



ARBITRATION BILL OF RIGHTS
WITH COMMENTARY

Arbitration Bill of Rights

National Arbitration Forum Commentary

The National Arbitration Forum Vision Statement

A justice system where claims are promptly resolved under the law by neutral legal experts at a cost commensurate with the matters in dispute.

The National Arbitration Forum Mission Statement

To provide a fair, affordable, and efficient system for the resolution of civil disputes.

Supreme Court Justice Oliver Wendell Holmes said justice is found in “known rules, consistently applied.” The Forum believes arbitration must be based on the rules of law, applied consistently, under the Code of Procedure and applicable law. The Code must also be applied fairly. To that end, we commit to these twelve principles. The FORUM will not administer arbitrations under contracts that do not meet these principles.

PRINCIPLE 1. FUNDAMENTALLY FAIR PROCESS

All parties in an arbitration are entitled to fundamental fairness.

Commentary:

- Fairness ultimately proceeds from the independence of the decision maker and the universality of the standards for decision. FORUM arbitrators are independent legal professionals who make decisions governed by the applicable substantive law.
- Fairness is assured when decisions must be made under the substantive law and are reviewable and reversible by the court for legal error. See *Watts and Sons, Inc. v. Tiffany & Co.*, 248 F.3d 577 (7th Cir. 2001); *Lapine Tech. Corp. v. Kyocera Corp.*, 130 F.3d 884 (9th Cir. 1997); *Gateway Tech., Inc. v. MCI Telecomm. Corp.*, 64 F.3d 993 (5th Cir. 1995).
- Fairness for various classes of litigants can be evaluated by the standards of the process, and examined by its results. Caution should be used in considering such statistics since, despite some similarities, every case, as every party, is unique.

When individual plaintiffs file cases in federal court against corporations:

- Plaintiffs win 14.9% of employment cases. See Louis Maltby, “Private Justice: Employment Arbitration and Civil Rights,” 30 *COLUM. HUM. RTS. L. REV.* 29, 46 (1998).
- Employees lose 98% of cases that are decided by pre-trial motion. *Id.*
- Individual plaintiffs win 54% of cases that go to trial. T. Eisenberg and K. Clermont, “Do Case Outcomes Really Reveal Anything About the Legal System? Win Rates and Removal Jurisdiction,” 83 *CORNELL L. REV.* 581, 605 (1998).

When individuals file arbitration claims against corporate defendants:

- Plaintiff employees win 63% of claims they bring in arbitration. See Maltby *supra.* at 48.
- In the National Arbitration Forum, individuals win 65.5% of claims they bring. See Mark Fellows, “The Same Result as in Court, More Efficiently: Comparing Arbitration and Court Litigation Outcomes,” 14 Metropolitan Corp. Counsel 32 (2006).
- Plaintiff employees win a greater percentage of the relief they demand in arbitration—18%—versus 10.4% in federal court. See Maltby, *supra.* at 48.

When corporate plaintiffs file cases against individuals in federal courts:

- Corporate plaintiffs win 87% of all cases. See Eisenberg and Clermont, *supra.*
- Corporate plaintiffs win 98.8% of those cases seeking recovery of defaulted loans. See Eisenberg and Clermont, Judicial Statistical Inquiry Form, <http://teddy.law.cornell.edu:890/questata.htm> (last visited 12/4/02) (statistics on file with the National Arbitration Forum).

When corporations file arbitration claims against individuals:

- In the National Arbitration Forum, corporate claimants win approximately 77.7% of the claims they bring. This compares favorably with win rates corporations achieve in court when bringing contract claims against individual consumers. See Fellows *supra.*
- A number of legal commentators have observed that individual plaintiffs fare better against corporate defendants in arbitration than in a lawsuit. This fact prompted Lewis Maltby, former Director of the American Civil Liberties Union (ACLU) National Taskforce on Civil Liberties in the Workplace (now President of the National Workrights Institute), to note, regarding employment arbitration, “There is no evidence of arbitral bias against employees—employee-plaintiffs win more often, and receive a higher percentage of their demands than employer-plaintiffs. See Maltby *supra.* at 54.
- An important component of fairness is access to independent decision-makers. The transaction costs, attorney fees, and lengthy delays in litigation prevent many Americans from bringing or defending claims.
- The American Bar Association estimates that 100 million Americans are barred from judicial decisions by the high cost of legal services. Quin Tian, “Public Loses As Lawyers Block Access To Cheaper Legal Help,” USA TODAY Feb, 19, 1999, 14A.
- A survey by the National Center for State Courts found that only 32% of Americans believe they can afford to bring a case in court and only 20% of Americans believe court cases are resolved in a timely manner. Eighty-seven percent of Americans believe attorneys’ fees add “a lot” to the cost of a legal suit. See “How The Public Views the State Courts: A 1999 National Survey” National Conference on Public Trust and Confidence in the Justice System (May 14, 1999) (http://www.ncsconline.org/WC/Publications/Res_AmtPTC_PublicViewCrtsPub.pdf (last visited Dec. 6, 2002); cited in the *ABA Journal*, p. 86, July 1999.
- A primary purpose of the National Arbitration Forum is to make arbitration reasonably available to all parties, whether individuals, businesses, consumers or corporations. An individual can get a hearing and a decision in the FORUM for as little as \$25.00. That minimal fee may be waived if he or she cannot afford it. See, e.g., *Greentree Financial Corp. v. Randolph*, 531 U.S 79, 95 (2000) (recognizing the National Arbitration Forum as a model of fair costs and fee allocation).

PRINCIPLE 2. ACCESS TO INFORMATION

Information about arbitration should be reasonably accessible before the parties commit to an arbitration contract.

Commentary:

- Information about arbitration is readily available for individuals who need to determine whether arbitration is a reasonable choice. The FORUM provides information in a variety of easily accessible, no-cost ways.
- The FORUM website (www.arbitration-forum.com) offers information about arbitration and the FORUM, including the Code of Procedure, the Arbitration Bill of Rights, and sample arbitration claim filing documents.
- The FORUM sends brochures on FORUM arbitrations, the arbitration process, tips for consumers, and other topics to anyone who requests information about FORUM arbitrations.
- FORUM professional staff can talk and meet with individuals and businesses interested in using arbitration and mediation, in drafting arbitration and mediation clauses, and in pursuing their legal claims through the FORUM.
- FORUM speakers are available to make educational presentations to groups of individuals, businesses, consumers, or corporations who want to learn more about all aspects of arbitration and mediation and FORUM services.
- The FORUM makes information available by telephone. Parties can contact the FORUM at a toll free number (1-800-474-2371) and talk with staff administrators who can generally answer their procedural and administrative questions.
- The FORUM makes the Code of Procedure and substantial information about FORUM arbitrations readily available to everyone at no cost.
- What constitutes reasonable access to information about arbitration may vary by the particular circumstances of the parties.
 - For example, the American Bar Association's position is that the Model Rules of Professional Conduct permit attorneys to include provisions in client retainer agreements requiring binding arbitration of disputes concerning fees and claims of malpractice. According to the ABA, the attorney must fully explain the advantages and disadvantages of arbitration, including waiver of a right to a jury trial, the possible waiver of broad discovery, and the loss of the right to appeal. See Formal Opinion 02-425, ABA Standing Committee on Ethics and Professional Responsibility.
 - In another example, when agreements to arbitrate disputes are contained in healthcare contracts—where patients may need to make split-second decisions about medical care—it may be necessary for the healthcare provider to provide an “opt-out” provision that affords patients an opportunity to reconsider arbitration within a reasonable time after assenting to the agreement.
 - Some courts have held that “surprise” or “unexpected” terms in a contract are not enforceable. Today, the broad use of arbitration makes it unlikely that an arbitration term would “surprise” any party. Generally speaking, however, the more information that can be provided about arbitration in an agreement, the better.

PRINCIPLE 3. COMPETENT AND IMPARTIAL ARBITRATORS

The arbitrators should be both skilled and neutral.

Commentary:

- *Qualifications.* A nationwide network of arbitrators is available to arbitrate cases filed under the FORUM Code of Procedure. Each arbitrator is an attorney licensed to practice law and is a qualified arbitrator. Each arbitrator is a former judge, a practicing attorney, or a law professor typically with at least fifteen years of professional experience. “[The National Arbitration Forum] boasts an impressive assembly of qualified arbitrators.” *Marsh v. First USA Bank*, 103 F.Supp.2d 925 (N.D. Tex. 2000).
- *Nationwide Panel.* Each arbitrator is an independent contractor and is not an employee of the FORUM. The nationwide arbitrator panel consists of former judges, law professors, and senior attorneys who reside in every federal judicial district throughout the United States and in most countries outside the U.S.
- *No Conflicts of Interest.* An arbitrator who has a conflict of interest or is unfair and biased cannot decide a case. FORUM Code of Procedure Rule 23 states that arbitrators are disqualified if they have a conflict of interest or if circumstances exist which cause the arbitrator to be unfair and biased. The standards used to determine conflicts and bias of an arbitrator are the same standards used to determine whether judges have a conflict or a bias. Arbitrators have been disqualified by the Director of Arbitration for conflicts of interest or bias.
- *Removal Procedures.* The parties can remove arbitrators from a case. In many arbitration cases, a list of arbitrators is provided to the parties and each party may remove at least one arbitrator from the list [FORUM Rule 21]. In other arbitration cases, each party may remove an arbitrator merely by filing a notice of removal [FORUM Rule 21]. In every arbitration case, each party may request that an arbitrator be disqualified and removed [FORUM Rule 23]. These procedures are similar or identical to the removal of judges. Arbitrators are required to disclose circumstances that create a conflict or bias, and the FORUM Director of Arbitration is required to disclose this information to the parties [FORUM Rule 23]. Arbitrators are removed at the request of a party in accordance with these procedures.
- *Party Arbitrator Selection.* Parties need not select from the FORUM’s panel of arbitrators, but may select any person to decide their case [FORUM Rule 21].
- *Arbitrator Fees.* Arbitrators are not directly paid by the parties but are paid by the FORUM. This process eliminates the need for the arbitrator to set or collect fees from the parties. In FORUM cases, the arbitrator need not know which party has paid the fees.

PRINCIPLE 4. INDEPENDENT ADMINISTRATION

An arbitration should be administered by someone other than the arbitrator or the parties themselves.

Commentary:

- Because the decisions of FORUM arbitrators must conform to the substantive law, each FORUM arbitrator is guided by applicable court decisions and statutory law.
- The FORUM has no contracts with any party to any arbitration. All parties pay the fees contained in the Fee Schedule.

- The FORUM receives no funds from any source, other than fees paid for dispute resolution services.
- The staff of the FORUM has substantial experience in litigation, arbitration, mediation, and dispute resolution systems:
 - Judicial experience as judges, state court referees, and special masters;
 - Many decades of practice experience representing consumers, individuals, government agencies; and businesses.
 - Legal education experience as law professors, instructors at hundreds of CLE programs and educational seminars for individuals, business executives, consumers, and corporate representatives;
 - Service to indigent individuals through the Legal Services Corporation and local Legal Aid Offices;
 - Authoritative books and articles on Alternative Dispute Resolution, written for lawyers, judges, consumers, business executives, and law students.

PRINCIPLE 5. CONTRACTS FOR DISPUTE RESOLUTION

An agreement to resolve disputes through arbitration is a contract and should conform to the legal principles of contract and applicable statutory law.

Commentary:

- Agreements to arbitrate under the FORUM Code of Procedure must comply with the law of contract for the appropriate jurisdiction. If such an agreement does not so comply, an arbitrator and/or court will refuse to allow the arbitration to proceed.
- Agreements to arbitrate under the FORUM Code of Procedure must conform to the FORUM Arbitration Bill of Rights. If such an agreement does not so comply, the FORUM will not administer the arbitration.
- Decisions made by the arbitrator in a case administered under the procedures contained in the Code of Procedure must conform to the substantive law. Under grounds stated in the Federal Arbitration Act, awards are reviewable and may be confirmed, modified, or vacated by a court of competent jurisdiction.
- FORUM Rule 48 states that “The Director or Arbitrator may decline the use of arbitration for any dispute, controversy, Claim, Response or Request that is not a proper or legal subject matter for arbitration...”
- Increasingly, courts have held that arbitration agreements that allow one party to avoid arbitration are, absent unique circumstances, unfair and unenforceable. See *Ferguson v. Countrywide Credit Indus., Inc.*, 298 F.3d 778 (9th Cir. 2002); *Iberia Credit Bureau, Inc. v. Cingular Wireless LLC*, 379 F.3d 159 (5th Cir. 2004); *Hooters of America, Inc. v. Phillips*, 173 F.3d 933 (4th Cir. 1999); *Money Place v. Barnes*, 78 S.W.3d 714 (Ark. 2002); *Armendariz v. Foundation Health Psychcare Servs., Inc.*, 6 P.3d 669 (Cal. 2000); *Iwen v. U.S. West Direct*, 977 P.2d 989 (Mont. 1999); *Taylor v. Butler*, 142 S.W.3d 277 (Tenn. 2004); *Arnold v. United Cos. Lending Corp.*, 511 S.E.2d 854 (W. Va. 1998); *Wisconsin Auto Title Loans, Inc. v. Jones*, 714 N.W.2d 155 (Wis. 2006). Courts may consider such contracts to be one-sided and oppressive and subject such arbitration agreements to an “unconscionability” analysis. To preserve arbitration agreements, claims of all parties should be sent to arbitration.

PRINCIPLE 6. REASONABLE COST

The cost of an arbitration should be proportionate to the claim and reasonably within the means of the parties, as required by applicable law.

Commentary:

- The cost of arbitration is an important component of access to legal decision making. Arbitration generally is estimated to cost significantly less than an equivalent action in the court system.
- Arbitration costs cannot act to effectively prohibit vindication of individuals' claims. Under appropriate circumstances, a portion of an individual's cost of arbitration must be borne by the business, and in some cases, arbitration must be available without cost to indigent individuals. See *Green Tree Financial Corp. v. Randolph*, 531 U.S. 79 (2000); *Nelson v. Insignia/Esg, Inc.*, 215 F. Supp. 2d 143 (D.C. Cir. 2002); *Bradford v. Rockwell Semiconductor Systems, Inc.*, 238 F.3d 549 (4th Cir. 2001); *Paladino v. Avnet Computer Technologies, Inc.*, 134 F.3d 1054 (11th Cir. 1998); *Cole v. Burns Int'l Sec. Servs.*, 105 F.3d 1465 (D.C. Cir. 1997).
- The fees for a FORUM arbitration are lower than those of other major providers of similar services. In *Greentree Financial Corp. v. Randolph*, 531 U.S. 79 (2000), the U.S. Supreme Court pointed to the FORUM Fee Schedule as a model of fairness and fee allocation.
- FORUM fees have been further reduced as technology has enabled more efficient case management.
- The fees appear in the FORUM Code of Procedure, on the FORUM web site (www.adrforum.com), and are universally available upon written, e-mail or telephone request.
- The FORUM Fee Schedule contains a detailed listing of applicable fees. A copy of the Fee Schedule is served on every Respondent with the initial Claim documents.

A summary of the fees for arbitration under the Code of Procedure:

Filing Fees

- The Fee Schedule lists separate filing fees for Small ("Common") Claims under \$75,000. For claims less than \$2,500, there is only a \$25 filing fee. For claims less than \$15,000, there is a \$35 filing fee.
- The cost to a consumer who files a Common Claim against a business is the amount of the filing fee. The consumer does not pay administrative or other filing fees.
- The Fee Schedule lists filing fees for claims above \$75,000.
- There is *no* fee for filing a Response; a Respondent pays nothing to defend the action.

Hearing Fees

- The Fee Schedule lists the costs of hearings, including Documentary and Participatory Hearings.
- There is *no* hearing fee for a Consumer who requests a Document Hearing for a Common Claim.
- For other claims, the amount of the Hearing Fee is readily obtained on the appropriate hearing fee schedule.

No Fees

- An indigent individual pays no Common Claim filing fees or any hearing fees or any other administrative fees in a case. FORUM Rule 45 provides for the waiver of these fees for individuals who are indigent under federal poverty standards.

Recoverable Fees

- An Arbitrator may award fees and costs to the prevailing party as permitted by law [FORUM Rule 37]. Some statutes, which the arbitrators must follow, require such an award.

Help with Fees

- Parties may call, write or e-mail the FORUM for help in determining fees. The FORUM has administrative staff available to help answer questions and help compute fees.

PRINCIPLE 7. REASONABLE TIME LIMITS

A dispute should be resolved with reasonable promptness.

Commentary:

- Justice delayed is justice denied.
- The FORUM Code of Procedure specifies time limits and deadlines in an arbitration case. These rules are designed to provide parties with reasonable and adequate time for all aspects of the arbitration procedures, hearing and award.
- Certain holidays and other days are not included in computing time periods [Rules 9].
- Rule 10 of the Code of Procedure generally states that statutes of limitations in FORUM arbitration cases are the same as in court cases.
- Examples of specific time limits:
 - A respondent has 30 days to respond to a claim after service [Rule 13].
 - A party has 30 days to bring a counterclaim or third party claim [Rules 14 and 16].
 - A party has 15 days to bring a cross-claim [Rule 15].
 - A party may amend a claim or response if the amendment does not delay the arbitration [Rule 17A].
 - A party may bring a request or a motion at any reasonable time [Rule 18].
 - A party may seek joinder, intervention, consolidation, or separation before the receipt of the hearing notice [Rule 19].
- Specific time periods also govern:
 - The selection, removal, and challenge of arbitrators [Rules 21-23].
 - Discovery and Subpoenas [Rules 29 and 30].
 - Hearing Procedures [Rules 25-28 and 31-36].
 - Issuance of Awards [Rule 37].

PRINCIPLE 8. RIGHT TO REPRESENTATION

All parties have the right to be represented in arbitration, if they wish, for example, by an attorney or other representative.

Commentary:

- Rule 3 of the FORUM Code of Procedure provides that any party to an arbitration may be represented by an attorney or by another person. This rule permits attorneys to represent parties, and allows parties to represent themselves or seek the assistance of another person.
- The FORUM advises parties and potential parties that they may seek the advice of an attorney or other persons. The FORUM Code of Procedure requires a Claimant to serve a Notice of Arbitration on a Respondent. This Notice appears in Appendix A of the Code. The notice, in part, states that a party “may seek the advice of an attorney or any persons who may assist you.” The FORUM Code of Procedure also requires the FORUM to send a Second Notice of Arbitration, which includes the same statement, to Respondents who have not timely responded.
- The FORUM rule recognizes the right that a party has to be represented by an attorney and recognizes a party’s right to pursue a claim without being represented by an attorney. Some parties may not be able to afford to hire a lawyer. Lawyers may charge more than a client is able or willing to pay for representation. The American Bar Association has reported that as many as 100 hundred million Americans do not have access to legal services because of cost [Quin Tian, “Public Loses As Lawyers Block Access To Cheaper Legal Help,” *USA TODAY* Feb, 19, 1999, 14A.]. FORUM hearings are easier for non-lawyers to participate in because there are fewer rules of procedure and no strict application of the rules of evidence.
- Parties who may find it impossible to appear “pro se” and represent themselves in court can more easily do so in simple FORUM arbitrations, or they can choose to have a lawyer represent them at a cost much lower than in a lawsuit.

PRINCIPLE 9. SETTLEMENT & MEDIATION

The preferable process is for the parties themselves to resolve the dispute.

Commentary:

- Parties to arbitration with The FORUM can resolve the case by negotiation, mediation, or other nonadversary techniques.
- Arbitration cases can settle in the same way court cases settle.
- Rule 37 of the FORUM Code of Procedure provides for an award based upon a settlement by the parties.
- The FORUM Code of Procedure provides for the refund of filing or hearing fees where parties resolve an arbitration matter on their own.
- The FORUM offers nationwide mediation services and makes those available to all interested parties.

PRINCIPLE 10. HEARINGS

Hearings should be convenient, efficient, and fair for all.

Commentary:

- A fair hearing process achieves fundamental fairness. The FORUM Participatory Hearing provides parties with virtually the same procedures available in court trials before a judge: written claims and responses, reasonable discovery, useful motions, direct and cross examinations of witnesses, introduction of relevant and reliable exhibits, opening and closing statements, a prompt and detailed award. See e.g. *Baron v. Best Buy*, 260 F.3d 625 (11th Cir. 2001) (National Arbitration Forum provides for all statutory remedies and fees and costs are reasonable for consumers); *Johnson v. West Suburban Bank*, 225 F.3d 366 (3rd Cir. 2000) (FORUM Code of Procedure protects the rights of all litigants); *Marsh v. First USA Bank*, 103 F.Supp.2d 925 (N.D. Tex. 2000) (“All legal remedies and injunctive relief are available to the parties.”).
- Hearings are not guaranteed in lawsuits. According to the Bureau of Justice Statistics, less than 1.2% of all lawsuits filed result in a jury trial. Less than 5% result in a bench trial. [Bureau of Justice Statistics, National Center for State Courts’ Court Statistics Project, 1993.] Not surprisingly, then, Lewis Maltby, former Director of the American Civil Liberties Union (ACLU) National Taskforce on Civil Liberties in the Workplace (now President of the National Workrights Institute), has said, “I would rather get a fair arbitration than a non-existent jury trial.” (*Forbes*, p. 125, 11/21/1994)
- By contrast, more than 50% of claims filed with the National Arbitration Forum result in a hearing before an arbitrator who is a legal professional and who makes an independent decision under the law.
- The FORUM Code of Procedure provides parties with the hearing of their choice. A party may choose a Participatory Hearing, which is similar to a bench trial before a judge; or, a party may choose a Document Hearing, in which the parties submit all their evidence and arguments to the arbitrator in writing.
- Every party who responds, or appears, or proceeds with a case has a right to a Participatory or a Document Hearing. If one party demands a Participatory hearing and another party prefers a Document Hearing, a Participatory Hearing is held.
- Parties receive reasonable notice of the hearing. A hearing is scheduled according to the time periods established in Rules 25 and 26. A party may also seek a postponement of the hearing or more time to prepare [Rules 25, 26, & 9].
- The FORUM Code governs Document Hearing procedures:

Document Hearing Request	Rule 25
Submission of Documents	Rule 28
Arbitrator reviews evidence	Rule 28
Arbitrator may request other documents	Rule 28
- The FORUM Code governs Participatory Hearing procedures:

Participatory Hearing Demand	Rule 26
Subpoenas for Hearing	Rule 30
Exchange of Information Before Hearing	Rule 31
Location of the Hearing	Rule 32
Hearing procedures	Rule 33
Hearing proceedings	Rule 34
Evidence admissibility and weight	Rule 35

- All parties have the same hearing rights. Each party has “a full and equal opportunity” to present evidence and submit arguments [Rule 35 and 28].
- The FORUM Code of Procedure details the rights and responsibilities of parties. FORUM arbitration proceedings are conducted similarly to the way arbitration cases have been conducted under the Federal Arbitration Act since its adoption in 1926.
- The FORUM administrative staff is available to answer procedural questions of all parties by toll free telephone (1-800-474-2371), mail, or e-mail [Rule 8]. Parties are also able to communicate appropriately with the arbitrator [Rule 24].

PRINCIPLE 11. REASONABLE DISCOVERY

The parties should have access to the information they need to make a reasonable presentation of their case to the arbitrator.

Commentary:

- The FORUM Code of Procedure provides all parties with equal access to discovery and allows generally for the same discovery methods that are available in federal court.
- Parties in a FORUM arbitration may submit document production requests and interrogatories and seek depositions from other parties.
- Parties may also subpoena witnesses to the hearing.
- Many of these discovery rights and responsibilities are identical to discovery proceedings and state and federal court cases, while some procedures are more limited.
- Rule 29 requires that all parties initially “shall cooperate in the exchange of Documents and information” and mandates that the party seeking discovery “shall contact other parties” and discuss discovery requests and objections.
- Rule 29 governs the scope of discovery. Information is discoverable if:
 - 1) The information sought would be relevant, reliable, and informative to the arbitrator; and
 - 2) The Request is reasonable and not unduly burdensome and expensive.
- Rule 29 also specifically allows parties to submit document production requests, 25 written questions, and deposition notices.
- Rule 29 provides a readily available procedure to enforce discovery requests to which there are objections. The discovering party serves a written request; the objecting party has a specified amount of time to object in writing. The discovering party may then seek a ruling from the arbitrator.
- Rule 30 allows parties to obtain subpoenas for the attendance of non-party and party witnesses to the Participatory Hearing.
- Rule 31 requires parties in Participatory Hearings to provide (1) a list of all witnesses and a summary of their testimony, (2) a list and description of exhibits and, (3) a copy of all documents to be introduced at the hearing.
- Parties have ample and reasonable access to information from other parties and non-parties to proceed with every FORUM arbitration case.

PRINCIPLE 12. AWARDS AND REMEDIES

The remedies resulting from an arbitration must conform to the law.

Commentary:

- Arbitrators are independent of the FORUM, but have taken an oath to decide arbitrations under the FORUM Code of Procedure and the applicable substantive law.
- FORUM arbitrators serve under the FORUM Code of Conduct and any local Code of Ethics for arbitrators.
- Rule 20 of the FORUM Code of Procedure provides that an arbitrator deciding a matter under the Code may grant any remedy allowed by substantive law. In *Johnson v. West Suburban Bank*, 225 F.3d 366 (3rd Cir. 2000), the Third Circuit Court of Appeals noted that the FORUM Code protects the legal rights of all parties. Similarly, the Eleventh Circuit noted that the National Arbitration Forum provided all necessary statutory remedies in a case involving a consumer. *Baron v. Best Buy*, 260 F.3d 625 (11th Cir. 2001). See also, *Marsh v. First USA Bank*, 103 F.Supp.2d 925 (N.D. Tex. 2000) (“All legal remedies and injunctive relief are available to the parties.”); *Dewberry v. Countrywide Home Loans*, No. 01-0088-CVW- SOW-ECF (W.D. Mo. Mar. 8, 2001) (“The agreement [incorporating the FORUM Code] meets the requirement [that] a plaintiff’s statutory rights must be protected through the use of neutral arbitrators, adequate discovery, [and] adequate types of relief...”); *Bank One v. Coates*, 125 F.Supp.2d 819 (S.D. Miss. 2001) and *Hale v. First USA Bank*, 2001 WL 687371 (S.D.N.Y. 2001) (any relief available to defendant in a judicial forum would also be available in [FORUM] arbitration).
- FORUM arbitrators are licensed to practice law in the jurisdictions in which they serve and are former judges, senior attorneys and law professors with many years of professional experience.
- The FORUM Code of Procedure was drafted in 1986 and is regularly updated to conform to the applicable law.
- Rule 48 of the FORUM Code of Procedure provides that the Code may be amended from time to time to conform to the law as set forth by legislative and judicial decisions.
- Rule 20 of the FORUM Code of Procedure requires that decisions of the arbitrator be made under the applicable substantive law.
- Decisions of FORUM arbitrators are reviewable by a court of competent jurisdiction to determine whether the award conforms to the law. See *Watts and Sons, Inc., v. Tiffany & Co.*, 248 F.3d 577 (7th Cir. 2001); *Lapine Tech. Corp. v. Kyocera Corp.*, 130 F.3d 884 (9th Cir. 1997); *Gateway Tech., Inc. v. MCI Telecomm. Corp.*, 64 F.3d 993 (5th Cir. 1995).



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