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## **States' Alternative Dispute Resolution Statutes**

### **State of Connecticut**

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## States' Alternative Dispute Resolution Statutes

### STATE OF CONNECTICUT

#### Index

<i>Arbitration Proceedings</i>	2
<i>Uncitral Model Law on International Commercial Arbitration</i>	9
<i>Rules for the Superior Court. Chapter 23.</i>	21
<i>Mediation, Disclosure</i>	24

#### **Arbitration Proceedings**

Title 52, Chapter 909.

*Current through the 2008 Regular Session*

#### § 52-408. Agreements to arbitrate

An agreement in any written contract, or in a separate writing executed by the parties to any written contract, to settle by arbitration any controversy thereafter arising out of such contract, or out of the failure or refusal to perform the whole or any part thereof, or a written provision in the articles of association or bylaws of an association or corporation of which both parties are members to arbitrate any controversy which may arise between them in the future, or an agreement in writing between two or more persons to submit to arbitration any controversy existing between them at the time of the agreement to submit, or an agreement in writing between the parties to a marriage to submit to arbitration any controversy between them with respect to the dissolution of their marriage, except issues related to child support, visitation and custody, shall be valid, irrevocable and enforceable, except when there exists sufficient cause at law or in equity for the avoidance of written contracts generally.

#### § 52-409. Stay of proceedings in court

If any action for legal or equitable relief or other proceeding is brought by any party to a written agreement to arbitrate, the court in which the action or proceeding is pending, upon being satisfied that any issue involved in the action or proceeding is referable to arbitration under the agreement, shall, on motion of any party to the arbitration agreement, stay the action or proceeding until an arbitration has been had in compliance with the agreement, provided the person making application for the stay shall be ready and willing to proceed with the arbitration.

### § 52-410. Application for court order to proceed with arbitration

(a) A party to a written agreement for arbitration claiming the neglect or refusal of another to proceed with an arbitration thereunder may make application to the superior court for the judicial district in which one of the parties resides or, in a controversy concerning land, for the judicial district in which the land is situated or, when the court is not in session, to any judge thereof, for an order directing the parties to proceed with the arbitration in compliance with their agreement. The application shall be by writ of summons and complaint, served in the manner provided by law.

(b) The complaint may be in the following form: “1. On ..... , 20..., the plaintiff and the defendant entered into a written agreement for arbitration, of which exhibit A, hereto attached, is a copy. 2. The defendant has neglected and refused to perform the agreement for arbitration, although the plaintiff is ready and willing to perform the agreement. The plaintiff claims an order directing the defendant to proceed with an arbitration in compliance therewith.”

(c) The parties shall be considered as at issue on the allegations of the complaint unless the defendant files answer thereto within five days from the return day, and the court or judge shall hear the matter either at a short calendar session, or as a privileged case, or otherwise, in order to dispose of the case with the least possible delay, and shall either grant the order or deny the application, according to the rights of the parties.

### § 52-411. Appointment of arbitrator or umpire

(a) If, in a written agreement to arbitrate, a method of appointing an arbitrator or arbitrators or an umpire has been provided, the method shall be followed.

(b) If no method is provided therein, or if a method is provided and any party thereto fails to use the method, or if for any other reason there is a failure in the naming of an arbitrator or arbitrators or an umpire, or if any arbitrator or umpire dies or is unable or refuses to serve, upon application by a party to the arbitration agreement, the superior court for the judicial district in which one of the parties resides or, in a controversy concerning land, for the judicial district in which the land is situated or, when the court is not in session, any judge thereof, shall appoint an arbitrator or arbitrators or an umpire, as the case may require. A person so appointed an arbitrator or umpire shall act under any arbitration agreement with the same force and effect as if he had been specifically named or referred to therein. Unless otherwise provided in the agreement, the arbitration shall be by a single arbitrator.

(c) An application under this section and the proceedings thereon shall conform to the application and proceedings provided for in section 52-410, except that such changes shall be made in the complaint as may be necessary to correctly and concisely state the plaintiff's claim.

### § 52-412. Subpoenas and depositions

(a) Any arbitrator or umpire and any other persons qualified by law to issue subpoenas in civil actions shall have power to issue subpoenas for the attendance of witnesses and for the production of books, papers and other evidence at arbitration hearings. The subpoenas shall be served in the manner provided by law for the service of subpoenas in a civil action and shall be returnable to the arbitrator or arbitrators or umpire.

(b) On application of an arbitrator, umpire or other person, the superior court for the judicial district in which one of the parties resides or, in the case of land, for the judicial district in which the land is situated or, when the court is not in session, any judge thereof, shall order necessary process to issue to compel compliance with subpoenas in an arbitration matter in the manner provided by law concerning subpoenas in a civil action.

(c) Any party to a written agreement for arbitration may make application to the Superior Court, or, when the court is not in session, to a judge thereof, having jurisdiction as provided in subsection (b) of this section, for an order directing the taking of depositions, in the manner and for the reasons prescribed by law for taking depositions to be used in a civil action, for use as evidence in an arbitration.

§ 52-413. Hearing; time and place; adjournment

The arbitrators to an arbitration matter shall appoint a time and place for the hearing and notify the parties thereof. Upon application of either party and for good cause shown, the arbitrators shall postpone the time of the hearing. The arbitrators may adjourn any hearing, from time to time, as may be necessary. Any postponement or adjournment shall not extend the time, if any, fixed in the arbitration agreement, for rendering the award.

§ 52-414. Additional arbitrator. Rehearing. Oath

(a) All the arbitrators to an arbitration matter shall meet and act together during the hearing. A majority may determine any question.

(b) If any party fails to appear before the arbitrators or an umpire after reasonable notice, the arbitrators or umpire may nevertheless proceed to hear and determine the controversy upon the evidence which is produced before them.

(c) If a written agreement to arbitrate provides that two or more arbitrators therein designated or referred to may select or appoint a person or persons as an additional arbitrator or arbitrators or as an umpire, or if a person or persons are selected or appointed as a substitute arbitrator or arbitrators or umpire and any such selection or appointment is made after evidence has been taken in the arbitration, the matters shall be reheard, unless a rehearing is waived in the written agreement to arbitrate or by subsequent written consent of the parties.

(d) Before hearing any testimony or examining other evidence in the matter, the arbitrators and umpire shall be sworn to hear and examine the matter in controversy faithfully and fairly and to make a just award according to the best of their understanding, unless the oath is waived in writing by the parties to the arbitration agreement.

(e) Any arbitrator or an umpire may administer oaths to witnesses.

§ 52-415. Arbitrators may ask advice of courts

At any time during an arbitration, upon request of all the parties to the arbitration, the arbitrators or an

umpire shall make application to any designated court, or to any designated judge, for a decision on any question arising in the course of the hearing, provided such parties shall agree in writing that the decision of such court or judge shall be final as to the question determined and that it shall bind the arbitrators in rendering their award. An application under this section may be heard in the manner provided by law for the hearing of written motions at a short calendar session, or otherwise as the court or judge may direct.

§ 52-416. Time within which award shall be rendered. Notice

(a) If the time within which an award is rendered has not been fixed in the arbitration agreement, the arbitrator or arbitrators or umpire shall render the award within thirty days from the date the hearing or hearings are completed, or, if the parties are to submit additional material after the hearing or hearings, thirty days from the date fixed by the arbitrator or arbitrators or umpire for the receipt of the material. An award made after that time shall have no legal effect unless the parties expressly extend the time in which the award may be made by an extension or ratification in writing.

(b) The award shall be in writing and signed by the arbitrator or arbitrators, or a majority of them, or by the umpire. Written notice of the award shall be given to each party.

§ 52-417. Application for order confirming award

At any time within one year after an award has been rendered and the parties to the arbitration notified thereof, any party to the arbitration may make application to the superior court for the judicial district in which one of the parties resides or, in a controversy concerning land, for the judicial district in which the land is situated or, when the court is not in session, to any judge thereof, for an order confirming the award. The court or judge shall grant such an order confirming the award unless the award is vacated, modified or corrected as prescribed in sections 52-418 and 52-419.

§ 52-418. Vacating award

(a) Upon the application of any party to an arbitration, the superior court for the judicial district in which one of the parties resides or, in a controversy concerning land, for the judicial district in which the land is situated or, when the court is not in session, any judge thereof, shall make an order vacating the award if it finds any of the following defects: (1) If the award has been procured by corruption, fraud or undue means; (2) if there has been evident partiality or corruption on the part of any arbitrator; (3) if the arbitrators have been guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown or in refusing to hear evidence pertinent and material to the controversy or of any other action by which the rights of any party have been prejudiced; or (4) if the arbitrators have exceeded their powers or so imperfectly executed them that a mutual, final and definite award upon the subject matter submitted was not made.

(b) If an award is vacated and the time within which the award is required to be rendered has not expired, the court or judge may direct a rehearing by the arbitrators. Notwithstanding the time within which the award is required to be rendered, if an award issued pursuant to a grievance taken under a collective bargaining agreement is vacated the court or judge shall direct a rehearing unless either party affirmatively pleads and the court or judge determines that there is no issue in dispute.

(c) Any party filing an application pursuant to subsection (a) of this section concerning an arbitration award issued by the State Board of Mediation and Arbitration shall notify said board and the Attorney General, in writing, of such filing within five days of the date of filing.

§ 52-419. Modification or correction of award

(a) Upon the application of any party to an arbitration, the superior court for the judicial district in which one of the parties resides or, in a controversy concerning land, for the judicial district in which the land is situated, or, when the court is not in session, any judge thereof, shall make an order modifying or correcting the award if it finds any of the following defects: (1) If there has been an evident material miscalculation of figures or an evident material mistake in the description of any person, thing or property referred to in the award; (2) if the arbitrators have awarded upon a matter not submitted to them unless it is a matter not affecting the merits of the decision upon the matters submitted; or (3) if the award is imperfect in matter of form not affecting the merits of the controversy.

(b) The order shall modify and correct the award, so as to effect the intent thereof and promote justice between the parties.

§ 52-420. Motion to confirm, vacate or modify award

(a) Any application under section 52-417, 52-418 or 52-419 shall be heard in the manner provided by law for hearing written motions at a short calendar session, or otherwise as the court or judge may direct, in order to dispose of the case with the least possible delay.

(b) No motion to vacate, modify or correct an award may be made after thirty days from the notice of the award to the party to the arbitration who makes the motion.

(c) For the purpose of a motion to vacate, modify or correct an award, such an order staying any proceedings of the adverse party to enforce the award shall be made as may be deemed necessary. Upon the granting of an order confirming, modifying or correcting an award, a judgment or decree shall be entered in conformity therewith by the court or judge granting the order.

§ 52-421. Record to be filed with clerk of court. Effect and enforcement of judgment or decree

(a) Any party applying for an order confirming, modifying or correcting an award shall, at the time the order is filed with the clerk for the entry of judgment thereon, file the following papers with the clerk: (1) The agreement to arbitrate, (2) the selection or appointment, if any, of an additional or substitute arbitrator or an umpire, (3) any written agreement requiring the reference of any question as provided in section 52-415, (4) each written extension of the time, if any, within which to make the award, (5) the award, (6) each notice and other paper used upon an application to confirm, modify or correct the award, and (7) a copy of each order of the court upon such an application.

(b) The judgment or decree confirming, modifying or correcting an award shall be docketed as if it were rendered in a civil action. The judgment or decree so entered shall have the same force and effect in all respects as, and be subject to all the provisions of law relating to, a judgment or decree in a civil action; and it may be enforced as if it had been rendered in a civil action in the court in which it is entered. When the award requires the performance of any other act than the payment of money, the court or judge entering the judgment or decree may direct the enforcement thereof in the manner provided by law for the enforcement of equitable decrees.

### § 52-422. Order pendente lite

At any time before an award is rendered pursuant to an arbitration under this chapter, the superior court for the judicial district in which one of the parties resides or, in a controversy concerning land, for the judicial district in which the land is situated or, when said court is not in session, any judge thereof, upon application of any party to the arbitration, may make forthwith such order or decree, issue such process and direct such proceedings as may be necessary to protect the rights of the parties pending the rendering of the award and to secure the satisfaction thereof when rendered and confirmed.

### § 52-423. Appeal

An appeal may be taken from an order confirming, vacating, modifying or correcting an award, or from a judgment or decree upon an award, as in ordinary civil actions.

### § 52-424. Reference of pending actions to arbitration

When the parties to any action pending in court desire to refer it to arbitration, each may choose one arbitrator and the court may appoint a third; and the award of such arbitrators, returned to and accepted by the court, shall be final, and judgment shall be rendered pursuant thereto and execution granted thereon with costs.

### § 52-549u. Arbitration of certain civil actions. Rules of procedure

In accordance with the provisions of section 51-14, the judges of the Superior Court may make such rules as they deem necessary to provide a procedure in accordance with which the court, in its discretion, may refer to an arbitrator, for proceedings authorized pursuant to this chapter, any civil action in which in the discretion of the court, the reasonable expectation of a judgment is less than fifty thousand dollars exclusive of legal interest and costs and in which a claim for a trial by jury and a certificate of closed pleadings have been filed. An award under this section shall not exceed fifty thousand dollars, exclusive of legal interest and costs. Any party may petition the court to become eligible to participate in the arbitration process as provided in this section.

### § 52-549v. Assignment of arbitrators. Arbitration proceedings

The Chief Court Administrator may assign to each judicial district such number of arbitrators as he deems advisable. The Chief Court Administrator, or his designee, shall designate the holding of arbitration proceedings at such times and in such courthouse facilities as he deems to be in the best interest of court business, taking into consideration the convenience of litigants and their counsel, and the efficient use of courthouse personnel and facilities.

### § 52-549w. Appointment of arbitrators. Compensation. Powers

(a) Upon publication of a notice in the Connecticut Law Journal, any commissioner of the Superior Court admitted to practice in this state for at least five years, who has civil litigation experience and who is willing and able to act as an arbitrator, may submit his name to the Office of the Chief Court Administrator for approval to be placed on a list of available arbitrators for one or more judicial

districts. The criteria for selection and approval of arbitrators shall be promulgated by the judges of the Superior Court. Upon selection and approval by the Chief Court Administrator, for such term as he may fix, the arbitrators shall be sworn or affirmed to try justly and equitably all matters at issue submitted to them. The Chief Court Administrator, in his discretion, may at any time revoke any such approval.

(b) Each arbitrator shall receive one hundred dollars for each day he is assigned to a courthouse facility to conduct proceedings as an arbitrator and an additional twenty-five dollars for each decision filed with the court. In difficult or extraordinary cases, the Chief Court Administrator may, in his discretion, make a further allowance not to exceed two hundred dollars for services rendered attendant to but not part of the hearing.

(c) Such arbitrators shall have the power to: (1) Issue subpoenas for the attendance of witnesses and for the production of books, papers and other evidence, such subpoenas to be served in the manner provided by law for service of subpoenas in a civil action and to be returnable to the arbitrators; (2) administer oaths or affirmations; and (3) determine the admissibility of evidence and the form in which it is to be offered.

#### § 52-549x. Decision of arbitrator

Within one hundred twenty days of the completion of the arbitration hearing the arbitrator shall file his decision with the clerk of the court together with sufficient copies thereof for the parties or their counsel. In his decision the arbitrator shall state the number of days on which hearings concerning that case were held before such arbitrator.

#### § 52-549y. Failure to appear. Judgment. Motion to open or set aside judgment. Dismissal of action. Payment of arbitration fee

(a) Where a party fails to appear at the hearing, the arbitrator shall nonetheless proceed with the hearing and shall make a decision, as may be just and proper under the facts and circumstances of the action, which shall be entered as a judgment forthwith by the court. Such judgment may not be opened or set aside unless a motion to open or set aside is filed within four months succeeding the date on which it was rendered. If the court opens or sets aside the judgment, it may resubmit the actions to the arbitrator. Any order opening or setting aside the judgment may be upon condition that the moving party pay into the court an amount not greater than the total fees then payable to the arbitrator for services in the case.

(b) If all parties fail to appear at the hearing, the arbitrator shall file a request with the court to dismiss the action. If the court does not dismiss the action, it may be heard by the arbitrator upon order of the court. Such order may provide for the payment by any party to the court of an amount not greater than one hundred dollars.

#### § 52-549z. Appeal. Trial de novo

(a) A decision of the arbitrator shall become a judgment of the court if no appeal from the arbitrator's decision by way of a demand for a trial de novo is filed in accordance with subsection (d) of this section.

(b) A decision of the arbitrator shall become null and void if an appeal from the arbitrator's decision by way of a demand for a trial de novo is filed in accordance with subsection (d) of this section.

(c) For the purpose of this section the word "decision" shall include a decision and judgment rendered pursuant to subsection (a) of section 52-549y, provided the appeal is taken by a party who did not fail to appear at the hearing, and it shall exclude any other decision or judgment rendered pursuant to said section.

(d) An appeal by way of a demand for a trial de novo must be filed with the court clerk within twenty days after the deposit of the arbitrator's decision in the United States mail, as evidenced by the postmark, and it shall include a certification that a copy thereof has been served on each counsel of record, to be accomplished in accordance with the rules of court. The decision of the arbitrator shall not be admissible in any proceeding resulting after a claim for a trial de novo or from a setting aside of an award in accordance with section 52-549aa.

(e) The Superior Court may refer any proceeding resulting from the filing of a demand for a trial de novo under subsection (d) of this section to a judge trial referee without the consent of the parties, and said judge trial referee shall have and exercise the powers of the Superior Court in respect to trial, judgment and appeal in the case, including a judgment of fifty thousand dollars or more.

#### § 52-549aa. Setting aside award. Trial de novo

In addition to the absolute right to a trial de novo as provided under section 52-549z, the court in which such award is filed may set aside an award of arbitrators and order a trial de novo in the Superior Court upon proof that the arbitrators acted arbitrarily or capriciously in the course of the hearings before them or that the award was procured by corruption or other undue means.

### **Uncitral Model Law on International Commercial Arbitration** Title 50A, Chapter 862.

*Current through the 2008 Regular Session*

#### § 50a-100. Short title: UNCITRAL Model Law on International Commercial Arbitration

This chapter may be cited as the "UNCITRAL Model Law on International Commercial Arbitration".

#### § 50a-101. Scope of application

(1) This chapter applies to international commercial arbitration, subject to any agreement in force between the United States of America, including all territories and possessions, and any other country or countries.

(2) The provisions of this chapter, except sections 50a-108, 50a-109, 50a-135 and 50a-136, apply only if the place of arbitration is in this state.

(3) An arbitration is international if:

- (a) The parties to an arbitration agreement have, at the time of the conclusion of that agreement, their places of business in different countries; or
- (b) One of the following places is situated outside the country in which the parties have their places of business: (i) The place of arbitration if determined in, or pursuant to, the arbitration agreement; (ii) any place where a substantial part of the obligations of the commercial relationship is to be performed or the place with which the subject matter of the dispute is most closely connected; or
- (c) The parties have expressly agreed that the subject matter of the arbitration agreement relates to more than one country.

(4) For the purposes of subsection (3) of this section:

- (a) If a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement;
- (b) If a party does not have a place of business, reference is to be made to his habitual residence.

(5) This chapter shall not affect any other law of this state by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only according to provisions other than those of this chapter.

#### § 50a-102. Definitions and rules of interpretation

For the purposes of this chapter:

- (a) "Arbitration" means any arbitration whether or not administered by a permanent arbitral institution;
- (b) "Arbitral tribunal" means a sole arbitrator or a panel of arbitrators;
- (c) "Court" means a body or organ of the judicial system of a country or any political subdivision thereof;
- (d) Where a provision of this chapter, except section 50a-128, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination;
- (e) Where a provision of this chapter refers to the fact that the parties have agreed or that they may agree or in any other way refers to an agreement of the parties, such agreement includes any arbitration rules referred to in that agreement;
- (f) Where a provision of this chapter, other than in subsection (a) of section 50a-125 and subdivision (a) of subsection (2) of section 50a-132, refers to a claim, it also applies to a counterclaim, and where it refers to a defense, it also applies to a defense to such counterclaim.

### § 50a-103. Receipt of written communications

(1) Unless otherwise agreed by the parties:

(a) Any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence or mailing address; if none of these can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last-known place of business, habitual residence or mailing address by registered mail or any other means reasonably calculated to give the addressee actual notice, which provides a record of the attempt to deliver it;

(b) The communication is deemed to have been received on the day it is so delivered.

(2) The provisions of this section do not apply to communications in court proceedings.

### § 50a-104. Waiver of right to object

A party who knows that any provision of this chapter or any requirement under the arbitration agreement has not been complied with and yet proceeds with the arbitration without stating his objection to such noncompliance without undue delay or, if a time limit is provided therefor, within such period of time, shall be deemed to have waived his right to object.

### § 50a-105. Extent of court intervention

In matters governed by this chapter, no court shall intervene except where so provided in this chapter.

### § 50a-106. Performance of certain functions by Superior Court

The functions referred to in subsections (3) and (4) of section 50a-111, subsection (3) of section 50a-113, section 50a-114, subsection (3) of section 50a-116 and subsection (2) of section 50a-134 shall be performed by the Superior Court.

### § 50a-107. Definition and form of arbitration agreement

(1) An "arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

(2) The arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the agreement, or in an exchange of statements of claim and defense in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

### § 50a-108. Arbitration agreement and substantive claim before court

(1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(2) Where an action referred to in subsection (1) of this section has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

#### § 50a-109. Arbitration agreement and interim measures by court

Unless otherwise provided in the arbitration agreement, it is not incompatible with an arbitration agreement for a party to request from a court, before or during arbitral proceedings, an interim measure of protection and for a court to grant such measure.

#### § 50a-110. Number of arbitrators

(1) The parties are free to determine the number of arbitrators.

(2) Failing such determination, the number of arbitrators shall be three.

#### § 50a-111. Appointment of arbitrators

(1) No person shall be precluded by reason of his nationality from acting as an arbitrator, unless otherwise agreed by the parties.

(2) The parties are free to agree on a procedure of appointing the arbitrator or arbitrators, subject to the provisions of subsections (4) and (5) of this section.

(3) Failing such agreement:

(a) In an arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator; if a party fails to appoint the arbitrator within thirty days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment the appointment shall be made, upon request of a party, by the court specified in section 50a-106;

(b) In an arbitration with a sole arbitrator, if the parties are unable to agree on the arbitrator within thirty days of receipt of a request for arbitration, the arbitrator shall be appointed, upon request of a party, by the court specified in section 50a-106;

(4) Where, under an appointment procedure agreed upon by the parties:

(a) A party fails to act as required under such procedure; or

(b) The parties, or two arbitrators, are unable to reach an agreement expected of them under such

procedure; or

(c) A third party, including an institution, fails to perform any function entrusted to it under such procedure, any party may request the court specified in section 50a-106 to take the necessary measure, unless the agreement on the appointment procedure provides other means for securing the appointment.

(5) A decision on a matter entrusted by subsection (3) or (4) of this section to the court specified in section 50a-106 shall not be subject to appeal. The court, in appointing an arbitrator, shall have due regard to any qualifications required of the arbitrator by the agreement of the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator and, in the case of a sole or third arbitrator, shall take into account as well the advisability of appointing an arbitrator of a nationality other than those of the parties.

#### § 50a-112. Grounds for challenge

(1) When a person is approached in connection with his possible appointment as an arbitrator, he shall disclose any circumstances likely to give rise to justifiable doubts as to his impartiality or independence. An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay, disclose any such circumstances to the parties unless they have already been informed of them by him.

(2) An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment has been made.

#### § 50a-113. Challenge procedure

(1) The parties are free to agree on a procedure for challenging an arbitrator, subject to the provisions of subsection (3) of this section.

(2) Failing such agreement, a party who intends to challenge an arbitrator shall, within fifteen days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstances referred to in subsection (2) of section 50a-112, send a written statement of the reasons for the challenge to the arbitral tribunal. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

(3) If a challenge under any procedure agreed upon by the parties or under the procedure of subsection (2) of this section is not successful, the challenging party may request, within thirty days after having received notice of the decision rejecting the challenge, the court specified in section 50a-106 to decide on the challenge, which decision shall not be subject to appeal; while such a request is pending, the arbitral tribunal, including the challenged arbitrator, may continue the arbitral proceedings and make an award.

#### § 50a-114. Inability or failure to act

(1) If an arbitrator becomes de jure or de facto unable to perform his functions or for other reasons fails to act without undue delay, his mandate terminates if he withdraws from his office or if the parties agree on the termination. Otherwise, if a controversy remains concerning any of these grounds, any party may request the court specified in section 50a-106 to decide on the termination of the mandate, which decision shall be subject to no appeal.

(2) If, under this section or subsection (2) of section 50a-113, an arbitrator withdraws from his office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in this section or subsection (2) of section 50a-112.

#### § 50a-115. Appointment of substitute arbitrator

Where the mandate of an arbitrator terminates under section 50a-113 or 50a-114 or because of his withdrawal from office for any other reason or because of the revocation of his mandate by agreement of the parties or in any other case of termination of his mandate, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

#### § 50a-116. Competence of arbitral tribunal to rule on its jurisdiction

(1) The arbitral tribunal may rule on its own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.

(2) A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defense. A party is not precluded from raising such a plea by the fact that he has appointed, or participated in the appointment of, an arbitrator. A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings. The arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(3) The arbitral tribunal may rule on a plea referred to in subsection (2) of this section either as a preliminary question or in an award on the merits. If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party may request, within thirty days after having received notice of that ruling, the court specified in section 50a-106 to decide the matter, which decision shall not be subject to appeal; while such a request is pending, the arbitral tribunal may continue the arbitral proceedings and make an award.

#### § 50a-117. Power of arbitral tribunal to order interim measures

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order any party to take such interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject matter of the dispute. The arbitral tribunal may require any party to provide appropriate security in connection with such measure.

### § 50a-118. Equal treatment of parties

The parties shall be treated with equality and each party shall be given a full opportunity of presenting his case.

### § 50a-119. Determination of rules of procedure

- (1) Subject to the provisions of this chapter, the parties are free to agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.
- (2) Failing such agreement, the arbitral tribunal may, subject to the provisions of this chapter, conduct the arbitration in such manner as it considers appropriate. The power conferred upon the arbitral tribunal includes the power to determine the admissibility, relevance, materiality and weight of any evidence.

### § 50a-120. Place of arbitration

(1) The parties are free to agree on the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

(2) Notwithstanding the provisions of subsection (1) of this section, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts or the parties, or for inspection of goods, other property or documents.

### § 50a-121. Commencement of arbitral proceedings

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

### § 50a-122. Language used in arbitral proceedings

(1) The parties are free to agree on the language or languages to be used in the arbitral proceedings. Failing such agreement, the arbitral tribunal shall determine the language or languages to be used in the proceedings. This agreement or determination, unless otherwise specified therein, shall apply to any written statement by a party, any hearing and any award, decision or other communication by the arbitral tribunal.

(2) The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or, failing such agreement, determined by the arbitral tribunal.

### § 50a-123. Statements of claim and defense

(1) Within the period of time agreed by the parties or determined by the arbitral tribunal, the claimant

shall state the facts supporting his claim, the points at issue and the relief or remedy sought, and the respondent shall state his defense in respect of these particulars, unless the parties have otherwise agreed as to the required elements of such statements. The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

(2) Unless otherwise agreed by the parties, either party may amend or supplement his claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow such amendment having regard to the delay in making it.

#### § 50a-124. Hearings and written proceedings

(1) Subject to any contrary agreement by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have agreed that no hearings shall be held, the arbitral tribunal shall hold such hearings at an appropriate stage of the proceedings, if so requested by a party.

(2) The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purpose of inspection of goods, other property or documents.

(3) All statements, documents or other information supplied to the arbitral tribunal by one party shall be communicated to the other party. Also, any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

#### § 50a-125. Default of a party

Unless otherwise agreed by the parties, if, without showing sufficient cause:

(a) The claimant fails to communicate his statement of claim in accordance with subsection (1) of section 50a-123, the arbitral tribunal shall terminate the proceedings;

(b) The respondent fails to communicate his statement of defense in accordance with subsection (1) of section 50a-123, the arbitral tribunal shall continue the proceedings without treating such failure in itself as an admission of the claimant's allegations;

(c) Any party fails to appear at a hearing or to produce documentary evidence, the arbitral tribunal may continue the proceedings and make the award on the evidence before it.

#### § 50a-126. Expert appointed by arbitral tribunal

(1) Unless otherwise agreed by the parties, the arbitral tribunal:

(a) May appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal;

(b) May require a party to give the expert relevant information or to produce, or to provide access to,

relevant documents, goods or other property for his inspection.

(2) Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his written or oral report, participate in a hearing where the parties have the opportunity to put questions to him and to present expert witnesses in order to testify on the points at issue.

#### § 50a-127. Court assistance in taking evidence

The arbitral tribunal or a party with the approval of the arbitral tribunal may request from a competent court of this state assistance in taking evidence. The court may execute the request within its competence and according to its rules of procedure.

#### § 50a-128. Rules applicable to substance of dispute

(1) The arbitral tribunal shall decide the dispute in accordance with such rules of law as are chosen by the parties as applicable to the substance of the dispute. Any designation of the law or legal system of the given country, or political subdivision thereof, shall be construed, unless otherwise expressed, as directly referring to the substantive law of that country, or political subdivision thereof, and not to its conflict of laws rules.

(2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict of laws rules which it considers applicable.

(3) The arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized it do so.

(4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade applicable to the transaction.

#### § 50a-129. Decision-making by panel of arbitrators

In arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of all its members. However, questions of procedure may be decided by a presiding arbitrator, if so authorized by the parties or all members of the arbitral tribunal.

#### § 50a-130. Settlement

(1) If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceeding and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

(2) An award on agreed terms shall be made in accordance with the provisions of section 50a-131 and shall state that it is an award. Such an award has the same status and effect as any other award on the merits of the case.

### § 50a-131. Form and contents of award

- (1) The award shall be made in writing and shall be signed by the arbitrator or arbitrators. In arbitral proceedings with more than one arbitrator, the signatures of the majority of all members of the arbitral tribunal shall suffice, provided that the reason for any omitted signature is stated.
- (2) The award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms under section 50a-130.
- (3) The award shall state its date and the place of arbitration as determined in accordance with subsection (1) of section 50a-120. The award shall be deemed to have been made at that place.
- (4) After the award is made, a copy signed by the arbitrators in accordance with subsection (1) of this section shall be delivered to each party.

### § 50a-132. Termination of proceedings

- (1) The arbitral proceedings are terminated by the final award or by an order of the arbitral tribunal in accordance with subsection (2) of this section.
- (2) The arbitral tribunal shall issue an order for the termination of the arbitral proceedings when:
  - (a) The claimant withdraws his claim, unless the respondent objects thereto and the arbitral tribunal recognizes a legitimate interest on his part in obtaining a final settlement of the dispute;
  - (b) The parties agree on the termination of the proceedings;
  - (c) The arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- (3) The mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings, subject to the provisions of section 50a-133 and subsection (4) of section 50a-134.

### § 50a-133. Correction and interpretation of award. Additional award

- (1) Within thirty days of receipt of the award, unless another period of time has been agreed upon by the parties:
  - (a) A party, with notice to the other party, may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors or any errors of similar nature;
  - (b) If so agreed by the parties, a party, with notice to the other party, may request the arbitral tribunal to give an interpretation of a specific point or part of the award. If the arbitral tribunal considers the request to be justified, it shall make the correction or give the interpretation within thirty days of receipt of the request. The interpretation shall form part of the award.
- (2) The arbitral tribunal may correct any error of the type referred to in subdivision (a) of subsection

(1) of this section on its own initiative within thirty days of the date of the award.

(3) Unless otherwise agreed by the parties, a party, with notice to the other party, may request, within thirty days of receipt of the award, the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award within sixty days.

(4) The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, an interpretation or an additional award under subsection (1) or (3) of this section.

(5) The provisions of section 50a-131 shall apply to a correction or interpretation of the award or to an additional award.

#### § 50a-134. Application for setting aside as exclusive recourse against arbitral award

(1) Recourse to a court against an arbitral award may be made only by an application for setting aside in accordance with subsections (2) and (3) of this section.

(2) An arbitral award may be set aside by the court specified in section 50a-106 only if:

(a) The party making the application furnishes proof that:

(i) A party to the arbitration agreement referred to in section 50a-107 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of this state; or

(ii) The party making the application was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iii) The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, only that part of the award which contains decisions on matters not submitted to arbitration may be set aside; or

(iv) The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties, unless such agreement was in conflict with a provision of this chapter, or, failing such agreement, was not in accordance with this chapter; or

(b) The court finds that:

(i) The subject matter of the dispute is not capable of settlement by arbitration under the law of this state; or

(ii) The award is in conflict with the public policy of this state.

(3) An application for setting aside may not be made after three months have elapsed from the date on

which the party making that application received the award or, if a request was made under section 50a-133, from the date on which that request was disposed of by the arbitral tribunal.

(4) The court, when asked to set aside an award, may, where appropriate and so requested by a party, suspend the setting aside proceedings for a period of time determined by it in order to give the arbitral tribunal an opportunity to resume the arbitral proceedings or to take such other action as in the arbitral tribunal's opinion will eliminate the grounds for setting aside.

#### § 50a-135. Recognition and enforcement of award

(1) An arbitral award, irrespective of the country in which it was made, shall be recognized as binding and, upon application in writing to the competent court, shall be enforced subject to the provisions of this section and of section 50a-136.

(2) The party relying on an award or applying for its enforcement shall supply the duly authenticated original award or a duly certified copy thereof, and the original arbitration agreement referred to in section 50a-107 or a duly certified copy thereof.

#### § 50a-136. Grounds for refusing recognition or enforcement of award

(1) Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:

(a) At the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:

(i) A party to the arbitration agreement referred to in section 50a-107 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or

(ii) The party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or

(iii) The award deals with a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or

(iv) The composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or

(v) The award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made; or

(b) If the court finds that:

- (i) The subject matter of the dispute is not capable of settlement by arbitration under the law of this state; or
  - (ii) The recognition or enforcement of the award would be contrary to the public policy of this state.
- (2) If an application for setting aside or suspension of an award has been made to a court referred to in subparagraph (v) of subdivision (a) of subsection (1) of this section, the court where recognition or enforcement is sought may, if it considers it proper, adjourn its decision and may also, on the application of the party claiming recognition or enforcement of the award, order the other party to provide appropriate security.

### **Rules for the Superior Court. Chapter 23.**

*Current with amendments received through 2008*

#### § 23-60. Arbitration--Approval of Arbitrators

- (a) Upon publication of notice requesting applications, any commissioner of the superior court admitted to practice in this state for at least five years, and who possesses civil litigation experience may submit his or her name to the office of the chief court administrator for approval to be placed on a list of arbitrators for one or more judicial districts.
- (b) The chief court administrator shall have the power to designate arbitrators for such term as the chief court administrator may fix and, in his or her discretion, to revoke such designation at any time.
- (c) Applicants and arbitrators must satisfactorily complete such training programs as may be required by the chief court administrator.

#### § 23-61. Arbitration--Referral of Cases to Arbitrators

The court, on its own motion, may refer to an arbitrator any civil action in which, in the discretion of the court, the reasonable expectation of a judgment is less than \$50,000, exclusive of interest and costs and in which a claim for a trial by jury and a certificate of closed pleadings have been filed. An award under this section shall not exceed \$50,000, exclusive of legal interest and costs. Any party may petition the court to participate in the arbitration process hereunder.

#### § 23-62. Arbitration--Selection of Arbitrators; Disqualification

- (a) The arbitrator shall be selected by the presiding civil judge for the court location in which the case is pending.
- (b) An arbitrator may disqualify himself or herself upon his or her own application or upon application of a party. Should a party object to an arbitrator's refusal to disqualify himself or herself for cause, such party may file an application for disqualification with the presiding civil judge in the court location where the case is pending.
- (c) Should an arbitrator disqualify himself or herself, the arbitrator shall inform in writing the presiding

civil judge in the court location where the case is pending.

**§ 23-63. Arbitration--Hearing**

In matters submitted to arbitration no record shall be made of the proceedings and the strict adherence to the civil rules of evidence shall not be required.

**§ 23-64. Arbitration--Decision of Arbitrator**

- (a) The arbitrator shall state in writing the decision on the issues in the case and the factual basis of the decision. The arbitrator shall include in the decision the number of days on which hearings concerning that case were held.
- (b) Within 120 days of the completion of the arbitration hearing the arbitrator shall file the decision with the clerk of the court together with sufficient copies for all counsel.

**§ 23-65. Arbitration--Failure to Appear at Hearing Before Arbitrator**

- (a) Where a party fails to appear at the hearing, the arbitrator shall nonetheless proceed with the hearing and shall render a decision, which shall be rendered as a judgment by the court. Such judgment may not be opened or set aside unless a motion to open or set aside is filed within four months succeeding the date on which notice was sent. If the judicial authority opens or sets aside the judgment, it may resubmit the action to the arbitrator. Any order opening or setting aside the judgment may be upon condition that the moving party pay to the court an amount not greater than the total fees then payable to the arbitrator for services in the case.

- (b) If all parties fail to appear at the hearing, the arbitrator shall file a request with the court to dismiss the action. If the judicial authority does not dismiss the action, it may be heard by the arbitrator upon further order of the judicial authority. Such order may provide for the payment by any party to the court of an amount not greater than one hundred dollars.

**§ 23-66. Claim for Trial De Novo in Arbitration; Judgment**

- (a) A decision of the arbitrator shall become a judgment of the court if no claim for a trial de novo is filed in accordance with subsection (c).
- (b) A decision of the arbitrator shall become null and void if a claim for a trial de novo is filed in accordance with subsection (c).
- (c) A claim for a trial de novo must be filed with the court clerk within twenty days after the deposit of the arbitrator's decision in the United States mail, as evidenced by the postmark. Thirty days after the filing of a timely claim for a trial de novo the court may, in its discretion, schedule the matter for a trial within thirty days thereafter. Only a party who appeared at the arbitration hearing may file a claim for a trial de novo. The decision of the arbitrator shall not be admissible in any proceeding resulting after a claim for a trial de novo pursuant to this section or from a setting aside of an award pursuant to General Statutes § 52-549aa.
- (d) The judicial authority may refer any proceeding resulting from the filing of a demand for a trial de novo under subsection (c) of this section to a judge trial referee without the consent of the parties, and said judge trial referee shall have and exercise the powers of the superior court in respect to trial,

judgment and appeal in the case, including a judgment of fifty thousand dollars or more.

**§ 23-67. Alternative Dispute Resolution**

The judicial authority may, upon stipulation of the parties, refer a civil action to a program of alternative dispute resolution agreed to by the parties. The judicial authority shall set a time limit on the duration of the referral, which shall not exceed ninety days. The referral of an action to such a program will stay the time periods within which all further pleadings, motions, requests, discovery and other procedures must be filed or undertaken until such time as the alternative dispute resolution process is completed or the time period set by the judicial authority has elapsed, whichever occurs sooner. Such referred action shall be exempt from the docket management program during the time of the referral.

**§ 23-68. Where Presence of Person May Be by Means of an Interactive Audiovisual Device**

(a) The appearance of an incarcerated individual for any proceeding set forth in subsection (b) of this section may, in the discretion of the judicial authority on motion of a party or on its own motion, be made by means of an interactive audiovisual device. Such audiovisual device must operate so that such person and his or her attorney, if any, and the judicial authority can see and communicate with each other simultaneously. In addition, a procedure by which such person and his or her attorney can confer in private must be provided. For purposes of this section, judicial authority includes family support magistrates.

(b) Proceedings in which an incarcerated individual may appear by means of an interactive audiovisual device are limited to civil and family (1) proceedings prior to trial including, but not limited to, short calendar, prejudgment remedy, lis pendens, mechanics lien and other discovery and procedural hearings, case evaluation conferences, pretrials, alternative dispute resolutions, status conferences, trial management conferences, (2) hearings on post-trial motions and (3) matters within the jurisdiction of the family support magistrate division.

(c) Unless otherwise required by law or unless otherwise ordered by the judicial authority, prior to any proceeding in which a person appears by means of an interactive audiovisual device, copies of all documents which may be offered at the proceeding shall be provided to all counsel and pro se parties in advance of the proceeding.

(d) Nothing contained in this section shall be construed to establish a right for any incarcerated person to appear by means of an interactive audiovisual device.

*Current through the 2008 Regular Session*

Title 52, Chapter 900.

**§ 52-235d. Mediation. Disclosure**

(a) As used in this section, “mediation” means a process, or any part of a process, which is not court-ordered, in which a person not affiliated with either party to a lawsuit facilitates communication between such parties and, without deciding the legal issues in dispute or imposing a resolution to the legal issues, which assists the parties in understanding and resolving the legal dispute of the parties.

(b) Except as provided in this section, by agreement of the parties or in furtherance of settlement discussions, a person not affiliated with either party to a lawsuit, an attorney for one of the parties or any other participant in a mediation shall not voluntarily disclose or, through discovery or compulsory process, be required to disclose any oral or written communication received or obtained during the course of a mediation, unless (1) each of the parties agrees in writing to such disclosure, (2) the disclosure is necessary to enforce a written agreement that came out of the mediation, (3) the disclosure is required by statute or regulation, or by any court, after notice to all parties to the mediation, or (4) the disclosure is required as a result of circumstances in which a court finds that the interest of justice outweighs the need for confidentiality, consistent with the principles of law.

(c) Any disclosure made in violation of any provision of this section shall not be admissible in any proceeding.

(d) Nothing in this section shall prevent (1) the discovery or admissibility of any evidence that is otherwise discoverable merely because such evidence was presented during the course of the mediation, or (2) the disclosure of information for research or educational purposes done in cooperation with dispute resolution programs provided the parties and specific issues in controversy are not identifiable.