

Florida International Commercial Arbitration Act FAQs, F.S. 684.0001

Arbitration, generally

- What is arbitration?
- Why should contracting parties engage in international arbitration in Florida?
- Where is the appropriate place to arbitrate the case?
- Is Florida a popular venue for conducting arbitrations?
- Can the court interfere with an international arbitration proceeding in Florida?
- When is an international arbitration in Florida deemed to have commenced?

The Arbitrators

- How many arbitrators will decide a dispute for an international arbitration in Florida?
- How are the arbitrators selected for an international arbitration in Florida?
- What can be done if the parties to an international arbitration in Florida cannot agree on the selection of the third arbitrator?
- Must all the arbitrators to an international arbitration in Florida be impartial, independent, and possess the qualifications agreed upon by the parties?
- If a party to an international arbitration in Florida does not trust the arbitrator selected by the opposing party, may that arbitrator be challenged?
- If a party to an international arbitration in Florida believes that the arbitrator he/she selected is neither impartial, independent nor has the agreed upon qualifications, may that arbitrator be challenged?
- How can a party to an international arbitration in Florida challenge an arbitrator that is not impartial, independent or has the agreed upon qualifications?
- Who decides whether a challenge to an arbitrator should be granted or denied during an international arbitration in Florida?
- What can a party to an international arbitration in Florida do if there is a disagreement with the panel's decision regarding a challenge to an arbitrator?
- How does the arbitration panel render its decisions during an international arbitration in Florida?
- What can a party to an international arbitration in Florida do if it is of the opinion the arbitration clause is invalid?
- What can a party to an international arbitration in Florida do if a party believes the arbitration panel does not have jurisdiction over my case?
- What can a party to an international arbitration in Florida do if the arbitration panel is exceeding the scope of its authority?
- What substantive laws are applicable to an international arbitration in Florida?
- What if a party to an international arbitration in Florida proceeds to arbitration, even though the party has the right to litigate the case in the circuit court?
- What procedural and evidentiary rules must the parties follow during an international arbitration in Florida?
- How can the parties to an international arbitration in Florida expect to be treated by the arbitrators?
- What language will be used during an international arbitration in Florida?

Making a claim or asserting a defense

- What allegations must a claimant make during an international arbitration in Florida?
- What defenses must a respondent make when defending against a claim during an international arbitration in Florida?
- What happens if a claimant fails to provide a statement of claim or respondent fails to present a statement of defense during an international arbitration in Florida?
- Can a claim or defense presented be amended or supplemented during an international arbitration proceeding in Florida?
- Will the arbitral tribunal set hearings and meetings during an international arbitration in Florida?

A person is not precluded from serving as an arbitrator because of his or her nationality, unless the parties agree otherwise.

What can be done if the parties to an international arbitration in Florida cannot agree on the selection of the third arbitrator?

If the arbitration panel must consist of three arbitrators, each party selects one arbitrator. The FICAA mandates that the two arbitrators must then select the third panelist. If within 30 days after the request to appoint is made or the two arbitrators are unable to agree on the third arbitrator, the circuit court will make the selection upon the request of either party.

Must all the arbitrators to an international arbitration in Florida be impartial, independent, and possess the qualifications agreed upon by the parties?

Each prospective arbitrator must disclose any circumstances “likely to give rise to justifiable doubts as to [his/her] impartiality or independence.” This is a continuing responsibility. It commences from the time of appointment and throughout the proceedings. An arbitrator must disclose those circumstances to the parties “without delay.”

If a party to an international arbitration in Florida does not trust the arbitrator selected by the opposing party, may that arbitrator be challenged?

Only if there are circumstances that “give rise to justifiable doubts as to the arbitrator’s impartiality or independence” or “the arbitrator does not possess qualifications agreed to by the parties,” can the arbitrator be challenged.

If a party to an international arbitration in Florida believes that the arbitrator he/she selected is neither impartial, independent nor has the agreed upon qualifications, may that arbitrator be challenged?

If a party selected an arbitrator and later finds out that the arbitrator is neither impartial, independent nor possess the agreed upon qualifications, the party may challenge the selected arbitrator, but “only for reasons of which the party became aware after the appointment was made.”

How can a party to an international arbitration in Florida challenge an arbitrator that is not impartial, independent or has the agreed upon qualifications?

The parties may agree to the method of challenging prospective or selected arbitrators. In the absence of an agreement, a challenging party has 15 days after the panel is constituted or after becoming aware basis for the challenge to send a “written statement of the reasons for the

While the matter is pending before the court, the arbitration proceedings will not be delayed.

What can a party to an international arbitration in Florida do if the arbitration panel is exceeding the scope of its authority?

If the panel is doing more than the arbitration clause or the law permits, then you must raise an objection “as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.”

What substantive laws are applicable to an international arbitration in Florida?

F.S. Sec. 684.0039, provides,

(1) The arbitral tribunal shall decide the dispute pursuant to the rules of law chosen by the parties to apply to the substance of the dispute. Any designation of the law or legal system of a state or country shall be construed, unless otherwise expressed, as directly referring to the substantive law of that state or country and not to its conflict-of-laws rule.

(2) Failing any designation by the parties, the arbitral tribunal shall apply the law determined by the conflict-of-laws rules that it considers applicable.

(3) The arbitral tribunal shall decide ex aequo et bono or as amiable compositeur, only if the parties have expressly authorized it to do so.

(4) In all cases, the arbitral tribunal shall decide in accordance with the terms of the contract and shall take into account the usages of the trade which apply to the transaction.

What if a party to an international arbitration in Florida proceeds to arbitration, even though the party has the right to litigate the case in the circuit court?

Under the FICAA, with limited specified exceptions, “[a] party waives its right to object if the party proceeds with the arbitration and fails to object without undue delay....”

What procedural and evidentiary rules must the parties follow during an international arbitration in Florida?

In Florida, the arbitrating parties may agree on the rules that will be used during the arbitration, i.e. JAMS International rules. If the parties cannot agree, then the arbitration panel is empowered to conduct the proceedings in a manner that it sees fit and may “determine the admissibility, relevance, materiality, and weight of evidence.”

How can the parties to an international arbitration in Florida expect to be treated by the arbitrators?

The FICAA requires the arbitrators to treat each party “with equality” and

must afford each side the “full opportunity to present its case.”

What language will be used during an international arbitration in Florida?

In the event the parties cannot agree on the language or languages to be used at the arbitration, the arbitrators must make the selection. Unless the parties agree otherwise, the chosen language(s) will apply to “any written statement by a party, any hearing, and any award, decision, or other communication by the arbitral tribunal.” The panel may also direct documentary evidence to be translated.

Making a claim or asserting a defense

What allegations must a claimant make during an international arbitration in Florida?

Unless otherwise agreed to by the parties, when making an arbitration claim, the claimant (the party asserting the claim) must set forth “the facts supporting your claim, the points at issue, and the relief or remedy sought.” When submitting a claim, the claimant may include “all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.”

What defenses must a respondent make when defending against a claim during an international arbitration in Florida?

Unless otherwise agreed, the respondent (the party defending the claim) must “state its defense to the claim.” When submitting a defense, the respondent may include “all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.”

What happens if a claimant fails to provide a statement of claim or respondent to fails to present a statement of defense during an international arbitration in Florida?

Unless the parties otherwise agree, should a claimant fail to provide a statement of claim, the arbitral panel is obligated to “terminate the proceedings.” On the other hand, should the respondent fail to communicate a statement of defense, the panel “shall continue the proceedings without treating such failure in itself as an admission of the claimant’s allegations.”

Can a claim or defense presented be amended or supplemented during an international arbitration proceeding in Florida?

Unless the parties have otherwise agreed, the FICAA permits either party to supplement or amend a claim or defense. Notwithstanding, the arbitral

hearing for questioning?

Unless otherwise agreed to by the parties, the answer is “yes.” If a party requests it or the panel deems it necessary, “the expert shall, after delivery of a written or oral report, participate in a hearing in which the parties have the opportunity to question the expert and to present expert witnesses in order to testify on the points at issue.”

Resolution

What happens if the parties settle their dispute during an international arbitration in Florida?

If the dispute is settled during the arbitration, the panel terminates the proceedings. If one party requests to record the settlement in the form of an arbitral award consistent with the agreed upon terms, so long as there is no objection, the panel is obligated to do it. If an award is entered, it “has the same status and effect as any other award on the merits of the case.”

What are the contents of an international arbitration award in Florida?

All arbitration awards must be in writing and signed the arbitrator. If the panel consisted of three arbitrators, a majority of the panel must sign it. The award must also set forth the date and place of the arbitration.

How are international arbitration proceedings terminated in Florida?

The entry of a final arbitration award will terminate the proceedings. However, proceedings may also be terminated if the claimant withdraws the claim (unless the respondent objects and the tribunal determines the respondent has “a legitimate interest” in having the dispute settled); the parties agree to terminate them; or the panel determines that continuing the proceedings is “unnecessary or impossible.”

Can an error be corrected or an ambiguity clarified in an international arbitration award in Florida?

Unless the parties agree otherwise, the FICAA provides each party with 30 days after the receipt of the award document to ask the arbitration panel (with notice to the other party) to “correct in the award any errors in computation, any clerical or typographical errors, or any errors of similar nature. A party may also request the tribunal “to make an additional award as to claims presented in the arbitral proceedings but omitted from the award.” Should the panel deems this particular request worthy, it will have 60-days from the date of the request in which to amend the award. If

