the

consideration of the procedural issues impacting the administration of the Arbitration. The schedule and procedures shall provide a reasonable opportunity for the Parties to be heard.

(d) The Process Administrator, for purposes of convenience, may hold administrative conferences and hearings, if any, in person or virtually by telephone or videoconference, or using other communications technology, with participants in one or more geographical places, or in combined form.

(e) The Process Administrator shall determine such preliminary and administrative matters as may be necessary to ensure the orderly and efficient resolution of the claims brought in a Mass Arbitration, consistent with the terms of the controlling agreements, procedural fairness and the integrity of the Arbitration process. As a designee of JAMS, the Process Administrator shall have authority over those matters left to determination by JAMS under the applicable Rules, such as Rules 6(a), 6(b), 6(e) and 11(c) of the JAMS Comprehensive Arbitration Rules & Procedures, as well as determinations as to conditions precedent relating to the commencement of the Mass Arbitration, including:

- (i) Whether the Parties have met the filing requirements of these Procedures and the applicable Rules;
- (ii) Whether, subject to Procedure 4 hereof, applicable conditions precedent have been met and, if applicable, how the Parties can meet the conditions precedent and how to proceed if they have not met those conditions precedent;
- (iii) Which Demands for Arbitration, including subsequently filed Demands, should be included as part of the Mass Arbitration;
- (iv) Which JAMS Rules apply to the proceedings;
- (v) Disputes over whether the JAMS Consumer Arbitration Minimum Standards or Employment Arbitration Minimum Standards apply;
- (vi) Whether to batch, consolidate or otherwise group the Demands or claims in the Mass Arbitration, whether for purposes of discovery, arbitrator appointments, merits hearings or otherwise. Any such grouping may be based on Claimants' geographic location, hearing location(s) specified in the Parties' arbitration provision and any other factor(s) the Process Administrator deems relevant and conducive to fair and efficient administration;
- (vii) The location(s) of the merits hearing(s), but only to the extent such location bears on issues of procedural fairness or the determinations under Procedure 3(e)(vi) hereof;
- (viii) Any other non-merits issues affecting case administration the Process Administrator deems appropriate to determine so that the Mass Arbitration may proceed in a fair and efficient manner;
- (ix) The matters set forth in Procedures 4 and 5 hereof not prescribed to JAMS; and
- (x) Any other issue(s) the Parties agree in writing to submit to the Process Administrator.

(f) The Process Administrator may make such decisions and set such procedures as the Process Administrator deems necessary or advisable to render administrative determinations under these Mass Arbitration Procedures.

(g) The administrative determinations of the Process Administrator shall contain the reasons for such determination.

(h) When the Process Administrator issues administrative determinations based on the specific facts of individual Arbitrations within the Mass Arbitration, the Process Administrator must document them in separate written communications setting forth the individual Arbitration

determinations. The Process Administrator shall determine the form of such determinations, including whether to combine them into a single or multiple written communications with the Parties.

(i) The Process Administrator's prior administrative decisions shall be binding in subsequently filed cases determined to be part of the Mass Arbitration unless the Process Administrator determines *sua sponte* or on application of a Party for good cause shown that case-specific decisions are required. Such application must be made within two weeks of the filing of the new case(s).

Procedure 4

Interpretation of Procedures and Jurisdiction

(a) Once designated, the Process Administrator shall resolve disputes about the interpretation and applicability of these Procedures. The resolution of the issue by the Process Administrator shall be final.

(b) The Process Administrator may determine whether threshold jurisdictional and arbitrability disputes are arbitrable, subject to final determination by the Arbitrator(s) or a court.

(c) If the Process Administrator determines that jurisdictional or arbitrability issues are not arbitrable, the Process Administrator, after consulting with the Parties' representatives, may determine whether to suspend administration pending a court ruling and, if suspended, the duration of such suspension.

(d) The determinations of the Process Administrator shall be binding on the Arbitrator(s), unless such determinations are deemed provisional by these Procedures or by the Process Administrator.

Procedure 5

Arbitrator Selection, Disclosure and Replacement

(a) The Parties may mutually agree upon a process for selection of the Arbitrator(s) to determine the merits, and JAMS will facilitate any such selection process.

(b) Absent such agreement, the Process Administrator shall, after consulting the otherwise applicable Rule and consulting with the Parties, determine the selection process for the Arbitrator(s), including any needed modifications to the applicable arbitrator selection Rule.

(c) When compiling a list of Arbitrator candidates, JAMS will follow the criteria, if any, set forth in the Parties' agreement.

(d) If for any reason appointments cannot be made from the submitted candidate lists or such other procedure agreed to by the Parties or determined by the Process Administrator, JAMS shall have the authority to administratively appoint the Arbitrator(s).

(e) Disputes concerning the manner of appointment of the Arbitrator shall be decided by the Process Administrator, but challenges and disqualification requests based on the Arbitrator's disclosures or conduct shall be decided by the NAC.

(f) The same Arbitrator may be assigned to multiple cases.

(g) The Process Administrator shall not be appointed Arbitrator for any case in the Mass Arbitration, absent consent of the Parties.

Procedure 6

Merits Hearing

The Arbitration(s) shall proceed pursuant to the applicable Rules and any determinations of the Process Administrator.

Procedure 7

Fees

- (a) When a Mass Arbitration is filed pursuant to these Procedures, the Parties shall pay JAMS' initial filing fee as set forth in the **JAMS Mass Arbitration Fee Schedule available here**.
- (b) If JAMS determines that either the JAMS Consumer Arbitration Minimum Standards or the Employment Arbitration Minimum Standards apply, the obligation to pay fees under these Procedures shall be allocated consistent with those Minimum Standards, subject to review by the Process Administrator pursuant to Procedure 3(e)(v).
- (c) Fees for the Process Administrator shall be as set forth in their General Fee Schedule in effect at the time of the Mass Arbitration filing.
- (d) Fees for the Arbitrator(s) shall be as set forth in their General Fee Schedule in effect at the time of the Arbitrator's appointment.