RULE NO. 16
MANDATORY ARBITRATION

I. Scope and Purpose of Rules

A. Application of Rules - Purpose and Definition

1. Purpose. The purpose of mandatory arbitration of civil actions under RCW 7.06 as implemented by the Mandatory Arbitration Rules is to provide a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes involving claims of fifty thousand dollars ($50,000.00) or less. The Mandatory Arbitration Rules as supplemented by these local rules are not designed to address every question which may arise during the arbitration process, and the rules give considerable discretion to the arbitrator. The arbitrator should not hesitate to exercise that discretion. Arbitration hearings should be informal and expeditious, consistent with the purpose of the statutes and rules.

2. Administration. The arbitration department shall consist of the Court Administrator under the direction of the Superior Court Judge. The arbitration department shall supervise arbitration under these rules and perform any additional duties which may be delegated.

B. Relationship to Superior Court Jurisdiction and Other Rules - Motions

1. All motions relating to civil cases transferred to mandatory arbitration shall be presented to the arbitrator, except (a) cases where arbitrability is at issue, (b) where assignment of an arbitrator is disputed and not resolved by the Administrator, (c) motions for involuntary dismissal, (d) motions for summary judgment, and (e) motions to dismiss for failure to state a cause of action.

II. Transfer to Arbitration and Assignment of Arbitrator

A. Transfer to Arbitration

1. Statement of Arbitrability. In every civil case the party filing the Note for Trial Docket shall, upon the form prescribed by the court, complete a Statement of Arbitrability (Exemplar #5). Prior to the trial-setting date any party disagreeing with the Statement of Arbitrability or willing to stipulate to arbitration shall serve and file a Response to the Statement of Arbitrability on the form prescribed by the court (Exemplar #8). In the absence of such Response, the Statement of Arbitrability shall be deemed correct, and the case shall be deemed set for arbitration. Cases transferred to the arbitration calendar shall be stricken from their position on the trial calendars. Unless otherwise ordered by the court, no trial date shall be assigned in cases which are subject to arbitration. If a party asserts that its claim exceeds $50,000.00 or seeks relief other that a money judgment, the case is not subject to arbitration except by stipulation.

2. Failure to File Amendments. A party failing to serve and file an original Response within the time prescribed may later do so only upon leave of court. A party may amend the Statement of Arbitrability or Response at any time before assignment of an arbitrator or assignment of a trial date and then only upon leave of court for good cause shown.

B. Assignment of Arbitrator

1. Generally; Stipulations. When a case is set for arbitration, a list of five proposed arbitrators shall be furnished to the parties. A list of other approved arbitrators shall be furnished upon request. The parties are encouraged to stipulate to an arbitrator. In the absence of the stipulation within 14 days after a case is transferred to arbitration, the arbitrators shall be chosen from among the five proposed arbitrators in the manner defined by this rule.

a. Response by Parties. Within 14 days after a list of proposed arbitrators is furnished to the parties, each party shall nominate one or two arbitrators and strike two arbitrators from the list. If both parties respond, an arbitrator nominated by both parties shall be appointed. If no arbitrator has been nominated by both parties, an arbitrator shall be appointed from among those not stricken by either party. The parties need not serve their responses on the other side, and the responses shall not be disclosed to a party by the Administrator (except for disclosure of an arbitrator selected by both parties).

b. Response by Only One Party. If only one party responds within 14 days, an arbitrator shall be appointed from that party's response.

c. No Response. If neither party responds within 14 days, the arbitrator shall be randomly appointed from the five proposed arbitrators.

d. Additional Arbitrators for Additional Parties. If there are more than two adverse parties, all represented by different counsel, two additional proposed arbitrators shall be added to the list for each additional party so represented with the above principles of selection to be applied. The number of adverse parties shall be determined by the arbitration department, subject to review by the Superior Court Judge.

III. A. Qualifications

1. Arbitration Panel. There shall be a panel of arbitrators in such numbers as the Superior Court Judge may from tine to time determine. A person desiring to serve as an arbitrator shall complete an information sheet on the form prescribed by the court. A list showing the names of arbitrators available to hear cases and the information sheets shall be available for public inspection in the Court Administrator's office. The oath of office on the form prescribed by the court must be completed and filed prior to an applicant being placed on the panel.

2. Refusal - Disqualification. The appointment of an arbitrator is subject to the right of that person to refuse to serve. An arbitrator must notify the arbitration department immediately if refusing to serve or if any cause exists for the arbitrator's disqualification from the case upon any of the grounds of interest, relationship, bias or prejudice set forth in CJC Canon 3 (C) governing the disqualification of judges. If disqualified, the arbitrator must immediately return all materials in a case to the arbitration department.

B. Authority of Arbitrators

1. An arbitrator has the authority to:

a. Determine the time, place and procedure to present a motion before the arbitrator.

b. Require a party or attorney advising such party or both to pay the reasonable expenses, including attorney's fees, caused by the failure of such party or attorney or both to obey an order of the arbitrator unless the arbitrator finds that the failure was substantially justified or that

other circumstances make an award of expenses unjust. The arbitrator shall make a special award for such expenses and shall file such award with the Clerk of the Court, with proof of service on each party. The aggrieved party shall have 10 days thereafter to appeal the award of such expense in accordance with the procedures described in RCW 2.24.050. If within 10 days after the award is filed no party appeals, a judgment shall be entered in a manner described generally under MAR 6.3.

c. Award attorney's fees as authorized by these rules, by contract or by law.

IV. Procedures After Assignment

A. Discovery

In determining when additional discovery beyond that directly authorized by MAR 4.2 is reasonably necessary, the arbitrator shall balance the benefits of discovery against the burdens and expenses. The arbitrator shall consider the nature and complexity of the case, the amount in controversy, values at stake, the discovery that has already occurred, the burdens on the party from whom discovery is sought, and the possibility of unfair surprise which may result if discovery is restricted. Authorized discovery shall be conducted in accordance with the Civil Rules except that motions concerning discovery shall be determined by the arbitrator.

V. Hearing

A. Notice of Hearing

1. Notice of Hearing - Time and Place - Continuance. An arbitration hearing may be scheduled at any reasonable time and place chosen by the arbitrator. The arbitrator may grant a continuance without court order. The parties may stipulate to a continuance only with permission of the arbitrator. The arbitrator shall give reasonable notice of the hearing date and any continuance to the arbitration department.

B. Pre-hearing Statement of Proof - Documents Filed with Court

In addition to the requirements of MAR 5.2, each party shall also furnish the arbitrator with copies of pleadings and other documents contained in the court file which that party deems relevant. The court file shall remain with the Clerk of the Court.

C. Conduct of Hearing

1. Recording. The hearing may be record electronically or otherwise by any part at that party's expense.

VI. Award

A. Form and Content of Award

1. Form. The award shall be prepared on the form prescribed by the court (Exemplar #9).

2. Return of exhibits. When an award is filed, the arbitrator shall return all exhibits to the parties who offered them during the hearing.

B. Filing of Award

A request by an arbitrator for an extension of time for the filing of an award under MAR 6.2 may be presented to the Superior Court Judge,

ex parte. The arbitrator shall give the parties notice of any extension granted.

C. Judgment on Award

1. Presentation. A Judgment on an award shall be presented to the Presiding Judge, by any party, on notice in accordance with MAR 6.3.

VII. General Provisions

A. Stipulations; Effect on Relief Granted

If a case not otherwise subject to mandatory arbitration is transferred to arbitration by stipulation and order of the court, the arbitrator may grant any relief which could have been granted if the case were determined by a judge.

B. Title and Citation

These rules are known and cited as the Klickitat/Skamania Court Mandatory Arbitration Rules. LMAR is the official abbreviation.

C. Compensation of Arbitrator

1. Generally. Arbitrators shall be compensated in the same amount and manner as Judges Pro Tempore of the Superior Court; provided, however, that said compensation shall not exceed $500.00 for any case unless prior approval is granted by the Superior Court Judge. The Superior Court Judge shall determine the amount of compensation to be paid. No county payment shall be made unless and until funding is provided by the County Commissioners of the county having jurisdiction over the action.

(Adopted effective September 1, 1996; amended adopted 2007)