

LOCAL SUPERIOR COURT CIVIL ARBITRATION RULES **(LSCCAR)**

1. SCOPE AND PURPOSE OF RULES

LSCCAR 1.1 APPLICATION OF RULES

The purpose of mandatory arbitration of civil actions under RCW 7.06, as implemented by the Superior Court Civil Arbitration Rules, is to provide a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes. The Superior Court Civil 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 be informal and expeditious, consistent with the purpose of the statute and rules.

[Amended effective September 1, 2012; September 1, 2020.]

LSCCAR 1.2 MATTERS SUBJECT TO ARBITRATION

The following matters are subject to mandatory arbitration: (a) civil actions at issue in the Superior Court where the sole relief sought is a money judgment not in excess of \$100,000, exclusive of attorney fees, interest, and costs; and (b) claims in which the sole relief sought is the establishment, modification, or termination of maintenance or child support payments which are not capable of resolution on the motion docket or by agreement, regardless of the number or amount of payments.

[Amended effective September 1, 2012; September 1, 2018; September 1, 2020.]

LSCCAR 1.3 RELATIONSHIP TO SUPERIOR COURT JURISDICTION AND OTHER RULES

(c) **Motions.** All motions before the court relating to mandatory arbitration shall be noted on the civil motion calendar except as may be otherwise provided in these rules.

[Adopted effective September 1, 2012; amended effective September 1, 2020.]

2. TRANSFER TO ARBITRATION AND ASSIGNMENT OF ARBITRATOR

LSCCAR 2.1 TRANSFER TO ARBITRATION

(a) Court Order Required. Cases shall be transferred to arbitration only by court order and after mediation has been completed pursuant to LCR 40.

(b) Statement of Arbitrability. When any party determines that the case is ready for trial and that the case is subject to mandatory arbitration, such party shall file and serve a Statement of Arbitrability on the form prescribed by the Court.

(c) Response to Statement of Arbitrability. Any party disagreeing with the Statement of Arbitrability shall, within ten (10) days after the Statement of Arbitrability has been served, file and serve a Response to the Statement of Arbitrability on the form prescribed by the Court. In the absence of such a response, the Statement of Arbitrability shall be deemed correct and a non-responding party shall be deemed to have stipulated to arbitration if the Statement of Arbitrability provides that the case is subject to mandatory arbitration.

(d) Failure to File - Amendments. A party failing to file and serve an original response within the time prescribed may later do so only upon leave of the court. A party may amend the Initial Statement of Arbitrability or response at any time before assignment of an arbitrator or assignment of a trial date, or thereafter only upon leave of the Court for good cause shown.

(e) By Stipulation. A case in which all parties file a stipulation to arbitrate under SCCAR 8.1(b) regardless of the nature of the case or amount in controversy may be transferred to arbitration by court order presented to the Court with the stipulation.

(f) Interpreter. In a case transferred to arbitration, if a party: (1) is hearing impaired or has a limited ability to speak or understand the English language, or (2) knows, or after reasonable inquiry has reason to believe, that any other party or any witness is hearing impaired or has limited ability to speak or understand the English language, the party shall advise the Arbitration Supervisor in writing that an interpreter is needed.

[Amended September 1, 2012; September 1, 2020.]

LSCCAR 2.3 ASSIGNMENT TO ARBITRATOR

(a) Generally. When a case is set for arbitration, a list of five proposed arbitrators shall be furnished to the parties by the Arbitration Supervisor. 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, the arbitrator shall be chosen from among the five proposed arbitrators in the manner defined by this rule.

(1) Response by Parties. Within fourteen (14) days after the list of the proposed arbitrators is furnished to the parties, each party shall nominate 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.

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

(3) **No Response.** If neither party responds within fourteen (14) days, the arbitrator shall be randomly appointed from the five proposed arbitrators.

(4) **Additional Arbitrators for Additional Parties.** If there are more than two adverse parties all represented by different counsel, one additional proposed arbitrator 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 Presiding Judge.

[Adopted effective September 1, 2012; amended effective September 1, 2020.]

3. ARBITRATORS

LSCCAR 3.1 QUALIFICATIONS

(a) **Qualifications.** All arbitrators shall meet the qualifications to serve as an arbitrator as prescribed by SCCAR 3.1 and RCW 7.06.040 (and any amendments thereto).

(b) **Arbitration Panel.** There shall be a panel of arbitrators in such numbers as the Superior Court Judges may 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 the arbitrators available to hear cases and information sheets will be available for public inspection in the Superior Court Administration 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.

(c) **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 Supervisor immediately if refusing to serve, or if any cause exists for the arbitrator's disqualification from the case on any of the grounds of interest, relationship, bias, or prejudice set forth in the Code of Judicial Conduct governing disqualification of judges. If disqualified, the arbitrator must immediately return all materials in a case to the Arbitration Supervisor.

[Amended September 1, 2012; September 1, 2020.]

LSCCAR 3.2 AUTHORITY OF ARBITRATOR

In addition to the authority given to arbitrators under SCCAR 3.2, an arbitrator has authority to 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 ten (10) days thereafter to appeal the award of such expense in accordance with the procedures described in RCW 2.24.050. If within ten (10) days after the award is filed no party appeals, a judgment shall be entered in a manner described under SCCAR 6.3.

[Amended effective September 1, 2012; September 1, 2020.]

4. PROCEDURES AFTER ASSIGNMENT

LSCCAR 4.2 DISCOVERY

(a) Discovery Pending at the Time Arbitrator is Assigned. Discovery pending at the time the case is assigned to an arbitrator is stayed pending order from the arbitrator or except as the parties may stipulate or as authorized by SCCAR 4.2 and LSCCAR 4.2 below.

(b) Additional Discovery. In determining when additional discovery beyond that directly authorized by SCCAR 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.

(c) Interrogatories. Notwithstanding the foregoing, the following interrogatories may be submitted to any party:

- (1) State the amount of general damages being claimed;
- (2) State each item of special damages being claimed and the amount thereof;
- (3) List the name, address and phone number of each person having knowledge of any facts regarding liability, and a short summary of their intended testimony at the arbitration hearing;
- (4) List the name, address and phone number of each person having knowledge of any facts regarding the damages claimed, and a short summary of their intended testimony at the arbitration hearing;
- (5) List the name, address and phone number of each expert witness you intend to call at the arbitration. For each such expert, state the subject matter on which the expert is expected to testify; state the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

Only these interrogatories, with the exact language as set out above, are permitted, except as permitted by section (a).

[Amended effective September 1, 2012; September 1, 2020.]

5. HEARING

LSCCAR 5.1 NOTICE OF HEARING

In addition to the requirements of SCCAR 5.1, the arbitrator shall give reasonable notice of the hearing date and any continuance to the Arbitration Supervisor.

[Amended effective September 1, 2012; September 1, 2020.]

LSCCAR 5.2 PREHEARING STATEMENT OF PROOF

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

[Amended effective September 1, 2012; September 1, 2020.]

6. AWARD

LSCCAR 6.1 FORM AND CONTENT OF AWARD

(a) Form. The award shall be prepared on the form prescribed by the Court.

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

[Amended effective September 1, 2012; September 1, 2020.]

7. TRIAL DE NOVO

LSCCAR 7.1 REQUEST FOR TRIAL DE NOVO

(a) Service and Filing. In addition to the provision for service and filing in SCCAR 7.1, a copy of the Request for Trial de Novo shall be provided to the Arbitration Supervisor.

(d) Calendar. When a trial de novo is requested as provided in SCCAR 7.1, a status conference shall be set by the court administrator in accordance with LCR 40.

[Amended effective September 1, 2012; September 1, 2020.]

8. GENERAL PROVISIONS

LSCCAR 8.1 STIPULATIONS

(c) To Arbitrate Other Cases – Effect on Relief Granted. If a case not otherwise subject to mandatory arbitration is transferred to arbitration by stipulation, the arbitrator may grant any relief which could have been granted if the case were determined by a judge.

[Amended effective September 1, 2012; September 1, 2020.]

LSCCAR 8.4 TITLE AND CITATION

These rules are known and cited as the Mason County Superior Court Civil Arbitration Rules. LCCAR is the official abbreviation.

[Adopted effective September 1, 2012; amended effective September 1, 2020.]

LSCCAR 8.6 COMPENSATION OF ARBITRATOR

(a) Generally. Arbitrators shall be compensated in the same amount and manner as judges pro tempore of the Superior Court; provided, however, the portion of the compensation from the Superior Court shall not exceed \$1,000.00 for any case without approval of the presiding judge.

(b) Form. When the award is filed, the arbitrator shall submit to the Court Administrator a request for payment on a form prescribed by the Washington State Administrative Office of the Courts. The presiding judge shall determine the amount of compensation to be paid.

[Adopted effective September 1, 2012; amended effective September 1, 2020.]