

FILED  
NOV - 6 2019  
WASHINGTON STATE  
SUPREME COURT

# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE SUGGESTED )  
AMENDMENTS TO MANDATORY )  
ARBITRATION RULES (MARs) 1.1, 1.2, 1.3, 2.1, )  
2.2, 2.3, 3.1, 3.2, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, 5.4, 6.1, )  
6.2, 6.3, 6.4, 7.1, 7.2, 7.3, 8.1, 8.2, 8.3, 8.4, 8.5, TO )  
SUPERIOR COURT ARBITRATION OF CIVIL )  
ACTIONS (SCCARs) AND GR 1 )  
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**ORDER**  
NO. 25700-A- 1271

The Washington State Bar Association Board of Governors, having recommended the adoption of the suggested amendments to Mandatory Arbitration Rules (MARs) 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3, 5.4, 6.1, 6.2, 6.3, 6.4, 7.1, 7.2, 7.3, 8.1, 8.2, 8.3, 8.4, 8.5, to Superior Court Arbitration of Civil Actions (SCCARs) and GR 1, and the Court having considered the suggested amendments, and having determined that the suggested amendments will aid in the prompt and orderly administration of justice;

Now, therefore, it is hereby

ORDERED:

- (a) That the suggested amendments as attached hereto are adopted.
- (b) That pursuant to the emergency provisions of GR 9(j)(1), the suggested amendments will be published expeditiously in the Washington Reports and will become effective upon publication.

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ORDER

IN THE MATTER OF THE SUGGESTED AMENDMENTS TO MANDATORY  
ARBITRATION RULES (MARs) 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2, 4.1, 4.2, 4.3, 5.1, 5.2, 5.3,  
5.4, 6.1, 6.2, 6.3, 6.4, 7.1, 7.2, 7.3, 8.1, 8.2, 8.3, 8.4, 8.5, TO SUPERIOR COURT  
ARBITRATION OF CIVIL ACTIONS (SCCARs) AND GR 1

DATED at Olympia, Washington this 6<sup>th</sup> day of November, 2019.



Madsen, J.

Quers, J.

Stepson, J.

Fairhurst, C.J.

Wiggins, J.

Conzalez, J.

Sean McCut, J.

Lee, J.

**GR 1**  
**CLASSIFICATION SYSTEM FOR COURT RULES**

**PART I: RULES OF GENERAL APPLICATION**

General Rules	GR
Code of Judicial Conduct	CJC
Discipline Rules for Judges	DRJ
Board for Judicial Administration Rules	BJAR
Admission to Practice Rules	APR
Rules of Professional Conduct	RPC
Rules for Enforcement of Lawyer Conduct	ELC
Judicial Information System Committee Rules	JISCR
Rules of Evidence	ER

**PART II: RULES FOR APPELLATE COURT ADMINISTRATION**

Supreme Court Administrative Rules	SAR
Court of Appeals Administrative Rules	CAR

**PART III: RULES ON APPEAL**

Rules of Appellate Procedure	RAP
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**PART IV: RULES FOR SUPERIOR COURT**

Superior Court Administrative Rules	AR
Superior Court Civil Rules	CR
Superior Court <u>Civil</u> Mandatory Arbitration Rules	MSCCAR
Superior Court Special Proceedings Rules	SPR
Superior Court Guardian ad Litem Rules	GALR
Superior Court Criminal Rules	CrR
Superior Court Special Proceeding Rules--Criminal	SPCR
Superior Court Mental Proceedings Rules	MPR
Juvenile Court Rules	JuCR

**PART V: RULES FOR COURTS OF LIMITED JURISDICTION**

Administrative Rules for Courts of Limited Jurisdiction	ARLJ
Rules for Appeal of Decisions of Courts of Limited Jurisdiction	RALJ
Civil Rules for Courts of Limited Jurisdiction	CRLJ
Criminal Rules for Courts of Limited Jurisdiction	CrRLJ
Infraction Rules for Courts of Limited Jurisdiction	IRLJ

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCARMAR)**

**RULE 1.1**  
**APPLICATION OF RULES**

1 These arbitration rules apply to ~~mandatory~~ arbitration of civil actions under RCW 7.06. These  
2 rules do not apply to arbitration by private agreement or to arbitration under other statutes,  
3 except by stipulation under rule 8.1.  
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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCARMAR)**

**RULE 1.2**  
**MATTERS SUBJECT TO ARBITRATION**

1 A civil action, other than an appeal from a court of limited jurisdiction, is subject to arbitration  
2 under these rules if the action is at issue in a superior court in a county which has authorized  
3 mandatory arbitration under RCW 7.06, if (1) the action is subject to mandatory arbitration as  
4 provided in RCW 7.06, (2) all parties, for purposes of arbitration only, waive claims in excess of  
5 the amount authorized by RCW 7.06, exclusive of attorney fees, interest and costs, or (3) the  
6 parties have stipulated to arbitration pursuant to rule 8.1.  
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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 1.3**  
**RELATIONSHIP TO SUPERIOR COURT JURISDICTION AND OTHER RULES**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 2.1**  
**TRANSFER TO ARBITRATION**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 2.2**  
**COURT MAY DETERMINE ARBITRABILITY**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 2.3**  
**ASSIGNMENT TO ARBITRATOR**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCARMAR)**  
**RULE MAR 3.1**  
**QUALIFICATION**

1 Unless otherwise ordered or stipulated, an arbitrator must be a member in good standing of the  
2 Washington State Bar Association who has been admitted to the Bar for a minimum of 5 years,  
3 or who is a retired judge. The parties may stipulate to a nonlawyer arbitrator.

4 ~~Unless waived pursuant to RCW 7.06.040(2)(b), a person may not serve~~To qualify as an  
5 ~~arbitrator unless the,~~a person ~~has~~must completed a minimum of three credits of Washington  
6 ~~State Bar Association approved continuing legal education credits on the professional and ethical~~  
7 ~~considerations for serving as an arbitrator. A person serving as an arbitrator must file a~~  
8 ~~declaration or affidavit stating or certifying to the appointing court that the person is in~~  
9 ~~compliance with the qualifications described in RCW 7.06.040~~sign and file an oath of office,  
10 ~~either to serve in a particular case, or as a member of a panel of arbitrators. The court is~~  
11 ~~authorized to remove an individual from a list of qualified arbitrators for good cause.~~  
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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**  
**RULE MAR 3.2**  
**AUTHORITY OF ARBITRATORS**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE MAR 4.1**

**RESTRICTIONS ON COMMUNICATION BETWEEN ARBITRATOR AND PARTIES**

1 [Unchanged]

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25 Suggested Amendment MAR 4.1

Page 1

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCARMAR)**  
**RULE ~~MAR 4.2~~**  
**DISCOVERY**

1 After the assignment of a case to the arbitrator, a party may demand a specification of damages  
2 ~~under RCW 4.28.360, may~~ conduct discovery as follows: (1) request from the arbitrator an  
3 examination under CR 35; (2), may request admissions from a party under CR 36; and (3) may  
4 take the deposition of another party, unless the arbitrator orders otherwise. No A party may  
5 request additional discovery from the arbitrator, including interrogatories, and the arbitrator will  
6 allow additional discovery shall be allowed, except as the parties may stipulate or as the arbitrator  
7 may order. The arbitrator will allow discovery only when reasonably necessary. The conference  
8 requirements of CR 26(i) shall not apply to motions to the arbitrator to allow additional  
9 discovery under this rule.

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 4.3**  
**SUBPOENA**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES**  
**(SCCARMAR)**

**RULE 5.1**  
**NOTICE OF HEARING**

1 The arbitrator shall set the time, date, and place of the hearing and shall give reasonable notice of  
2 the hearing date to the parties. Except by stipulation or for good cause shown, the hearing shall  
3 be scheduled to take place not sooner than 21 days, nor later than ~~75~~63 days, from the date of the  
4 assignment of the case to the arbitrator. The hearing shall take place in appropriate facilities  
5 provided or authorized by the court.  
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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 5.2**  
**PREHEARING STATEMENT OF PROOF**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES**  
**(SCCARMAR)**

**RULE 5.3**  
**CONDUCT OF HEARING –WITNESSES—RULES OF EVIDENCE**

1       **(a) – (c)** [Unchanged]

2       **(d)** Certain Documents Presumed Admissible. The documents listed below, if relevant, are  
3 presumed admissible at an arbitration hearing, but only if (1) the party offering the document  
4 serves on all parties a notice, accompanied by a copy of the document and the name, address and  
5 telephone number of its author or maker, at least 14 days prior to the hearing in accordance with  
6 SCCARMAR 5.2; and (2) the party offering the document similarly furnishes all other related  
7 documents from the same author or maker. This rule does not restrict argument or proof relating  
8 to the weight of the evidence admitted, nor does it restrict the arbitrator's authority to determine  
9 the weight of the evidence after hearing all of the evidence and the arguments of opposing  
10 parties. The documents presumed admissible under this rule are:

11       **(d)(1) – (d)(7)** [Unchanged]

12       **(e)** [Unchanged]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 5.4**

**ABSENCE OF PARTY AT HEARING**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 6.1**  
**FORM AND CONTENT OF AWARD**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**  
**RULE MAR 6.2**  
**FILING OF AWARD**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**  
**RULE MAR 6.3**  
**JUDGMENT ON AWARD**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**  
**RULE MAR 6.4**  
**COSTS AND ATTORNEY FEES**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT ~~CIVIL MANDATORY~~ ARBITRATION RULES**  
**(SCCARMAR)**

**RULE MAR 7.1**  
**REQUEST FOR TRIAL DE NOVO**

1 (a) [Unchanged]

2 (b) Form. The request for a trial de novo shall not refer to the amount of the award,  
3 including any award of costs or attorney fees, and shall be substantially in the form set  
4 forth below, and must be signed by the party:

5  
6 SUPERIOR COURT OF WASHINGTON  
7 FOR ( ) COUNTY

8 \_\_\_\_\_ )  
9 Plaintiff, ) No. \_\_\_\_\_  
10 v. ) REQUEST FOR  
11 \_\_\_\_\_ ) TRIAL DE NOVO  
12 Defendant. )

13 TO: The clerk of the court and all parties:

14 Please take notice that (name of aggrieved party) requests a trial de novo from the award filed  
15 (date) \_\_\_\_\_.

16 Dated: \_\_\_\_\_

17 \_\_\_\_\_  
18 (Signature Name of attorney for aggrieved party)  
(Printed Name):  
(Title, if applicable)

19  
20 (Name of attorney for aggrieved party)

21  
22 (c) – (d) [Unchanged]

**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 7.2**

**PROCEDURE AFTER REQUEST FOR TRIAL DE NOVO**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 7.3**

**COSTS AND ATTORNEY FEES**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 8.1**  
**STIPULATIONS**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 8.2**  
**LOCAL RULES**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 8.3**  
**EFFECTIVE DATE**

1 [Unchanged]

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCARMAR)**

**RULE 8.4**  
**TITLE AND CITATION**

1 These rules shall be known and cited as the Superior Court Civil Mandatory Arbitration Rules.

2 SCCARMAR is the official abbreviation.

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**SUGGESTED AMENDMENT**  
**SUPERIOR COURT CIVIL MANDATORY ARBITRATION RULES**  
**(SCCAR MAR)**

**RULE 8.5**

**STATUS OF COMMENTS**

1 [Unchanged]

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