

LMAR 5.3  
CONDUCT OF HEARING - WITNESSES -RULES OF EVIDENCE

(a) Oath or Affirmation. The Arbitrator shall place a witness under oath or affirmation before the witness presents testimony.

(b) Recording. The hearing may be recorded electronically or otherwise by any party at his or her expense.

(c) Certain Documents Presumed Admissible. The documents listed below, if relevant, are presumed admissible at an arbitration hearing, but only if (1) the party offering the document serves on all parties a notice, accompanied by a copy of the document and the name, address, and telephone number of its author or maker, at least 14 days prior to the hearing in accordance with MAR 5.2; and (2) the party offering the document similarly furnishes all other parties with copies of all other related documents from the same author or maker. This rule does not restrict argument or proof relating to the weight of the evidence after hearing all of the evidence and the arguments of opposing parties. The documents presumed admissible under this rule are:

1. A bill, report, chart or record of a hospital, doctor, dentist, registered nurse, licensed practical nurse, physical therapist, psychologist or other health care provider, on a letterhead or billhead;

2. A bill for drugs, medical appliances or other related expenses on a letterhead or billhead;

3. A bill for or an estimate of property damage on a letterhead or billhead. In the case of an estimate, the party intending to offer the estimate shall forward with the notice to the adverse party, a statement indicating whether or not the property was repaired, and if it was, whether the estimated repairs were made in full or in part, attaching a copy to the receipted bill showing the items of repair and the amount paid.

4. A police, weather, wag loss, or traffic signal report, or standard United States government life expectancy table to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

5. A photograph, x-ray, drawing, map, blueprint or similar documentary evidence, to the extent it is admissible under the Rules of Evidence, but without the need for formal proof of authentication or identification;

6. The written statement of any other witness, including the written report of an expert witness, and including a statement of opinion which the witness would be allowed to express if testifying in person, if it is made by affidavit or by declaration under penalty of perjury;

7. A document not specifically covered by any of the foregoing provisions but having equivalent circumstantial guarantees of trustworthiness, the admission of which would serve the interest of justice.

(e) Opposing Party May Subpoena Author or Maker as Witness. Any other party may subpoena the author or maker of a document admissible under this rule, at that party's expense, and examine the author or maker as if under cross-examination.\*

\* Form 5.3(e)1 or Form 5.3(e)2

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