Appendices

APPENDIX 1

Administration

The Administrative Office of the Illinois Courts, the Alternative Dispute Resolution Coordinating Committee of the Illinois Judicial Conference, and local arbitration supervising judges and administrators provide ongoing support to the mandatory arbitration programs in Illinois. A brief description of the roles and functions of these entities follows.

Administrative Office of the Illinois Courts

The Administrative Office of the Illinois Courts (AOIC) works with the circuit courts to coordinate the operations of the arbitration programs throughout the state. Administrative Office staff assist in:

- Establishing new arbitration programs approved by the Supreme Court;
- Drafting local rules;
- Recruiting personnel;
- Acquiring facilities;
- Training new arbitrators;
- Purchasing equipment;
- Developing judicial calendaring systems;
- Preparing budgets;
- Processing vouchers;
- Addressing personnel issues;
- Compiling statistical data;
- Negotiating contracts and leases; and
- Coordinating the collection of arbitration filing fees.

In addition, AOIC staff serve as liaison to the Illinois Judicial Conference's Alternative Dispute Resolution Coordinating Committee.

Alternative Dispute Resolution Coordinating Committee

The charge of the Alternative Dispute Resolution Coordinating Committee, as directed by the Supreme Court, is to:

- Monitor and assess court-annexed mandatory arbitration programs;
- Make recommendations for proposed policy modifications to the full body of the Illinois Judicial Conference;
- Survey and compile information regarding existing court-supported dispute

resolution programs;

- Explore and examine innovative dispute resolution processing techniques;
- Study the impact of proposed amendments to relevant Supreme Court rules; and
- Propose rule amendments in response to suggestions and information received from program participants, supervising judges, and arbitration administrators.

Local Administration

The chief circuit judge in each jurisdiction operating a mandatory arbitration program appoints a supervising judge to provide oversight for the arbitration program. The supervising judge:

- Has authority to resolve questions arising in arbitration proceedings;
- Reviews applications for appointment or re-certification of an arbitrator;
- Resolves arbitrator or arbitration process complaints; and
- Promotes the dissemination of information about the arbitration process, the results of arbitration, developing caselaw, and new practices and procedures in the area of arbitration.

The supervising judges are assisted by arbitration administrators who are responsible for duties such as:

- Maintaining a roster of active arbitrators;
- Scheduling arbitration hearings;
- Conducting arbitrator training;
- Compiling statistical information required by the AOIC;
- Processing vouchers; and
- Submitting purchase requisitions related to arbitration programs.

Caseflow and Hearings

Case Assignment

In all jurisdictions, except Cook County, cases are assigned to mandatory arbitration calendars either as initially filed or by court transfer. In an initial filing, litigants may file their case with the office of the clerk of the circuit court as an arbitration case. The clerk places the matter directly onto the calendar of the supervising judge for arbitration.

An additional means by which cases are assigned to a mandatory arbitration calendar is through court transfer. In all jurisdictions operating a court-annexed mandatory arbitration program, if it appears to the court that no claim in the action has a value in excess of the arbitration program's jurisdictional amount, a case may be transferred to the arbitration calendar. For example, if the court finds that an action originally filed as a law case (actions for damages in excess of $50,000) has a potential for damages within the jurisdictional amount for arbitration, the court may transfer the law case to the arbitration calendar.

In the Circuit Court of Cook County, cases are not initially filed as arbitration cases. Rather, civil cases in which the money damages being sought are between $10,000 and $50,000 are filed in the Municipal Department. Cases in which the money damages being sought are greater than $10,000 but do not exceed $30,000 are considered "arbitration-eligible." After preliminary matters are managed, arbitration-eligible cases are transferred to the arbitration program.

Pre-Hearing Matters

The pre-hearing stage for cases subject to arbitration is similar to the pretrial stage for all cases wherein a summons is issued, motions are made and argued, and discovery is conducted. However, for cases subject to arbitration, discovery is limited pursuant to Illinois Supreme Court Rules 89 and 222.

One of the most important features of the arbitration program is the court's control of the time elapsed between the date of filing or transfer of the case to the arbitration calendar and the arbitration hearing. Supreme Court Rule 88 mandates speedy dispositions. Pursuant to the Rule, and consistent with the practices of each program site, all cases set for arbitration must proceed to hearing within one year of the date of filing or transfer to the arbitration calendar unless continued by the court upon good cause shown.

Pre-hearing matters consist of new filings, reinstatements and transfers from other calendars. Cases may be removed, prior to being heard, in either a dispositive or non-dispositive manner. A dispositive removal is one which terminates the case prior to commencement of the arbitration hearing. There are generally three types of pre-hearing dispositive removals: entry of a judgment; case dismissal; or the entry of a settlement order by the court.

A non-dispositive removal of a case, prior to an arbitration hearing, may eliminate the case from arbitration altogether. Other non-dispositive removals may simply move the case along to the next stage of the arbitration process. A case which has proceeded to an arbitration hearing, for example, is considered a non-dispositive removal. Non-dispositive removals also include those occasions when a case is placed on a special calendar. For example, a case transferred to a bankruptcy calendar will generally stay all arbitration-related activity. Another type of non-dispositive removal occurs when a case is transferred out of arbitration. Occasionally, a judge may decide that a case is not suited for arbitration and transfer the case to the appropriate calendar.

To provide litigants with the timeliest disposition of their cases, Illinois' arbitration system encourages attorneys and litigants to focus their early attention on arbitration-eligible cases. Therefore, the practice is to set a firm and prompt date for the arbitration hearing so that disputing parties, anxious to avoid the time and cost of an arbitration hearing, have a powerful incentive to negotiate and settle the matter prior to the hearing. In instances where a default judgment can be taken, parties are also encouraged to seek that disposition at the earliest possible time.

As a result of this program philosophy, a sizeable portion of each jurisdiction's arbitration caseload terminates voluntarily, or by court order, in advance of the arbitration hearing. An analysis of the State Fiscal Year 2011 statistics indicates that parties are carefully managing their cases and working to settle disputes without significant court intervention prior to the arbitration hearing. During State Fiscal Year 2011, 50 percent of the cases, prior to an arbitration hearing, were disposed through default judgment, dismissal, or some other form of pre-hearing termination. While it is true that a large number of these cases may have terminated without the need for a trial, regardless of the availability of arbitration, the arbitration process tends to motivate a disposition sooner in the life of most cases due in part to the setting of a firm hearing date.

Additionally, terminations via court-ordered dismissals, voluntary dismissals, settlement orders, and default judgments typically require limited court time to process. To the extent that arbitration encourages these dispositions, the system helps save the court and the litigants the expense of more costly and time-consuming proceedings.

A high rate of pre-hearing terminations also allows each program site to remain current with its hearing calendar and may allow the court to reduce a backlog. The combination of pre-hearing terminations and arbitration hearing capacity enables the system to absorb and process a greater number of cases in less time. (*See Appendix 4 for Pre-Hearing Dispositions, Column 5*).

Arbitration Hearing and Award

With some exceptions, the arbitration hearing resembles a traditional trial court proceeding. The Illinois Code of Civil Procedure and the rules of evidence apply. However, Supreme Court Rule 90(c) makes certain documents presumptively admissible. These documents include bills, records, and reports of hospitals, doctors, dentists, repair persons and employers, as well as written statements

from opinion witnesses. The streamlined mechanism for the presentation of evidence enables attorneys to present their cases without undue delay.

Unlike proceedings in the trial court, the arbitration hearing is conducted by a panel of three trained attorneys who serve as arbitrators. At the hearing, each party to the dispute makes a concise presentation of his/her case to the arbitrators. Immediately following the hearing, the arbitrators deliberate privately and decide the issues as presented. To find in favor of a party requires the concurrence of two arbitrators. In most instances, an arbitration hearing is completed in approximately two hours. Following the hearing and the arbitrators' disposition, the clerk of the court records the arbitration award and forwards notice to the parties. As a courtesy to the litigants, many arbitration centers post the arbitration award immediately following submission by the arbitrators, thereby notifying the parties of the outcome on the same day as the hearing.

Post-Hearing Matters

Post-hearing matters consist largely of cases which have been heard by an arbitration panel and are awaiting further action. Cases previously terminated following a hearing may also be subsequently reinstated (added) at this stage. However, this is a rare occurrence even in the larger arbitration programs.

Arbitration administrators report three types of post-hearing removals from the arbitration calendar: entry of judgment on the arbitration award; dismissal or settlement by order of the court; or rejection of the arbitration award. While any of these actions will remove a case, only judgment on the award, dismissal, or settlement result in termination of the case. These actions are considered dispositive removals. Post-hearing terminations, or dispositive removals, are typically the most common means by which cases are removed after an arbitration hearing.

A commonly cited measure of performance for court-annexed arbitration programs is the extent to which awards are accepted by the litigants as the final resolution of the case. However, parties have many resolution options after the arbitration hearing is concluded. Tracking the various options by which post-hearing cases are removed from the arbitration inventory provides the most accurate measure.

A satisfied party may move the court to enter judgment on the arbitration award. Statewide statistics indicate 23 percent of parties in arbitration hearings motioned the court to enter a judgment on an award. If no party rejects the arbitration award, the court may enter judgment. Reported figures indicate that approximately 12 percent of the cases which progressed to a hearing were disposed after the arbitration hearing on terms other than those stated in the award. These cases were disposed either through settlement reached by the parties or by voluntary dismissals. The parties work toward settling the conflict prior to the deadline for rejecting the arbitration award. These statistics suggest in a number of cases that proceed to hearing, the parties may be guided by the arbitrator's assessment of the worth of the case, but they may not want a judgment entered.

The post-hearing statistics for arbitration programs consist of judgments entered on the arbitration award and settlements reached after the arbitration award and prior to the expiration for the filing of a rejection.

Rejecting an Arbitration Award

Supreme Court Rule 93 sets forth four conditions a party must meet in order to reject an arbitration award. The rejecting party must have: been present, personally or via counsel, at the arbitration hearing; participated in the arbitration process in good faith and in a meaningful manner; filed a rejection notice within 30 days of the date the award was filed; and unless indigent, paid a rejection fee. If these four conditions are not met, the party may be barred from rejecting the award and any other party to the action may petition the court to enter a judgment on the arbitration award. If a party's rejection of an arbitration award is filed and not barred, the supervising judge for arbitration must place the case on the trial call.

The rejection fee is intended to discourage frivolous rejections. All such fees are paid to the clerk of the court, who forwards the fee to the State Treasurer for deposit in the Mandatory Arbitration Fund. For awards of $30,000 or less, the rejection fee is $200. For awards greater than $30,000, the rejection fee is $500.

Rejection rates for arbitration awards vary from jurisdiction to jurisdiction. In State Fiscal Year 2011, the statewide average rejection rate was 53 percent, which is slightly higher than the five-year average of 52 percent (State Fiscal Year 2007 through 2011). Although the rejection rate may seem high, the success of arbitration is best measured by the percentage of cases resolved before trial, rather than by the rejection rate of arbitration awards alone. Of cases qualifying for the arbitration process, less than two percent ultimately went to trial in State Fiscal Year 2011. (*See Appendix 4 for Post-Hearing Dispositions, Column 7*).

Post-Rejection Matters

Post-rejection matters consist of arbitration cases in which one of the parties rejects the award of the arbitrators and seeks a trial before a judge or jury. In addition, cases which are occasionally reinstated at this stage of the arbitration process may be added to the inventory of cases pending post-rejection action. Post-rejection removals are generally dispositive. When a case is removed by way of judgment before or after trial, dismissal or settlement, it is removed from the court's inventory of pending civil cases.

Many options remain available to parties after having rejected an award. As noted, parties file a notice of rejection of the arbitration award for the same variety of tactical reasons that they file notices of appeal from trial court judgments. More significant than the rejection rate is the frequency in which arbitration cases are settled subsequent to the rejection, but prior to trial. Of those cases that have gone to hearing, but for which the award has been rejected, 69 percent are still resolved. (*See Appendix 4 for Post-Rejection Dispositions, Column 10*).

APPENDIX 2

AVERAGE AWARD AMOUNT FOR ARBITRATION CASES

The table reflects, by case type, the average award amount for cases that were heard in arbitration in State Fiscal Year 2011.

Arbitration Program	Automobile/ Subrogatiou	Collections	Contracts	Liability/ Tort	Property Damage	Personal Injury	Other
Boone		$13,381	$19,980			$8,422	
Cook	$8,893	$13,141*		$7,773**		$17,654	$6,375
DuPage	$5,936	$17,769	$18,089	$13,487	$5,581	$13,231	
Ford		$10,486	$12,512				
Henry		$68,460					
Kane	$5,111	$21,633	$15,706	$7,000	$13,409	$14,606	$25,000
Lake	$6,181	$15,130	$9,568		$2,294	$12,738	$14,712
Madison	$14,919	$12,720	$15,984	$14,169	$9,773	$14,917	$4,800
McHenry	$10,928	$13,929	$13,324		$5,002	$16,547	
McLean		$7,555	$14,604			$12,261	$10,542
Mercer				$8,687		$9,711	
Rock Island	$5,810	$29,720	$150,703	$1,000	$9,000	$46,676	
St. Clair	$15,919	$8,278	$13,340	$9,327	$4,585	$13,805	$5,619
Whiteside			$29,802			$44,500	
Will	$15,463	$17,837	$16,758		$14,368	$14,188	$17,178
Winnebago	$10,131	$22,625	$17,157		$7,151	$12,830	

*This figure includes Collections and Contracts

** This figure includes Liability, Tort and Property Damage

APPENDIX 3

AVERAGE NUMBER OF DAYS IN ARBITRATION

The table reflects, by case type, the average number of days a case spends in the arbitration system, from filing to final determination in State Fiscal Year 2011.

Arbitration Program	Automobile/ Subrogation	Collections	Contracts	Liability/ Tort	Property Damage	Personal Injury	Other
Boone		238	272			378	
Cook	481	449*		497**		556	413
DuPage	364	325	406	380	317	399	337
Ford		42	9				
Henry		1,441					
Kane	372	324	475	425	593	623	1,412
Lake	184	302	466		229	365	308
Madison	376	298	381	386	240	381	193
McHenry	327	376	463		320	569	
McLean	1	55	35		1	19	13
Mercer			753	274		227	
Rock Island	293	2,174	3,153	2,297	179	2,593	
St. Clair	446	369	404	438	419	370	283
Whiteside			1,102			4,183	
Will	450	395	393		519	511	436
Winnebago	369	334	335		296	466	439

*This figure includes Collections and Contracts

**This figure includes Liability, Tort and Property Damage

APPENDIX 4
STATE FISCAL YEAR 2011
STATEWIDE ARBITRATION DATA

ARBITRATION PROGRAM	CASES PENDING 7/01/10	CASES REFERRED TO ARBITRATION	TOTAL CASES ON CALENDAR	PRE-HEARING DISPOSITIONS	ARBITRATION HEARING	POST-HEARING DISPOSITIONS	JUDGMENT ON AWARD	AWARDS REJECTED	POST-REJECTION DISPOSITIONS	TRIALS	CASES PENDING 6/30/11
Boone	64	167	231	165	14	1	5	4	4	0	56
Cook	6,275	8,648	15,771	3307	6,681	553	1,466	3,676	5,101	434	6,056
DuPage	577	4,024	4,601	3,896	391	112	70	186	153	27	314
Ford	16	12	28	3	1	1	1	0	0	0	24
Henry	16	95	111	86	5	4	1	0	0	1	14
Kane	1,001	2,007	3,078	2,031	169	71	52	99	75	17	878
Lake	1,022	3,782	4,804	3,038	404	89	108	217	174	46	728
Madison	490	1,137	1,627	1,104	139	25	68	49	40	17	373
McHenry	542	1,431	1,973	1,380	88	13	34	37	28	15	378
McLean	417	75	492	78	7	8	5	2	0	0	406
Mercer	18	26	44	29	2	0	2	0	0	0	11
Rock Island	178	312	490	260	30	7	11	15	5	2	160
St. Clair	659	1,928	2,587	1,910	147	41	52	61	50	15	311
Whiteside	59	169	228	182	6	5	0	1	3	0	31
Will	1,015	2,748	3,763	2,683	146	55	34	63	49	17	716
Winnebago	487	987	1,474	941	118	25	37	55	39	11	421