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Cal Code Civ Proc Pt. 3, Tit. 9 Note (2008)

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Cal Code Civ Proc § 1280 (2009)

§ 1280. Definitions

As used in this title:

(a) "Agreement" includes but is not limited to agreements providing for valuations, appraisals and similar proceedings and agreements between employers and employees or between their respective representatives.

(b) "Award" includes but is not limited to an award made pursuant to an agreement not in writing.

(c) "Controversy" means any questions arising between parties to an agreement whether such question is one of law or of fact or both.

(d) "Neutral arbitrator" means an arbitrator who is (1) selected jointly by the parties or by the arbitrators selected by the parties or (2) appointed by the court when the parties or the arbitrators selected by the parties fail to select an arbitrator who was to be selected jointly by them.

(e) "Party to the arbitration" means a party to the arbitration agreement:

(1) Who seeks to arbitrate a controversy pursuant to the agreement;

(2) Against whom such arbitration is sought pursuant to the agreement; or

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(3) Who is made a party to such arbitration by order of the neutral arbitrator upon such party's application, upon the application of any other party to the arbitration or upon the neutral arbitrator's own determination.

(f) "Written agreement" shall be deemed to include a written agreement which has been extended or renewed by an oral or implied agreement.

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Cal Code Civ Proc § 1280.1 (2008)

§ 1280.1. [Section repealed 1997.]

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Cal Code Civ Proc § 1280.2 (2008)

§ 1280.2. Reference to portion of title or of any other law

Whenever reference is made in this title to any portion of the title or of any other law of this State, the reference applies to all amendments and additions thereto now or hereafter made.

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Cal Code Civ Proc § 1281 (2009)

§ 1281. Requisites and validity

A written agreement to submit to arbitration an existing controversy or a controversy thereafter arising is valid, enforceable and irrevocable, save upon such grounds as exist for the revocation of any contract.

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Cal Code Civ Proc § 1281.1

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Cal Code Civ Proc § 1281.1 (2008)

§ 1281.1. Consideration of request to arbitrate as pursuant to written agreement

For the purposes of this article, any request to arbitrate made pursuant to subdivision (a) of Section 1299.4 shall be considered as made pursuant to a written agreement to submit a controversy to arbitration.

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Cal Code Civ Proc § 1281.12 (2008)

§ 1281.12. Tolling

If an arbitration agreement requires that arbitration of a controversy be demanded or initiated by a party to the arbitration agreement within a period of time, the commencement of a civil action by that party based upon that controversy, within that period of time, shall toll the applicable time limitations contained in the arbitration agreement with respect to that controversy, from the date the civil action is commenced until 30 days after a final determination by the court that the party is required to arbitrate the controversy, or 30 days after the final termination of the civil action that was commenced and initiated the tolling, whichever date occurs first.

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Cal Code Civ Proc § 1281.2 (2009)

§ 1281.2. Order to arbitrate; Determination of other issues

On petition of a party to an arbitration agreement alleging the existence of a written agreement to arbitrate a controversy and that a party thereto refuses to arbitrate such controversy, the court shall order the petitioner and the respondent to arbitrate the controversy if it determines that an agreement to arbitrate the controversy exists, unless it determines that:

- (a) The right to compel arbitration has been waived by the petitioner; or
- (b) Grounds exist for the revocation of the agreement.

(c) A party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of the same transaction or series of related transactions and there is a possibility of conflicting rulings on a common issue of law or fact. For purposes of this section, a pending court action or special proceeding includes an action or proceeding initiated by the party refusing to arbitrate after the petition to compel arbitration has been filed, but on or before the date of the hearing on the petition. This subdivision shall not be applicable to an agreement to arbitrate disputes as to the professional negligence of a health care provider made pursuant to Section 1295.

If the court determines that a written agreement to arbitrate a controversy exists, an order to arbitrate such controversy may not be refused on the ground that the petitioner's contentions lack substantive merit.

Cal Code Civ Proc § 1281.2

If the court determines that there are other issues between the petitioner and the respondent which are not subject to arbitration and which are the subject of a pending action or special proceeding between the petitioner and the respondent and that a determination of such issues may make the arbitration unnecessary, the court may delay its order to arbitrate until the determination of such other issues or until such earlier time as the court specifies.

If the court determines that a party to the arbitration is also a party to litigation in a pending court action or special proceeding with a third party as set forth under subdivision (c) herein, the court (1) may refuse to enforce the arbitration agreement and may order intervention or joinder of all parties in a single action or special proceeding; (2) may order intervention or joinder as to all or only certain issues; (3) may order arbitration among the parties who have agreed to arbitration and stay the pending court action or special proceeding pending the outcome of the arbitration proceeding; or (4) may stay arbitration pending the outcome of the court action or special proceeding.

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Cal Code Civ Proc § 1281.3 (2008)

§ 1281.3. Petition to consolidate separate arbitration proceedings

A party to an arbitration agreement may petition the court to consolidate separate arbitration proceedings, and the court may order consolidation of separate arbitration proceedings when:

- (1) Separate arbitration agreements or proceedings exist between the same parties; or one party is a party to a separate arbitration agreement or proceeding with a third party; and
- (2) The disputes arise from the same transactions or series of related transactions; and
- (3) There is common issue or issues of law or fact creating the possibility of conflicting rulings by more than one arbitrator or panel of arbitrators.

If all of the applicable arbitration agreements name the same arbitrator, arbitration panel, or arbitration tribunal, the court, if it orders consolidation, shall order all matters to be heard before the arbitrator, panel, or tribunal agreed to by the parties. If the applicable arbitration agreements name separate arbitrators, panels, or tribunals, the court, if it orders consolidation, shall, in the absence of an agreed method of selection by all parties to the consolidated arbitration, appoint an arbitrator in accord with the procedures set forth in Section 1281.6.

In the event that the arbitration agreements in consolidated proceedings contain inconsistent provisions, the court shall resolve such conflicts and determine the rights and duties of the various parties to achieve substantial justice under all the circumstances.

The court may exercise its discretion under this section to deny consolidation of separate arbitration proceedings or to consolidate separate arbitration proceedings only as to certain issues, leaving other issues to be resolved in separate proceedings.

This section shall not be applicable to an agreement to arbitrate disputes as to the professional negligence of a health care provider made pursuant to Section 1295.

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Cal Code Civ Proc § 1281.4 (2008)

§ 1281.4. Arbitration of issue involved in pending action or proceeding

If a court of competent jurisdiction, whether in this State or not, has ordered arbitration of a controversy which is an issue involved in an action or proceeding pending before a court of this State, the court in which such action or proceeding is pending shall, upon motion of a party to such action or proceeding, stay the action or proceeding until an arbitration is had in accordance with the order to arbitrate or until such earlier time as the court specifies.

If an application has been made to a court of competent jurisdiction, whether in this State or not, for an order to arbitrate a controversy which is an issue involved in an action or proceeding pending before a court of this State and such application is undetermined, the court in which such action or proceeding is pending shall, upon motion of a party to such action or proceeding, stay the action or proceeding until the application for an order to arbitrate is determined and, if arbitration of such controversy is ordered, until an arbitration is had in accordance with the order to arbitrate or until such earlier time as the court specifies.

If the issue which is the controversy subject to arbitration is severable, the stay may be with respect to that issue only.

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Cal Code Civ Proc § 1281.5 (2008)

§ 1281.5. How right to arbitration preserved when filing action to enforce lien; Service of motion within 30 days; Waiver by defendant who fails to file petition

(a) Any person who proceeds to record and enforce a claim of lien by commencement of an action pursuant to Title 15 (commencing with *Section 3082*) of *Part 4 of Division 3 of the Civil Code*, does not thereby waive any right of arbitration the person may have pursuant to a written agreement to arbitrate, if, in filing an action to enforce the claim of lien, the claimant does either of the following:

(1) Includes an allegation in the complaint that the claimant does not intend to waive any right of arbitration, and intends to move the court, within 30 days after service of the summons and complaint, for an order to stay further proceedings in the action.

(2) At the same time that the complaint is filed, the claimant files an application that the action be stayed pending the arbitration of any issue, question, or dispute that is claimed to be arbitrable under the agreement and that is relevant to the action to enforce the claim of lien.

(b) Within 30 days after service of the summons and complaint, the claimant shall file and serve a motion and notice of motion pursuant to Section 1281.4 to stay the action pending the arbitration of any issue, question, or dispute that is claimed to be arbitrable under the agreement and that is relevant to the action to enforce the claim of lien. The failure of a claimant to comply with this subdivision is a waiver of the claimant's right to compel arbitration.

(c) The failure of a defendant to file a petition pursuant to Section 1281.2 at or before the time the defendant answers the complaint filed pursuant to subdivision (a) is a waiver of the defendant's right to compel arbitration.

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Cal Code Civ Proc § 1281.6 (2008)

§ 1281.6. Appointment of arbitrator

If the arbitration agreement provides a method of appointing an arbitrator, that method shall be followed. If the arbitration agreement does not provide a method for appointing an arbitrator, the parties to the agreement who seek arbitration and against whom arbitration is sought may agree on a method of appointing an arbitrator and that method shall be followed. In the absence of an agreed method, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails to act and his or her successor has not been appointed, the court, on petition of a party to the arbitration agreement, shall appoint the arbitrator.

When a petition is made to the court to appoint a neutral arbitrator, the court shall nominate five persons from lists of persons supplied jointly by the parties to the arbitration or obtained from a governmental agency concerned with arbitration or private disinterested association concerned with arbitration. The parties to the agreement who seek arbitration and against whom arbitration is sought may within five days of receipt of notice of the nominees from the court jointly select the arbitrator whether or not the arbitrator is among the nominees.

If the parties fail to select an arbitrator within the five-day period, the court shall appoint the arbitrator from the nominees.

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Cal Code Civ Proc § 1281.7 (2008)

§ 1281.7. Petition in lieu of answer to complaint

A petition pursuant to Section 1281.2 may be filed in lieu of filing an answer to a complaint. The petitioning defendant shall have 15 days after any denial of the petition to plead to the complaint.

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Cal Code Civ Proc § 1281.8 (2009)

§ 1281.8. "Provisional remedy"

(a) As used in this section, "provisional remedy" includes the following:

(1) Attachments and temporary protective orders issued pursuant to Title 6.5 (commencing with Section 481.010) of Part 2.

(2) Writs of possession issued pursuant to Article 2 (commencing with Section 512.010) of Chapter 2 of Title 7 of Part 2.

(3) Preliminary injunctions and temporary restraining orders issued pursuant to Section 527.

(4) Receivers appointed pursuant to Section 564.

(b) A party to an arbitration agreement may file in the court in the county in which an arbitration proceeding is pending, or if an arbitration proceeding has not commenced, in any proper court, an application for a provisional remedy in connection with an arbitrable controversy, but only upon the ground that the award to which the applicant may be entitled may be rendered ineffectual without provisional relief. The application shall be accompanied by a complaint or

Cal Code Civ Proc § 1281.8

by copies of the demand for arbitration and any response thereto. If accompanied by a complaint, the application shall also be accompanied by a statement stating whether the party is or is not reserving the party's right to arbitration.

(c) A claim by the party opposing issuance of a provisional remedy, that the controversy is not subject to arbitration, shall not be grounds for denial of any provisional remedy.

(d) An application for a provisional remedy under subdivision (b) shall not operate to waive any right of arbitration which the applicant may have pursuant to a written agreement to arbitrate, if, at the same time as the application for a provisional remedy is presented, the applicant also presents to the court an application that all other proceedings in the action be stayed pending the arbitration of any issue, question, or dispute which is claimed to be arbitrable under the agreement and which is relevant to the action pursuant to which the provisional remedy is sought.

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Cal Code Civ Proc § 1281.84 (2008)

§ 1281.84. [Section inoperative.]

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Cal Code Civ Proc § 1281.85 (2008)

§ 1281.85. Ethics standards

(a) Beginning July 1, 2002, a person serving as a neutral arbitrator pursuant to an arbitration agreement shall comply with the ethics standards for arbitrators adopted by the Judicial Council pursuant to this section. The Judicial Council shall adopt ethical standards for all neutral arbitrators effective July 1, 2002. These standards shall be consistent with the standards established for arbitrators in the judicial arbitration program and may expand but may not limit the disclosure and disqualification requirements established by this chapter. The standards shall address the disclosure of interests, relationships, or affiliations that may constitute conflicts of interest, including prior service as an arbitrator or other dispute resolution neutral entity, disqualifications, acceptance of gifts, and establishment of future professional relationships.

(b) Subdivision (a) does not apply to an arbitration conducted pursuant to the terms of a public or private sector collective bargaining agreement.

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Cal Code Civ Proc § 1281.9 (2008)

§ 1281.9. Disclosure required of proposed nominee; Disqualification as neutral arbitrator

(a) In any arbitration pursuant to an arbitration agreement, when a person is to serve as a neutral arbitrator, the proposed neutral arbitrator shall disclose all matters that could cause a person aware of the facts to reasonably entertain a doubt that the proposed neutral arbitrator would be able to be impartial, including all of the following:

(1) The existence of any ground specified in Section 170.1 for disqualification of a judge. For purposes of paragraph (8) of subdivision (a) of Section 170.1, the proposed neutral arbitrator shall disclose whether or not he or she has a current arrangement concerning prospective employment or other compensated service as a dispute resolution neutral or is participating in, or, within the last two years, has participated in, discussions regarding such prospective employment or service with a party to the proceeding.

(2) Any matters required to be disclosed by the ethics standards for neutral arbitrators adopted by the Judicial Council pursuant to this chapter.

(3) The names of the parties to all prior or pending noncollective bargaining cases in which the proposed neutral arbitrator served or is serving as a party arbitrator for any party to the arbitration proceeding or for a lawyer for a party and the results of each case arbitrated to conclusion, including the date of the arbitration award, identification of the prevailing party, the names of the parties' attorneys and the amount of monetary damages awarded, if any. In order to preserve confidentiality, it shall be sufficient to give the name of any party who is not a party to the pending arbitration as "claimant" or "respondent" if the party is an individual and not a business or corporate entity.

(4) The names of the parties to all prior or pending noncollective bargaining cases involving any party to the arbitration or lawyer for a party for which the proposed neutral arbitrator served or is serving as neutral arbitrator, and the results of each case arbitrated to conclusion, including the date of the arbitration award, identification of the prevailing party, the names of the parties' attorneys and the amount of monetary damages awarded, if any. In order to preserve confidentiality, it shall be sufficient to give the name of any party not a party to the pending arbitration as "claimant" or "respondent" if the party is an individual and not a business or corporate entity.

(5) Any attorney-client relationship the proposed neutral arbitrator has or had with any party or lawyer for a party to the arbitration proceeding.

(6) Any professional or significant personal relationship the proposed neutral arbitrator or his or her spouse or minor child living in the household has or has had with any party to the arbitration proceeding or lawyer for a party.

(b) Subject only to the disclosure requirements of law, the proposed neutral arbitrator shall disclose all matters required to be disclosed pursuant to this section to all parties in writing within 10 calendar days of service of notice of the proposed nomination or appointment.

(c) For purposes of this section, "lawyer for a party" includes any lawyer or law firm currently associated in the practice of law with the lawyer hired to represent a party.

(d) For purposes of this section, "prior cases" means noncollective bargaining cases in which an arbitration award was rendered within five years prior to the date of the proposed nomination or appointment.

(e) For purposes of this section, "any arbitration" does not include an arbitration conducted pursuant to the terms of a public or private sector collective bargaining agreement.

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Cal Code Civ Proc § 1281.91 (2008)

§ 1281.91. Disqualification of arbitrator for disclosure failure; Petition to disqualify; Waiver of right to disqualify

Cal Code Civ Proc § 1281.91

(a) A proposed neutral arbitrator shall be disqualified if he or she fails to comply with Section 1281.9 and any party entitled to receive the disclosure serves a notice of disqualification within 15 calendar days after the proposed nominee or appointee fails to comply with Section 1281.9.

(b)

(1) If the proposed neutral arbitrator complies with Section 1281.9, the proposed neutral arbitrator shall be disqualified on the basis of the disclosure statement after any party entitled to receive the disclosure serves a notice of disqualification within 15 calendar days after service of the disclosure statement.

(2) A party shall have the right to disqualify one court-appointed arbitrator without cause in any single arbitration, and may petition the court to disqualify a subsequent appointee only upon a showing of cause.

(c) The right of a party to disqualify a proposed neutral arbitrator pursuant to this section shall be waived if the party fails to serve the notice pursuant to the times set forth in this section, unless the proposed nominee or appointee makes a material omission or material misrepresentation in his or her disclosure. Except as provided in subdivision (d), in no event may a notice of disqualification be given after a hearing of any contested issue of fact relating to the merits of the claim or after any ruling by the arbitrator regarding any contested matter. Nothing in this subdivision shall limit the right of a party to vacate an award pursuant to Section 1286.2, or to disqualify an arbitrator pursuant to any other law or statute.

(d) If any ground specified in Section 170.1 exists, a neutral arbitrator shall disqualify himself or herself upon the demand of any party made before the conclusion of the arbitration proceeding. However, this subdivision does not apply to arbitration proceedings conducted under a collective bargaining agreement between employers and employees or their respective representatives.

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Cal Code Civ Proc § 1281.92 (2008)

§ 1281.92. Prohibited activities by private arbitration company

(a) No private arbitration company may administer a consumer arbitration, or provide any other services related to a consumer arbitration, if the company has, or within the preceding year has had, a financial interest, as defined in Section 170.5, in any party or attorney for a party.

(b) No private arbitration company may administer a consumer arbitration, or provide any other services related to a consumer arbitration, if any party or attorney for a party has, or within the preceding year has had, any type of financial interest in the private arbitration company.

(c) This section shall operate only prospectively so as not to prohibit the administration of consumer arbitrations on the basis of financial interests held prior to January 1, 2003.

(d) This section applies to all consumer arbitration agreements subject to this article, and to all consumer arbitration proceedings conducted in California.

(e) This section shall become operative on January 1, 2003.

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Cal Code Civ Proc § 1281.95 (2008)

§ 1281.95. Disclosures by arbitrator in residential construction contract dispute

(a) In a binding arbitration of any claim for more than three thousand dollars (\$3,000) pursuant to a contract for the construction or improvement of residential property consisting of one to four units, the arbitrator shall, within 10 days following his or her appointment, provide to each party a written declaration under penalty of perjury. This declaration shall disclose (1) whether the arbitrator or his or her employer or arbitration service had or has a personal or professional affiliation with either party, and (2) whether the arbitrator or his or her employer or arbitration service has been selected or designated as an arbitrator by either party in another transaction.

(b) If the arbitrator discloses an affiliation with either party, discloses that the arbitrator has been selected or designated as an arbitrator by either party in another arbitration, or fails to comply with this section, he or she may be disqualified from the arbitration by either party.

(c) A notice of disqualification shall be served within 15 days after the arbitrator makes the required disclosures or fails to comply. The right of a party to disqualify an arbitrator shall be waived if the party fails to serve the notice of disqualification pursuant to this subdivision unless the arbitration makes a material omission or material misrepresentation in his or her disclosure. Nothing in this section shall limit the right of a party to vacate an award pursuant to Section 1286.2, or to disqualify an arbitrator pursuant to any other law or statute.

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Cal Code Civ Proc § 1281.96 (2008)

§ 1281.96. Publication of consumer arbitration information by private arbitration company

(a) Except as provided in paragraph (2) of subdivision (b), any private arbitration company that administers or is otherwise involved in, a consumer arbitration, shall collect, publish at least quarterly, and make available to the public in a computer-searchable format, which shall be accessible at the Internet Web site of the private arbitration company, if any, and on paper upon request, all of the following information regarding each consumer arbitration within the preceding five years:

(1) The name of the nonconsumer party, if the nonconsumer party is a corporation or other business entity.

(2) The type of dispute involved, including goods, banking, insurance, health care, employment, and, if it involves employment, the amount of the employee's annual wage divided into the following ranges: less than one hundred thousand dollars (\$100,000), one hundred thousand dollars (\$100,000) to two hundred fifty thousand dollars (\$250,000), inclusive, and over two hundred fifty thousand dollars (\$250,000).

(3) Whether the consumer or nonconsumer party was the prevailing party.

(4) On how many occasions, if any, the nonconsumer party has previously been a party in an arbitration or mediation administered by the private arbitration company.

(5) Whether the consumer party was represented by an attorney.

(6) The date the private arbitration company received the demand for arbitration, the date the arbitrator was appointed, and the date of disposition by the arbitrator or private arbitration company.

(7) The type of disposition of the dispute, if known, including withdrawal, abandonment, settlement, award after hearing, award without hearing, default, or dismissal without hearing.

(8) The amount of the claim, the amount of the award, and any other relief granted, if any.

(9) The name of the arbitrator, his or her total fee for the case, and the percentage of the arbitrator's fee allocated to each party.

(b)

(1) If the information required by subdivision (a) is provided by the private arbitration company in a computer-searchable format at the company's Internet Web site and may be downloaded without any fee, the company may charge the actual cost of copying to any person who requests the information on paper. If the information required by subdivision (a) is not accessible by the Internet, the company shall provide that information without charge to any person who requests the information on paper.

(2) Notwithstanding paragraph (1), a private arbitration company that receives funding pursuant to Chapter 8 (commencing with *Section 465*) of *Division 1 of the Business and Professions Code*, and that administers or conducts fewer than 50 consumer arbitrations per year may collect and publish the information required by subdivision (a) semi-annually, provide the information only on paper, and charge the actual cost of copying.

(c) This section shall apply to any consumer arbitration commenced on or after January 1, 2003.

(d) No private arbitration company shall have any liability for collecting, publishing, or distributing the information required by this section.

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Cal Code Civ Proc § 1282 (2008)

§ 1282. Exercise of powers and duties of arbitrator(s)

Unless the arbitration agreement otherwise provides, or unless the parties to the arbitration otherwise provide by an agreement which is not contrary to the arbitration agreement as made or as modified by all of the parties thereto:

(a) The arbitration shall be by a single neutral arbitrator.

(b) If there is more than one arbitrator, the powers and duties of the arbitrators, other than the powers and duties of a neutral arbitrator, may be exercised by a majority of them if reasonable notice of all proceedings has been given to all arbitrators.

(c) If there is more than one neutral arbitrator:

(1) The powers and duties of a neutral arbitrator may be exercised by a majority of the neutral arbitrators.

(2) By unanimous agreement of the neutral arbitrators, the powers and duties may be delegated to one of their number but the power to make or correct the award may not be so delegated.

(d) If there is no neutral arbitrator, the powers and duties of a neutral arbitrator may be exercised by a majority of the arbitrators.

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Cal Code Civ Proc § 1282.2 (2008)

§ 1282.2. Hearing proceedings, and incidental procedure

Unless the arbitration agreement otherwise provides, or unless the parties to the arbitration otherwise provide by an agreement which is not contrary to the arbitration agreement as made or as modified by all the parties thereto:

(a)

(1) The neutral arbitrator shall appoint a time and place for the hearing and cause notice thereof to be served personally or by registered or certified mail on the parties to the arbitration and on the other arbitrators not less than seven days before the hearing. Appearance at the hearing waives the right to notice.

(2) With the exception of matters arising out of collective-bargaining agreements, those described in Section 1283.05, actions involving personal injury or death, or as provided in the parties' agreement to arbitrate, in the event the aggregate amount in controversy exceeds fifty thousand dollars (\$50,000) and the arbitrator is informed thereof by any party in writing by personal service, registered or certified mail, prior to designating a time and place of hearing pursuant to paragraph (1), the neutral arbitrator by the means prescribed in paragraph (1) shall appoint a time and place for hearing not less than 60 days before the hearing, and the following provisions shall apply:

(A) Either party shall within 15 days of receipt of the notice of hearing have the right to demand in writing, served personally or by registered or certified mail, that the other party provide a list of witnesses it intends to call designating which witnesses will be called as expert witnesses and a list of documents it intends to introduce at the hearing provided that the demanding party provides such lists at the time of its demand. A copy of such demand and the demanding party's lists shall be served on the arbitrator.

(B) Such lists shall be served personally or by registered or certified mail on the requesting party 15 days thereafter. Copies thereof shall be served on the arbitrator.

(C) Listed documents shall be made available for inspection and copying at reasonable times prior to the hearing.

(D) Time limits provided herein may be waived by mutual agreement of the parties if approved by the arbitrator.

(E) The failure to list a witness or a document shall not bar the testimony of an unlisted witness or the introduction of an undesignated document at the hearing, provided that good cause for omission from the requirements of subparagraph (A) is shown, as determined by the arbitrator.

(F) The authority of the arbitrator to administer and enforce this paragraph shall be as provided in subdivisions (b) to (e), inclusive, of Section 1283.05.

(b) The neutral arbitrator may adjourn the hearing from time to time as necessary. On request of a party to the arbitration for good cause, or upon his own determination, the neutral arbitrator may postpone the hearing to a time not later than the date fixed by the agreement for making the award, or to a later date if the parties to the arbitration consent thereto.

(c) The neutral arbitrator shall preside at the hearing, shall rule on the admission and exclusion of evidence and on questions of hearing procedure and shall exercise all powers relating to the conduct of the hearing.

(d) The parties to the arbitration are entitled to be heard, to present evidence and to cross-examine witnesses appearing at the hearing, but rules of evidence and rules of judicial procedure need not be observed. On request of any party to the arbitration, the testimony of witnesses shall be given under oath.

(e) If a court has ordered a person to arbitrate a controversy, the arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party ordered to arbitrate, who has been duly notified, to appear.

(f) If an arbitrator, who has been duly notified, for any reason fails to participate in the arbitration, the arbitration shall continue but only the remaining neutral arbitrator or neutral arbitrators may make the award.

(g) If a neutral arbitrator intends to base an award upon information not obtained at the hearing, he shall disclose the information to all parties to the arbitration and give the parties an opportunity to meet it.

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Cal Code Civ Proc § 1282.4 (2008)

First of 2 versions of this section

§ 1282.4. (First of two; Repealed January 1, 2011) Right to be represented by attorney at arbitration proceeding; Conditions for representation by out-of-state attorney

(a) A party to the arbitration has the right to be represented by an attorney at any proceeding or hearing in arbitration under this title. A waiver of this right may be revoked; but if a party revokes that waiver, the other party is entitled to a reasonable continuance for the purpose of procuring an attorney.

(b) Notwithstanding any other provision of law, including *Section 6125 of the Business and Professions Code*, an attorney admitted to the bar of any other state may represent the parties in the course of, or in connection with, an arbitration proceeding in this state, provided that the attorney, if not admitted to the State Bar of California, satisfies all of the following:

(1) He or she timely serves the certificate described in subdivision (c).

(2) The attorney's appearance is approved in writing on that certificate by the arbitrator, the arbitrators, or the arbitral forum.

(3) The certificate bearing approval of the attorney's appearance is filed with the State Bar of California and served on the parties as described in this section.

(c) Within a reasonable period of time after the attorney described in subdivision (b) indicates an intention to appear in the arbitration, the attorney shall serve a certificate in a form prescribed by the State Bar of California on the arbitrator, arbitrators, or arbitral forum, the State Bar of California, and all other parties and counsel in the arbitration whose addresses are known to the attorney. The certificate shall state all of the following:

(1) The case name and number, and the name of the arbitrator, arbitrators, or arbitral forum assigned to the proceeding in which the attorney seeks to appear.

(2) The attorney's residence and office address.

(3) The courts before which the attorney has been admitted to practice and the dates of admission.

(4) That the attorney is currently a member in good standing of, and eligible to practice law before, the bar of those courts.

(5) That the attorney is not currently on suspension or disbarred from the practice of law before the bar of any court.

(6) That the attorney is not a resident of the State of California.

(7) That the attorney is not regularly employed in the State of California.

(8) That the attorney is not regularly engaged in substantial business, professional, or other activities in the State of California.

(9) That the attorney agrees to be subject to the jurisdiction of the courts of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the State Bar of California.

(10) The title of the court and the cause in which the attorney has filed an application to appear as counsel pro hac vice in this state or filed a certificate pursuant to this section in the preceding two years, the date of each application or certificate, and whether or not it was granted. If the attorney has made repeated appearances, the certificate shall reflect the special circumstances that warrant the approval of the attorney's appearance in the arbitration.

(11) The name, address, and telephone number of the active member of the State Bar of California who is the attorney of record.

(d) The arbitrator, arbitrators, or arbitral forum may approve the attorney's appearance if the attorney has complied with subdivision (c). Failure to timely file and serve the certificate described in subdivision (c) shall be grounds for disapproval of the appearance and disqualification from serving as an attorney in the arbitration in which the certificate was filed. In the absence of special circumstances, repeated appearances shall be grounds for disapproval of the appearance and disqualification from serving as an attorney in the arbitration in which the certificate was filed.

(e) Within a reasonable period of time after the arbitrator, arbitrators, or arbitral forum approves the certificate, the attorney shall file the certificate with the State Bar of California and serve the certificate as described in Section 1013a on all parties and counsel in the arbitration whose address is known to the attorney.

(f) An attorney who fails to file or serve the certificate required by this section or files or serves a certificate containing false information or who otherwise fails to comply with the standards of professional conduct required of members of the State Bar of California shall be subject to the disciplinary jurisdiction of the State Bar with respect to that certificate or any of his or her acts occurring in the course of the arbitration.

(g) Notwithstanding any other provision of law, including *Section 6125 of the Business and Professions Code*, an attorney who is a member in good standing of the bar of any state may represent the parties in connection with rendering legal services in this state in the course of and in connection with an arbitration pending in another state.

(h) Notwithstanding any other provision of law, including *Section 6125 of the Business and Professions Code*, any party to an arbitration arising under collective bargaining agreements in industries and provisions subject to either state or federal law may be represented in the course of, and in connection with, those proceedings by any person, regardless of whether that person is licensed to practice law in this state.

(i) Nothing in this section shall apply to Division 4 (commencing with *Section 3201 of the Labor Code*).

(j)

(1) In enacting the amendments to this section made by Assembly Bill 2086 of the 1997-98 Regular Session, it is the intent of the Legislature to respond to the holding in *Birbrower v. Superior Court* (1998) 17 Cal.4th 117, as modified at 17 Cal.4th 643a (hereafter *Birbrower*), to provide a procedure for nonresident attorneys who are not licensed in this state to appear in California arbitration proceedings.

(2) In enacting subdivision (h), it is the intent of the Legislature to make clear that any party to an arbitration arising under a collective bargaining agreement governed by the laws of this state may be represented in the course of and in connection with those proceedings by any person regardless of whether that person is licensed to practice law in this state.

(3) Except as otherwise specifically provided in this section, in enacting the amendments to this section made by Assembly Bill 2086 of the 1997-98 Regular Session, it is the Legislature's intent that nothing in this section is intended to expand or restrict the ability of a party prior to the decision in *Birbrower* to elect to be represented by any person in a nonjudicial arbitration proceeding, to the extent those rights or abilities existed prior to that decision. To the extent that *Birbrower* is interpreted to expand or restrict that right or ability pursuant to the laws of this state, it is hereby abrogated except as specifically provided in this section.

(4) In enacting subdivision (i), it is the intent of the Legislature to make clear that nothing in this section shall affect those provisions of law governing the right of injured workers to elect to be represented by any person, regardless

Cal Code Civ Proc § 1282.4

of whether that person is licensed to practice law in this state, as set forth in Division 4 (commencing with *Section 3200*) of the *Labor Code*.

(k) This section shall be operative until January 1, 2011, and on that date shall be repealed.

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Cal Code Civ Proc § 1282.4 (2008)

Second of 2 versions of this section

§ 1282.4. (Second of two; Operative January 1, 2011) Right to representation by attorney at arbitration proceeding

(a) A party to the arbitration has the right to be represented by an attorney at any proceeding or hearing in arbitration under this title. A waiver of this right may be revoked; but if a party revokes the waiver, the other party is entitled to a reasonable continuance for the purpose of procuring an attorney.

(b) This section shall become operative on January 1, 2011.

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Cal Code Civ Proc § 1282.6 (2008)

§ 1282.6. Attendance of witnesses and production of evidence; Subpoenas

(a) A subpoena requiring the attendance of witnesses, and a subpoena duces tecum for the production of books, records, documents and other evidence, at an arbitration proceeding or a deposition under Section 1283, and if Section 1283.05 is applicable, for the purposes of discovery, shall be issued as provided in this section. In addition, the neutral arbitrator upon his own determination may issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents and other evidence.

(b) Subpoenas shall be issued, as of course, signed but otherwise in blank, to the party requesting them, by a neutral association, organization, governmental agency, or office if the arbitration agreement provides for administration of the arbitration proceedings by, or under the rules of, a neutral association, organization, governmental agency or office or by the neutral arbitrator.

(c) The party serving the subpoena shall fill it in before service. Subpoenas shall be served and enforced in accordance with Chapter 2 (commencing with Section 1985) of Title 3 of Part 4 of this code.

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Cal Code Civ Proc § 1282.8 (2008)

§ 1282.8. Authority to administer oaths

The neutral arbitrator may administer oaths.

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Cal Code Civ Proc § 1283 (2008)

§ 1283. Depositions for use as evidence

On application of a party to the arbitration, the neutral arbitrator may order the deposition of a witness to be taken for use as evidence and not for discovery if the witness cannot be compelled to attend the hearing or if exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally at the hearing, to allow the deposition to be taken. The deposition shall be taken in the manner prescribed by law for the taking of depositions in civil actions. If the neutral arbitrator orders the taking of the deposition of a witness who resides outside the state, the party who applied for the taking of the deposition shall obtain a commission, letters rogatory, or a letter of request therefor from the superior court in accordance with Chapter 10 (commencing with Section 2026.010) of Title 4 of Part 4.

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Cal Code Civ Proc § 1283.05 (2008)

§ 1283.05. Depositions and discovery

To the extent provided in Section 1283.1 depositions may be taken and discovery obtained in arbitration proceedings as follows:

(a) After the appointment of the arbitrator or arbitrators, the parties to the arbitration shall have the right to take depositions and to obtain discovery regarding the subject matter of the arbitration, and, to that end, to use and exercise all of the same rights, remedies, and procedures, and be subject to all of the same duties, liabilities, and obligations in the arbitration with respect to the subject matter thereof, as provided in Chapter 2 (commencing with Section 1985) of Title 3 of Part 4, and in Title 4 (commencing with Section 2016.010) of Part 4, as if the subject matter of the arbitration were pending before a superior court of this state in a civil action other than a limited civil case, subject to the limitations as to depositions set forth in subdivision (e) of this section.

(b) The arbitrator or arbitrators themselves shall have power, in addition to the power of determining the merits of the arbitration, to enforce the rights, remedies, procedures, duties, liabilities, and obligations of discovery by the imposition of the same terms, conditions, consequences, liabilities, sanctions, and penalties as can be or may be imposed in like circumstances in a civil action by a superior court of this state under the provisions of this code, except the power to order the arrest or imprisonment of a person.

(c) The arbitrator or arbitrators may consider, determine, and make such orders imposing such terms, conditions, consequences, liabilities, sanctions, and penalties, whenever necessary or appropriate at any time or stage in the course of the arbitration, and such orders shall be as conclusive, final, and enforceable as an arbitration award on the merits, if the making of any such order that is equivalent to an award or correction of an award is subject to the same conditions, if any, as are applicable to the making of an award or correction of an award.

Cal Code Civ Proc § 1283.05

(d) For the purpose of enforcing the duty to make discovery, to produce evidence or information, including books and records, and to produce persons to testify at a deposition or at a hearing, and to impose terms, conditions, consequences, liabilities, sanctions, and penalties upon a party for violation of any such duty, such party shall be deemed to include every affiliate of such party as defined in this section. For such purpose:

(1) The personnel of every such affiliate shall be deemed to be the officers, directors, managing agents, agents, and employees of such party to the same degree as each of them, respectively, bears such status to such affiliate; and

(2) The files, books, and records of every such affiliate shall be deemed to be in the possession and control of, and capable of production by, such party. As used in this section, "affiliate" of the party to the arbitration means and includes any party or person for whose immediate benefit the action or proceeding is prosecuted or defended, or an officer, director, superintendent, member, agent, employee, or managing agent of such party or person.

(e) Depositions for discovery shall not be taken unless leave to do so is first granted by the arbitrator or arbitrators.

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Cal Code Civ Proc § 1283.1 (2008)

§ 1283.1. Discovery provisions incorporated into arbitration agreement

(a) All of the provisions of Section 1283.05 shall be conclusively deemed to be incorporated into, made a part of, and shall be applicable to, every agreement to arbitrate any dispute, controversy, or issue arising out of or resulting from any injury to, or death of, a person caused by the wrongful act or neglect of another.

(b) Only if the parties by their agreement so provide, may the provisions of Section 1283.05 be incorporated into, made a part of, or made applicable to, any other arbitration agreement.

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Cal Code Civ Proc § 1283.2 (2008)

§ 1283.2. Witnesses' fees and mileage

Except for the parties to the arbitration and their agents, officers and employees, all witnesses appearing pursuant to subpoena are entitled to receive fees and mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in the superior court. The fee and mileage of a witness subpoenaed upon the application of a party to the arbitration shall be paid by such party. The fee and mileage of a witness subpoenaed solely upon the determination of the neutral arbitrator shall be paid in the manner provided for the payment of the neutral arbitrator's expenses.

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Cal Code Civ Proc § 1283.4 (2009)

§ 1283.4. Requisites and sufficiency of award

The award shall be in writing and signed by the arbitrators concurring therein. It shall include a determination of all the questions submitted to the arbitrators the decision of which is necessary in order to determine the controversy.

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Cal Code Civ Proc § 1283.6 (2008)

§ 1283.6. Service of award

The neutral arbitrator shall serve a signed copy of the award on each party to the arbitration personally or by registered or certified mail or as provided in the agreement.

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Cal Code Civ Proc § 1283.8 (2008)

§ 1283.8. Time of making award

The award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on petition of a party to the arbitration. The parties to the arbitration may extend the time either before or after the expiration thereof. A party to the arbitration waives the objection that an award was not made within the time required unless he gives the arbitrators written notice of his objection prior to the service of a signed copy of the award on him.

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Cal Code Civ Proc § 1284 (2008)

§ 1284. Correction of award

The arbitrators, upon written application of a party to the arbitration, may correct the award upon any of the grounds set forth in subdivisions (a) and (c) of Section 1286.6 not later than 30 days after service of a signed copy of the award on the applicant.

Application for such correction shall be made not later than 10 days after service of a signed copy of the award on the applicant. Upon or before making such application, the applicant shall deliver or mail a copy of the application to all of the other parties to the arbitration.

Cal Code Civ Proc § 1284

Any party to the arbitration may make written objection to such application. The objection shall be made not later than 10 days after the application is delivered or mailed to the objector. Upon or before making such objection, the objector shall deliver or mail a copy of the objection to the applicant and all the other parties to the arbitration.

The arbitrators shall either deny the application or correct the award. The denial of the application or the correction of the award shall be in writing and signed by the arbitrators concurring therein, and the neutral arbitrator shall serve a signed copy of such denial or correction on each party to the arbitration personally or by registered or certified mail or as provided in the agreement. If no denial of the application or correction of the award is served within the 30-day period provided in this section, the application for correction shall be deemed denied on the last day thereof.

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Cal Code Civ Proc § 1284.2 (2008)

§ 1284.2. Payment of expenses and fees

Unless the arbitration agreement otherwise provides or the parties to the arbitration otherwise agree, each party to the arbitration shall pay his pro rata share of the expenses and fees of the neutral arbitrator, together with other expenses of the arbitration incurred or approved by the neutral arbitrator, not including counsel fees or witness fees or other expenses incurred by a party for his own benefit.

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Cal Code Civ Proc § 1284.3 (2008)

§ 1284.3. Fees and costs charged to consumer by private arbitration company

(a) No neutral arbitrator or private arbitration company shall administer a consumer arbitration under any agreement or rule requiring that a consumer who is a party to the arbitration pay the fees and costs incurred by an opposing party if the consumer does not prevail in the arbitration, including, but not limited to, the fees and costs of the arbitrator, provider organization, attorney, or witnesses.

(b)

(1) All fees and costs charged to or assessed upon a consumer party by a private arbitration company in a consumer arbitration, exclusive of arbitrator fees, shall be waived for an indigent consumer. For the purposes of this section, "indigent consumer" means a person having a gross monthly income that is less than 300 percent of the federal poverty guidelines. Nothing in this section shall affect the ability of a private arbitration company to shift fees that would otherwise be charged or assessed upon a consumer party to a nonconsumer party.

(2) Prior to requesting or obtaining any fee, a private arbitration company shall provide written notice of the right to obtain a waiver of fees to a consumer or prospective consumer in a manner calculated to bring the matter to the attention of a reasonable consumer, including, but not limited to, prominently placing a notice in its first written communication to the consumer and in any invoice, bill, submission form, fee schedule, rules, or code of procedure.

(3) Any consumer requesting a waiver of fees or costs may establish his or her eligibility by making a declaration under oath on a form provided to the consumer by the private arbitration company for signature stating his or her monthly income and the number of persons living in his or her household. No private arbitration company may require a consumer to provide any further statement or evidence of indigence.

(4) Any information obtained by a private arbitration company about a consumer's identity, financial condition, income, wealth, or fee waiver request shall be kept confidential and may not be disclosed to any adverse party or any nonparty to the arbitration, except a private arbitration company may not keep confidential the number of waiver requests received or granted, or the total amount of fees waived.

(c) This section applies to all consumer arbitration agreements subject to this article, and to all consumer arbitration proceedings conducted in California.

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Cal Code Civ Proc Pt. 3, Tit. 9, Ch. 4 Note (2008)

Pt. 3, Tit. 9, Ch. 4 Note

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Cal Code Civ Proc Pt. 3, Tit. 9, Ch. 4, Art. 1 Note (2008)

Pt. 3, Tit. 9, Ch. 4, Art. 1 Note

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Cal Code Civ Proc § 1285 (2008)

§ 1285. Petition for confirmation, correction or vacation of award

Any party to an arbitration in which an award has been made may petition the court to confirm, correct or vacate the award. The petition shall name as respondents all parties to the arbitration and may name as respondents any other persons bound by the arbitration award.

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Cal Code Civ Proc § 1285.2 (2008)

§ 1285.2. Response to petition

Cal Code Civ Proc § 1285.2

A response to a petition under this chapter may request the court to dismiss the petition or to confirm, correct or vacate the award.

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Cal Code Civ Proc § 1285.4 (2008)

§ 1285.4. Petition's contents

A petition under this chapter shall:

- (a) Set forth the substance of or have attached a copy of the agreement to arbitrate unless the petitioner denies the existence of such an agreement.
- (b) Set forth the names of the arbitrators.
- (c) Set forth or have attached a copy of the award and the written opinion of the arbitrators, if any.

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Cal Code Civ Proc § 1285.6 (2008)

§ 1285.6. Response's contents

Unless a copy thereof is set forth in or attached to the petition, a response to a petition under this chapter shall:

- (a) Set forth the substance of or have attached a copy of the agreement to arbitrate unless the respondent denies the existence of such an agreement.
- (b) Set forth the names of the arbitrators.
- (c) Set forth or have attached a copy of the award and the written opinion of the arbitrators, if any.

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Cal Code Civ Proc § 1285.8 (2008)

§ 1285.8. Statement of grounds for relief

A petition to correct or vacate an award, or a response requesting such relief, shall set forth the grounds on which the request for such relief is based.

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Cal Code Civ Proc § 1286 (2008)

§ 1286. Extent of relief

If a petition or response under this chapter is duly served and filed, the court shall confirm the award as made, whether rendered in this state or another state, unless in accordance with this chapter it corrects the award and confirms it as corrected, vacates the award or dismisses the proceeding.

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Cal Code Civ Proc § 1286.2 (2009)

§ 1286.2. Grounds to vacate award; Petition to vacate award

(a) Subject to Section 1286.4, the court shall vacate the award if the court determines any of the following:

- (1) The award was procured by corruption, fraud or other undue means.
- (2) There was corruption in any of the arbitrators.
- (3) The rights of the party were substantially prejudiced by misconduct of a neutral arbitrator.
- (4) The arbitrators exceeded their powers and the award cannot be corrected without affecting the merits of the decision upon the controversy submitted.
- (5) The rights of the party were substantially prejudiced by the refusal of the arbitrators to postpone the hearing upon sufficient cause being shown therefor or by the refusal of the arbitrators to hear evidence material to the controversy or by other conduct of the arbitrators contrary to the provisions of this title.

(6) An arbitrator making the award either: (A) failed to disclose within the time required for disclosure a ground for disqualification of which the arbitrator was then aware; or (B) was subject to disqualification upon grounds specified in Section 1281.91 but failed upon receipt of timely demand to disqualify himself or herself as required by that provision. However, this subdivision does not apply to arbitration proceedings conducted under a collective bargaining agreement between employers and employees or between their respective representatives.

(b) Petitions to vacate an arbitration award pursuant to Section 1285 are subject to the provisions of Section 128.7.

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Cal Code Civ Proc § 1286.4 (2008)

§ 1286.4. Prerequisites to vacation of award

The court may not vacate an award unless:

- (a) A petition or response requesting that the award be vacated has been duly served and filed; or
- (b) A petition or response requesting that the award be corrected has been duly served and filed and:
 - (1) All petitioners and respondents are before the court; or
 - (2) All petitioners and respondents have been given reasonable notice that the court will be requested at the hearing to vacate the award or that the court on its own motion has determined to vacate the award and all petitioners and respondents have been given an opportunity to show why the award should not be vacated.

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Cal Code Civ Proc § 1286.6 (2009)

§ 1286.6. Correction of award

Subject to Section 1286.8, the court, unless it vacates the award pursuant to Section 1286.2, shall correct the award and confirm it as corrected if the court determines that:

- (a) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in the award;
- (b) The arbitrators exceeded their powers but the award may be corrected without affecting the merits of the decision upon the controversy submitted; or
- (c) The award is imperfect in a matter of form, not affecting the merits of the controversy.

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Cal Code Civ Proc § 1286.8 (2008)

§ 1286.8. Prerequisites to correction of award

The court may not correct an award unless:

- (a) A petition or response requesting that the award be corrected has been duly served and filed; or
- (b) A petition or response requesting that the award be vacated has been duly served and filed and:
 - (1) All petitioners and respondents are before the court; or
 - (2) All petitioners and respondents have been given reasonable notice that the court will be requested at the hearing to correct the award or that the court on its own motion has determined to correct the award and all petitioners and respondents have been given an opportunity to show why the award should not be corrected.

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Cal Code Civ Proc § 1287 (2008)

§ 1287. Rehearing before arbitrators

If the award is vacated, the court may order a rehearing before new arbitrators. If the award is vacated on the grounds set forth in subdivision (d) or (e) of Section 1286.2, the court with the consent of the parties to the court proceeding may order a rehearing before the original arbitrators.

If the arbitration agreement requires that the award be made within a specified period of time, the rehearing may nevertheless be held and the award made within an equal period of time beginning with the date of the order for rehearing but only if the court determines that the purpose of the time limit agreed upon by the parties to the arbitration agreement will not be frustrated by the application of this provision.

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Cal Code Civ Proc § 1287.1 (2008)

§ 1287.1. [Section inoperative.]

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Cal Code Civ Proc § 1287.2 (2008)

§ 1287.2. Dismissal of proceeding

The court shall dismiss the proceeding under this chapter as to any person named as a respondent if the court determines that such person was not bound by the arbitration award and was not a party to the arbitration.

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Cal Code Civ Proc § 1287.4 (2008)

§ 1287.4. Entry, effect, and enforcement of judgment on confirmation

If an award is confirmed, judgment shall be entered in conformity therewith. The judgment so entered has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action of the same jurisdictional classification; and it may be enforced like any other judgment of the court in which it is entered, in an action of the same jurisdictional classification.

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Cal Code Civ Proc § 1287.6 (2008)

§ 1287.6. Award as contract

An award that has not been confirmed or vacated has the same force and effect as a contract in writing between the parties to the arbitration.

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Cal Code Civ Proc Pt. 3, Tit. 9, Ch. 4, Art. 2 Note (2008)

Pt. 3, Tit. 9, Ch. 4, Art. 2 Note

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Cal Code Civ Proc § 1288 (2008)

§ 1288. Service of petitions

A petition to confirm an award shall be served and filed not later than four years after the date of service of a signed copy of the award on the petitioner. A petition to vacate an award or to correct an award shall be served and filed not later than 100 days after the date of the service of a signed copy of the award on the petitioner.

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Cal Code Civ Proc § 1288.2 (2008)

§ 1288.2. Service of response

A response requesting that an award be vacated or that an award be corrected shall be served and filed not later than 100 days after the date of service of a signed copy of the award upon:

- (a) The respondent if he was a party to the arbitration; or
- (b) The respondent's representative if the respondent was not a party to the arbitration.

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Cal Code Civ Proc § 1288.4 (2008)

§ 1288.4. Service of petition after service of award

No petition may be served and filed under this chapter until at least 10 days after service of the signed copy of the award upon the petitioner.

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Title 9. Arbitration
Chapter 4. Enforcement of the Award
Article 2. Limitations of Time

Cal Code Civ Proc § 1288.6 (2008)

§ 1288.6. Petition after application for arbitrators to correct award

If an application is made to the arbitrators for correction of the award, a petition may not be served and filed under this chapter until the determination of that application.

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Cal Code Civ Proc § 1288.8 (2008)

§ 1288.8. Dates for service of award after application for correction

If an application is made to the arbitrators for correction of the award, the date of the service of the award for the purposes of this article shall be deemed to be whichever of the following dates is the earlier:

- (a) The date of service upon the petitioner of a signed copy of the correction of the award or of the denial of the application.
- (b) The date that such application is deemed to be denied under Section 1284.

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Cal Code Civ Proc § 1289 (2008)

§ 1289. [Section repealed]

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Cal Code Civ Proc Pt. 3, Tit. 9, Ch. 5 Note (2008)

Pt. 3, Tit. 9, Ch. 5 Note

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Cal Code Civ Proc Pt. 3, Tit. 9, Ch. 5, Art. 1 Note (2008)

Pt. 3, Tit. 9, Ch. 5, Art. 1 Note

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Cal Code Civ Proc § 1290 (2008)

§ 1290. Petition

A proceeding under this title in the courts of this State is commenced by filing a petition. Any person named as a respondent in a petition may file a response thereto. The allegations of a petition are deemed to be admitted by a respondent duly served therewith unless a response is duly served and filed. The allegations of a response are deemed controverted or avoided.

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*Cal Code Civ Proc § 1290.2 (2008)***§ 1290.2. Summary hearing of petition; Notice of hearing**

A petition under this title shall be heard in a summary way in the manner and upon the notice provided by law for the making and hearing of motions, except that not less than 10 days' notice of the date set for the hearing on the petition shall be given.

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*Cal Code Civ Proc § 1290.4 (2008)***§ 1290.4. Service of petition and notice**

(a) A copy of the petition and a written notice of the time and place of the hearing thereof and any other papers upon which the petition is based shall be served in the manner provided in the arbitration agreement for the service of such petition and notice.

(b) If the arbitration agreement does not provide the manner in which such service shall be made and the person upon whom service is to be made has not previously appeared in the proceeding and has not previously been served in accordance with this subdivision:

(1) Service within this State shall be made in the manner provided by law for the service of summons in an action.

(2) Service outside this State shall be made by mailing the copy of the petition and notice and other papers by registered or certified mail. Personal service is the equivalent of such service by mail. Proof of service by mail shall be made by affidavit showing such mailing together with the return receipt of the United States Post Office bearing the signature of the person on whom service was made. Notwithstanding any other provision of this title, if service is made in the manner provided in this paragraph, the petition may not be heard until at least 30 days after the date of such service.

(c) If the arbitration agreement does not provide the manner in which such service shall be made and the person on whom service is to be made has previously appeared in the proceeding or has previously been served in accordance with subdivision (b) of this section, service shall be made in the manner provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of this code.

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*Cal Code Civ Proc § 1290.6 (2008)***§ 1290.6. Time for serving and filing response**

A response shall be served and filed within 10 days after service of the petition except that if the petition is served in the manner provided in paragraph (2) of subdivision (b) of Section 1290.4, the response shall be served and filed within 30 days after service of the petition. The time provided in this section for serving and filing a response may be

extended by an agreement in writing between the parties to the court proceeding or, for good cause, by order of the court.

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Cal Code Civ Proc § 1290.8 (2008)

§ 1290.8. Service of response

A response shall be served as provided in Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 of this code.

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Cal Code Civ Proc § 1291 (2008)

§ 1291. Statement of decision

A statement of decision shall be made by the court, if requested pursuant to Section 632, whenever an order or judgment, except a special order after final judgment, is made that is appealable under this title.

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Cal Code Civ Proc § 1291.2 (2008)

§ 1291.2. Priority of proceedings

In all proceedings brought under the provisions of this title, all courts wherein such proceedings are pending shall give such proceedings preference over all other civil actions or proceedings, except older matters of the same character and matters to which special precedence may be given by law, in the matter of setting the same for hearing and in hearing the same to the end that all such proceedings shall be quickly heard and determined.

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Article 2. Venue, Jurisdiction and Costs

*Cal Code Civ Proc § 1292 (2008)***§ 1292. Venue prior to commencement of arbitration**

Except as otherwise provided in this article, any petition made prior to the commencement of arbitration shall be filed in a court having jurisdiction in:

- (a) The county where the agreement is to be performed or was made.
- (b) If the agreement does not specify a county where the agreement is to be performed and the agreement was not made in any county in this state, the county where any party to the court proceeding resides or has a place of business.
- (c) In any case not covered by subdivision (a) or (b) of this section, in any county in this state.

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*Cal Code Civ Proc § 1292.2 (2008)***§ 1292.2. Venue after commencement or completion of arbitration**

Except as otherwise provided in this article, any petition made after the commencement or completion of arbitration shall be filed in a court having jurisdiction in the county where the arbitration is being or has been held, or, if not held exclusively in any one county of this state, or if held outside of this state, then the petition shall be filed as provided in Section 1292.

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*Cal Code Civ Proc § 1292.4 (2008)***§ 1292.4. Venue where action or proceeding is pending**

If a controversy referable to arbitration under an alleged agreement is involved in an action or proceeding pending in a superior court, a petition for an order to arbitrate shall be filed in such action or proceeding.

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*Cal Code Civ Proc § 1292.6 (2008)***§ 1292.6. Jurisdiction**

Cal Code Civ Proc § 1292.6

After a petition has been filed under this title, the court in which such petition was filed retains jurisdiction to determine any subsequent petition involving the same agreement to arbitrate and the same controversy, and any such subsequent petition shall be filed in the same proceeding.

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Cal Code Civ Proc § 1292.8 (2008)

§ 1292.8. Motion for stay of action

A motion for a stay of an action on the ground that an issue therein is subject to arbitration shall be made in the court where the action is pending.

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Cal Code Civ Proc § 1293 (2008)

§ 1293. Agreement as consent to jurisdiction of courts

The making of an agreement in this State providing for arbitration to be had within this State shall be deemed a consent of the parties thereto to the jurisdiction of the courts of this State to enforce such agreement by the making of any orders provided for in this title and by entering of judgment on an award under the agreement.

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Cal Code Civ Proc § 1293.2 (2008)

§ 1293.2. Award of costs by court

The court shall award costs upon any judicial proceeding under this title as provided in Chapter 6 (commencing with Section 1021) of Title 14 of Part 2 of this code.

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*Cal Code Civ Proc Pt. 3, Tit. 9, Ch. 5, Art. 3 Note (2008)***Pt. 3, Tit. 9, Ch. 5, Art. 3 Note**

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*Cal Code Civ Proc § 1294 (2008)***§ 1294. Right to appeal**

An aggrieved party may appeal from:

- (a) An order dismissing or denying a petition to compel arbitration.
- (b) An order dismissing a petition to confirm, correct or vacate an award.
- (c) An order vacating an award unless a rehearing in arbitration is ordered.
- (d) A judgment entered pursuant to this title.
- (e) A special order after final judgment.

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*Cal Code Civ Proc § 1294.2 (2008)***§ 1294.2. Practice and procedure**

The appeal shall be taken in the same manner as an appeal from an order or judgment in a civil action. Upon an appeal from any order or judgment under this title, the court may review the decision and any intermediate ruling, proceeding, order or decision which involves the merits or necessarily affects the order or judgment appealed from, or which substantially affects the rights of a party. The court may also on such appeal review any order on motion for a new trial. The respondent on the appeal, or party in whose favor the judgment or order was given may, without appealing from such judgment, request the court to and it may review any of the foregoing matters for the purpose of determining whether or not the appellant was prejudiced by the error or errors upon which he relies for reversal or modification of the judgment or order from which the appeal is taken. The provisions of this section do not authorize the court to review any decision or order from which an appeal might have been taken.

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 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.1. Arbitration of Medical Malpractice

Cal Code Civ Proc Pt. 3, Tit. 9.1 Note (2008)

Pt. 3, Tit. 9.1 Note

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Part 3. Of Special Proceedings of a Civil Nature
Title 9.1. Arbitration of Medical Malpractice

Cal Code Civ Proc § 1295 (2008)

§ 1295. Contract provisions

(a) Any contract for medical services which contains a provision for arbitration of any dispute as to professional negligence of a health care provider shall have such provision as the first article of the contract and shall be expressed in the following language: "It is understood that any dispute as to medical malpractice, that is as to whether any medical services rendered under this contract were unnecessary or unauthorized or were improperly, negligently or incompetently rendered, will be determined by submission to arbitration as provided by California law, and not by a lawsuit or resort to court process except as California law provides for judicial review of arbitration proceedings. Both parties to this contract, by entering into it, are giving up their constitutional right to have any such dispute decided in a court of law before a jury, and instead are accepting the use of arbitration."

(b) Immediately before the signature line provided for the individual contracting for the medical services must appear the following in at least 10-point bold red type:

"NOTICE: BY SIGNING THIS CONTRACT YOU ARE
AGREEING TO HAVE ANY ISSUE OF MEDICAL
MALPRACTICE DECIDED BY NEUTRAL ARBITRATION
AND YOU ARE GIVING UP YOUR RIGHT TO A
JURY OR COURT TRIAL. SEE ARTICLE 1 OF THIS
CONTRACT."

(c) Once signed, such a contract governs all subsequent open-book account transactions for medical services for which the contract was signed until or unless rescinded by written notice within 30 days of signature. Written notice of such rescission may be given by a guardian or conservator of the patient if the patient is incapacitated or a minor.

(d) Where the contract is one for medical services to a minor, it shall not be subject to disaffirmance if signed by the minor's parent or legal guardian.

(e) Such a contract is not a contract of adhesion, nor unconscionable nor otherwise improper, where it complies with subdivisions (a), (b) and (c) of this section.

(f) Subdivisions (a), (b), and (c) shall not apply to any health care service plan contract offered by an organization registered pursuant to Article 2.5 (commencing with *Section 12530*) of *Division 3 of Title 2 of the Government Code*, or licensed pursuant to Chapter 2.2 (commencing with *Section 1340*) of *Division 2 of the Health and Safety Code*, which contains an arbitration agreement if the plan complies with paragraph (10) of subdivision (a) of *Section 1363 of the Health and Safety Code*, or otherwise has a procedure for notifying prospective subscribers of the fact that the plan has an arbitration provision, and the plan contracts conform to subdivision (h) of *Section 1373 of the Health and Safety Code*.

(g) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with *Section 500*) of the *Business and Professions Code*, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with *Section 1440*) of *Division 2 of the Health and Safety Code*; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with *Section 1200*) of the *Health and Safety Code*. "Health care provider" includes the legal representatives of a health care provider;

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury or wrongful death, provided that such services are within the scope of services for which the provider is licensed and which are not within any restriction imposed by the licensing agency or licensed hospital.

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Part 3. Of Special Proceedings of a Civil Nature
Title 9.2. Public Construction Contract Arbitration

Cal Code Civ Proc Pt. 3, Tit. 9.2 Note (2008)

Pt. 3, Tit. 9.2 Note

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.2. Public Construction Contract Arbitration

Cal Code Civ Proc § 1296 (2008)

§ 1296. Arbitration of public construction contracts

The parties to a construction contract with a public agency may expressly agree in writing that in any arbitration to resolve a dispute relating to the contract, the arbitrator's award shall be supported by law and substantial evidence. If the agreement so provides, a court shall, subject to Section 1286.4, vacate the award if after review of the award it determines either that the award is not supported by substantial evidence or that it is based on an error of law.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes

Cal Code Civ Proc Pt. 3, Tit. 9.3 Note (2008)

Pt. 3, Tit. 9.3 Note

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Article 1. Scope of Application

Cal Code Civ Proc § 1297.11 (2008)

§ 1297.11. Application of title

This title applies to international commercial arbitration and conciliation, subject to any agreement which is in force between the United States and any other state or states.

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Cal Code Civ Proc § 1297.12

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 Article 1. Scope of Application

Cal Code Civ Proc § 1297.12 (2008)

§ 1297.12. Place of arbitration or conciliation

This title, except Article 2 (commencing with Section 1297.81) of Chapter 2 and Article 3 (commencing with Section 1297.91) of Chapter 2, applies only if the place of arbitration or conciliation is in the State of California.

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Cal Code Civ Proc § 1297.13 (2008)

§ 1297.13. International agreements

An arbitration or conciliation agreement is international if any of the following applies:

- (a) The parties to an arbitration or conciliation agreement have, at the time of the conclusion of that agreement, their places of business in different states.
- (b) One of the following places is situated outside the state in which the parties have their places of business:
 - (i) The place of arbitration or conciliation if determined in, or pursuant to, the arbitration or conciliation agreement.
 - (ii) Any place where a substantial part of the obligations of the commercial relationship is to be performed.
 - (iii) The place with which the subject matter of the dispute is most closely connected.
- (c) The parties have expressly agreed that the subject matter of the arbitration or conciliation agreement relates to commercial interests in more than one state.
- (d) The subject matter of the arbitration or conciliation agreement is otherwise related to commercial interests in more than one state.

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Cal Code Civ Proc § 1297.14 (2008)

§ 1297.14. Place of business

For the purposes of Section 1297.13, if a party has more than one place of business, the place of business is that which has the closest relationship to the arbitration agreement, and if a party does not have a place of business, reference is to be made to his habitual residence.

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Cal Code Civ Proc § 1297.15 (2008)

§ 1297.15. Consideration of states of United States as one state

For the purposes of Section 1297.13, the states of the United States, including the District of Columbia, shall be considered one state.

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Cal Code Civ Proc § 1297.16 (2008)

§ 1297.16. Commercial agreements

An arbitration or conciliation agreement is commercial if it arises out of a relationship of a commercial nature including, but not limited to, any of the following:

- (a) A transaction for the supply or exchange of goods or services.
- (b) A distribution agreement.
- (c) A commercial representation or agency.
- (d) An exploitation agreement or concession.
- (e) A joint venture or other, related form of industrial or business cooperation.
- (f) The carriage of goods or passengers by air, sea, rail, or road.
- (g) Construction.
- (h) Insurance.
- (i) Licensing.
- (j) Factoring.
- (k) Leasing.
- (l) Consulting.
- (m) Engineering.
- (n) Financing.
- (o) Banking.
- (p) The transfer of data or technology.
- (q) Intellectual or industrial property, including trademarks, patents, copyrights and software programs.

(r) Professional services.

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Cal Code Civ Proc § 1297.17 (2008)

§ 1297.17. Effect on other provisions

This title shall not affect any other law in force in California by virtue of which certain disputes may not be submitted to arbitration or may be submitted to arbitration only in accordance with provisions other than those of this title. Notwithstanding the foregoing, this title supersedes Sections 1280 to 1284.2, inclusive, with respect to international commercial arbitration and conciliation.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 1, Art. 2 Note (2008)

Pt. 3, Tit. 9.3, Ch. 1, Art. 2 Note

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Cal Code Civ Proc § 1297.21 (2008)

§ 1297.21. Definitions

For the purposes of this title:

(a) "Arbitral award" means any decision of the arbitral tribunal on the substance of the dispute submitted to it and includes an interim, interlocutory, or partial arbitral award.

(b) "Arbitral tribunal" means a sole arbitrator or a panel of arbitrators.

(c) "Arbitration" means any arbitration whether or not administered by a permanent arbitral institution.

(d) "Conciliation" means any conciliation whether or not administered by a permanent conciliation institution.

(e) "Chief Justice" means the Chief Justice of California or his or her designee.

(f) "Court" means a body or an organ of the judicial system of a state.

(g) "Party" means a party to an arbitration or conciliation agreement.

(h) "Superior court" means the superior court in the county in this state selected pursuant to Section 1297.61.

(i) "Supreme Court" means the Supreme Court of California.

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Cal Code Civ Proc § 1297.22 (2008)

§ 1297.22. Parties' freedom to authorize third party to make determination

Where a provision of this title, except Article 1 (commencing with Section 1297.281) of Chapter 6, leaves the parties free to determine a certain issue, such freedom includes the right of the parties to authorize a third party, including an institution, to make that determination.

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Cal Code Civ Proc § 1297.23 (2008)

§ 1297.23. Agreement as including rules referred to in agreement

Where a provision of this title refers to the fact that the parties have agreed or that they may agree, or in any other way refers to an agreement of the parties, such agreement shall be deemed to include any arbitration or conciliation rules referred to in that agreement.

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Cal Code Civ Proc § 1297.24 (2008)

§ 1297.24. Reference to claim as applying to counterclaim and to defense as applying to defense to counterclaim

Where this title, other than Article 8 (commencing with Section 1297.251) of Chapter 5, Article 5 (commencing with Section 1297.321) of Chapter 6, or subdivision (a) of Section 1297.322, refers to a claim, it also applies to a counterclaim, and where it refers to a defense, it also applies to a defense to that counterclaim.

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Part 3. Of Special Proceedings of a Civil Nature
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Article 3. Receipt of Written Communications

*Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 1, Art. 3 Note (2008)***Pt. 3, Tit. 9.3, Ch. 1, Art. 3 Note**

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Article 3. Receipt of Written Communications

*Cal Code Civ Proc § 1297.31 (2008)***§ 1297.31. Receipt on delivery**

Unless otherwise agreed by the parties, any written communication is deemed to have been received if it is delivered to the addressee personally or if it is delivered at his place of business, habitual residence, or mailing address, and the communication is deemed to have been received on the day it is so delivered.

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Article 3. Receipt of Written Communications

*Cal Code Civ Proc § 1297.32 (2008)***§ 1297.32. Receipt by registered mail**

If none of the places referred to in Section 1297.31 can be found after making a reasonable inquiry, a written communication is deemed to have been received if it is sent to the addressee's last known place of business, habitual residence, or mailing address by registered mail or by any other means which provides a record of the attempt to deliver it.

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Article 3. Receipt of Written Communications

*Cal Code Civ Proc § 1297.33 (2008)***§ 1297.33. Written communications in respect of court proceedings**

This article does not apply to written communications in respect of court proceedings.

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Article 4. Waiver of Right to Object

*Cal Code Civ Proc § 1297.41 (2008)***§ 1297.41. Failure to object**

A party who knows that any provision of this title, or any requirement under the arbitration agreement, has not been complied with and yet proceeds with the arbitration without stating his or her objection to noncompliance without undue delay or, if a time limit is provided for stating that objection, within that period of time, shall be deemed to have waived his right to object.

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 Article 4. Waiver of Right to Object

*Cal Code Civ Proc § 1297.42 (2008)***§ 1297.42. "Any provision of this title"**

For purposes of Section 1297.41, "any provision of this title" means any provision of this title in respect of which the parties may otherwise agree.

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 Article 5. Extent of Judicial Intervention

*Cal Code Civ Proc § 1297.51 (2008)***§ 1297.51. Permissible intervention**

In matters governed by this title, no court shall intervene except where so provided in this title, or applicable federal law.

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 Chapter 1. Application and Interpretation
 Article 6. Functions

*Cal Code Civ Proc § 1297.61 (2008)***§ 1297.61. Performance by superior court**

The functions referred to in Sections 1297.114, 1297.115, 1297.116, 1297.134, 1297.135, 1297.136, 1297.165, 1297.166, and 1297.167 shall be performed by the superior court of the county in which the place of arbitration is located. The functions referred to in Section 1297.81 shall be performed by the superior court selected pursuant to Article 2 (commencing with Section 1292) of Chapter 5 of Title 9.

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 Article 1. Definition and Form of Arbitration Agreements

Cal Code Civ Proc § 1297.71 (2008)

§ 1297.71. "Arbitration agreement"

An "arbitration agreement" is an agreement by the parties to submit to arbitration all or certain disputes which have arisen or which may arise between them in respect of a defined legal relationship, whether contractual or not. An arbitration agreement may be in the form of an arbitration clause in a contract or in the form of a separate agreement.

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Cal Code Civ Proc § 1297.72 (2008)

§ 1297.72. Writing; Reference to document containing arbitration clause

An arbitration agreement shall be in writing. An agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters, telex, telegrams, or other means of telecommunication which provide a record of this agreement, or in an exchange of statements of claim and defense in which the existence of an agreement is alleged by one party and not denied by another. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the contract is in writing and the reference is such as to make that clause part of the contract.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 2, Art. 2 Note (2008)

Pt. 3, Tit. 9.3, Ch. 2, Art. 2 Note

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Cal Code Civ Proc § 1297.81 (2008)

§ 1297.81. Application for stay order and order to compel arbitration

When a party to an international commercial arbitration agreement as defined in this title commences judicial proceedings seeking relief with respect to a matter covered by the agreement to arbitrate, any other party to the agreement may apply to the superior court for an order to stay the proceedings and to compel arbitration.

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Cal Code Civ Proc § 1297.82 (2008)

§ 1297.82. Granting of timely request

A timely request for a stay of judicial proceedings made under Section 1297.81 shall be granted.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 2, Art. 3 Note (2008)

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Cal Code Civ Proc § 1297.91 (2008)

§ 1297.91. Request for interim measure of protection

It is not incompatible with an arbitration agreement for a party to request from a superior court, before or during arbitral proceedings, an interim measure of protection, or for the court to grant such a measure.

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Cal Code Civ Proc § 1297.92 (2008)

§ 1297.92. Enforcement of award of arbitral tribunal

Any party to an arbitration governed by this title may request from the superior court enforcement of an award of an arbitral tribunal to take any interim measure of protection of an arbitral tribunal pursuant to Article 2 (commencing with Section 1297.171) of Chapter 4. Enforcement shall be granted pursuant to the law applicable to the granting of the type of interim relief requested.

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Cal Code Civ Proc § 1297.93 (2008)

§ 1297.93. Measures which court may grant

Measures which the court may grant in connection with a pending arbitration include, but are not limited to:

(a) An order of attachment issued to assure that the award to which applicant may be entitled is not rendered ineffectual by the dissipation of party assets.

(b) A preliminary injunction granted in order to protect trade secrets or to conserve goods which are the subject matter of the arbitral dispute.

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Cal Code Civ Proc § 1297.94 (2008)

§ 1297.94. Effect to be given to findings of fact of arbitral tribunal

In considering a request for interim relief, the court shall give preclusive effect to any and all findings of fact of the arbitral tribunal including the probable validity of the claim which is the subject of the award for interim relief and which the arbitral tribunal has previously granted in the proceeding in question, provided that such interim award is consistent with public policy.

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Cal Code Civ Proc § 1297.95 (2008)

§ 1297.95. Jurisdiction of arbitral tribunal

Where the arbitral tribunal has not ruled on an objection to its jurisdiction, the court shall not grant preclusive effect to the tribunal's findings until the court has made an independent finding as to the jurisdiction of the arbitral tribunal. If the court rules that the arbitral tribunal did not have jurisdiction, the application for interim measures of relief shall be denied. Such a ruling by the court that the arbitral tribunal lacks jurisdiction is not binding on the arbitral tribunal or subsequent judicial proceeding.

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Cal Code Civ Proc § 1297.101 (2008)

§ 1297.101. Agreement of parties; number otherwise

The parties may agree on the number of arbitrators. Otherwise, there shall be one arbitrator.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 3, Art. 2 Note (2008)

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Cal Code Civ Proc § 1297.111 (2008)

§ 1297.111. Nationality of arbitrator

A person of any nationality may be an arbitrator.

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Cal Code Civ Proc § 1297.112 (2008)

§ 1297.112. Agreement on appointment procedure

Cal Code Civ Proc § 1297.112

Subject to Sections 1297.115 and 1297.116, the parties may agree on a procedure for appointing the arbitral tribunal.

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Cal Code Civ Proc § 1297.113 (2008)

§ 1297.113. Procedure failing agreement by parties

Failing such agreement referred to in Section 1297.112, in an arbitration with three arbitrators and two parties, each party shall appoint one arbitrator, and the two appointed arbitrators shall appoint the third arbitrator.

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Cal Code Civ Proc § 1297.114 (2008)

§ 1297.114. Appointment by superior court

If the appointment procedure in Section 1297.113 applies and either a party fails to appoint an arbitrator within 30 days after receipt of a request to do so from the other party, or the two appointed arbitrators fail to agree on the third arbitrator within 30 days after their appointment, the appointment shall be made, upon request of a party, by the superior court.

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Cal Code Civ Proc § 1297.115 (2008)

§ 1297.115. Appointment of sole arbitrator by superior court

Failing any agreement referred to in Section 1297.112, in an arbitration with a sole arbitrator, if the parties fail to agree on the arbitrator, the appointment shall be made, upon request of a party, by the superior court.

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*Cal Code Civ Proc § 1297.116 (2008)***§ 1297.116. Necessary measures by superior court on request of party**

The superior court, upon the request of a party, may take the necessary measures, unless the agreement on the appointment procedure provides other means for securing the appointment, where, under an appointment procedure agreed upon by the parties, any of the following occurs:

- (a) A party fails to act as required under that procedure.
- (b) The parties, or two appointed arbitrators, fail to reach an agreement expected of them under that procedure.
- (c) A third party, including an institution, fails to perform any function entrusted to it under that procedure.

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*Cal Code Civ Proc § 1297.117 (2008)***§ 1297.117. Finality of superior court decision**

A decision on a matter entrusted to the superior court pursuant to Sections 1297.114, 127.115, and 1297.116 is final and is not subject to appeal.

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*Cal Code Civ Proc § 1297.118 (2008)***§ 1297.118. Superior court's considerations in appointing arbitrator**

The superior court, in appointing an arbitrator, shall have due regard to all of the following:

- (a) Any qualifications required of the arbitrator by the agreement of the parties.
- (b) Other considerations as are likely to secure the appointment of an independent and impartial arbitrator.
- (c) In the case of a sole or third arbitrator, the advisability of appointing an arbitrator of a nationality other than those of the parties.

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Cal Code Civ Proc § 1297.119 (2008)

§ 1297.119. Immunity of arbitrator

An arbitrator has the immunity of a judicial officer from civil liability when acting in the capacity of arbitrator under any statute or contract.

The immunity afforded by this section shall supplement, and not supplant, any otherwise applicable common law or statutory immunity.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 3, Art. 3 Note (2008)

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Cal Code Civ Proc § 1297.121 (2008)

§ 1297.121. Disclosures by those under consideration for appointment or designation

Except as otherwise provided in this title, all persons whose names have been submitted for consideration for appointment or designation as arbitrators or conciliators, or who have been appointed or designated as such, shall, within 15 days, make a disclosure to the parties of any information which might cause their impartiality to be questioned including, but not limited to, any of the following instances:

(a) The person has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

(b) The person served as a lawyer in the matter in controversy, or the person is or has been associated with another who has participated in the matter during such association, or he or she has been a material witness concerning it.

(c) The person served as an arbitrator or conciliator in another proceeding involving one or more of the parties to the proceeding.

(d) The person, individually or a fiduciary, or such person's spouse or minor child residing in such person's household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding.

(e) The person, his or her spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person meets any of the following conditions:

(i) The person is or has been a party to the proceeding, or an officer, director, or trustee of a party.

(ii) The person is acting or has acted as a lawyer in the proceeding.

(iii) The person is known to have an interest that could be substantially affected by the outcome of the proceeding.

(iv) The person is likely to be a material witness in the proceeding.

Cal Code Civ Proc § 1297.121

(f) The person has a close personal or professional relationship with a person who meets any of the following conditions:

- (i) The person is or has been a party to the proceeding, or an officer, director, or trustee of a party.
- (ii) The person is acting or has acted as a lawyer or representative in the proceeding.
- (iii) The person is or expects to be nominated as an arbitrator or conciliator in the proceedings.
- (iv) The person is known to have an interest that could be substantially affected by the outcome of the proceeding.
- (v) The person is likely to be a material witness in the proceeding.

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Cal Code Civ Proc § 1297.122 (2008)

§ 1297.122. Mandatory nature of disclosures; Waiver

The obligation to disclose information set forth in Section 1297.121 is mandatory and cannot be waived as to the parties with respect to persons serving either as the sole arbitrator or sole conciliator or as the chief or prevailing arbitrator or conciliator. The parties may otherwise agree to waive such disclosure.

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Cal Code Civ Proc § 1297.123 (2008)

§ 1297.123. Continuing obligation of disclosure by arbitrator

From the time of appointment and throughout the arbitral proceedings, an arbitrator, shall, without delay, disclose to the parties any circumstances referred to in Section 1297.121 which were not previously disclosed.

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Cal Code Civ Proc § 1297.124 (2008)

§ 1297.124. Grounds for challenge

Cal Code Civ Proc § 1297.124

Unless otherwise agreed by the parties or the rules governing the arbitration, an arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to his or her independence or impartiality, or as to his or her possession of the qualifications upon which the parties have agreed.

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Cal Code Civ Proc § 1297.125 (2008)

§ 1297.125. Challenge by party appointing or participating in appointment

A party may challenge an arbitrator appointed by it, or in whose appointment it has participated, only for reasons of which it becomes aware after the appointment has been made.

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Cal Code Civ Proc § 1297.131 (2008)

§ 1297.131. Agreement by parties; finality of decision

The parties may agree on a procedure for challenging an arbitrator and the decision reached pursuant to that procedure shall be final.

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Cal Code Civ Proc § 1297.132 (2008)

§ 1297.132. Written statement of reasons

Cal Code Civ Proc § 1297.132

Failing any agreement referred to in Section 1297.131, a party which intends to challenge an arbitrator shall, within 15 days after becoming aware of the constitution of the arbitral tribunal or after becoming aware of any circumstances referred to in Sections 1297.124 and 1297.125, whichever shall be later, send a written statement of the reasons for the challenge to the arbitral tribunal.

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Cal Code Civ Proc § 1297.133 (2008)

§ 1297.133. Decision by arbitral tribunal

Unless the arbitrator challenged under Section 1297.132 withdraws from his or her office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge.

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Cal Code Civ Proc § 1297.134 (2008)

§ 1297.134. Judicial review of unsuccessful challenge

If a challenge following the procedure under Section 1297.133 is not successful, the challenging party may request the superior court, within 30 days after having received notice of the decision rejecting the challenge, to decide on the challenge. If a challenge is based upon the grounds set forth in Section 1297.121, and the superior court determines that the facts support a finding that such ground or grounds fairly exist, then the challenge should be sustained.

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Cal Code Civ Proc § 1297.135 (2008)

§ 1297.135. Finality of superior court decision

The decision of the superior court under Section 1297.134 is final and is not subject to appeal.

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*Cal Code Civ Proc § 1297.136 (2008)***§ 1297.136. Continuation of arbitral proceedings pending judicial review of challenge**

While a request under Section 1297.134 is pending, the arbitral tribunal, including the challenged arbitrator, may continue with the arbitral proceedings and make an arbitral award.

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 Article 5. Failure or Impossibility to Act

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 3, Art. 5 Note (2008)

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*Cal Code Civ Proc § 1297.141 (2008)***§ 1297.141. Termination of arbitrator's mandate**

The mandate of an arbitrator terminates if he becomes de jure or de facto unable to perform his or her functions or for other reasons fails to act without undue delay, and he withdraws from his or her office or the parties agree to the termination of his or her mandate.

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*Cal Code Civ Proc § 1297.142 (2008)***§ 1297.142. Request by party for superior court decision on termination of mandate**

If a controversy remains concerning any of the grounds referred to in Section 1297.141, a party may request the superior court to decide on the termination of the mandate.

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*Cal Code Civ Proc § 1297.143 (2008)***§ 1297.143. Finality of superior court decision**

A decision of the superior court under Section 1297.142 is not subject to appeal.

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*Cal Code Civ Proc § 1297.144 (2008)***§ 1297.144. Withdrawal or agreement of party to termination as not implying acceptance of validity of any ground**

If, under this section or Section 1297.132, an arbitrator withdraws from office or a party agrees to the termination of the mandate of an arbitrator, this does not imply acceptance of the validity of any ground referred to in Section 1297.132.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 3, Art. 6 Note (2008)

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*Cal Code Civ Proc § 1297.151 (2008)***§ 1297.151. Termination of mandate on withdrawal or agreement of parties**

In addition to the circumstances referred to under Article 4 (commencing with Section 1297.131) and Article 5 (commencing with Section 1297.141) of this chapter, the mandate of an arbitrator terminates upon his or her withdrawal from office for any reason, or by or pursuant to agreement of the parties.

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Cal Code Civ Proc § 1297.152

Article 6. Termination of Mandate and Substitution of Arbitrators

*Cal Code Civ Proc § 1297.152 (2008)***§ 1297.152. Appointment of substitute arbitrator**

Where the mandate of an arbitrator terminates, a substitute arbitrator shall be appointed according to the rules that were applicable to the appointment of the arbitrator being replaced.

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Article 6. Termination of Mandate and Substitution of Arbitrators

*Cal Code Civ Proc § 1297.153 (2008)***§ 1297.153. Repetition of hearings**

Unless otherwise agreed by the parties:

(a) Where the sole or presiding arbitrator is replaced, any hearings previously held shall be repeated.

(b) Where an arbitrator other than the sole or presiding arbitrator is replaced, any hearings previously held may be repeated at the discretion of the arbitral tribunal.

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Article 6. Termination of Mandate and Substitution of Arbitrators

*Cal Code Civ Proc § 1297.154 (2008)***§ 1297.154. Validity of orders or rulings made prior to replacement of arbitrator**

Unless otherwise agreed by the parties, an order or ruling of the arbitral tribunal made prior to the replacement of an arbitrator under this section is not invalid because there has been a change in the composition of the tribunal.

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Title 9.3. Arbitration and Conciliation of International Commercial Disputes

Chapter 4. Jurisdiction of Arbitral Tribunals

Article 1. Competence of an Arbitral Tribunal to Rule on its Jurisdiction

*Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 4, Art. 1 Note (2008)***Pt. 3, Tit. 9.3, Ch. 4, Art. 1 Note**

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Cal Code Civ Proc § 1297.161

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 Article 1. Competence of an Arbitral Tribunal to Rule on its Jurisdiction

Cal Code Civ Proc § 1297.161 (2008)

§ 1297.161. Ruling by arbitral tribunal on own jurisdiction; Validity of arbitration clause

The arbitral tribunal may rule on its own jurisdiction, including ruling on any objections with respect to the existence or validity of the arbitration agreement, and for that purpose, an arbitration clause which forms part of a contract shall be treated as an agreement independent of the other terms of the contract, and a decision by the arbitral tribunal that the contract is null and void shall not entail ipso jure the invalidity of the arbitration clause.

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Cal Code Civ Proc § 1297.162 (2008)

§ 1297.162. Raising plea of lack of jurisdiction

A plea that the arbitral tribunal does not have jurisdiction shall be raised not later than the submission of the statement of defense. However, a party is not precluded from raising such a plea by the fact that he or she has appointed, or participated in the appointment of, an arbitrator.

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Cal Code Civ Proc § 1297.163 (2008)

§ 1297.163. Plea that tribunal exceeding scope of authority

A plea that the arbitral tribunal is exceeding the scope of its authority shall be raised as soon as the matter alleged to be beyond the scope of its authority is raised during the arbitral proceedings.

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Cal Code Civ Proc § 1297.164 (2008)

§ 1297.164. Admission of later plea

Cal Code Civ Proc § 1297.164

The arbitral tribunal may, in either of the cases referred to in Sections 1297.162 and 1297.163, admit a later plea if it considers the delay justified.

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 Article 1. Competence of an Arbitral Tribunal to Rule on its Jurisdiction

Cal Code Civ Proc § 1297.165 (2008)

§ 1297.165. Ruling on plea as preliminary question or in award on merits

The arbitral tribunal may rule on a plea referred to in Sections 1297.162 and 1297.163 either as a preliminary question or in an award on the merits.

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 Article 1. Competence of an Arbitral Tribunal to Rule on its Jurisdiction

Cal Code Civ Proc § 1297.166 (2008)

§ 1297.166. Judicial review; Waiver of objection

If the arbitral tribunal rules as a preliminary question that it has jurisdiction, any party shall request the superior court, within 30 days after having received notice of that ruling, to decide the matter or shall be deemed to have waived objection to such finding.

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Cal Code Civ Proc § 1297.167 (2008)

§ 1297.167. Continuation of arbitral proceedings pending judicial review

While a request under Section 1297.166 is pending, the arbitral tribunal may continue with the arbitral proceedings and make an arbitral award.

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 Article 2. Interim Measures Ordered by Arbitral Tribunals

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 4, Art. 2 Note (2008)

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Cal Code Civ Proc § 1297.171 (2008)

§ 1297.171. Order for interim measure of protection

Unless otherwise agreed by the parties, the arbitral tribunal may, at the request of a party, order a party to take any interim measure of protection as the arbitral tribunal may consider necessary in respect of the subject matter of the dispute.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 4. Jurisdiction of Arbitral Tribunals
 Article 2. Interim Measures Ordered by Arbitral Tribunals

Cal Code Civ Proc § 1297.172 (2008)

§ 1297.172. Security

The arbitral tribunal may require a party to provide appropriate security in connection with a measure ordered under Section 1297.171.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 1. Equal Treatment of Parties

Cal Code Civ Proc § 1297.181 (2008)

§ 1297.181. Equality; Opportunity to present case

The parties shall be treated with equality and each party shall be given a full opportunity to present his or her case.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 2. Determination of Rules of Procedure

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 5, Art. 2 Note (2008)

Pt. 3, Tit. 9.3, Ch. 5, Art. 2 Note

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 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 2. Determination of Rules of Procedure

Cal Code Civ Proc § 1297.191 (2008)

§ 1297.191. Agreement of parties

Subject to this title, the parties may agree on the procedure to be followed by the arbitral tribunal in conducting the proceedings.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 2. Determination of Rules of Procedure

Cal Code Civ Proc § 1297.192 (2008)

§ 1297.192. Conduct by tribunal failing agreement by parties

Failing any agreement referred to in Section 1297.191, the arbitral tribunal may, subject to this title, conduct the arbitration in the manner it considers appropriate.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 2. Determination of Rules of Procedure

Cal Code Civ Proc § 1297.193 (2008)

§ 1297.193. Evidence

The power of the arbitral tribunal under Section 1297.192 includes the power to determine the admissibility, relevance, materiality, and weight of any evidence.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 3. Place of Arbitration

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 5, Art. 3 Note (2008)

Pt. 3, Tit. 9.3, Ch. 5, Art. 3 Note

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 3. Place of Arbitration

Cal Code Civ Proc § 1297.201 (2008)

§ 1297.201. Agreement of parties

The parties may agree on the place of arbitration.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 3. Place of Arbitration

Cal Code Civ Proc § 1297.202 (2008)

§ 1297.202. Determination by tribunal failing agreement of parties

Failing any agreement referred to in Section 1297.201, the place of arbitration shall be determined by the arbitral tribunal having regard to the circumstances of the case, including the convenience of the parties.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 3. Place of Arbitration

Cal Code Civ Proc § 1297.203 (2008)

§ 1297.203. Meeting of tribunal at appropriate place notwithstanding agreement of parties

Notwithstanding Section 1297.201, the arbitral tribunal may, unless otherwise agreed by the parties, meet at any place it considers appropriate for consultation among its members, for hearing witnesses, experts, or the parties, or for inspection of documents, goods, or other property.

CODE OF CIVIL PROCEDURE
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Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 4. Commencement of Arbitral Proceedings

Cal Code Civ Proc § 1297.211 (2008)

§ 1297.211. Date

Cal Code Civ Proc § 1297.211

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which a request for that dispute to be referred to arbitration is received by the respondent.

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Chapter 5. Manner and Conduct of Arbitration
Article 5. Language

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 5, Art. 5 Note (2008)

Pt. 3, Tit. 9.3, Ch. 5, Art. 5 Note

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 5. Language

Cal Code Civ Proc § 1297.221 (2008)

§ 1297.221. Agreement of parties

The parties may agree upon the language or languages to be used in the arbitral proceedings.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 5. Language

Cal Code Civ Proc § 1297.222 (2008)

§ 1297.222. Determination by tribunal failing agreement of parties

Failing any agreement referred to in Section 1297.221, the arbitral tribunal shall determine the language or languages to be used in the arbitral proceedings.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 5. Language

Cal Code Civ Proc § 1297.223 (2008)

§ 1297.223. Application of agreement or determination

The agreement or determination, unless otherwise specified, shall apply to any written statement by a party, any hearing, and any arbitral award, decision, or other communication by the arbitral tribunal.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 5. Language

Cal Code Civ Proc § 1297.224 (2008)

§ 1297.224. Order for translation to accompany documentary evidence

The arbitral tribunal may order that any documentary evidence shall be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitral tribunal.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 6. Statements of Claim and Defense

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 5, Art. 6 Note (2008)

Pt. 3, Tit. 9.3, Ch. 5, Art. 6 Note

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 6. Statements of Claim and Defense

Cal Code Civ Proc § 1297.231 (2008)

§ 1297.231. Statements by claimant and respondent

Within the period of time agreed upon by the parties or determined by the arbitral tribunal, the claimant shall state the facts supporting his or her claim, the points at issue, and the relief or remedy sought, and the respondent shall state his or her defense in respect of these particulars, unless the parties have otherwise agreed as to the required elements of those statements.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
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Chapter 5. Manner and Conduct of Arbitration
Article 6. Statements of Claim and Defense

Cal Code Civ Proc § 1297.232 (2008)

§ 1297.232. Submission of documents with statements

Cal Code Civ Proc § 1297.232

The parties may submit with their statements all documents they consider to be relevant or may add a reference to the documents or other evidence they will submit.

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Chapter 5. Manner and Conduct of Arbitration
Article 6. Statements of Claim and Defense

Cal Code Civ Proc § 1297.233 (2008)

§ 1297.233. Amendment or supplement to claim or defense

Unless otherwise agreed by the parties, either party may amend or supplement his or her claim or defense during the course of the arbitral proceedings, unless the arbitral tribunal considers it inappropriate to allow the amendment or supplement having regard to the delay in making it.

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Chapter 5. Manner and Conduct of Arbitration
Article 7. Hearings and Written Proceedings

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 5, Art. 7 Note (2008)

Pt. 3, Tit. 9.3, Ch. 5, Art. 7 Note

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Chapter 5. Manner and Conduct of Arbitration
Article 7. Hearings and Written Proceedings

Cal Code Civ Proc § 1297.241 (2008)

§ 1297.241. Determination by tribunal on oral or written nature of hearings

Unless otherwise agreed by the parties, the arbitral tribunal shall decide whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials.

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Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 7. Hearings and Written Proceedings

Cal Code Civ Proc § 1297.242 (2008)

§ 1297.242. Holding of oral hearings

Unless the parties have agreed that no oral hearings shall be held, the arbitral tribunal shall hold oral hearings at an appropriate state of the proceedings, if so requested by a party.

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Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 7. Hearings and Written Proceedings

Cal Code Civ Proc § 1297.243 (2008)

§ 1297.243. Notice of hearings and meetings of tribunal

The parties shall be given sufficient advance notice of any hearing and of any meeting of the arbitral tribunal for the purpose of inspection of documents, goods, or other property.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 5. Manner and Conduct of Arbitration
Article 7. Hearings and Written Proceedings

Cal Code Civ Proc § 1297.244 (2008)

§ 1297.244. Communication of one party's information and applications to other party; Communication of all reports and documents relied on by tribunal to parties

All statements, documents, or other information supplied to, or applications made to, the arbitral tribunal by one party shall be communicated to the other party, and any expert report or evidentiary document on which the arbitral tribunal may rely in making its decision shall be communicated to the parties.

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Chapter 5. Manner and Conduct of Arbitration
Article 7. Hearings and Written Proceedings

Cal Code Civ Proc § 1297.245 (2008)

§ 1297.245. In camera oral hearings and meetings

Unless otherwise agreed by the parties, all oral hearings and meetings in arbitral proceedings shall be held in camera.

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Chapter 5. Manner and Conduct of Arbitration

Article 8. Default of a Party

*Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 5, Art. 8 Note (2008)***Pt. 3, Tit. 9.3, Ch. 5, Art. 8 Note**

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 Chapter 5. Manner and Conduct of Arbitration
 Article 8. Default of a Party

*Cal Code Civ Proc § 1297.251 (2008)***§ 1297.251. Termination of proceedings for failure to communicate statement of claim**

Unless otherwise agreed by the parties, where, without showing sufficient cause, the claimant fails to communicate his or her statement of claim in accordance with Sections 1297.231 and 1297.232, the arbitral tribunal shall terminate the proceedings.

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 Part 3. Of Special Proceedings of a Civil Nature
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 Chapter 5. Manner and Conduct of Arbitration
 Article 8. Default of a Party

*Cal Code Civ Proc § 1297.252 (2008)***§ 1297.252. Termination of proceedings for failure to communicate statement of defense**

Unless otherwise agreed by the parties, where, without showing sufficient cause, the respondent fails to communicate his or her statement of defense in accordance with Sections 1297.231 and 1297.232, the arbitral tribunal shall continue the proceedings without treating that failure in itself as an admission of the claimant's allegations.

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 Chapter 5. Manner and Conduct of Arbitration
 Article 8. Default of a Party

*Cal Code Civ Proc § 1297.253 (2008)***§ 1297.253. Failure to appear at oral hearing or produce documentary evidence**

Unless otherwise agreed by the parties, where, without showing sufficient cause, a party fails to appear at an oral hearing or to produce documentary evidence, the arbitral tribunal may continue with the proceedings and make the arbitral award on the evidence before it.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature

Cal Code Civ Proc § 1297.261

Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 9. Expert Appointed by Arbitral Tribunal

Cal Code Civ Proc § 1297.261 (2008)

§ 1297.261. Appointment for report of specific issues; Requiring party to give information or produce evidence

Unless otherwise agreed by the parties, the arbitral tribunal may appoint one or more experts to report to it on specific issues to be determined by the arbitral tribunal, and require a party to give the expert any relevant information or to produce, or to provide access to, any relevant documents, goods, or other property for his or her inspection.

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 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 9. Expert Appointed by Arbitral Tribunal

Cal Code Civ Proc § 1297.262 (2008)

§ 1297.262. Participation in oral hearing

Unless otherwise agreed by the parties, if a party so requests or if the arbitral tribunal considers it necessary, the expert shall, after delivery of his or her written or oral report, participate in an oral hearing where the parties have the opportunity to question the expert and to present expert witnesses on the points at issue.

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 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 10. Court Assistance in Taking Evidence and Consolidating Arbitrations

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 5, Art. 10 Note (2008)

Pt. 3, Tit. 9.3, Ch. 5, Art. 10 Note

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 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 5. Manner and Conduct of Arbitration
 Article 10. Court Assistance in Taking Evidence and Consolidating Arbitrations

Cal Code Civ Proc § 1297.271 (2008)

§ 1297.271. Request for superior court assistance; Issuance of subpoenas

The arbitral tribunal, or a party with the approval of the arbitral tribunal, may request from the superior court assistance in taking evidence and the court may execute the request within its competence and according to its rules on taking evidence. In addition, a subpoena may issue as provided in Section 1282.6, in which case the witness compensation provisions of Section 1283.2 shall apply.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
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 Chapter 5. Manner and Conduct of Arbitration
 Article 10. Court Assistance in Taking Evidence and Consolidating Arbitrations

Cal Code Civ Proc § 1297.272 (2008)

§ 1297.272. Consolidation of arbitrations

Where the parties to two or more arbitration agreements have agreed, in their respective arbitration agreements or otherwise, to consolidate the arbitrations arising out of those arbitration agreements, the superior court may, on application by one party with the consent of all the other parties to those arbitration agreements, do one or more of the following:

- (a) Order the arbitrations to be consolidated on terms the court considers just and necessary.
- (b) Where all the parties cannot agree on an arbitral tribunal for the consolidated arbitration, appoint an arbitral tribunal in accordance with Section 1297.118.
- (c) Where all the parties cannot agree on any other matter necessary to conduct the consolidated arbitration, make any other order it considers necessary.

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 Part 3. Of Special Proceedings of a Civil Nature
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 Chapter 5. Manner and Conduct of Arbitration
 Article 10. Court Assistance in Taking Evidence and Consolidating Arbitrations

Cal Code Civ Proc § 1297.273 (2008)

§ 1297.273. Parties' agreement to consolidate

Nothing in this article shall be construed to prevent the parties to two or more arbitrations from agreeing to consolidate those arbitrations and taking any steps that are necessary to effect that consolidation.

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 Part 3. Of Special Proceedings of a Civil Nature
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 Chapter 6. Making of Arbitral Award and Termination of Proceedings

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 6 Note (2008)

Pt. 3, Tit. 9.3, Ch. 6 Note

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 Part 3. Of Special Proceedings of a Civil Nature
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 Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 1. Rules Applicable to Substance of Dispute

*Cal Code Civ Proc § 1297.281 (2008)***§ 1297.281. Decision in accordance with rules of law designated by parties as applicable**

The arbitral tribunal shall decide the dispute in accordance with the rules of law designated by the parties as applicable to the substance of the dispute.

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 Part 3. Of Special Proceedings of a Civil Nature
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 Article 1. Rules Applicable to Substance of Dispute

*Cal Code Civ Proc § 1297.282 (2008)***§ 1297.282. Designation by parties of law of state as reference to substantive law**

Any designation by the parties of the law or legal system of a given state shall be construed, unless otherwise expressed, as directly referring to the substantive law of that state and not to its conflict of laws rules.

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 Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 1. Rules Applicable to Substance of Dispute

*Cal Code Civ Proc § 1297.283 (2008)***§ 1297.283. Application of law by tribunal failing designation by parties**

Failing any designation of the law under Section 1297.282 by the parties, the arbitral tribunal shall apply the rules of law it considers to be appropriate given all the circumstances surrounding the dispute.

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 Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 1. Rules Applicable to Substance of Dispute

*Cal Code Civ Proc § 1297.284 (2008)***§ 1297.284. Decision by tribunal ex aequo et bono or as amiable compositeur**

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

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 Title 9.3. Arbitration and Conciliation of International Commercial Disputes

Cal Code Civ Proc § 1297.285

Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 1. Rules Applicable to Substance of Dispute

*Cal Code Civ Proc § 1297.285 (2008)***§ 1297.285. Decision in accordance with terms of contract; Usages of trade**

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 applicable to the transaction.

CODE OF CIVIL PROCEDURE

Part 3. Of Special Proceedings of a Civil Nature

Title 9.3. Arbitration and Conciliation of International Commercial Disputes

Chapter 6. Making of Arbitral Award and Termination of Proceedings

Article 2. Decisionmaking by Panel of Arbitrators

*Cal Code Civ Proc § 1297.291 (2008)***§ 1297.291. Decision by majority; Questions of procedure**

Unless otherwise agreed by the parties, in arbitral proceedings with more than one arbitrator, any decision of the arbitral tribunal shall be made by a majority of all of its members.

Notwithstanding this section, if authorized by the parties or all the members of the arbitral tribunal, questions of procedure may be decided by a presiding arbitrator.

CODE OF CIVIL PROCEDURE

Part 3. Of Special Proceedings of a Civil Nature

Title 9.3. Arbitration and Conciliation of International Commercial Disputes

Chapter 6. Making of Arbitral Award and Termination of Proceedings

Article 3. Settlement

*Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 6, Art. 3 Note (2008)***Pt. 3, Tit. 9.3, Ch. 6, Art. 3 Note**

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Part 3. Of Special Proceedings of a Civil Nature

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Article 3. Settlement

*Cal Code Civ Proc § 1297.301 (2008)***§ 1297.301. Encouragement of settlement**

It is not incompatible with an arbitration agreement for an arbitral tribunal to encourage settlement of the dispute and, with the agreement of the parties, the arbitral tribunal may use mediation, conciliation, or other procedures at any time during the arbitral proceedings to encourage settlement.

Cal Code Civ Proc § 1297.302

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 Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 3. Settlement

Cal Code Civ Proc § 1297.302 (2008)

§ 1297.302. Termination of proceedings on settlement; Recording of settlement as award on agreed terms

If, during arbitral proceedings, the parties settle the dispute, the arbitral tribunal shall terminate the proceedings and, if requested by the parties and not objected to by the arbitral tribunal, record the settlement in the form of an arbitral award on agreed terms.

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 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 3. Settlement

Cal Code Civ Proc § 1297.303 (2008)

§ 1297.303. Arbitral award on agreed terms

An arbitral award on agreed terms shall be made in accordance with Article 4 (commencing with Section 1297.311) of this chapter and shall state that it is an arbitral award.

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 Part 3. Of Special Proceedings of a Civil Nature
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 Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 3. Settlement

Cal Code Civ Proc § 1297.304 (2008)

§ 1297.304. Status and effect of arbitral award on agreed terms

An arbitral award on agreed terms has the same status and effect as any other arbitral award on the substance of the dispute.

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 Part 3. Of Special Proceedings of a Civil Nature
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 Chapter 6. Making of Arbitral Award and Termination of Proceedings
 Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 6, Art. 4 Note (2008)

Pt. 3, Tit. 9.3, Ch. 6, Art. 4 Note

Cal Code Civ Proc § 1297.311

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Chapter 6. Making of Arbitral Award and Termination of Proceedings
Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.311 (2008)

§ 1297.311. Writing; Signature

An arbitral award shall be made in writing and shall be signed by the members of the arbitral tribunal.

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Title 9.3. Arbitration and Conciliation of International Commercial Disputes
Chapter 6. Making of Arbitral Award and Termination of Proceedings
Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.312 (2008)

§ 1297.312. Signatures of majority of tribunal members; Statement of reason for omitted signature

For the purposes of Section 1297.311, in arbitral proceedings with more than one arbitrator, the signatures of the majority of all the members of the arbitral tribunal shall be sufficient so long as the reason for any omitted signature is stated.

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Part 3. Of Special Proceedings of a Civil Nature
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Chapter 6. Making of Arbitral Award and Termination of Proceedings
Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.313 (2008)

§ 1297.313. Statement of reasons on which award based

The arbitral award shall state the reasons upon which it is based, unless the parties have agreed that no reasons are to be given, or the award is an arbitral award on agreed terms under Article 3 (commencing with Section 1297.301) of this chapter.

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Chapter 6. Making of Arbitral Award and Termination of Proceedings
Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.314 (2008)

§ 1297.314. Statement of date and place of arbitration

The arbitral award shall state its date and the place of arbitration as determined in accordance with Article 3 (commencing with Section 1297.201) of Chapter 5 and the award shall be deemed to have been made at that place.

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Chapter 6. Making of Arbitral Award and Termination of Proceedings
Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.315 (2008)

§ 1297.315. Delivery to parties after signature

After the arbitral award is made, a signed copy shall be delivered to each party.

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Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.316 (2008)

§ 1297.316. Interim arbitral awards; Enforcement

The arbitral tribunal may, at any time during the arbitral proceedings, make an interim arbitral award on any matter with respect to which it may make a final arbitral award. The interim award may be enforced in the same manner as a final arbitral award.

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Chapter 6. Making of Arbitral Award and Termination of Proceedings
Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.317 (2008)

§ 1297.317. Award of interest

Unless otherwise agreed by the parties, the arbitral tribunal may award interest.

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Chapter 6. Making of Arbitral Award and Termination of Proceedings
Article 4. Form and Content of Arbitral Award

Cal Code Civ Proc § 1297.318 (2008)

§ 1297.318. Costs

(a) Unless otherwise agreed by the parties, the costs of an arbitration shall be at the discretion of the arbitral tribunal.

(b) In making an order for costs, the arbitral tribunal may include as costs any of the following:

- (1) The fees and expenses of the arbitrators and expert witnesses.
- (2) Legal fees and expenses.
- (3) Any administration fees of the institution supervising the arbitration, if any.
- (4) Any other expenses incurred in connection with the arbitral proceedings.

(c) In making an order for costs, the arbitral tribunal may specify any of the following:

- (1) The party entitled to costs.
- (2) The party who shall pay the costs.
- (3) The amount of costs or method of determining that amount.
- (4) The manner in which the costs shall be paid.

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Article 5. Termination of Proceedings

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 6, Art. 5 Note (2008)

Pt. 3, Tit. 9.3, Ch. 6, Art. 5 Note

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Article 5. Termination of Proceedings

Cal Code Civ Proc § 1297.321 (2008)

§ 1297.321. Manner of termination; Finality of award

The arbitral proceedings are terminated by the final arbitral award or by an order of the arbitral tribunal under Section 1297.322. The award shall be final upon the expiration of the applicable periods in Article 6 (commencing with Section 1297.331) of this chapter.

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Cal Code Civ Proc § 1297.322 (2008)

§ 1297.322. Issuance of order for termination

The arbitral tribunal shall issue an order for the termination of the arbitral proceedings where any of the following occurs:

- (a) The claimant withdraws his or her claim, unless the respondent objects to the order and the arbitral tribunal recognizes a legitimate interest on the respondent's part in obtaining a final settlement of the dispute.
- (b) The parties agree on the termination of the proceedings.
- (c) The arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

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Cal Code Civ Proc § 1297.323 (2008)

§ 1297.323. Termination of tribunal's mandate

Subject to Article 6 (commencing with Section 1297.331) of this chapter, the mandate of the arbitral tribunal terminates with the termination of the arbitral proceedings.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 6, Art. 6 Note (2008)

Pt. 3, Tit. 9.3, Ch. 6, Art. 6 Note

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Cal Code Civ Proc § 1297.331 (2008)

§ 1297.331. Request for correction of errors; Request for interpretation

Within 30 days after receipt of the arbitral award, unless another period of time has been agreed upon by the parties:

- (a) A party may request the arbitral tribunal to correct in the arbitral award any computation errors, any clerical or typographical errors, or any other errors of a similar nature.

(b) A party may, if agreed by the parties, request the arbitral tribunal to give an interpretation of a specific point or part of the arbitral award.

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Cal Code Civ Proc § 1297.332 (2008)

§ 1297.332. Making of correction or giving of interpretation

If the arbitral tribunal considers any request made under Section 1297.331 to be justified, it shall make the correction or give the interpretation within 30 days after receipt of the request and the interpretation shall form part of the arbitral award.

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Cal Code Civ Proc § 1297.333 (2008)

§ 1297.333. Tribunal's correction of error on own initiative

The arbitral tribunal may correct any error of the type referred to in subdivision (a) of Section 1297.331, on its own initiative, within 30 days after the date of the arbitral award.

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Cal Code Civ Proc § 1297.334 (2008)

§ 1297.334. Request for additional arbitral award

Unless otherwise agreed by the parties, a party may request, within 30 days after receipt of the arbitral award, the arbitral tribunal to make an additional arbitral award as to the claims presented in the arbitral proceedings but omitted from the arbitral award.

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*Cal Code Civ Proc § 1297.335 (2008)***§ 1297.335. Making of additional arbitral award**

If the arbitral tribunal considers any request made under Section 1297.334 to be justified, it shall make the additional arbitral award within 60 days after receipt of the request.

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*Cal Code Civ Proc § 1297.336 (2008)***§ 1297.336. Extension of time**

The arbitral tribunal may extend, if necessary, the period of time within which it shall make a correction, give an interpretation, or make an additional arbitral award under Section 1297.331 or 1297.334.

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*Cal Code Civ Proc § 1297.337 (2008)***§ 1297.337. Form and content of correction, interpretation or additional award**

Article 4 (commencing with Section 1297.311) of this chapter applies to a correction or interpretation of the arbitral award or to an additional arbitral award made under this section.

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 Part 3. Of Special Proceedings of a Civil Nature
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 Article 1. Appointment of Conciliators

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 7, Art. 1 Note (2008)

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Cal Code Civ Proc § 1297.341 (2008)

§ 1297.341. State policy; Selection of conciliators

It is the policy of the State of California to encourage parties to an international commercial agreement or transaction which qualifies for arbitration or conciliation pursuant to Section 1297.13, to resolve disputes arising from such agreements or transactions through conciliation. The parties may select or permit an arbitral tribunal or other third party to select one or more persons to serve as the conciliator or conciliators who shall assist the parties in an independent and impartial manner in their attempt to reach an amicable settlement of their dispute.

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 Chapter 7. Conciliation
 Article 1. Appointment of Conciliators

Cal Code Civ Proc § 1297.342 (2008)

§ 1297.342. Principles guiding conciliators

The conciliator or conciliators shall be guided by principles of objectivity, fairness, and justice, giving consideration to, among other things, the rights and obligations of the parties, the usages of the trade concerned and the circumstances surrounding the dispute, including any previous practices between the parties.

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 Article 1. Appointment of Conciliators

Cal Code Civ Proc § 1297.343 (2008)

§ 1297.343. Conduct of conciliation proceedings; Application of other provisions

The conciliator or conciliators may conduct the conciliation proceedings in such a manner as they consider appropriate, taking into account the circumstances of the case, the wishes of the parties, and the desirability of a speedy settlement of the dispute. Except as otherwise provided in this title, other provisions of this code, the Evidence Code, or the California Rules of Court, shall not apply to conciliation proceedings brought under this title.

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 Chapter 7. Conciliation
 Article 2. Representation and Assistance

Cal Code Civ Proc § 1297.351 (2008)

§ 1297.351. Appearance; Representation

The parties may appear in person or be represented or assisted by any person of their choice. A person assisting or representing a party need not be a member of the legal profession or licensed to practice law in California.

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 Article 3. Report of Conciliators

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 7, Art. 3 Note (2008)

Pt. 3, Tit. 9.3, Ch. 7, Art. 3 Note

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 Chapter 7. Conciliation
 Article 3. Report of Conciliators

Cal Code Civ Proc § 1297.361 (2008)

§ 1297.361. Preparation of draft conciliation settlement

At any time during the proceedings, the conciliator or conciliators may prepare a draft conciliation settlement which may include the assessment and apportionment of costs between the parties, and send copies to the parties, specifying the time within which they must signify their approval.

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 Chapter 7. Conciliation
 Article 3. Report of Conciliators

Cal Code Civ Proc § 1297.362 (2008)

§ 1297.362. Acceptance of settlement

No party may be required to accept any settlement proposed by the conciliator or conciliators.

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 Chapter 7. Conciliation
 Article 4. Confidentiality

Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 7, Art. 4 Note (2008)

Pt. 3, Tit. 9.3, Ch. 7, Art. 4 Note

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature

Cal Code Civ Proc § 1297.371

Title 9.3. Arbitration and Conciliation of International Commercial Disputes
 Chapter 7. Conciliation
 Article 4. Confidentiality

*Cal Code Civ Proc § 1297.371 (2008)***§ 1297.371. Admissibility of evidence, admissions or documents; Compelled disclosure**

When persons agree to participate in conciliation under this title:

(a) Evidence of anything said or of any admission made in the course of the conciliation is not admissible in evidence, and disclosure of any such evidence shall not be compelled, in any civil action in which, pursuant to law, testimony may be compelled to be given. However, this subdivision does not limit the admissibility of evidence if all parties participating in conciliation consent to its disclosure.

(b) In the event that any such evidence is offered in contravention of this section, the arbitration tribunal or the court shall make any order which it considers to be appropriate to deal with the matter, including, without limitation, orders restricting the introduction of evidence, or dismissing the case without prejudice.

(c) Unless the document otherwise provides, no document prepared for the purpose of, or in the course of, or pursuant to, the conciliation, or any copy thereof, is admissible in evidence, and disclosure of any such document shall not be compelled, in any arbitration or civil action in which, pursuant to law, testimony may be compelled to be given.

CODE OF CIVIL PROCEDURE

Part 3. Of Special Proceedings of a Civil Nature

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Article 5. Stay of Arbitration and Resort to Other Proceedings

*Cal Code Civ Proc § 1297.381 (2008)***§ 1297.381. Agreement of parties to submit to conciliation deemed agreement to stay proceedings**

The agreement of the parties to submit a dispute to conciliation shall be deemed an agreement between or among those parties to stay all judicial or arbitral proceedings from the commencement of conciliation until the termination of conciliation proceedings.

CODE OF CIVIL PROCEDURE

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Chapter 7. Conciliation

Article 5. Stay of Arbitration and Resort to Other Proceedings

*Cal Code Civ Proc § 1297.382 (2008)***§ 1297.382. Tolling or extension of limitations periods; Commencement of conciliation proceedings**

All applicable limitation periods including periods of prescription shall be tolled or extended upon the commencement of conciliation proceedings to conciliate a dispute under this title and all limitation periods shall remain tolled and periods of prescription extended as to all parties to the conciliation proceedings until the 10th day following the termination of conciliation proceedings. For purposes of this article, conciliation proceedings are deemed to have commenced as soon as (a) a party has requested conciliation of a particular dispute or disputes, and (b) the other party or parties agree to participate in the conciliation proceeding.

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Cal Code Civ Proc Pt. 3, Tit. 9.3, Ch. 7, Art. 6 Note (2008)

Pt. 3, Tit. 9.3, Ch. 7, Art. 6 Note

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Cal Code Civ Proc § 1297.391 (2008)

§ 1297.391. Methods of termination as to all parties

The conciliation proceedings may be terminated as to all parties by any of the following:

- (a) A written declaration of the conciliator or conciliators, after consultation with the parties, to the effect that further efforts at conciliation are no longer justified, on the date of the declaration.
- (b) A written declaration of the parties addressed to the conciliator or conciliators to the effect that the conciliation proceedings are terminated, on the date of the declaration.
- (c) The signing of a settlement agreement by all of the parties, on the date of the agreement.

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 Article 6. Termination

Cal Code Civ Proc § 1297.392 (2008)

§ 1297.392. Methods of termination as to particular parties

The conciliation proceedings may be terminated as to particular parties by either of the following:

- (a) A written declaration of a party to the other party and the conciliator or conciliators, if appointed, to the effect that the conciliation proceedings shall be terminated as to that particular party, on the date of the declaration.
- (b) The signing of a settlement agreement by some of the parties, on the date of the agreement.

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 Chapter 7. Conciliation
 Article 6. Termination

*Cal Code Civ Proc § 1297.393 (2008)***§ 1297.393. Conciliator's appointment as arbitrator or participation in arbitral proceedings**

No person who has served as conciliator may be appointed as an arbitrator for, or take part in any arbitral or judicial proceedings in, the same dispute unless all parties manifest their consent to such participation or the rules adopted for conciliation or arbitration otherwise provide.

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Article 6. Termination

*Cal Code Civ Proc § 1297.394 (2008)***§ 1297.394. Waiver of rights or remedies by submission to conciliation**

By submitting to conciliation, no party shall be deemed to have waived any rights or remedies which that party would have had if conciliation had not been initiated, other than those set forth in any settlement agreement which results from the conciliation.

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Chapter 7. Conciliation
Article 7. Enforceability of Decree

*Cal Code Civ Proc § 1297.401 (2008)***§ 1297.401. Force and effect of written conciliation agreement**

If the conciliation succeeds in settling the dispute, and the result of the conciliation is reduced to writing and signed by the conciliator or conciliators and the parties or their representatives, the written agreement shall be treated as an arbitral award rendered by an arbitral tribunal duly constituted in and pursuant to the laws of this state, and shall have the same force and effect as a final award in arbitration.

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Article 8. Costs

*Cal Code Civ Proc § 1297.411 (2008)***§ 1297.411. Fixing of costs by conciliator; Written notice to parties; "Costs"**

Upon termination of the conciliation proceedings, the conciliator shall fix the costs of the conciliation and give written notice thereof to the parties. As used in this article, "costs" includes only the following:

- (a) A reasonable fee to be paid to the conciliator or conciliators.
- (b) The travel and other reasonable expenses of the conciliator or conciliators.
- (c) The travel and other reasonable expenses of witnesses requested by the conciliator or conciliators with the consent of the parties.
- (d) The cost of any expert advice requested by the conciliator or conciliators with the consent of the parties.
- (e) The cost of any court.

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 Article 8. Costs

Cal Code Civ Proc § 1297.412 (2008)

§ 1297.412. Apportionment of costs; Expenses incurred by party

These costs shall be borne equally by the parties unless the settlement agreement provides for a different apportionment. All other expenses incurred by a party shall be borne by that party.

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 Article 9. Effect on Jurisdiction

Cal Code Civ Proc § 1297.421 (2008)

§ 1297.421. Conciliation not deemed consent to jurisdiction of court on failure of conciliation

Neither the request for conciliation, the consent to participate in the conciliation proceedings, the participation in such proceedings, nor the entering into a conciliation agreement or settlement shall be deemed as consent to the jurisdiction of any court in this state in the event conciliation fails.

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 Chapter 7. Conciliation
 Article 10. Immunity of Conciliators and Parties

Cal Code Civ Proc § 1297.431 (2008)

§ 1297.431. Immunity from service of process

Neither the conciliator or conciliators, the parties, nor their representatives shall be subject to service of process on any civil matter while they are present in this state for the purpose of arranging for or participating in conciliation pursuant to this title.

Cal Code Civ Proc § 1297.432

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 Article 10. Immunity of Conciliators and Parties

Cal Code Civ Proc § 1297.432 (2008)

§ 1297.432. Immunity from liability for damages

No person who serves as a conciliator shall be held liable in an action for damages resulting from any act or omission in the performance of his or her role as a conciliator in any proceeding subject to this title.

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.4. Real Estate Contract Arbitration

Cal Code Civ Proc Pt. 3, Tit. 9.4 Note (2008)

Pt. 3, Tit. 9.4 Note

CODE OF CIVIL PROCEDURE
 Part 3. Of Special Proceedings of a Civil Nature
 Title 9.4. Real Estate Contract Arbitration

Cal Code Civ Proc § 1298 (2009)

§ 1298. Provision in contract; Notice to precede indication of assent or nonassent; Escrow

(a) Whenever any contract to convey real property, or contemplated to convey real property in the future, including marketing contracts, deposit receipts, real property sales contracts as defined in *Section 2985 of the Civil Code*, leases together with options to purchase, or ground leases coupled with improvements, but not including powers of sale contained in deeds of trust or mortgages, contains a provision for binding arbitration of any dispute between the principals in the transaction, the contract shall have that provision clearly titled "ARBITRATION OF DISPUTES."

If a provision for binding arbitration is included in a printed contract, it shall be set out in at least 8-point bold type or in contrasting red in at least 8-point type, and if the provision is included in a typed contract, it shall be set out in capital letters.

(b) Whenever any contract or agreement between principals and agents in real property sales transactions, including listing agreements, as defined in *Section 1086 of the Civil Code*, contains a provision requiring binding arbitration of any dispute between the principals and agents in the transaction, the contract or agreement shall have that provision clearly titled "ARBITRATION OF DISPUTES."

If a provision for binding arbitration is included in a printed contract, it shall be set out in at least 8-point bold type or in contrasting red in at least 8-point type, and if the provision is included in a typed contract, it shall be set out in capital letters.

(c) Immediately before the line or space provided for the parties to indicate their assent or nonassent to the arbitration provision described in subdivision (a) or (b), and immediately following that arbitration provision, the following shall appear:

"NOTICE: BY INITIALLING IN THE SPACE BELOW YOU ARE AGREEING TO HAVE ANY DISPUTE ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION DECIDED BY NEUTRAL ARBITRATION AS PROVIDED BY CALIFORNIA LAW AND YOU ARE GIVING UP ANY

RIGHTS YOU MIGHT POSSESS TO HAVE THE DISPUTE LITIGATED IN A COURT OR JURY TRIAL. BY INITIALLING IN THE SPACE BELOW YOU ARE GIVING UP YOUR JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION. IF YOU REFUSE TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, YOU MAY BE COMPELLED TO ARBITRATE UNDER THE AUTHORITY OF THE CALIFORNIA CODE OF CIVIL PROCEDURE. YOUR AGREEMENT TO THIS ARBITRATION PROVISION IS VOLUNTARY."

"WE HAVE READ AND UNDERSTAND THE FOREGOING AND AGREE TO SUBMIT DISPUTES ARISING OUT OF THE MATTERS INCLUDED IN THE 'ARBITRATION OF DISPUTES' PROVISION TO NEUTRAL ARBITRATION."

If the above provision is included in a printed contract, it shall be set out either in at least 10-point bold type or in contrasting red print in at least 8-point bold type, and if the provision is included in a typed contract, it shall be set out in capital letters.

(d) Nothing in this section shall be construed to diminish the authority of any court of competent jurisdiction with respect to real property transactions in areas involving court supervision or jurisdiction, including, but not limited to, probate, marital dissolution, foreclosure of liens, unlawful detainer, or eminent domain.

(e) In the event an arbitration provision is contained in an escrow instruction, it shall not preclude the right of an escrowholder to institute an interpleader action.

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Part 3. Of Special Proceedings of a Civil Nature
Title 9.4. Real Estate Contract Arbitration

Cal Code Civ Proc § 1298.5 (2009)

§ 1298.5. Waiver of rights by recording of notice of pending action

Any party to an action who proceeds to record a notice of pending action pursuant to Section 409 shall not thereby waive any right of arbitration which that person may have pursuant to a written agreement to arbitrate, nor any right to petition the court to compel arbitration pursuant to Section 1281.2, if, in filing an action to record that notice, the party at the same time presents to the court an application that the action be stayed pending the arbitration of any dispute which is claimed to be arbitrable and which is relevant to the action.

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Title 9.4. Real Estate Contract Arbitration

Cal Code Civ Proc § 1298.7 (2008)

§ 1298.7. Effect of arbitration provision on other causes of action

In the event an arbitration provision is included in a contract or agreement covered by this title it shall not preclude or limit any right of action for bodily injury or wrongful death, or any right of action to which Section 337.1 or 337.15 is applicable.

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Title 9.4. Real Estate Contract Arbitration

Cal Code Civ Proc § 1298.8 (2008)

§ 1298.8. Operation and application of title

This title shall become operative on July 1, 1989, and shall only apply to contracts or agreements entered into on or after that date.

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.5. Arbitration of Firefighter and Law Enforcement Officer Labor Disputes

Cal Code Civ Proc Pt. 3, Tit. 9.5 Note (2008)

Pt. 3, Tit. 9.5 Note

CODE OF CIVIL PROCEDURE
Part 3. Of Special Proceedings of a Civil Nature
Title 9.5. Arbitration of Firefighter and Law Enforcement Officer Labor Disputes

Cal Code Civ Proc § 1299 (2008)

§ 1299. Legislative findings and declarations; Intent

The Legislature hereby finds and declares that strikes taken by firefighters and law enforcement officers against public employers are a matter of statewide concern, are a predictable consequence of labor strife and poor morale that is often the outgrowth of substandard wages and benefits, and are not in the public interest. The Legislature further finds and declares that the dispute resolution procedures contained in this title provide the appropriate method for resolving public sector labor disputes that could otherwise lead to strikes by firefighters or law enforcement officers.

It is the intent of the Legislature to protect the health and welfare of the public by providing impasse remedies necessary to afford public employers the opportunity to safely alleviate the effects of labor strife that would otherwise lead to strikes by firefighters and law enforcement officers. It is further the intent of the Legislature that, in order to effectuate its predominant purpose, this title be construed to apply broadly to all public employers, including, but not limited to, charter cities, counties, and cities and counties in this state.

It is not the intent of the Legislature to alter the scope of issues subject to collective bargaining between public employers and employee organizations representing firefighters or law enforcement officers.

The provisions of this title are intended by the Legislature to govern the resolution of impasses reached in collective bargaining between public employers and employee organizations representing firefighters and law enforcement officers over economic issues that remain in dispute over their respective interests. However, the provisions of this title are not intended by the Legislature to be used as a procedure to determine the rights of any firefighter or law enforcement officer in any grievance initiated as a result of a disciplinary action taken by any public employer. The Legislature further intends that this title shall not apply to any law enforcement policy that pertains to how law enforcement officers interact with members of the public or pertains to police-community relations, such as policies on the use of police powers, enforcement priorities and practices, or supervision, oversight, and accountability covering officer behavior toward members of the public, to any community-oriented policing policy or to any process employed by an employer to investigate firefighter or law enforcement officer behavior that could lead to discipline against any firefighter or law enforcement officer, nor to contravene any provision of a charter that governs an employer that is a city, county, or city and county, which provision prescribes a procedure for the imposition of any disciplinary action taken against a firefighter or law enforcement officer.

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Part 3. Of Special Proceedings of a Civil Nature

Cal Code Civ Proc § 1299.2

Title 9.5. Arbitration of Firefighter and Law Enforcement Officer Labor Disputes

*Cal Code Civ Proc § 1299.2 (2008)***§ 1299.2. Application of title**

This title shall apply to all employers of firefighters and law enforcement officers.

CODE OF CIVIL PROCEDURE

Part 3. Of Special Proceedings of a Civil Nature

Title 9.5. Arbitration of Firefighter and Law Enforcement Officer Labor Disputes

*Cal Code Civ Proc § 1299.3 (2008)***§ 1299.3. Definitions**

As used in this title:

(a) "Employee" means any firefighter or law enforcement officer represented by an employee organization, as defined in subdivision (b).

(b) "Employee organization" means any organization recognized by the employer for the purpose of representing firefighters or law enforcement officers in matters relating to wages, hours, and other terms and conditions of employment within the scope of arbitration.

(c) "Employer" means any local agency employing employees, as defined in subdivision (a), or any entity, except the State of California, acting as an agent of any local agency, either directly or indirectly.

(d) "Firefighter" means any person who is employed to perform firefighting, fire prevention, fire training, hazardous materials response, emergency medical services, fire or arson investigation, or any related duties, without respect to the rank, job title, or job assignment of that person.

(e) "Law enforcement officer" means any person who is a peace officer, as defined in Section 830.1 of, subdivisions (b) and (d) of Section 830.31 of, subdivisions (a), (b), and (c) of Section 830.32 of, subdivisions (a), (b), and (d) of Section 830.33 of, subdivisions (a) and (b) of Section 830.35 of, subdivision (a) of Section 830.5 of, and subdivision (a) of *Section 830.55 of, the Penal Code*, without respect to the rank, job title, or job assignment of that person.

(f) "Local agency" means any governmental subdivision, district, public and quasi-public corporation, joint powers agency, public agency or public service corporation, town, city, county, city and county, or municipal corporation, whether incorporated or not or whether chartered or not.

(g) "Scope of arbitration" means economic issues, including salaries, wages and overtime pay, health and pension benefits, vacation and other leave, reimbursements, incentives, differentials, and all other forms of remuneration. The scope of arbitration shall not include any issue that is protected by what is commonly referred to as the "management rights" clause contained in *Section 3504 of the Government Code*. Notwithstanding the foregoing, any employer that is not exempt under Section 1299.9 may supersede this subdivision by adoption of an ordinance that establishes a broader definition of "scope of arbitration."

CODE OF CIVIL PROCEDURE

Part 3. Of Special Proceedings of a Civil Nature

Title 9.5. Arbitration of Firefighter and Law Enforcement Officer Labor Disputes

*Cal Code Civ Proc § 1299.4 (2009)***§ 1299.4. Basis for request to submit to arbitration; Panel members; Strikes; Employer's duties**

Cal Code Civ Proc § 1299.4

(a) If an impasse has been declared after the parties have exhausted their mutual efforts to reach agreement over matters within the scope of arbitration, and the parties are unable to agree to the appointment of a mediator, or if a mediator agreed to by the parties is unable to effect settlement of a dispute between the parties after his or her appointment, the employee organization may, by written notification to the employer, request that their differences be submitted to an arbitration panel.

(b) Within three days after receipt of the written notification, each party shall designate a person to serve as its member of an arbitration panel. Within five days thereafter, or within additional periods to which they mutually agree, the two members of the arbitration panel appointed by the parties shall designate an impartial person with experience in labor and management dispute resolution to act as chairperson of the arbitration panel.

(c) In the event that the parties are unable or unwilling to agree upon a third person to serve as chairperson, the two members of the arbitration panel shall jointly request from the American Arbitration Association a list of seven impartial and experienced persons who are familiar with matters of employer-employee relations. The two panel members may as an alternative, jointly request a list of seven names from the California State Mediation and Conciliation Service, or a list from either entity containing more or less than seven names, so long as the number requested is an odd number. If after five days of receipt of the list, the two panel members cannot agree on which of the listed persons shall serve as chairperson, they shall, within two days, alternately strike names from the list, with the first panel member to strike names being determined by lot. The last person whose name remains on the list shall be chairperson.

(d) Employees as defined by this chapter shall not be permitted to engage in strikes that endanger public safety.

(e) No employer shall interfere with, intimidate, restrain, coerce, or discriminate against an employee organization or employee because of an exercise of rights under this title.

(f) No employer shall refuse to meet and confer or condition agreement upon a memorandum of understanding based upon an employee organization's exercise of rights under this title.

CODE OF CIVIL PROCEDURE

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Title 9.5. Arbitration of Firefighter and Law Enforcement Officer Labor Disputes

*Cal Code Civ Proc § 1299.5 (2008)***§ 1299.5. Meeting of arbitration panel; Powers**

(a) The arbitration panel shall, within 10 days after its establishment or any additional periods to which the parties agree, meet with the parties or their representatives, either jointly or separately, make inquiries and investigations, hold hearings, and take any other action including further mediation, that the arbitration panel deems appropriate.

(b) For the purpose of its hearings, investigations, or inquiries, the arbitration panel may subpoena witnesses, administer oaths, take the testimony of any person, and issue subpoenas duces tecum to require the production and examination of any employer's or employee organization's records, books, or papers relating to any subject matter before the panel.

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*Cal Code Civ Proc § 1299.6 (2009)***§ 1299.6. Procedures**

(a) The arbitration panel shall direct that five days prior to the commencement of its hearings, each of the parties shall submit the last best offer of settlement as to each of the issues within the scope of arbitration, as defined in this

title, made in bargaining as a proposal or counterproposal and not previously agreed to by the parties prior to any arbitration request made pursuant to subdivision (a) of Section 1299.4. The arbitration panel, within 30 days after the conclusion of the hearing, or any additional period to which the parties agree, shall separately decide on each of the disputed issues submitted by selecting, without modification, the last best offer that most nearly complies with the applicable factors described in subdivision (c). This subdivision shall be applicable except as otherwise provided in subdivision (b).

(b) Notwithstanding the terms of subdivision (a), the parties by mutual agreement may elect to submit as a package the last best offer of settlement made in bargaining as a proposal or counterproposal on those issues within the scope of arbitration, as defined in this title, not previously agreed to by the parties prior to any arbitration request made pursuant to subdivision (a) of Section 1299.4. The arbitration panel, within 30 days after the conclusion of the hearing, or any additional period to which the parties agree, shall decide on the disputed issues submitted by selecting, without modification, the last best offer package that most nearly complies with the applicable factors described in subdivision (c).

(c) The arbitration panel, unless otherwise agreed to by the parties, shall limit its findings to issues within the scope of arbitration and shall base its findings, opinions, and decisions upon those factors traditionally taken into consideration in the determination of those matters within the scope of arbitration, including but not limited to the following factors, as applicable:

- (1)** The stipulations of the parties.
- (2)** The interest and welfare of the public.
- (3)** The financial condition of the employer and its ability to meet the costs of the award.
- (4)** The availability and sources of funds to defray the cost of any changes in matters within the scope of arbitration.
- (5)** Comparison of matters within the scope of arbitration of other employees performing similar services in corresponding fire or law enforcement employment.
- (6)** The average consumer prices for goods and services, commonly known as the Consumer Price Index.
- (7)** The peculiarity of requirements of employment, including, but not limited to, mental, physical, and educational qualifications; job training and skills; and hazards of employment.
- (8)** Changes in any of the foregoing that are traditionally taken into consideration in the determination of matters within the scope of arbitration.

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Cal Code Civ Proc § 1299.7 (2009)

§ 1299.7. Disclosure of decision; When binding; Right of employer to reject decision

(a) The arbitration panel shall mail or otherwise deliver a copy of the decision to the parties. However, the decision of the arbitration panel shall not be publicly disclosed, and shall not be binding, for a period of five days after service to the parties. During that five-day period, the parties may meet privately, attempt to resolve their differences and, by mutual agreement, amend or modify the decision of the arbitration panel.

(b) At the conclusion of the five-day period, which may be extended by the parties, the arbitration panel's decision, as may be amended or modified by the parties pursuant to subdivision (a), shall be publicly disclosed and, unless the governing body acts in accordance with subdivision (c), shall be binding on all parties, and, if specified by the arbitration panel, be incorporated into and made a part of any existing memorandum of understanding as defined in *Section 3505.1 of the Government Code*.

(c) The employer may by unanimous vote of all the members of the governing body reject the decision of the arbitration panel, except as specifically provided to the contrary in a city, county, or city and county charter with respect to the rejection of an arbitration award.

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Cal Code Civ Proc § 1299.8 (2008)

§ 1299.8. Applicable provisions

Unless otherwise provided in this title, Title 9 (commencing with Section 1280) shall be applicable to any arbitration proceeding undertaken pursuant to this title.

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Cal Code Civ Proc § 1299.9 (2008)

§ 1299.9. Applicability of title; Costs

(a) The provisions of this title shall not apply to any employer that is a city, county, or city and county, governed by a charter that was amended prior to January 1, 2004, to incorporate a procedure requiring the submission of all unresolved disputes relating to wages, hours, and other terms and conditions of employment within the scope of arbitration to an impartial and experienced neutral person or panel for final and binding determination, provided however that the charter amendment is not subsequently repealed or amended in a form that would no longer require the submission of all unresolved disputes relating to wages, hours, and other terms and conditions of employment within the scope of arbitration to an impartial and experienced neutral person or panel, for final and binding determination.

(b) Unless otherwise agreed to by the parties, the costs of the arbitration proceeding and the expenses of the arbitration panel, except those of the employer representative, shall be borne by the employee organization.