

PFEIFFER LAW

IX. COSTS

Costs Defined

“Costs” of the arbitration include: the fees of the arbitrator; the travel and other expenses incurred by the arbitrator in reaching the location of the arbitration; and the actual costs of any party incurred in the prosecution or defense of the arbitration including some or all of the party’s attorney’s fees and costs, is to be determined at the arbitrator’s discretion. (IFTA Rule 14.1, 14.1.1, 14.1.2, 14.1.3).

Allocation

Generally, the parties shall share the costs listed above equally. (IFTA Rule 14.2). However, the arbitrator does have the sole discretion to order one party to bear an unequal percentage of the costs, if appropriate under the circumstances. (IFTA Rule 14.2).

Any party involved in the arbitration may challenge any fee requested by the arbitrator by appealing directly to the Arbitral Agent within sixty days of the transmission of the final invoice after the arbitration has concluded. (IFTA Rule 14.4). The Arbitral Agent will then determine the propriety, fairness, and reasonableness of the fee requested. (IFTA Rule 14.4). The challenging party must provide the reasons behind the challenge, the actual charges being disputed, and any supporting documentation. (IFTA Rule 14.4). The challenge will not be transmitted to the arbitrator or any other party; IFTA may also review an arbitrator’s invoice at any time to ensure compliance with IFTA rules and applicable law. (IFTA Rule 14.4).

Deposits

At any time after the commencement of the arbitration, the Arbitral Agent or arbitrator may require each party to make a deposit (of an equal amount per party) as an advance against the arbitrator’s fees. (IFTA Rule 14.3). If needed, additional deposits may be requested based on the complexity of the case; the arbitrator will need to provide sufficient explanation regarding the need for extra deposits. (IFTA Rule 14.3). The arbitrator may deem the failure of any party to meet the deposit requirements to be a IFTA Rule 11 default, unless otherwise provided by applicable law. (IFTA Rule 14.3). If one party fails to make its deposit, the arbitrator may direct the other party to pay the outstanding amounts so the arbitration may proceed. (IFTA Rule 14.3). However, this payment is subject to any award on costs at the conclusion of the arbitration. (IFTA Rule 14.3).

If the claimant does not pay the required deposit, the arbitrator may dismiss the proceedings, without prejudice. (IFTA Rule 14.3). If a party fails to timely provide the full amount of the deposit, the arbitrator may dismiss a claim or counterclaim, without prejudice (generally the claim of the party failing to pay). (IFTA Rule 14.3).