

### Comparison of AAA and JAMS Arbitration Rules

Issue	AAA	JAMS
<b>Number of Arbitrators</b>	As designated in the agreement between the parties, or if silent: -One arbitrator for amount in controversy under \$1 Million in controversy (Rules, R-16) -Three arbitrators for more than \$1 Million in controversy (L-2) -But see Streamlined Three Arbitrator Panel Option rules	As designated in the agreement between the parties, or if silent, one arbitrator (JAMS Rule 7).
<b>Confidentiality</b>	Confidentiality of the proceedings is not required of the parties unless agreed to by contract.	Confidentiality of the proceedings is not required of the parties unless agreed to by contract. Rule 26 provides that both JAMS and the arbitrator must maintain the confidentiality of the proceedings and the award.
<b>Production of Documents</b>	Commercial Rules, R-22 b) Documents. The arbitrator may, on application of a party or on the arbitrator's own initiative: i. require the parties to exchange documents in their possession or custody on which they intend to rely; ii. require the parties to update their exchanges of the documents on which they intend to rely as such documents become known to them; iii. require the parties, in response to reasonable document requests, to make available to the other party documents, in the responding party's possession or custody, not otherwise readily available to the party seeking the documents, reasonably believed by the party seeking the documents to exist and to be relevant and material to the outcome of disputed issues; and iv. require the parties, when documents to be exchanged or produced are maintained in electronic form, to make such documents available in the form most convenient and economical for the party in possession of such documents, unless the arbitrator determines that there is good cause for requiring the documents to be produced in a different form. The parties should attempt to agree in advance upon, and the arbitrator may determine, reasonable search parameters to balance the need for production of electronically stored documents relevant and material to the outcome of disputed issues against the cost of locating and producing them.	JAMS Recommended Arbitration Discovery Protocols, at 3 “Document requests shall be limited to documents directly relevant to significant issues in the case or to the case’s outcome, shall be restricted in terms of timeframe, subject matter and persons or entities to which the requests pertain, and shall not include broad phraseology such as ‘all documents directly or indirectly related to.’”
<b>Interrogatories</b>	Not mentioned in the rules, but the arbitrator has discretion to allow them. Commercial Rules, R-22(a), which provides:	Not mentioned in JAMS rules and Procedures, but the arbitrator has broad discretion to allow them under the

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	“Authority of arbitrator. The arbitrator shall manage any necessary exchange of information among the parties with a view to achieving an efficient and economical resolution of the dispute, while at the same time promoting equality of treatment and safeguarding each party’s opportunity to fairly present its claims and defenses”	JAMS Recommended Arbitration Discovery Protocols and appropriate rules.
<b>Depositions</b>	Commercial Rules are silent, but the arbitrator has discretion to allow them under R-22(a) for good cause shown. Complex Rules, L-3 allows for them in “exceptional cases” and “upon good cause shown and consistent with the expedited nature of arbitration”.	<p>Rule 17(b) allows each party to take one deposition of an opposing party or someone under the control of the opposing party. Arbitrator may order additional depositions.</p> <p>The Streamlined Rules do not allow depositions unless there is a reasonable need, no availability of other options to obtain the information, and after weighing the burden of the request.</p> <p>If the arbitrator determines to allow multiple depositions, the JAMS Discovery protocols indicate “he/she may attempt to solicit agreement at the first pre-hearing conference on language such as the following:</p> <p>Each side may take ___ discovery depositions. Each side’s depositions are to consume no more than a total of ___ hours. There are to be no speaking objections at the depositions, except to preserve privilege. The total period for the taking of depositions shall not exceed ___ weeks.”</p>
<b>Subpoenas</b>	R-34 allows the issuance of subpoenas “upon the request of any party or independently.”	Rule 21 allows the arbitrator to issue a subpoena for the attendance of witnesses or for the production of documents either before or at the hearing.
<b>Dispositive Motions (MSJ)</b>	Dispositive motions are allowed by R-33, Construction Rule 32, and Employment Rule 27. The arbitrator has the discretion whether to consider the motion.	Dispositive motions are allowed by Rule 18.
<b>Interim/Injunctive Relief</b>	R-37 allows the arbitrator to issue “whatever interim measures he or she deems necessary, including injunctive relief and measures	Rule 24 allows the arbitrator to issue “whatever interim measures are deemed necessary, including injunctive relief and measures for the protection or conservation of

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	<p>for the protection or conservation of property and disposition of perishable goods.” The arbitrator may require a security or bond.</p> <p>R-38 allows the appointment of an emergency arbitrator with power to issue interim relief if an arbitrator has not been chosen appointed, where emergency relief is required.</p>	<p>property and disposition of disposable goods. Such interim measures may take the form of an interim or Partial Final Award, and the Arbitrator may require security for the costs of such measures. Any recourse by a Party to a court for interim or provisional relief shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.”</p> <p>Rule 2 allows for the appointment of an emergency arbitrator to order interim measures where no arbitrator has been selected and there is an emergency</p>
<b>Type of Award</b>	Reasoned awards are not required unless the parties agree to it in writing <b>before</b> the appointment of the arbitrator. R-46. It must be rendered within 30 calendar days from the close of the hearing. R-45.	A reasoned award is the default under Rule 24 unless the parties agree otherwise. It must be rendered within 30 calendar days from the close of the hearing. Rule 24.
<b>Attorney’s Fees Award</b>	R-47 allows for an award of attorney’s fees where requested by the parties or authorized by law/agreement.	Rule 24 allows for an award of attorney’s fees where authorized by law or the arbitration agreement.