

A Simple Approach to  
Recovery

# Inter- Company Arbitration



## What is the Inter-Company Arbitration Agreement?

- Is an agreement to forego Litigation in favour of Arbitration
- An Agreement signed by Insurers to agree to arbitrate disputes among themselves. Those insurers are called Signatories.
- Arbitrations are managed by the Canadian Insurance Claims Managers' Association

# Advantages of Arbitration

Litigation	Arbitration
Cost of litigation ranges from \$5,000 to \$20,000.00.	Arbitration fee is \$250.00 (plus HST in Ontario).
Can take years to get to a trial.	Typical decision is rendered in less than 6 months.
Matter decided by a Judge who is not familiar with Insurance matters.	Matter decided by experienced Claims Managers.
Decisions are published for the public to review.	Arbitrations are private matters between the parties.

# What Can be Arbitrated?

Signatory companies are bound to forego litigation and submit to arbitration any questions or disputes relating to:

Any physical damage subrogation claims, including business interruption

Damages not in excess of \$50,000.00, unless agreed to by all parties

Disputes only against insurance companies

# What Can't be Arbitrated?

- Arbitrations in excess of \$50,000 unless all parties consent to a higher value
- Any subrogation claim for the enforcement of which a lawsuit has been instituted prior to, and is pending, at the time this agreement is signed
- Any subrogation claim as to which a Signatory asserts a defence of lack of coverage on any grounds
- Boiler and Machinery
- Aviation
- Ocean Marine
- Total exposure is excess of the stated amount

# Arbitration Rules

Arbitration is between insurers, and not insured (personal parties).

Both insurers must be a Signatory to Arbitrate. A Non-Signatory may consent to be part of the process.

Any litigation must be completed prior to Arbitration, unless all parties agree to waive deferment.

# Arbitration Rules

Arbitration is primary to any litigation.

Any Signatory asserting a subrogation claim or any Signatory against whom a Signatory claim is made, shall promptly make known its identity.

Submission of a case to Arbitration under the Agreement shall have the same force and effect upon Signatories, with regards to the applicable Statute of Limitations, as if litigation has been instituted.

# Before Arbitration

- Identify the insurers involved
- Confirm they are Signatories to the Agreement
- **Conduct a pre-arbitration discussion**
  - **Failure to pre-arbitrate** will result in the case being returned to the applicant by the Arbitration Director. The filing fee will not be refunded and must be resubmitted should the case be refiled.





# Arbitration Process

- An Arbitration proceeding is commenced by a senior claims representative of a Signatory filing an "Inter-Company Arbitration Statement". (found at [www.cicma.arbitration](http://www.cicma.arbitration))
- Note: Legal Counsel cannot bring the arbitration



CICMA/ACDSA

INTER-COMPANY ARBITRATION STATEMENT

<u>APPLICANT</u>	<u>RESPONDENT</u>
INSURER	INSURER
ADDRESS	ADDRESS
INSURED	INSURED
FILE NO.	FILE NO.
DATE OF OCCURRENCE	DATE OF OCCURRENCE
LOCATION OF OCCURRENCE	LOCATION OF OCCURRENCE
KIND OF INSURANCE	KIND OF INSURANCE
AMOUNT OF DAMAGES	AMOUNT OF DAMAGES
PRE-ARBITRATION DISCUSSION Date _____  By _____ Name of Representative	PRE-ARBITRATION DISCUSSION Date _____  By _____ Name of Representative
A Representative will attend the hearing No <input type="checkbox"/> Yes <input type="checkbox"/> _____ Name of Representative	A Representative will attend the hearing No <input type="checkbox"/> Yes <input type="checkbox"/> _____ Name of Representative
Insurer Contact Name: Telephone: Email:	Insurer Contact Name: Telephone: Email:
APPLICANT'S ALLEGATIONS	RESPONDENT'S ALLEGATIONS
Date _____  _____ Signature of Authorized Representative	Date _____  _____ Signature of Authorized Representative

To apply for Arbitration, download the application form and follow these instructions:

- Arbitration Fee payable by the Applicant:
  - \$200.00 payable to CICMA. Ontario Chapter add HST \$26.00. HST Number 82055 2792 send your cheque to your local Arbitration Chair with a copy of the Applicant's completed section of this form.
  - If the Respondent is cross claiming a fee of \$200.00 applies. Ontario Chapter add HST \$226.00 HST Number 82055 2792.

Arbitration  
Process  
This form can  
be  
downloaded  
at:  
[www.cicma.ca](http://www.cicma.ca)

# Applicant

- Complete the left side of the Arbitration Statement
- Email the completed Statement and your supporting documents to your Chapter's Arbitration Director and to the Respondent
- Forward cheque for \$250.00. (Ontario add HST)
  - To determine where to send your application and cheque go to [www.cicma/arbitration.ca](http://www.cicma/arbitration.ca) and under "Where to Send your Application", select the appropriate chapter and the mailing info will appear.

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[View the Arbitration Agreement](#)

[Or download the PDF](#)

## Where to Send Your Application

Select a chapter to find your arbitration officer

Chapters

# Respondent

- Once you receive the Statement, you have 30 days to respond
- Complete the Right side of the Arbitration Statement
- Email your completed Response and supporting Documentation to the Provincial Chapter's Arbitration Director and the Applicant
- There is no fee required by the Respondent

# Counter Claim

- The Respondent has the option to file a Counter-Claim with their Response
- There is a cost of a Counter-Claim. The Respondent must forward a cheque for \$250.00 (Ontario add HST) for the counter-claim

# TIPS FOR THE BEST OUTCOME

Have

Have a good Pre-Arbitration Hearing – Agree on what you can. If you agree on damages, proceed only liability. If you agree on liability, proceed only on damages.

Provide

Provide a detailed submission – This is your only chance! Include documents, photos, statements, etc. that support your case, similar to what you would provide if this was litigation.

Cover

Cover all parts of the claim.

# Panel Hearing

- A panel of 3 volunteer claims managers is put together – one is Chairperson
- Multiple cases may be heard by the panel at a scheduled hearing
- Parties wanting to attend the Arbitration and present facts may do so and will be notified of details 1 week prior to the hearing
- The panel will caucus, analyze the evidence and render a written decision
- No claim manager will participate in an arbitration for their own company

# Decisions

- The Chairperson prepares the written decision and submits to the Arbitration Director who will provide copies to Applicant and Respondent companies
- The decision of the panel is binding in accordance with the Arbitrations Act and can be enforced through the courts
- In the event of settlement between the parties prior to the panel hearing the Arbitration Director must be notified and the case withdrawn
- There are no cost award in regard to the Arbitration Filing Fee
- Decided Arbitration Cases are confidential



# Resources

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## Arbitration Agreement

[www.cicma.ca](http://www.cicma.ca)



## List of Signatory Companies

[http://assets.ibc.ca/Documents/Legal/Claims\\_Agreements/CICMA\\_ArbitrationSignatories.pdf](http://assets.ibc.ca/Documents/Legal/Claims_Agreements/CICMA_ArbitrationSignatories.pdf)

Email: [info@cicma.ca](mailto:info@cicma.ca)

Questions?

