

**BERKS COUNTY BAR ASSOCIATION
CIVIL DISPUTE RESOLUTION PROGRAM
ARBITRATION AGREEMENT AND STIPULATION**

Introduction:

It is hereby agreed by and between the parties that this matter shall be a binding common law arbitration pursuant to 42 Pa.C.S.A. Section 7341, *et seq.*

Selection of Arbitrator:

The undersigned parties agree that within twenty (20) days from the date the Arbitration Agreement and Stipulation has been submitted to the Bar Association, the name of the mutually agreeable arbitrator will be forwarded to the Bar Association. If the Bar Association has not heard from the parties within twenty (20) days, it will make a random, rolling assignment of one of the arbitrators from the approved list to serve as the arbitrator in your case. The selected or appointed arbitrator will, in turn, forward to you three (3) proposed dates for the initial arbitration session.

The selected or appointed arbitrator has sole authority to set deadlines, hearing dates, and to grant continuances in the proceeding. The arbitrator may, depending on the case, create a case management order for the proceeding after consult with counsel.

The parties may, by stipulation submitted to the Arbitrator, agree to select expedited hearings, limit the length of arbitration memoranda, limit the number of exhibits or witnesses and/or limit the length of the hearing. Should it be necessary, the arbitrator may by stipulation have authority to decide motions presented by the parties governing the witnesses, expert or otherwise, or evidence to be presented at the arbitration hearing. The parties may select by stipulation a specific type of common law arbitration to be conducted, i.e. a high/low arbitration, baseball arbitration or some other style of common law arbitration, and/or limit the issues to be decided by the arbitrator.

Evidence:

The undersigned parties agree that the arbitration will be conducted under the procedural Rules for Common Law Arbitration set forth in 42 Pa.C.S.A. Section 7342. The parties further agree that by stipulation they adopt the provisions of Pennsylvania Rule of Civil Procedure 1305 in regard to evidentiary issues. However, these rules may be changed with the agreement of all parties.

No Attorney/Client Relationship:

No attorney/client privilege attaches to any communications with the arbitrator. **The arbitrator is not serving as an attorney for any party.**

Arbitrator not to be Called as Witness:

The parties agree not to call the arbitrator or any member of the Berks County Bar Association Civil Dispute Resolution Program as a witness or an expert in any pending or subsequent litigation as to any matter related to this arbitration. The parties will defend the arbitrator and any members of the Berks County Bar Association Civil Dispute Resolution Program from any subpoena from any party as to the subject of this arbitration. **The arbitrator and members of the Berks County Bar Association Civil Dispute Resolution Program are not liable to any party for any act or omission in connection with this arbitration.**

Exchange of Pre-arbitration Memoranda:

Unless otherwise modified by stipulation of parties, the following rules shall govern Pre-arbitration Submissions. No later than fourteen (14) days prior to the date of the arbitration hearing, the parties will exchange among themselves and with the arbitrator a short arbitration memorandum of the facts of the case, as well as any legal issues of liability and damages deemed relevant by the parties. The pre-arbitration memorandum shall likewise include a list of proposed witnesses, exhibits, and stipulations. Copies of expert opinions shall not be attached to the Pre-arbitration Memoranda.

Award:

The award decision shall be in writing consistent with the general format of the Berks County Bar Association Civil Dispute Resolution Program, and shall be signed by the arbitrator. The parties further stipulate that if damages for delay are sought, they shall be determined pursuant to Pennsylvania Rule of Civil Procedure 238(d)(1). The award decision shall be served by the arbitrator on the parties after all arbitrator's fees have been paid, by placing a copy of the award in the mail, addressed to each party at its last known address, or to its counsel of record.

Fees and Expenses of the Arbitrator:

The parties have agreed that they will each be responsible for an equal share of the fees and expenses of the arbitrator, unless there is specific written agreement otherwise. The initial cost is \$1,100.00.

The initial \$275.00 administrative fee paid to the Bar Association is not refundable. The \$825.00 initial arbitrator fee is only refundable up until the point in time that an arbitrator has been appointed. After the appointment of the arbitrator, the \$825.00 is not refundable.

The initial \$825.00 covers the first three (3) hours of the arbitrator's time. In the event that the three (3) hours are exceeded, the parties agree to pay an equal share of the arbitrator fee of \$275.00 per hour for all hours or portions of hours exceeding the initial three (3) hours covered by the base fee. Depending on the number of Parties to the proceeding and the

complexity of issues present, the arbitrator may request the Parties to make a prepayment of fees for additional estimated time prior to the time of the hearing.

Consistent with the provisions of the Civil Dispute Resolution Program, the arbitrator, following the hearing and deliberation, will first enter the written award decision and then issue an invoice for all time exceeding the three (3) hour base fee. After all parties have paid directly to the arbitrator, the additional fees, the arbitrator will release the award decision and serve it upon the parties.

Any expenses of the arbitrator incurred such as travel outside of Berks County, long distance telephone calls, and/or photocopies, shall likewise be borne equally by the parties.

While the initial base fee and forms should be made payable and submitted to the Berks County Bar Association, all invoices for additional time will be issued directly by the arbitrator, with payment likewise being made directly to the arbitrator.

The undersigned parties, intending to be legally bound, do hereby execute this document in acknowledgment and agreement with the terms and scope set forth above.

Name of Party: _____

Name of Party: _____

By (Signature): _____

By (Signature): _____

By (Typed Name): _____

By (Typed Name): _____

Dated: _____

Dated: _____

Name of Party: _____

Name of Party: _____

By (Signature): _____

By (Signature): _____

By (Typed Name): _____

By (Typed Name): _____

Dated: _____

Dated: _____

Please sign this Stipulation and return it to:

**BERKS COUNTY BAR ASSOCIATION
CIVIL DISPUTE RESOLUTION PROGRAM**

Berks County Bar Association
P.O. Box 1058
Reading, PA 19603-1058
Attention: Karen Loeper

REV. 12/2018