



# AAA® EMPLOYMENT ARBITRATION NEWS

FALL 2023 EDITION



## The Evolution of Mass Arbitration

The American Arbitration Association® (AAA) defines mass arbitration as arbitrations with 25 or more similar demands for arbitration, filed against or on behalf of the same party or related parties, with the representation for those parties consistent or coordinated across all of the cases.

The key difference between *mass arbitration* and *class arbitration* is that in mass arbitration, the cases involve individual claims. The AAA developed an innovative process to handle threshold disputes by creating the role of Process Arbitrator. The role of the Process Arbitrator is to address administrative disputes common to all, or most, of the individual cases. This process saves both time and money for the parties involved.

Based on the AAA's extensive experience in assisting parties with large-scale disputes, we not only developed effective rule-based processes for these arbitrations, we also work with the parties to develop unique procedures customized to best resolve their cases.

Some examples of these additional procedures are:

- Global mediation,
- Jointly proposed scheduling orders in lieu of management conferences,
- Considering agreements on testimonies,
- Expanding the role of a Process Arbitrator to rule upon discovery disputes and other issues that may be coordinated for efficiency,
- Assigning multiple cases to a single arbitrator, with each case still being heard and decided individually by the arbitrator.
- Use of an aggregate list for selection of arbitrators,
- Designing a bellwether process where both parties agree it is beneficial,
- Appointment of a Settlement Judge, and
- Use of a single, limited purpose arbitrator to decide attorney's fees and costs.

To learn more about the mass arbitration process, please visit our website [here](#). You can also see our recent article on Mass Arbitration featured in *Today's General Counsel* here: [click here](#).



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## Best Practices for AAA Employment Arbitrators

The AAA is consistently looking to improve the arbitration process, so the feedback we receive from parties that utilize the AAA's employment administrative services is critical. Two areas in which we have received feedback are the initial management conference call and the discovery stage.

Best practices identified by the parties are passed on to our Employment arbitrators so that they can more effectively meet parties' expectations. To read more about these best practices [click here](#).

## Arbitrator Expertise and Artificial Intelligence

As employers turn to artificial intelligence and other automated systems to assist with a wide range of employment matters, such as selecting new employees, monitoring performance, determining pay or promotions, and other issues, disputes in this area likely will be inevitable. The expectation from the parties will be to select Arbitrators who understand the essence of these types of disputes and have the expertise, background, and knowledge. The AAA is actively identifying and recruiting Arbitrators who meet the criteria desired by the parties in this new area.

## Employment Programs and Webinars

The AAA offers numerous self-guided educational programs and webinars. The two programs highlighted below provide an in-depth understanding of case preparation and a demonstration of what transpires in a hearing.

### Key Ingredients for a Successful Employment Arbitration

#### On-Demand

This webinar provides the viewpoints of the employment process from a plaintiff attorney, a defense attorney, and an arbitrator. This recorded webinar will provide an in-depth understanding of what constitutes case preparation and provide practical skills, insights, tips, and strategies to utilize in preparing for your next arbitration.

To access the webinar, [click here](#).



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## **Employment Mock Hearing**

November 16, 2023 | Live Webinar

This live webinar will demonstrate what a hearing actually looks like. Highlights of the mock hearing will include the arbitrator's and parties' opening statements, witness examination, objections, exhibits management, evidence admission, facts presentation, legal arguments, closing arguments, and other intricate details that define the hearing process.

To register for the webinar, [click here](#).

## ***Questions or thoughts to share?***

Please contact Jan Holdinski, Vice President, AAA at 248.352.5509 or at [HoldinskiJ@adr.org](mailto:HoldinskiJ@adr.org).