

Rule 40. Arbitrator, Motion, and Application Fees

(a) Motion Fees: If prior to any scheduled hearing, a motion or application is brought for the arbitrator to decide (other than a motion to postpone a hearing), the following fees shall be paid:

(1) The movant/applicant shall pay to (deposit with) the arbitration organization a motion fee in the amount of \$175.00 at the time the movant submits its motion/application papers to the arbitration organization.

(2) The party opposing the motion/application shall pay to (deposit with) the arbitration organization a motion fee in the amount of \$175.00 at the time the opposing party submits its opposition/responsive papers to the arbitration organization.

Upon the arbitration organization's receipt of all papers and required motion fees from the parties, the arbitration organization shall deliver the submissions to the arbitrator. No motion shall be heard or decided by the arbitrator until all required fees have been deposited and papers submitted to the arbitration organization.

In the event there is no response to a motion (filed with the arbitration organization and for which a motion fee has been deposited) by the deadline to respond as set forth in the arbitration organization's written notice to the parties, the motion papers shall be submitted to the arbitrator for consideration.

For each motion in which there are submissions by both parties to the motion, the arbitrator shall be compensated \$100.00 and the arbitration organization shall be compensated a \$75.00 administrative fee. The arbitrator shall direct which party is responsible for the arbitrator and administrative fees, which shall be paid from that party's previously deposited motion fee. The party not responsible for the arbitrator and administrative fees shall be refunded the motion fee that was previously deposited with the arbitration organization.

For each motion in which there is no response from the responding party, the arbitrator shall be compensated \$50.00 for the motion and the arbitration organization shall be compensated a \$75.00 administrative fee, which shall be paid from the moving party's deposited motion fee. The moving party may assert a claim at the hearing for the portion of the motion fee deposited with the arbitration organization that is not subject to refund from the arbitration organization.

In the event the arbitration organization is notified prior to submission to the arbitrator that the motion is withdrawn or resolved, the arbitration organization shall be compensated a \$75.00 administrative fee, which shall be paid from the moving party's deposited motion fee. The remaining \$100 shall be refunded to the moving party. The moving party may assert a claim at the hearing for the \$75.00 administrative fee paid to the arbitration organization.

(b) In addition to compensation as in (a) above, except as otherwise provided by the Rules, an arbitrator shall be compensated for services and for any use of office facilities in the amount of \$300 per case.

(c) If the arbitration organization is notified of a settlement or a withdrawal of a claim at any time up to 24 hours prior to the scheduled hearing, but after the appointment of the arbitrator, the arbitrator's fee shall be the sum of \$50.00. If the arbitration organization is notified of a postponement, settlement or a withdrawal of a claim 24 hours or less prior to the scheduled hearing, the arbitrator's fee shall be \$300.00. Unless the parties agree otherwise, the fee in a settlement shall be assessed equally to the parties and the fee in a withdrawal shall be borne by claimant, and the fee in a postponement shall be borne by the requesting party. Regardless of the resolution of the case, the arbitrator's fee shall not exceed \$300 and is subject to the provisions of Rule 15.

(d) An arbitrator serving on a court-ordered or party-consolidated glass case shall be compensated at a rate of \$200.00 per hour.

(e) Once a hearing is commenced, the arbitrator shall direct assessment of the fee.

(Amended effective December 1, 1995; amended effective September 7, 1999; amended effective August 5, 2003; amended effective January 1, 2008; amended effective March 1, 2016; amended effective February 1, 2020; amended effective January 1, 2022; amended effective April 1, 2025.)

Comment - 2008

It is becoming increasingly common for parties to request a last-minute postponement of a hearing, sometimes on multiple occasions. This change encourages the parties to consider the time the arbitrator has set aside to hear the matter and places postponed hearings more in line with the fee structure for settled cases. This rule also formalizes the practice of assessing the postponement fee to the requesting party. Finally, this rule specifies that the arbitrator's fee shall not exceed \$300. This has become necessary as an increasing number of arbitrators have requested a larger fee because of time devoted to a particular case.

Standing Committee Comments (2015)

In response to Illinois Farmers Insurance Company v. Glass Service Co., 683 N.W.2d 792 (Minn. 2004), the No-Fault Standing Committee issued a resolution in which a rate of \$200.00 per hour may be charged on court-ordered consolidated glass cases.

Standing Committee Comment (2019)

Rule 40(a) is rewritten to now establish the motion fee referenced in Rule 12(b)3 and the arbitrator's authority to direct which party's deposited motion fee will be used to pay the arbitrator and administrative fee in cases when there are submissions from both parties to the motion, with refund of motion fee deposit to the party(s) not responsible. The rule also provides that in cases where there is no response to the motion, the arbitrator is compensated \$50.00 and the arbitration organization is compensated \$25.00 from the moving party's motion fee, with refund of the remaining \$50.00 to the moving party. As only one-half of the submissions are being considered by the arbitrator, arbitrator compensation for the motion is reduced by one-half. The moving party is entitled to bring a claim at the evidentiary hearing for the amount of the motion fee (deposited but not subject to refund from the arbitration organization) that is paid as arbitrator compensation and administrative fee. If the motion is withdrawn or resolved prior to submission to the arbitrator for consideration, then only the \$25.00 administrative fee is nonrefundable.

The arbitration organization, in accordance with its customary procedures, shall issue compensation to the arbitrator and the arbitration organization along with applicable refund after the proceedings have concluded. The former Rule 40(b)-(d) are renumbered 40(c)-(e), respectively.