

1 **LR2-603. Court-annexed arbitration.**

2 A. **General provisions.**

3 (1) ***Application.*** This rule applies to civil cases, whether jury or non-jury,
4 except for cases within the following categories:

5 Appeals

6 Uniform Arbitration Act

7 Extraordinary writs

8 Adoption

9 Commitment

10 Conservatorship

11 Guardianship

12 Probate

13 Children's Code

14 Domestic relations

15 Workers' compensation

16 Student loan

17 Driver's license

18 Election

19 Tax

20 (2) ***Court hearings.*** If a court hearing is required about any aspect of arbitration
21 prior to referral or any matter during referral, the court shall set and hear the matter promptly after
22 the matter is brought to the attention of the assigned judge by request for hearing or by the [~~court~~
23 ~~alternatives director~~] chief judge or the chief judge's designee.

1 (3) ***“At issue” required.*** All cases referred to arbitration must be “at issue”
2 before referral. For purposes of this rule, a case is “at issue” when at least one answer to the
3 complaint has been filed. Answers to cross-claims, counterclaims, and third-party complaints need
4 not have been filed. Service on all parties need not have been made.

5 B. **Mandatory referral.**

6 (1) ***Types of cases for mandatory referral.*** All cases, jury and non-jury, shall
7 be referred to arbitration when no party seeks relief other than a money judgment and no party
8 seeks an amount in excess of fifty thousand dollars (\$50,000.00) from any party or combination
9 of parties, exclusive of punitive damages, interest, costs, and attorney fees.

10 (2) ***Mandatory certification.*** In all cases filed on or after the effective date of
11 this rule, any party filing a complaint, counterclaim, cross-claim, third-party complaint, or any
12 other pleading in which affirmative relief is requested shall file and serve concurrently with the
13 pleading for affirmative relief, a separate certification indicating whether the party is or is not
14 seeking relief other than a money judgment and whether the amount sought exceeds or does not
15 exceed fifty thousand dollars (\$50,000.00) exclusive of punitive damages, interest, costs, and
16 attorney fees. The certification shall be a good faith attempt to state the type and amount of relief
17 to be sought at trial and shall not act as a limit on relief.

18 (3) ***Review of certification; referral order.*** Within thirty (30) days after a case
19 is at issue, the court will review the court file, including the certifications filed, to determine
20 whether referral to arbitration is mandated by Subparagraph (B)(1) of this rule. If so mandated, the
21 court will prepare and file an order referring the case to arbitration and mail or deliver endorsed
22 copies of the order to all parties entitled to notice. The court on its own motion may postpone filing
23 a referral order if it appears from the court file that the case may be resolved on a pending motion

1 for judgment on the pleadings or other pending dispositive motion. If referral is not mandated, no
2 order will be entered.

3 (4) **Failure to file certification.** If a party fails to file a certification, the court
4 after written notice may impose an appropriate sanction including but not limited to dismissing the
5 party's complaint without prejudice. The court in its discretion may impose the sanction without
6 hearing.

7 (5) **Referral on motion.** At any time after a case is at issue and notwithstanding
8 any certifications filed, on a party's motion or the court's own motion, the court may enter an order
9 referring the case to arbitration provided the court finds that the requirements of Subparagraph
10 (B)(1) are met. The court in its discretion may enter the order without hearing.

11 (6) **Denial of referral.** Notwithstanding a finding that the requirements of
12 Subparagraph (B)(1) have been met, at any time before referral, on a party's or the court's own
13 motion, the court for good cause may deny referral to arbitration. The court in its discretion may
14 enter the order without hearing.

15 C. **Permissive referral.** Any case may be referred to arbitration when the parties
16 stipulate to arbitration. The court may require the parties to stipulate to an arbitrator as set forth in
17 Subparagraph (D)(3)(c) of this rule.

18 D. **Arbitrators.**

19 (1) **Arbitrator pool.** The court will maintain a pool from which arbitrators will
20 be appointed. The pool shall include all active members of the State Bar of New Mexico who have
21 been licensed to practice law for five (5) or more years and who are residents of or have an office
22 in Bernalillo County. Other attorneys licensed for five or more years, including inactive attorneys,
23 out-of-Bernalillo County attorneys, and out-of-state attorneys, may be included in the pool on

1 written request to the [~~court alternatives director~~] chief judge or the chief judge's designee. The
2 chief judge for good cause may remove an attorney from the arbitrator pool either temporarily or
3 permanently. The removal may be on the court's own motion without notice to the attorney, or it
4 may be on written request to the [~~court alternatives director~~] chief judge or the chief judge's
5 designee. The court will periodically review the pool of arbitrators for completeness and accuracy,
6 and it may require any member of the State Bar of New Mexico to submit information necessary
7 for this purpose. The court will provide written notice to attorneys as they are added to the pool,
8 either by letter or notice published in the Bar Bulletin.

9 (2) ***Training.*** The court may require any attorney who is part of the arbitrator
10 pool to attend arbitrator training.

11 (3) ***Appointment to case.*** After a case is referred to arbitration, an attorney shall
12 be appointed as arbitrator by the filing of a court order on either random selection, court selection,
13 or stipulation. With appointments on random or court selection, the court will file an order
14 appointing the arbitrator and mail or deliver endorsed copies to the arbitrator and all parties entitled
15 to notice. With stipulations, the parties shall file the order of appointment.

16 (a) ***Random selection.***

17 (i) ***Notice of choices.*** Within ten (10) days after a case is
18 referred to arbitration, the [~~court alternatives director~~] chief judge or the chief judge's designee
19 will mail to all parties a notice listing three attorneys as choices for arbitrator. The three attorneys
20 shall be selected at random from the arbitrator pool but none of the three may be employed by the
21 same law firm as any of the other three or as any counsel in the case. The notice of choices shall
22 not be filed with the clerk.

1 (ii) *Peremptory strikes.* Within seven (7) days after the notice of
2 choices is mailed, each party may peremptorily strike one attorney by written notice to the [~~court~~
3 ~~alternatives director~~] chief judge or the chief judge's designee. A maximum of two strikes will be
4 counted altogether; a maximum of one strike will be counted for each side, *e.g.*, all plaintiffs or
5 defendants or third-party defendants; and strikes will be counted in the order received. The first
6 attorney remaining after strikes are counted shall be appointed. The period for making strikes shall
7 not be extended. The notice of strikes shall not be filed with the clerk.

8 (b) *Court selection.* For good cause, the court may select an arbitrator
9 rather than provide the parties with a notice of choices.

10 (c) *Stipulation.* The parties may stipulate to the appointment of any
11 licensed attorney, whether or not part of the pool and with any length of experience, by stipulated
12 order filed within seven (7) days after the notice of choices is mailed, or within seven (7) days
13 after a vacancy is created by order of excusal or otherwise. The stipulated order must be approved
14 by all parties and by the proposed arbitrator. Approval of counsel and the proposed arbitrator may
15 be telephonic; approval of parties pro se must be by signature. The court or the proposed arbitrator
16 may require the parties to pay compensation at the arbitrator's usual hourly fee.

17 (d) *Excusal; conflicts check.* Promptly on appointment, the arbitrator
18 shall attempt to discern any conflicts of interest in hearing the case and shall notify the parties of
19 any conflict. On discovery of a conflict of interest in hearing a case, an arbitrator shall file a motion
20 for excusal. On a party's, the arbitrator's, or the court's own motion, the court for good cause may
21 order that the arbitrator be excused from appointment to the case. The court in its discretion may
22 enter the order without hearing.

1 (e) *Vacancy.* Vacancies caused by excusal or otherwise shall be filled
2 by appointment of the first of the remaining three choices or if none remains, by appointment of
3 an attorney selected by the court, or the parties may stipulate to a replacement as provided in
4 Subparagraph (D)(3)(c) of this rule.

5 [4.] (4) **Compensation.** The court shall compensate arbitrators in the amount of one
6 hundred dollars (\$100.00) per case. An arbitrator is entitled to compensation when the arbitrator
7 files an award or the arbitration proceedings are otherwise concluded or when the arbitrator is
8 excused from appointment. The arbitrator shall submit a written request for compensation to the
9 ~~[court alternatives director]~~ chief judge or the chief judge's designee within thirty (30) days after
10 the arbitrator is entitled to compensation. Failure to submit a request shall be deemed a waiver of
11 compensation. Arbitrators compensated by the parties under Subparagraph (D)(3)(c) of this rule
12 shall not be compensated by the court.

13 E. **Procedures during referral.**

14 (1) **General.**

15 (a) *Court jurisdiction.* The assigned judge continues to have
16 jurisdiction over a case during referral to arbitration. In general, however, the assigned judge
17 should not hear any matters after an arbitrator is appointed except the judge may hear the
18 following:

- 19 (i) motions to excuse the arbitrator;
20 (ii) motions to withdraw referral to arbitration;
21 (iii) motions for sanctions under Subparagraph (D)(3)(c) of this
22 rule;
23 (iv) motions for free process;

- 1 (v) motions about attorney representation;
- 2 (vi) motions to add new parties;
- 3 (vii) motions to set aside default or any other judgment;
- 4 (viii) motions to compel settlement;
- 5 (ix) any post-judgment enforcement and execution matters; and
- 6 (x) requests for settlement conference under [Rule] LR2-
7 602 NMRA.

8 After a case is referred to arbitration and before an arbitrator is appointed, the court in its discretion
9 may vacate any pending hearings on matters that may be heard by the arbitrator, and may set
10 hearings on matters needing immediate consideration.

11 (b) *Arbitrator jurisdiction, powers, and duties.* The arbitrator's
12 jurisdiction begins when the order of appointment is filed and continues until the arbitrator is
13 excused, ten (10) days after an award is filed, or the arbitration proceedings are otherwise
14 concluded, whichever period is shorter. While the arbitrator has jurisdiction, the arbitrator's
15 decisions shall be considered equivalent to court orders. The arbitrator may decide all issues of
16 fact and law unless specifically prohibited by this rule or court order. The arbitrator shall consider
17 the efficient, cost-effective, and informal resolution of the case as a factor in all the arbitrator's
18 decisions and in all aspects of the arbitrator's management of the case. The arbitrator may limit
19 discovery when appropriate. The arbitrator may administer oaths. With the exception of contempt,
20 the arbitrator may enter appropriate sanctions including sanctions under Rules 1-016, 1-030, and 1-
21 037 NMRA or any other Supreme Court rule, sanctions for failure to comply with any of the
22 provisions of this rule, and sanctions for failure to comply with any of the arbitrator's decisions.
23 On agreement of the parties, the arbitrator may serve as a mediator or settlement facilitator. The

1 arbitrator’s jurisdiction, powers, and duties may not be delegated. The arbitrator must personally
2 conduct the hearings and trial, and must personally sign decisions and the award.

3 (c) *Supreme Court and local rules.* All Supreme Court rules, including
4 rules of civil procedure (including Rule 1-006 NMRA) and rules of evidence, and all second
5 judicial district local rules apply during referral to arbitration unless specifically waived by written
6 court order or the arbitrator. The arbitrator may waive rules of evidence only on agreement of the
7 parties.

8 (d) *Good faith participation.* All parties shall participate in good faith
9 in the arbitration proceedings. The arbitrator may enter an award of default or of dismissal against
10 any party failing to participate in good faith or reflect the failure in the award. In any award, the
11 arbitrator shall include a certification that the party failed to participate in good faith. The court
12 shall consider the certification when deciding attorney fees, costs, and interest on appeal, or when
13 considering whether to set aside the default.

14 (e) *120-day deadline; sanction.* Within one hundred twenty (120) days
15 after the arbitrator is appointed, the arbitrator shall file an award unless the arbitration proceedings
16 have otherwise been concluded. On a party’s, the arbitrator’s, or the court’s own motion, the court
17 for good cause may extend the one hundred twenty (120) day period. The court in its discretion
18 may enter the order without hearing. If the arbitrator or a party fails to comply with this provision,
19 the court after written notice may impose an appropriate sanction including but not limited to
20 requiring the arbitrator or party to pay a penalty into the second judicial district arbitration fund.

21 (f) *Filing papers.* Any motion or other paper to be heard or otherwise
22 considered by the arbitrator shall not be filed with the court. The arbitrator shall not file any
23 decisions except for the award. On a party’s or the court’s own motion, the court may order that

1 an inappropriately filed paper be stricken. The court in its discretion may enter the order without
2 hearing. Failure to submit a motion to strike shall be deemed waiver of any prejudice caused by a
3 paper inappropriately filed.

4 (g) *Court file; review; copy.* The arbitrator may review the court file at
5 any time during regular court hours. The court shall provide the arbitrator a copy of the file or parts
6 of the file at no cost on request; requests shall be made to the [~~court alternatives director~~] chief
7 judge or the chief judge's designee.

8 (h) *Summonses; subpoenae.* The clerk shall issue summonses and
9 subpoenae in cases referred to arbitration in the same manner as with other civil cases. The
10 summonses and subpoenae shall be served and enforceable as provided by law.

11 (i) *Record of proceeding.* Any party to an arbitration proceeding, at the
12 party's own expense, may engage a certified court reporter to make a record of testimony given at
13 an arbitration proceeding for use as allowed by the rules of evidence. A copy of the record may be
14 obtained by any other party to the arbitration proceeding in the same manner that deposition copies
15 are obtained. Costs associated with making the record or obtaining a copy of it shall not be
16 recoverable.

17 (j) *Withdrawal of referral.* At any time after a case is referred to
18 arbitration, on a party's, the arbitrator's, or the court's own motion, the court for good cause may
19 order that the referral to arbitration be withdrawn and the case be returned to the court's docket.
20 The court in its discretion may enter the order without hearing.

21 (2) *Hearings; trial.*

1 (a) *Place, date, and time.* The arbitrator shall set an appropriate place,
2 date, and time for all hearings and trial. Hearings shall be set during regular business hours except
3 on agreement of the parties. The arbitrator may conduct hearings by telephone.

4 (b) *Notice.* The arbitrator shall provide twenty (20) days written notice
5 of trial. The arbitrator shall provide five (5) days notice, in writing or by telephone, of all other
6 hearings. Notice of trial or hearings may be waived by the parties.

7 (c) *Requests for hearing.* Unless otherwise directed by the arbitrator,
8 parties may request hearings informally, by letter, or by telephone, provided the requesting party
9 notifies all other parties as well as the arbitrator. The arbitrator may decide motions and other
10 preliminary matters on written submissions.

11 (d) *Statement of witnesses, exhibits.* No later than ten (10) days before
12 trial, each party shall serve on all other parties a statement listing all the exhibits and witnesses the
13 party may use and briefly describing the matters about which each witness will be called to testify.
14 The arbitrator may waive this provision.

15 (e) *Return of exhibits and depositions.* After an award is filed or the
16 arbitration proceedings are otherwise concluded, the arbitrator shall return all exhibits and
17 depositions to the submitting party.

18 (3) *Evidentiary exceptions.* The following exceptions apply during referral to
19 arbitration.

20 (a) *Depositions.* The arbitrator may hear testimony by deposition.

21 (b) *Documentary evidence.* The following documents, if relevant, shall
22 be admitted in evidence without further proof, provided a copy of the documents is served on all
23 parties no later than ten (10) days before the hearing or trial:

1 (i) estimates and bills for services and products, if dated and
2 itemized;

3 (ii) reports of experts, if dated and signed; and

4 (iii) records and reports as described in Rule 11-803(6), (8), (9),
5 (11), (12), and (14) through (18) NMRA.

6 (4) ***Award.***

7 (a) *Final decision; scope.* The arbitrator’s final decision shall be called
8 an “award”. The award shall clearly set forth the amount awarded to each party and address all
9 pending claims, attorney fees, costs and interest as allowed by law, including any required award
10 of costs under Rule 1-068 NMRA. The award may be an award of default, dismissal, summary
11 judgment, or money damages.

12 (b) *Amount.* The amount of the award shall be limited only by the
13 evidence and shall not be limited by the circumstances under which the case was referred to
14 arbitration.

15 (c) *Filing.* Unless the parties agree otherwise, within ten (10) days after
16 the last hearing, the arbitrator shall file an award with the clerk and serve copies on all parties
17 entitled to notice. If an arbitrator fails to comply with this provision, the court after written notice
18 may impose an appropriate sanction including but not limited to requiring the arbitrator to pay a
19 penalty into the second judicial district’s arbitration fund.

20 (d) *Amended award.* Within ten (10) days after an award is filed, the
21 arbitrator may file an amended award. Copies shall be served on all parties entitled to notice.

1 (e) *Binding award.* At any time before the award is filed, the parties
2 may file with the clerk a stipulation that the award will be binding and that the right to appeal the
3 award is waived.

4 (f) *Judgment on award.* If no appeal is taken and the time for appeal
5 has expired, the right to appeal has been waived, or the appeal has been voluntarily dismissed, the
6 court shall prepare and file a judgment or final order adopting that part of the award not appealed
7 as a judgment or final order of the court and shall mail or deliver endorsed copies to all parties
8 entitled to notice. The judgment or final order shall be enforceable and binding as any other
9 judgment or final order.

10 F. **Appeal.**

11 (1) *Right to appeal.* Any party of record at the time the arbitrator’s award is
12 filed may appeal the award, but a party may not appeal an award of default, including an award of
13 default entered under Subparagraph (E)(1)(d) of this rule. An award of default shall only be set
14 aside under Rules 1-055 and 1-060 NMRA.

15 (2) *Procedures to appeal.*

16 (a) *Notice of appeal.* To exercise the right to appeal, a party must file a
17 “notice of appeal from arbitration” with the clerk within fifteen (15) days after the award or
18 amended award is filed. If a timely notice of appeal is filed by a party, any other party may file a
19 notice of appeal within fifteen (15) days after the date on which the first notice of appeal was
20 served. The period for filing the notice shall not be extended. A copy of the notice of appeal shall
21 be served on all parties entitled to notice. Cross-appeals are not required.

1 (b) *Voluntary dismissal.* At any time after filing a notice of appeal and
2 before trial before the assigned judge, a party may withdraw the appeal by filing a notice of
3 voluntary appeal dismissal. A copy of the notice shall be served on all parties.

4 (3) *Procedures on appeal.*

5 (a) *Docket status.* After a notice of appeal is filed, the case shall be
6 returned to the same status on the assigned judge's docket that it had before referral to arbitration.
7 Requests for trial must be submitted as required by local rule.

8 (b) *De novo proceedings.* All appeals shall be in the form of de novo
9 proceedings before the assigned judge. No reference shall be made to any of the arbitrator's
10 decisions including the award. Neither the arbitrator nor the [~~court alternatives director~~] chief
11 judge or the chief judge's designee shall be permitted to testify about the arbitration proceedings.
12 Promptly after the notice of appeal is filed and until disposition of the appeal, the court shall seal
13 the award.

14 (c) *Discovery.* Any discovery obtained while the case was referred to
15 arbitration may be used in the de novo proceedings.

16 (4) *Award of fees, costs, and interest against appellant.* If the court makes a
17 decision on the merits which is the same as or less favorable to the appellant than the arbitrator's
18 award, the court shall order that the appellant pay all other parties' expenses incurred during the
19 appeal including but not limited to reasonable attorney fees, costs, and pre-judgment interest dating
20 from the arbitration award. The court for good cause shown may waive this provision; the court
21 shall state the basis for its good cause finding on the record.

22 [As amended, effective March 1, 1997; as amended by Supreme Court Order No. 06-8300-026
23 effective January 15, 2007; as amended by Supreme Court Order No. 16-8300-015, effective for

- 1 all cases pending or filed on or after December 31, 2016; as amended by Supreme Court Order
- 2 No. 22-8300-009, effective for all cases pending or filed on or after June 1, 2022; as amended by
- 3 Supreme Court Order No. S-1-RCR-2024-00120, effective for all cases filed on or after December
- 4 31, 2025.]