

*For arbitration claims made after December 31, 2024*

**A written agreement between the company and FedArb must be executed prior to using the FedArb Mass Arbitration Proceedings and the Arbitration Agreement must be Registered with FedArb.**

## **ADR-MDL™ Framework for Mass Arbitration Proceedings**

A “Mass Arbitration” is deemed to exist when 20 or more individual claims by employees or consumers are submitted for arbitration by or with the assistance or coordination of the same law firms or organizations and where the claims are subject to a common set of factual and legal issues.

### **1. FedArb’s ADR-MDL™ Mass Arbitration procedures**

- a. **Written agreement with FedArb.** Companies must (i) register with FedArb the arbitration agreement between the parties (“Arbitration Agreement”) and any relevant customer or employee claim form so that FedArb can integrate those materials into FedArb’s automated case management system; (ii) execute an agreement with FedArb; and (iii) pay the annual subscription for mass arbitration administration, implementation and technology maintenance.
- b. **Submission of Claims and Affirmation Requirement**
  - i. **Spreadsheet listing Claimant Information.** Unless otherwise specified in the Arbitration Agreement, the Demand for Arbitration shall be accompanied by an electronic spreadsheet (“Spreadsheet”) that includes (1) the first and last name, physical address and email of each claimant; and (2) any other information that is contractually required under the terms of the Arbitration Agreement (e.g., customer or employee number, or a reference number provided in an informal resolution procedure).
  - ii. **Affirmation Requirement.** The Demand for Arbitration and the Spreadsheet must be accompanied by a sworn declaration averring that the information in both the Demand for Arbitration and the Spreadsheet is true and correct to the best of the representative’s knowledge after an inquiry reasonable under the circumstances.
  - iii. **Payment of Filing Fees.** If the Arbitration Agreement provides for claimants to pay a portion of the filing fees, such fees need not be paid with the Demand for Arbitration but must be paid within 30 days after FedArb submits an invoice to the parties for their respective filing fees.
  - iv. **Stay of Proceedings.** Upon the filing of Demand for Arbitration with FedArb, all individual arbitrations are automatically stayed pending completion of the MDL Tribunal process described below.

- c. **Option for a Pre-Filing Fee motion.** Prior to the parties having to pay the filing fees on behalf of each potential claimant, the parties have the option of filing a Pre-Filing Fee Motion.
- i. Prior to filing a Pre-Filing Fee motion, the parties shall meet and confer and both sides shall undertake reasonable efforts to resolve disputed issues, including an obligation by the Company to use reasonable efforts to share information necessary for claimant’s counsel to verify that the list of potential claimants is accurate and that each claimant has complied with all pre-filing requirements set forth in the Arbitration Agreement.
  - ii. After the meet and confer, either party can make a motion for, *inter alia*, violation of the Affirmation Requirement, lack of arbitrability, claimant’s failure to comply with the contractual terms of the Arbitration Agreement or a 12(b)(6) motion for claimant’s failure to state a *plausible* claim.
  - iii. Such motion will be resolved promptly before a single former federal judge selected by FedArb in consultation with the parties’ counsel.
  - iv. Simultaneous with its filing of such a motion, the filing party will pay FedArb a \$30,000 administrative fee, in addition to the fees charged by the arbitrator hearing the motion.
  - v. If the Affirmation Requirement is found to have been violated, then the former federal judge hearing the motion may impose an appropriate sanction on any attorney, law firm, or party that violated the Affirmation Requirement or who is responsible for the violation. Sanctions may include the dismissal of the claim and/or an order directing payment to the movant of part or all of the reasonable attorney’s fees and other expenses directly resulting from the violation.
- d. **Payment of Filing Fees.** If the parties decline to bring a Pre-Filing Fee motion, or after a decision has been rendered on a Pre-Filing Fee Motion, FedArb will issue an invoice for FedArb’s filing fees of \$100 for each claimant based on the actual number of recognized claimants—either as submitted in the Spreadsheet or as adjusted by the parties or by the decision in the Pre-Filing Fee hearing. All filing fees must be paid to FedArb within 30 days from the date of FedArb’s invoice, unless a shorter period is required under governing law.
- e. **MDL Tribunal.** Unless the Arbitration Agreement provides for a single arbitrator, a tribunal of three arbitrators (“Tribunal”) selected from FedArb’s panel will then decide (i) any dispositive motions the parties elect to bring (including counter claims); (ii) all discovery disputes; (iii) all common issues of fact or law; (iv) any common damages issues; and (v) any other motion either side deems relevant. The tribunal’s goal will be to reduce the number of individual issues that need to be arbitrated so that claimants entitled to damages can promptly be paid either by completing a claims form or by expedited arbitration.
- f. **Election to Submit a Claim or to Pursue Individual Arbitration.** Within ninety (90) days after the Tribunal has rendered its findings and decisions, claimants must elect either (a) to complete a Claims Submission Form with the information needed to process their claim, or (b) to proceed to individual arbitration with respect to facts

specific to each claimant and consistent with the Tribunal's binding findings and decisions.

g. **Individual Arbitrations.**

- i. Parties will use FedArb's Expedited Arbitration Rules (*i.e.*, limited briefing, limited discovery, no post hearing briefs).
- ii. The Tribunal's resolution of all issues presented by the parties will be binding on the parties and dispositive.
- iii. Arbitrations will be virtual unless the arbitrator concludes that compelling facts and circumstances dictate otherwise, or unless the claim is for an amount in excess of \$100,000.

h. **Mass Arbitration Rules Govern.** To the extent these Mass Arbitration procedures conflict with FedArb's general arbitration rules or the rules that the arbitration is being conducted under, these Mass Arbitration procedures supersede and govern with respect to the amount of any filing or administrative fees.

i. **Settlement.** Nothing in this framework shall prohibit the parties from settling any individual case or groups of cases.

j. **Modifications to Mass Arbitration Framework.** FedArb reserves the right in its sole discretion to change the elements of this framework or any FedArb fees at any time. Any modifications or changes to FedArb fees shall, however, govern only arbitrations commenced or notified to FedArb after the date of such modifications.

k. **Severability.** If any of the procedures in these rules is determined to be in conflict with a provision of applicable law, the provision of law will govern over such procedure, and no other rule will be affected.