

RULE 13 – MANDATORY ARBITRATION

- 13.1** The Court may, in its discretion, at any appropriate Pre-Trial stage, upon Written Motion of any party filed in accordance with this Rule, or upon its own Motion, Order a civil case submitted to Arbitration pursuant to the provisions of Sup. R. 15 and this Rule 13. This Rule replaces and supercedes prior Local Rules 13 (Medical Malpractice Actions) and 17 (Mandatory Arbitration). This Rule shall apply to all civil cases including medical malpractice actions. **This Rule shall not, in any manner, limit the Court from requiring Mediation thru the Court-Sponsored Mediation Service in any case.**
- 13.2** Cases involving an amount in controversy of \$25,000.00 or less may be Ordered submitted to mandatory Arbitration under this Rule. The amount in controversy may be determined by agreement of the parties, by the Pleadings, or by a finding of the Court. Cases involving an amount in controversy in excess of \$25,000.00 may be submitted to Arbitration only by agreement of the parties.
- 13.3** Actions involving Title to Real Estate, Equitable Relief, and Appeals **shall not** be Ordered submitted to mandatory arbitration pursuant to this Rule. However, those actions may be submitted to Arbitration by agreement of the parties.
- 13.4** Notwithstanding any other provision of this Rule, a case may be Ordered submitted to mandatory Arbitration only in the event that there is a likelihood that it will result in cost savings to the parties. The likelihood of cost savings may be determined by agreement of the parties or by a Finding of the Court.
- 13.5** Attorneys in good standing with the Belmont County and Ohio State Bar Associations shall be qualified Arbitrators. Upon Ordering a case submitted to Arbitration, the Court shall appoint a qualified Arbitrator who has no interest in

the matter in controversy, no relationship to any party, no relationship to any party's counsel, and who is otherwise impartial with respect to the case. Upon Written Request of any party, the Court shall appoint a panel of three (3) qualified Arbitrators in the same manner a single Arbitrator is appointed; no more than one (1) member of a law partnership, firm, or association shall be appointed to serve on the same panel. If the matter is submitted to Arbitration pursuant to a Motion filed by a party, the Written Request for a panel of three (3) Arbitrators must be made by the moving party in the Motion or by the non-moving party in its Responsive Memorandum filed in accordance with Rule 6. If the matter is Ordered submitted to Arbitration pursuant to the Court's own Motion, the Written Request for a panel of three (3) arbitrators must be made within fourteen (14) days from the date of the Order. If the matter is submitted to Arbitration by agreement of the parties, the parties may also agree upon an Arbitrator or panel of Arbitrators.

13.6

Unless otherwise Ordered, the fee paid to each Arbitrator shall be Eight Hundred Dollars (\$800.00) for each day or partial day of Hearing. In addition, the Chairperson of a panel of three (3) arbitrators shall be paid an additional One Hundred Dollars (\$100.00) flat fee. In the event a single Arbitrator is appointed, the single Arbitrator shall also be paid an additional One Hundred Dollars (\$100.00) flat fee. The flat fee paid either to the Chairperson of a panel or to a single Arbitrator shall remain the same regardless of the number of days or partial days required for Hearing. Unless the report and award of the Arbitrator(s) is Appealed, or unless otherwise ordered, the parties shall share equally the Arbitrator(s)' fee. Within ten (10) days following the Order submitting the case to Arbitration and/or appointing the Arbitrator(s), whichever is later, the parties shall pay to the Clerk of Courts equal shares totaling Eight Hundred Dollars (\$800.00) for each Arbitrator. If a party fails to do so, the Arbitrator(s) shall not schedule a Hearing, but shall report the failure to the Court. In the event that the Hearing is in excess of one (1) day, within ten (10)

days following the final day of Hearing, the parties shall pay to the Clerk of Courts equal shares totaling Eight Hundred Dollars (\$800.00) for each additional day or partial day of Hearing for each Arbitrator. Upon the filing of the report and award, the Clerk of Courts shall tender payment of the fee to the Arbitrator(s).

13.7

Within thirty (30) days following the Order submitting the case to Arbitration and/or the appointment of Arbitrator(s), whichever is later, the Arbitrator(s) shall confer with the parties through counsel, if any, and establish a date for Hearing and any other dates deemed necessary by the Arbitrator(s). If a panel of three (3) Arbitrators is appointed, within thirty (30) days following their appointment, the Arbitrators shall confer and select one (1) member of the panel to be the Chairperson of the panel. The Chairperson of the panel shall be responsible for scheduling and shall preside over the Pre-Hearing Conference as well as the Hearing. In the event the members of the panel is unable to select a Chairperson within the time limit provided, the panel shall so advise the Court who will take such action as it deems necessary, including, but not limited to, appointing a Chairperson from the panel, appointing a substitute panel, in whole or in part. Within thirty (30) days following the Hearing, the Arbitrator(s) shall file a report and award with the Clerk of Courts and shall serve copies on the parties through counsel, if any. The report and award shall be final and binding unless it is Appealed.

13.8

Any party may appeal the report and award to the Common Pleas Court if, within thirty (30) days following the filing of the report and award, the party files a Notice of Appeal with the Clerk of Courts and serves a copy on the other party(ies) through counsel, if any. The Notice of Appeal must be accompanied by an Affidavit signed by the appealing party swearing that the Appeal is not being taken for the purpose of delay. The Notice of Appeal must also be accompanied by the payment to the Clerk of Courts of the amount paid by the

non-appealing party(ies) as and for the fee of the Arbitrator(s). The Clerk of Courts shall immediately reimburse the non-appealing party(ies) all such fees.

13.9 All Appeals shall be de novo proceedings. Evidence of Arbitration shall not be admissible. The Arbitrator(s) shall be barred as witnesses. A witness' testimony at the Arbitration Hearing may, however, be used for impeachment purposes at the trial de novo.

13.10 Notwithstanding any other provision of this Rule, the Court of Common Pleas shall have discretion to Order payment of the fees of the Arbitrator(s) by any party(ies).

13.11 The parties and the Arbitrator(s) shall confer with the Court with respect to scheduling the Hearing, the availability of a courtroom or other appropriate room for the Hearing, and the availability of a Court Reporter for the Hearing. The parties may agree to conduct the Hearing outside the courtroom before a private Court Reporter and shall share equally the cost of doing so.