

PFEIFFER LAW

IV. MEETINGS AND HEARINGS

Commencement of the Arbitration

The arbitrator will fix the date, time, and place of the meetings and hearings in the arbitration and give adequate written notice to all the parties involved. (IFTA Rule 9.1). The date of the arbitration shall be set as early as possible, not to exceed sixty days from the filing or due date of the last response to the last claim to be submitted to IFTA. (IFTA Rule 9.1). However, if good cause exists, the arbitrator may designate a date that shall not exceed one hundred twenty days after the last response is filed or due to be filed with IFTA unless the parties and arbitrator collectively agree to extend such date. (IFTA Rule 9.1). If the claimant fails to prosecute its claim within the designated time period, the arbitrator will dismiss the claim and any counterclaim or cross-complaint without prejudice unless the arbitrator is delayed by disability or in the event of other cause existing outside the control of the parties. If the arbitrator is unable to proceed as required under IFTA rules, either party may submit an application for removal of the arbitrator and recommence procedures for selection of an arbitrator to serve as an alternate arbitrator. Upon the appointment of an alternate arbitrator, and upon written request from the Arbitral Agent, the original arbitrator shall promptly deliver all documents and other materials to the substitute arbitrator. (IFTA Rule 9.1).

Scheduling

The hearing will be conducted on successive working days until it is concluded, subject to any adjournments which the arbitrator allows, and will be heard in private unless all parties agree otherwise. (IFTA Rule 9.2-9.3).

Arbitrator's Powers

The arbitrator shall: 1) determine the rules of procedure for the Arbitration; 2) resolve disputes as to the jurisdiction of the arbitrator; 3) determine whether to allow testimony by letter or affidavit or by telephone and establish other reasonable rules of evidence as may be required in any particular case; 4) determine the admissibility, relevance, materiality and weight of the evidence; 5) determine whether a written record shall be kept of the proceedings and allow the parties to submit written or oral argument in support of their positions; and 6) determine the language in which the arbitration is to be conducted, and include a reasonable provision to be made for translations of testimony. (IFTA Rule 9.3-9.7).

Party Rights Regarding Formal vs. Informal Hearings

Where the sums of money or issues in dispute do not justify the time and cost for travel to the site of the arbitration, either party may request that the dispute be resolved without requiring a formal hearing and solely or in party by a filing of such appropriate documents as shall be determined by the arbitrator. (IFTA Rule 9.8). The decision to conduct the arbitration solely or partly upon written documentation shall be determine solely in the discretion of the arbitrator.