



Perhaps one of the biggest myths about arbitration is that there is no avenue to appeal. This is not the case and hasn't been for many years. For more than two decades JAMS has offered an expedited appellate process known as the JAMS Optional Appeal Procedures. An appellate panel, typically comprising three JAMS neutrals with appellate experience, applies the same standard of review to an arbitrator's award that a first-level appellate court would apply to a trial court decision. The panel may affirm, reverse, or modify the arbitrator's award. The panel's decision becomes the final award for purposes of judicial confirmation.

Not every arbitration is well-suited to an appeal. However, where the parties agree pre- or post-dispute to the JAMS Optional Appeal Procedures, the parties can realize all the benefits of arbitration with the added peace of mind that comes with the right to appeal.

JAMS Optional Appeal Procedures

Effective February 1, 2025

(A) The JAMS Optional Appeal Procedures ("Procedures") apply where all Parties have agreed in writing to the application of the Procedures. The Parties may agree to the application of the Procedures at any time.

(B) Within fourteen (14) calendar days after the Arbitrator's Award becomes final under the applicable JAMS Rules, any Party may file with the case manager and serve on the opposing Party(ies) a written notice of appeal. The notice of appeal must specify those elements of the Award being appealed and must contain a brief statement of the basis for the appeal.

(C) Within seven (7) calendar days of service of the notice of appeal, the opposing Party(ies) may file with the case manager and serve on the other Party(ies) a written notice of cross-appeal. The notice of cross-appeal must specify those elements of the Award being cross-appealed and must contain a brief statement of the basis for the cross-appeal.

(D) If a notice of appeal is timely filed, the Award is no longer considered final under the applicable JAMS Rules for purposes of seeking judicial enforcement, modification, or vacatur.

(E) The Appellate Panel will consist of three neutral members unless the parties agree that it will consist of one. The Panel will be selected, and will provide disclosure statements to the parties, consistent with the JAMS Rules applicable to the underlying Arbitration, except that JAMS will provide a list of at least five (5) Panel candidates and each side may strike one (1) name from the list.



(F) JAMS' administration of the Appellate Panel selection process confirms that JAMS has received payment of all JAMS fees in the underlying Arbitration and a Filing Fee for the notice of appeal. A Party that files a notice of cross-appeal is also responsible for a Filing Fee.

(G) The record on appeal will consist of the stenographic or other record of the Arbitration Hearing, and all exhibits, deposition transcripts, and affidavits that the Arbitrator accepted into the record of the Arbitration Hearing. The Parties will cooperate with the case manager in compiling the record on appeal, and the case manager will provide the record to the Appellate Panel. Evidence not previously accepted by the Arbitrator will not be considered by the Appellate Panel, unless the basis of the appeal is non-acceptance by the Arbitrator of certain evidence or unless the Appellate Panel determines that good cause exists to reopen the record pursuant to the applicable JAMS Rules.

(H) The Parties may elect to rely on memoranda or briefs previously submitted to the Arbitrator. In the absence of such election, the Parties may agree on a briefing schedule. If the Parties do not agree on a briefing schedule, the Appellate Panel will set one. Unless the Parties agree or the Panel determines otherwise, opening briefs shall be no longer than 25 double-spaced pages. Briefs may be in the form of a letter.

(I) The Appellate Panel will conduct oral argument if all Parties request it. In complex cases or unusual circumstances, the Panel may conduct oral argument on its own initiative. The Panel will set the date and duration of any oral argument.

(J) The Appellate Panel will apply the same standard of review that the first-level appellate court in the jurisdiction would apply to an appeal from the trial court decision. The Panel will respect the evidentiary standard set forth in Rule 22(d) of the JAMS Comprehensive Arbitration Rules. The Panel may affirm, reverse or modify an Award.

The Panel may not remand to the original Arbitrator but may reopen the record to review evidence that was improperly excluded by the Arbitrator or evidence that is now necessary in light of the Panel's interpretation of the relevant substantive law.

A three-member Panel will make its decision by majority vote. Absent good cause for an extension, the Panel will render its decision within thirty (30) calendar days of the date of oral argument, receipt of the new evidence, or receipt of the record and all briefs, whichever is applicable or later. The Panel's decision shall consist of a written statement signed by the Panel regarding the disposition of each claim and the relief, if any, as to each claim. Unless all parties agree otherwise, the decision shall also contain a concise written statement of the reasons for the decision. The Panel's decision shall constitute a final Award for purposes of judicial review.



(K) If a Party refuses to participate in the JAMS Optional Appeal Procedures after having agreed to do so, the Appellate Panel will maintain jurisdiction over the appeal and will consider the appeal as if all parties were participating, including retaining the authority to modify any Award or element of an Award previously rendered in favor of the non-participating Party, assuming the Panel believes that the record, after application of the appropriate standard of appeal, justifies such action.

(L) After the Panel renders a decision, and provided the parties have paid all JAMS fees in full, JAMS will issue the decision by serving it on the parties.