



American Arbitration Association  
*Dispute Resolution Services Worldwide*

Kathryn A. Stifter  
Director

OFFICE OF  
APPELLATE COURTS

67-74-#5550

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August 8, 2002

Hon. Paul H. Anderson  
Minnesota Supreme Court  
Minnesota Judicial Center  
25 Constitution Ave.  
St. Paul, MN 55155

Dear Justice Anderson:

Enclosed is the No-fault Standing Committee's Petition to Amend the No-fault Arbitration Rules and the attached Appendix A. Two members of the Committee are prepared to make a brief oral presentation before the Court at its September 12, 2002 meeting at 9AM.

Also enclosed are eight copies of the 2001 No-fault Report. I will be present on September 12 to answer any questions regarding the report and the administration of the no-fault arbitration process.

Please call me if there is anything further I can provide.

Very Truly Yours,

Kathryn A. Stifter  
Director

KAS/s  
Cc: John Simonett, Committee Chair

In the Matter of the Proposed Amendments to the  
Minnesota No-fault Arbitration Rules

C7-74-45550

**PETITION**

TO: THE SUPREME COURT OF THE STATE OF MINNESOTA

The Standing Committee on No-Fault Arbitration does hereby Petition the Court to amend the No-Fault Rules as follows:

**The first sentence of Rule 10 is amended to read:**

Every member of the panel shall be a licensed attorney at law of this state or a retired attorney or judge in good standing, and each member shall meet the requirements set forth in the Standing Committee's Policy Statement.

**Proposed amendment to Rule 40 (b)**

If the AAA is notified of a settlement or a withdrawal of a claim at any time up to 24 hours prior to the scheduled hearing, but after the appointment of the arbitrator, the arbitrator's fee shall be ~~the sum of~~ \$50.00. If the AAA is notified of settlement or a withdrawal of a claim 24 hours or less prior to the scheduled hearing, the arbitrator's fee shall be \$300.00. Unless the parties agree otherwise, the fee in a settlement shall be assessed equally to the parties and the fee in a withdrawal shall be borne by claimant.

**Proposed amendment to Rule 42**

~~The expenses of witnesses for either side shall be paid by the party producing such witnesses. All expenses of the arbitration, including required travel and other expenses of the arbitrator, AAA representatives, any witness and the cost of any proof produced at the direct request of the arbitrator, shall be borne equally by the parties, unless they agree otherwise or unless the arbitrator in the award assess such expenses or any part thereof against any specified party or parties. Generally each side should pay their own expenses. An arbitrator does, however, have the discretion to direct a party or parties to pay expenses as part of an award.~~

WHEREFORE, Petitioner respectfully requests that the Court grant the relief requested. Attached hereto is Appendix A, a commentary on the proposed amendments.

The Standing Committee on No-Fault Arbitration

DATED: August 8, 2002

BY: \_\_\_\_\_

  
Committee Chair

### **Comment to Rule 10 Amendment**

The Policy Statement, effective January 1, 2003, requires for qualification as an arbitrator: (1) at least 5 years in practice in this state; (2) at least one-third of the attorney's practice is with auto insurance claims or, for an attorney not actively representing clients, at least one-third of an ADR practice is with motor vehicle claims or no-fault matters; (3) completion of the AAA training program prior to appointment to the panel; (4) at least three CLE hours on no-fault issues within their reporting period; and (5) arbitrators will be required to be re-certified each year, confirming at the time of re-certification that they continue to meet the above requirements.

The Committee has instituted a training program for no-fault arbitrators to provide for compliance in subparagraph (3) above.

### **Comment to Rule 40(b) Amendment**

This amendment calls for payment of an arbitrator's fee when a claim is withdrawn before a hearing, as well as when the claim is settled prior to the hearing. Unless the parties agree otherwise, the fee is assessed equally to the parties; if the claim is withdrawn, the claimant pays.

### **Comment to Rule 42 Amendment**

The current rule on payment of expenses is stricken. The proposed amendment is essentially the same, but is shorter and more clear.



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TO: Minnesota Supreme Court

FROM: Kathryn A. Stifter

RE: 2001 No-fault Report

DATE: August 8, 2002

The American Arbitration Association (AAA) respectfully submits this report to the Supreme Court of the State of Minnesota. The AAA has served the Court by administering over 50,000 no-fault cases in Minnesota since the inception of the program in 1975. Below is a statistical analysis of the claims submitted to the AAA in calendar year 2001 and the previous two years. Annual filings continue to be high. In calendar year 2001 there were 4571 claims filed as compared with 4766 claims in 2000 and 4400 in 1999.

Disposition of the claims filed for each of the three calendar years, as of July 1, 2002, is as follows:

### Case Statistics

<u>Year</u>	<u>2001</u>	<u>2000</u>	<u>1999</u>
Number of Cases Filed	4571	4766	4400
Settled prior to hearing	43%	47%	44%
Proceeded to a hearing	44%	49%	51%
Withdrawn prior to hearing	3%	3%	4%
Closed administratively	< 1%	1%	1%
Cases pending	9%	<1%	< 1%

In other words, 87% of the claims filed in 2001 were disposed of by settlement or hearing either within the calendar year filed or within six months thereafter.

## Award Study

Each year the AAA has conducted a random survey of 100 cases decided during that year. Claim amounts in the cases surveyed in 2001 ranged from \$195.00 to \$22,986.00 and amounts awarded ranged from \$0 to \$13,864. This survey of 100 cases chosen at random is solely for illustrative purposes and does not purport to provide any overall statistical representation but does suggest a certain consistency in results.

Below are the figures for the past three years:

<u>Year</u>	<u>2001</u>	<u>2000</u>	<u>1999</u>
Average claim	\$8,091.92	\$7,352.86	\$6,942.06
Average award	\$4,833.51	\$4,289.24	\$4,438.41
Claim awarded in entirety	12%	16%	19%
Claim denied in entirety	8%	13%	15%

## Standing Committee

The No-fault Standing Committee meets four times a year to address various issues and concerns brought by members of the bar and other participants in the no-fault system. In 2001, the Standing Committee took the important step to formalize procedures to respond to complaints regarding a no-fault arbitrator's conduct. Although few cases of misconduct occur, the new policy strengthens public confidence in the no-fault arbitration system.

The members of the 2001 Standing Committee are listed here:

John E. Simonett, Chair  
John Patrick Brendel  
Michael Fargione  
Wilbur Fluegel  
Michael LaFontaine  
Mary Leahy

Joseph Lyons-Leoni  
Marianne Settano  
Eugene Shermoen Jr.  
William Strifert  
Michael Tewksbury  
Richard Tousignant

## Panel Nominees

The Standing Committee approved the following individuals as no-fault arbitrators during 2001. They are herewith submitted to the Court for final approval to the Minnesota No-fault Panel of Arbitrators:

Colleen Askvig  
Matthew Brenengen  
Cassandra Ward Brown  
Richard Carlson Jr.  
Jeffrey Hanson  
Jeffrey A. Hassan  
Michael Johnson  
Jeffrey Jones  
Timothy Jung  
Diane McGann  
Daniel McNerny  
Roger Nierengarten

Cameron M. Parkhurst  
Bradley Ratgen  
Dean Salita  
Carl D. Schway  
John D. Scott  
Mark A. Smith  
Steven J. Terry  
Christopher R. Walsh  
Allen Webb  
Robert E. Wilson  
Markus C. Yira