

# COOK COUNTY MANDATORY ARBITRATION ARBITRATOR REFRESHER TRAINING

- 1:00 – 1:05 Mandatory Arbitration in Illinois – Judge James Snyder**  
Applicable Statutes, Supreme Court Rules and Circuit Court Rules
- 1:05 – 1:15 Your Role as an Arbitrator Judge Catherine Schneider**  
Judge Schneider will address arbitrator conduct and expectations under the Illinois Code of Judicial Conduct, including in cases involving LEP litigants and self represented parties
- 1:15 – 1:35 The Arbitration Hearing – Judge Catherine Schneider**  
Using a Mock Arbitration Scenario, Judge Schneider will cover pre-hearing steps, motions during hearing, what to do in certain specific cases involving admitted negligence, prove up, barring orders, late arrivals and Supreme Court Rule 237 violations
- 1:35 – 2:00 Supreme Court Rule 90(c) Packets – Judge Patrick Heneghan**  
Using the same Mock Arbitration Scenario, Judge Heneghan will discuss how SCR 90(c) covers certain items of evidence in arbitration hearings, including presumed admissibility, objections, written statements and depositions, estimates vs. paid bills, photographs and police reports
- 2:00 – 2:35 Evidentiary Matters - Judge John O'Meara**  
Judge O'Meara will review types of evidentiary matters that occur in arbitration hearings and how to properly handle them as an arbitrator/neutral, using the Mock Arbitration scenario as an example
- 2:35 – 2:50 Entering the Award - Judge Patrick Heneghan**  
Judge Heneghan will cover the steps arbitrators should take in order to write proper and complete awards including how to balance good vs. bad faith participation under SCR 91
- 2:50 – 3:00 Top Ten Rules for Being an Effective Arbitrator Kimberly Atz O'Brien**  
Ms. O'Brien will finish the course with the most common issues and concerns that occur during arbitration and how arbitrators can avoid these pitfalls

# PRESENTER BIOGRAPHIES

## Judge Schneider Short Biography

Judge Catherine A. Schneider has served as a Circuit Judge in the Circuit Court of Cook County since December, 2016. She currently is assigned to courtroom 1501 in the First Municipal District, which is the motion and trial assignment room for all the First Municipal cases going to mandatory arbitration and trial. Judge Schneider received her JD from Loyola University Chicago School of Law in 1994, and began her legal career in private practice handling insurance defense litigation cases. Her practice subsequently included landlord tenant litigation, commercial collection litigation, and commercial and residential real estate transactions. For the last 10 years of her practice before joining the bench, Judge Schneider led the work of a non-profit legal aid organization to provide legal services to self-represented litigants appearing in the Circuit Court of Cook County. In her role as supervising attorney, Judge Schneider supervised the staff and operations of the Court's Municipal Court Advice Desk, drafted form pleadings for self-represented litigants, trained and supervised volunteer attorneys, law students and law fellows, and advised self-represented litigants. Judge Schneider is the Co-Chair of the Illinois Supreme Court Commission on Access to Justice Forms Committee and Chair of that group's Civil Procedure Forms Committee. Judge Schneider also serves on the Circuit Court of Cook County Pro Se Advisory Committee.

## Judge Heneghan Short Biography

Judge Patrick J. Heneghan has served as an Associate Judge on the Circuit Court of Cook County since May, 2016 and is currently assigned to the First Municipal District where he hears post-judgment civil cases. Before that, he was in private practice for over thirty years with the Chicago law firm of Schopf & Weiss, where he was a partner. He has litigated hundreds of complex commercial cases involving antitrust, securities fraud, RICO, insurance coverage, commercial torts, contract disputes, distributorship agreements, partnership disputes, and related matters in state and federal courts across the country. For each of the five years before he was appointed to the bench, Judge Heneghan was named by SuperLawyers as one of the "Top 100 Lawyers in Illinois."

### Judge O'Meara Short Biography

Judge John A. O'Meara was appointed to the bench in 2016 and has been assigned to the First Municipal Division. He is currently assigned to a non-jury courtroom where he presides over trials in a wide variety of cases. Prior to joining the bench, Judge O'Meara was a partner at Curcio Law Offices where he focused on personal injury litigation. Judge O'Meara has tried over 75 jury trials to verdict. Judge O'Meara was admitted to the Illinois Bar in 1995 following his graduation from John Marshall Law School. Judge O'Meara was also admitted to the California bar in 2003.

### Kimberly Atz O'Brien Short Biography

Ms. O'Brien was appointed administrator of Cook County's Mandatory Arbitration Program in 1999 after serving as a law clerk for former Cook County Chief Judge Donald P. O'Connell and for former Presiding Judge of the Law Division, Judith Cohen. Presently under the direction of current Cook County Chief Judge Timothy C. Evans and Presiding Judges E. Kenneth Wright, James Flannery, Moshe Jacobius and Mary Ellen Coghlan, Ms. O'Brien administers multiple court programs including the Mandatory Arbitration Program for the Municipal Department, the Commercial Calendar Mandatory Arbitration Program for the Law Division, as well as the Court-Annexed Mediation Programs for the Law Division the Chancery Division and the Probate Division. Ms. O'Brien received her undergraduate degree, *cum laude*, from Arizona State University in Tempe, Arizona and her law degree, *magna cum laude*, from The John Marshall Law School in Chicago, being admitted to the Illinois bar in 1996 after graduation.

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# Welcome & Introductions

Circuit Court of Cook County Mandatory Arbitration presents  
Arbitrator Refresher Training

Honorable Timothy C. Evans, Chief Judge  
Honorable E. Kenneth Wright, Presiding Judge  
    Honorable James Snyder  
Honorable Catherine Schneider  
    Honorable Patrick Heneghan  
    Honorable John O'Meara  
    Kimberly Atz O'Brien, Esq.

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# History and Overview Of The Applicable Statutes

- 735 ILCS 5/2-1001A through 1009A Mandatory Arbitration System
- 735 ILCS 5/2-116 Limitation on Recovery in Tort Actions; Fault
  - 735 ILCS 5/2-1117 Joint Liability

# Overview Of The Supreme Court & Local Rules that Govern Arbitration

- Actions subject to mandatory arbitration –

Illinois Supreme Court Rule 86 and Local Circuit Court Rule 18.3

- Illinois Supreme Court Rules 86 through 95
- Illinois Supreme Court Rule 216 and 237 –

Hearing and Evidence Rules

- Illinois Supreme Court Rule 61 through 66 –

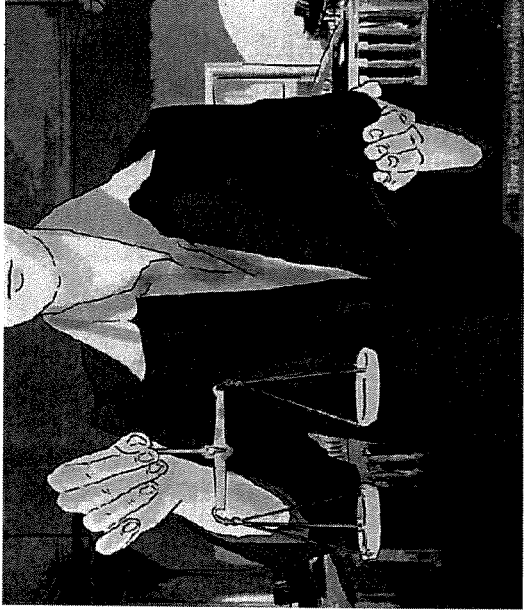
Illinois Code of Judicial Conduct

- Local Circuit Court Rules 18.1 through 18.11

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**YOUR ROLE AS AN  
ARBITRATOR AT THE HEARING**

- Conduct at the Hearing
- Chairperson Control
- Time Management
- Self-Represented Litigants
- Limited English Proficient Litigants / Interpreters
- Attorney Behavior



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# Mock Arbitration Facts





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# THE HEARING



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## PRE HEARING ISSUES

Number of Arbitrators

Length of Arbitration

All Claims and Cases

Settlements

Stipulations

Bankruptcy

Telephone Testimony



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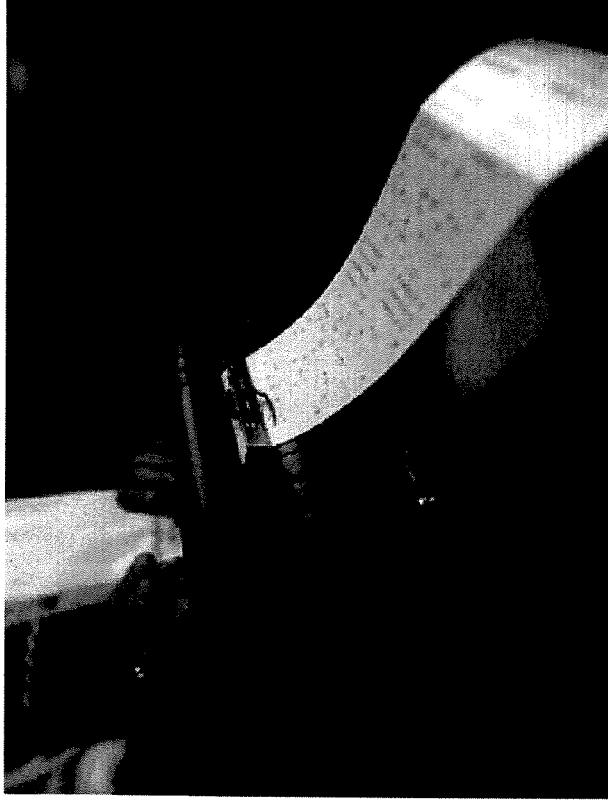
## PRE HEARING ISSUES cont'd...

Attendance

Unanswered pleadings

90(c)

Court Reporters



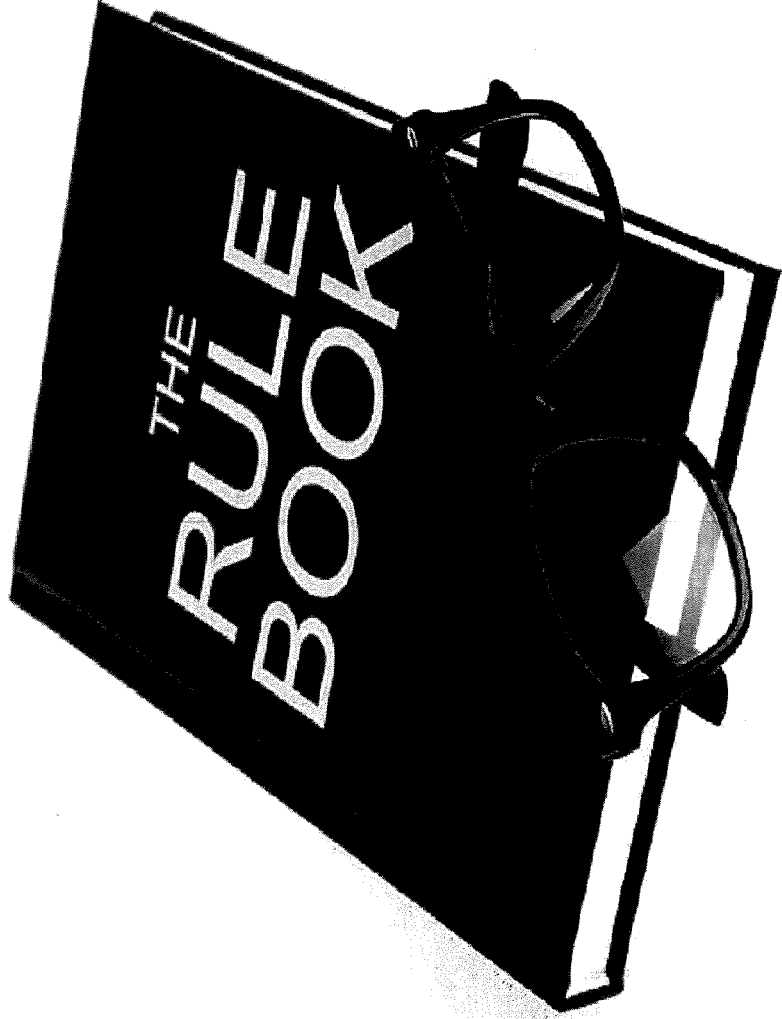
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## ISSUES DURING THE ARBITRATION

- Admitted Negligence
- Prove-Up
- Motions
- Barring Orders
- Interpreters
- Evidence



# The Rule 90(c) Submission



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## Purpose of Rule

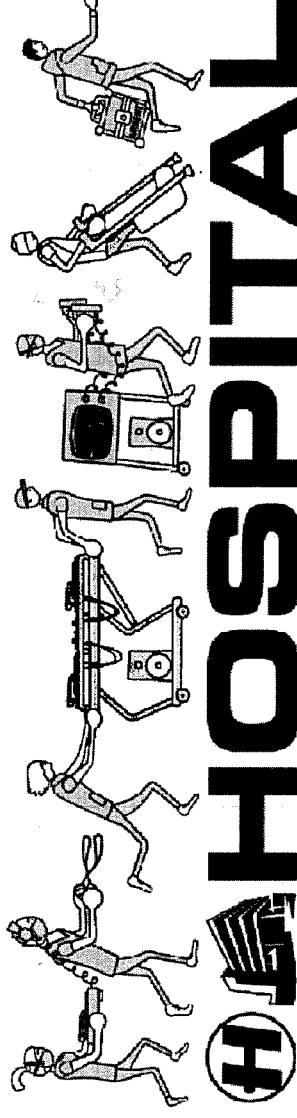
- Make the arbitration more streamlined and efficient
- Achieve economies of time and money
- Provide opportunity for notice and response
- **Emphasize substance over form**

## Basic Requirements for Presumptive Admissibility to Attach

- Give thirty (or more) days advance notice to all parties
- Include summary cover sheet describing documents
- Note whether bills are paid or unpaid
- Include copies of all documents sought to be admitted
- Paginate the submissions

## Types of Materials Included

- Medical provider bills
- Hospital records
- Property repair bills and estimates
- Lost earnings report (prepared by employer)





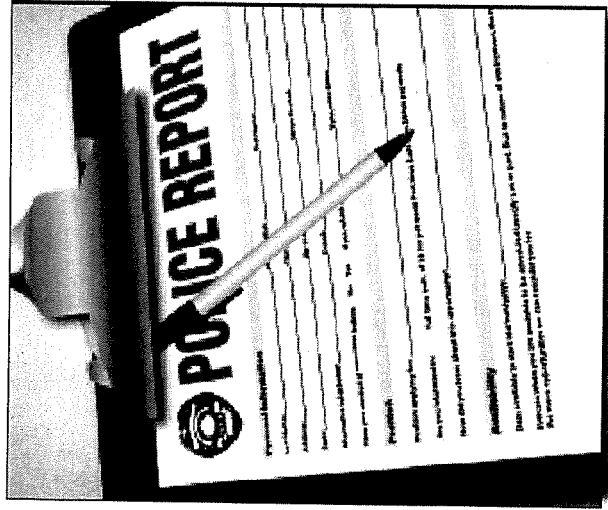
## Types of Materials cont'd...

- Expert witness statements
- Depositions
- Affidavits and statements certified under section 1-109
- Catch-all items (any other document that is otherwise admissible)



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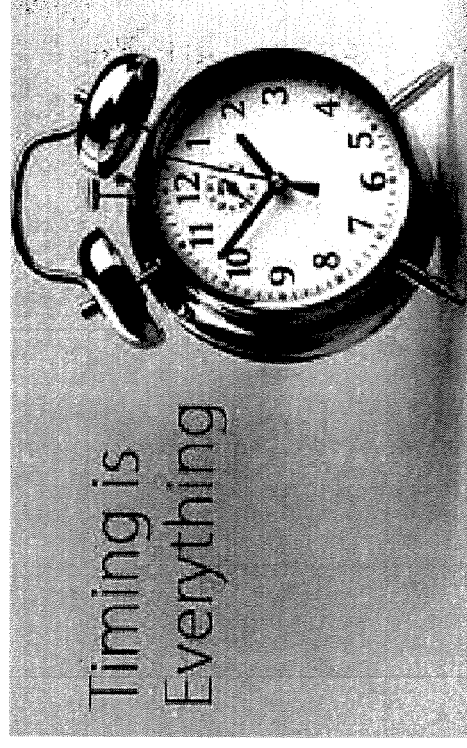
## Recurring Issues



- Improper inclusion of police reports
- Inclusion of photographs and inferences there from
- Failure to include a summary cover sheet

## Recurring Issues cont'd...

- Failure to detail whether bills were paid or not
- Attempted use of a party's deposition as a substitute for attendance
- Service of the 90(c) submission on opposing parties, and proof thereof
- Timing of objections



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# Evidence

- A. Guiding principles
- B. Commonly encountered issues
- C. Evidence Scenarios



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## Illinois Rule of Evidence 901

- General Provision. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what it proponent claims.

By way of illustration only, not limitation, some examples are:

1. Testimony of witness with knowledge.
2. Non expert opinion on handwriting based upon familiarity not acquired for purposes of litigation.
3. Comparison by the Trier of fact or by expert witnesses with specimens which have been authenticated.
4. Distinctive characteristics.
5. Voice Identification
6. Telephone conversation.
7. Public Record
8. Statute or Rule

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## Guiding principles

1. Relevant-evidence having a tendency to make the existence of any fact that is of consequence more probable or less probable than it would be without the evidence.
2. Authentic. See IRE 901.
3. Unfair prejudice does not **SUBSTANTIALLY** outweigh probative value.

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## Photographs

- A photograph must be an accurate and faithful representation of the person, place, or thing it purports to portray.
- “truly and accurately”
- “fairly and accurately”



## Videotapes/Motion Pictures

- The principles that govern the admissibility of still photographs also govern the admission of videotapes and motion pictures. People v. Smith 321 Ill.App.3d 669. The authentication witness must have direct personal knowledge of the events depicted. People v. Taylor 398 Ill. App.3d 74.



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## Google Map photos

- “...information acquired from mainstream internet sites such as MapQuest or Google Maps is reliable enough to support a request for judicial notice...”

# GOOGLE Maps



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## Judicial Notice

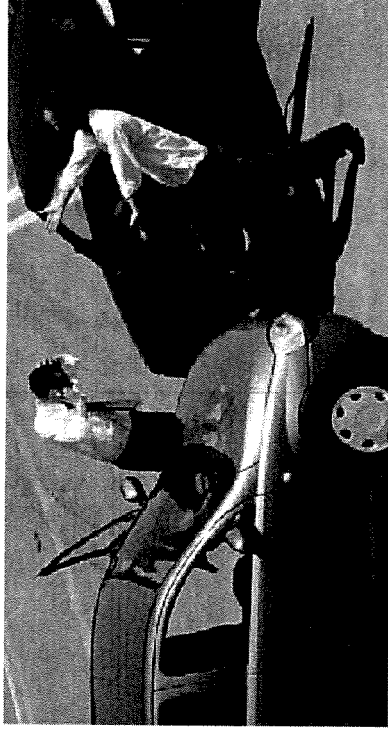
- A judicially noticed fact must be one not subject to a reasonable dispute in that it is either (1.) generally known within the territorial jurisdiction of the trial court or (2.) capable of accurate and ready determination by resort to sources whose accuracy cannot be reasonably questioned.

## Facebook/Social Media Evidence

- Relevant and authenticity. Authenticity is the biggest question.
- IRE 901 lists ways
  - A. Testimony of witness with knowledge
  - B. Circumstantial evidence.
    - a). Look to contents, substance, internal consistency or the documentation of recitation of facts known only to the author or to a small group of individuals People v. Chromik 408 Ill.App.3d 1028  
Evidence of actions taken consistent with writings contents. Kotsias v. Continental Bank 235 Ill.App.3d 472 Piser v. State Farm Mut. Ins. 405 Ill.App.3d 341.

## Photographs To Prove Lack Of Injury

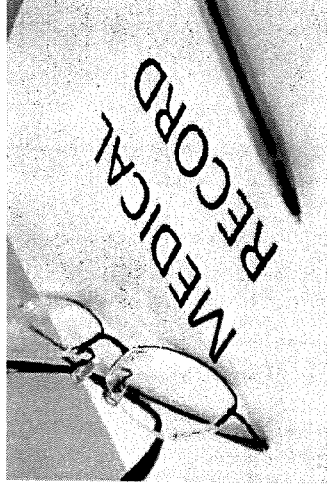
- DiCosola v Bowman 342 Ill.App.3d 530 the trial court barred use of the photos depicting minimal damage to the vehicle to contradict plaintiff's claim of injury because there was no expert testimony to support the argument that minimal damage meant the plaintiff was not injured. The Appellate Court held the trial court did was not an abuse of discretion. It did not hold that expert testimony is always required for such photographic evidence to be admissible.
- Admissible? Depends. Case law support on both sides.



## Drinking/Drug Use

- In order to avoid the unfair prejudicial effect of the mere mention of alcohol, a party may not introduce evidence of alcohol unless the evidence is sufficient to support a determination of intoxication.
  - Consumption of alcohol/drug
  - Actual impairment of mental or physical abilities
  - Diminution of ability to act with ordinary care.

Weigman vs Hitch-Inn Post 308 Ill.App3d 789



## Medical Records/Business Records

- Illinois Supreme Court Rule 236 states that any writing, record or memorandum of any act, transaction, occurrence, or event shall be admissible as evidence of the act, transaction, occurrence or event if made in the regular course of any business. (Except police reports)
- Record is relevant
- Record is a memorandum, reports, record, or data compilation in any form
- Witness is a custodian or "other qualified witness."
- Record made by person with knowledge of the facts or was made from information transmitted by a person with knowledge of the facts
- Record made at or near the time of the act, event, condition, or opinion
- Record was made as part of the regular practice of that business activity
- Record was kept in the course of regularly conducted business activity

## Illinois Rule of Evidence 902 (11).

- Certified Records of Regularly Conducted Activity. The original or a duplicate of a record of regularly conducted activity that would be admissible under Rule 803(6) if accompanied by a written certification of its custodian or other qualified person that the record:
  - A. Was made at or near the time of the occurrence of the matters set forth by, or from information transmitted by, a person with knowledge of these matters;
  - B. Was kept in the course of the regularly conducted activity; and
  - C. Was made by the regularly conducted activity as a regular practice.
- NB-a party intending to offer a record into evidence under this Rule must provide written notice of that intention to all adverse parties and make the record and certification available for inspection sufficiently in advance of their offer to provide an opportunity to challenge them.

# Medical Bills

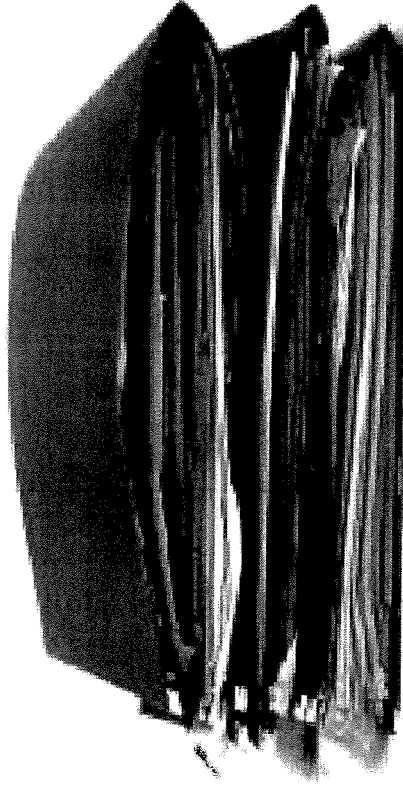
## "Fair and Reasonable"

1. Paid: When evidence is admitted that a medical bill has been paid, the amount of the bill is *prima face* reasonable. Arthur v Catour 216 Ill.2d 72.
2. Unpaid: When a medical bill has not been paid, the plaintiff has the burden of proving the charges are reasonable. Kunz v Little Co of Mary Hospital 373 Ill.App.3d 615.  
Reasonableness can be established through the testimony of a person with knowledge of the services rendered and the usual and customary charges for those services. Arthur v Catour Reasonableness may also be established by employing Supreme Court Rule 216 Request to Admit.



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# Evidence Scenarios



## Subsequent Remedial Measures

- A. Plaintiff seeks to admit proof that the defendant, two days after the accident, repaired defects in the steps upon which the plaintiff allegedly fell and was injured
- **OBJECTION:** Not relevant.
  - **RULING:SUSTAINED.** Proof of subsequent remedial measures is not admissible on the issue of negligence.
  - **HOWEVER:** it may be admissible evidence to establish ownership, control, feasibility of precautionary measures, or impeachment.

## Similar Happenings

- A. Plaintiff seeks to admit defendants records which show that two other accidents occurred under substantially similar conditions on the steps of the defendants building.
- **OBJECTION:** Not Relevant.
  - **RULING: OVERRULED.** The records are admissible to show the probability that the defendant had notice of the existence of a dangerous condition.
- B. Defendant apartment building owner seeks to introduce his own maintenance records to show the lack of any other similar accidents.
- **OBJECTION:** Not relevant
  - **RULING: SUSTAINED.** The records are inadmissible on the issue of notice to defendant on a defective condition.
  - **NB-Cases** do exist that hold that absence of similar happenings may be introduced if foundation of “substantially similar to those surrounding the accident sued upon”. See Parson v City of Chicago 117 Ill.App.3d 383 (1983).

## Offers to compromise or settlement; payment of medical expenses

A. The plaintiff (Dorothy) in a personal injury action testifies that at the scene of the accident the defendant (Cowardly Lion) offered to pay for her medical expenses and property damage as proof of defendant's admission of liability, and that the defendant did pay part of her medical bills.

- **OBJECTION:** payment of medical expenses and offers to settle are inadmissible on the issue of liability.
- **RULING:** SUSTAINED. Irrelevant. Offer to settle may be motivated by desire for peace. Public policy also favors settlement of disputes. See IRE 408.

## Evidence of Intoxication

A. Plaintiff (Dorothy) in an action alleging negligence and willful and wanton conduct of the defendant seeks to have a by stander testify that when the defendant (Cowardly Lion) emerged from his vehicle after the collision with plaintiff's car, he smelled from alcohol.

- OBJECTION: Prejudicial.
- RULING: SUSTAINED. Evidence of the use of alcohol is not admissible UNLESS THE OFFERING PARTY IS PREPARED TO PROVE INTOXICATION.



## Conviction-plea of guilty

A. Plaintiff (Dorothy) seeks to introduce that defendant (Cowardly Lion), after a plea of NOT guilty and a bench trial, was convicted for speeding at the time of the alleged accident

- **OBJECTION:** Traffic offense convictions are not admissible because of the great volumes of cases handled by these courts, and traffic courts do not operated so as to assure the reliability of their judgments.
- **RULING:** traffic offense convictions are not admissible unless entered on a plea of guilty.

Hengels v Gilski 126 Ill.App.3d 894.

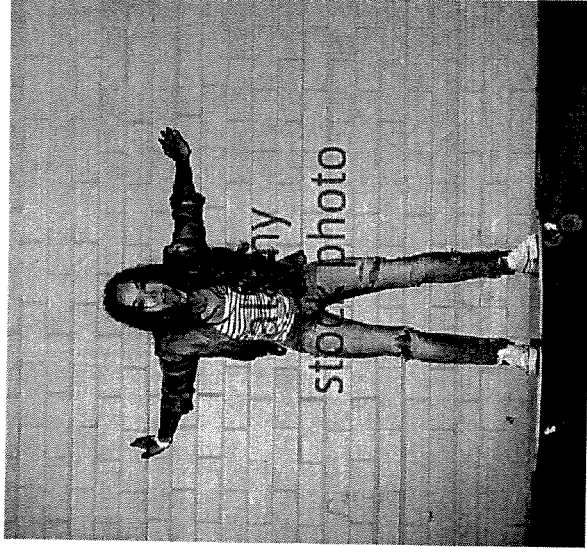
## Conviction-out of state

- A. Dorothy intends to offer into evidence that Cowardly Lion was convicted of battery in Wisconsin last year. The violation is a felony in Illinois but a misdemeanor in Wisconsin.
- **OBJECTION-Unfair prejudice**
  - **RULING: SUSTAINED.** The crime must be punishable by death or imprisonment of one year or more, under the law which the witness was convicted.

## Prior Injury-Dorothy

A. In Dorothy's personal injury action against Cowardly Lion, Cowardly Lion seeks to introduce into evidence testimony that three years ago, Dorothy injured her neck while skateboarding on the yellow brick highway.

- OBJECTION: Irrelevant
- RULING: SUSTAINED. Absent medical testimony linking the past injury to the present injury, its inadmissible. See Voykiu v Estate of DeBoer 192 Ill.2d 49.
- Scenario #2. During direct testimony, Dorothy testifies she's never injured her neck before.
- RULING: ADMISSIBLE for impeachment purposes. See Hansen v Midwest Urological Group.





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# Police Reports

**Police Report**

Case No. \_\_\_\_\_ Date: \_\_\_\_\_  
 Reporting Officer: \_\_\_\_\_ Precinct No. \_\_\_\_\_  
 Nearest: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Details of Event:**

\_\_\_\_\_

**Actions Taken:**

\_\_\_\_\_

**Summary:**

\_\_\_\_\_

A. Dorothy seeks to introduce into evidence the investigative report of a policeman who arrived immediately after the accident, as to what the parties and witnesses said regarding how the accident occurred.

- OBJECTION: Hearsay
- RULING: SUSTAINED. IRE 236(b) specifically excludes police reports even though they may otherwise qualify under the business records exception to the hearsay rule.

## Refreshed Recollection

- A. Dorothy calls the officer who investigated the accident to the stand. Upon testifying, the officer cannot recall the exact positions and locations of the vehicles involved, but he did write this information in his accident report. Dorothy marks the exhibit and intends to show it to the officer so that he may testify regarding what he observed
- **OBJECTION:** “Police reports are inadmissible under IRE 236(b)!”
  - **RULING: OVERRULED.** The witness, after a showing that his independent memory of what he observed is exhausted, may review his written police report, put it down, and testify from his refreshed recollection.

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## Past Recollection Recorded

- A. The same Officer, after refreshing his memory from his written report, still cannot testify from his refreshed recollection as to the details of the locations of the cars or what the drivers told him. Dorothy seeks to have the Officer read from his report.
- **OBJECTION:** “Police reports are still inadmissible under SCR 236 (b)!”
  - **RULING: OVERRULED.** After an attempt to refresh the witnesses memory has failed, and the arbitrator finds that the officer has no independent recollection about the matter covered in the writing, the officer may read from the report as an exception to the Hearsay Rule. This is Past Recollection Recorded. Document must have been prepared or adopted by witness, vouch for accuracy at the time the document made, and insufficient recollection to testify about the matter.

## Statements of Medical Diagnosis

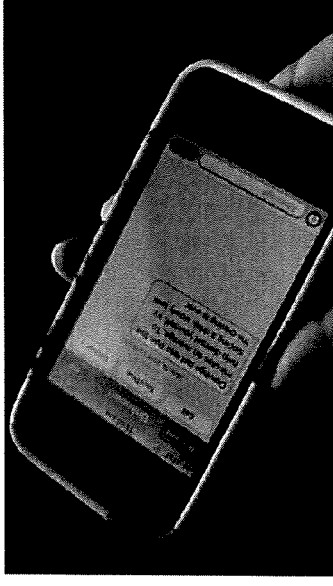
- A. Dorothy's treating physician testified that on the first occasion he saw and treated Dorothy, Dorothy told him "Cowardly Lion was speeding when he hit me".
- **OBJECTION:** Hearsay
  - **RULING:** OVERRULED. Statements made to a physician for the purposes of diagnosis and statement are admissible as an Exception to the Hearsay rule.

## Photos of Vehicles

A. Cowardly Lion seeks to introduce photographs of the vehicles involved in the accident to suggest that its unlikely that Dorothy is injured or injured to the extent claimed.

- OBJECTION: Irrelevant!
- RULING: ??? Out without expert testimony-DiCosola v Bowman. In without expert testimony - Ford v Grizzle 398 Ill.App.3d 648





## Text

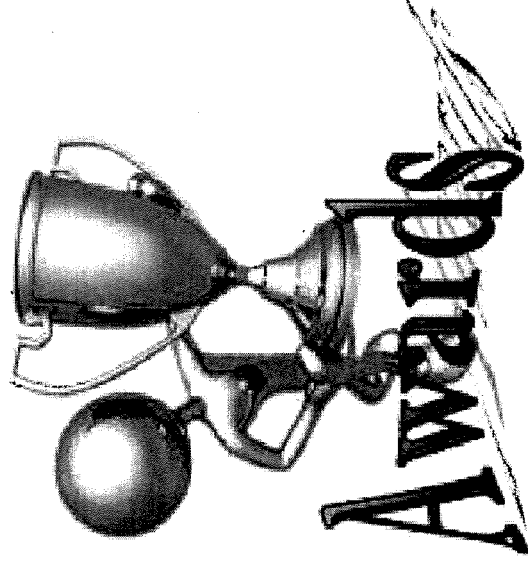
A. Dorothy seeks to introduce into evidence a text she received from Cowardly Lion after the accident wherein he admitted he was caused the accident because he was texting at the time of the collision.

- **OBJECTION:** “Foundation!”
- **RULING: OVERRULED.** Text messages and emails are treated like any other form of documentary evidence and are admitted so long as the evidence is authenticated. See IRE 901.

## Entering the Award

### **Basic Elements**

- Simplicity
- Clarity
- Legibility
- Completeness



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## First Steps

- Name all parties in case caption
- If two or more cases are consolidated for the arbitration, list all cases by name and case number in the case caption.
- Understand all claims that will be (or have been) litigated
  - Are claims in original complaint?
  - Are there counterclaims?
  - Are there cross-claims?
  - Are there other third-party claims?



## Completing the Form Arbitration Award

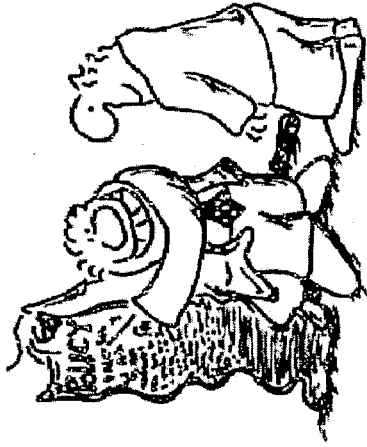
- Dispose of any money damages claim to prevailing party first
- Use individual names in case—not merely “Plaintiff” or “Defendant”
- Avoid extraneous verbiage. *Remember, “less is more!”*
- Generally include the following predicate phrase at the beginning of each component part of your award: “Finding in favor of . . .”
- For multiple plaintiffs or defendants, distinguish between them with the phrase “as to”



## A Party’s Participation in “Good-Faith and in a Meaningful Manner” — Rule 91(b)

- Rule 91(b): “All parties to the arbitration hearing must participate in the hearing in good faith and in a meaningful manner.”
- If the panel unanimously finds that a party has failed to participate in good faith and in a meaningful manner, the panel must include its findings and factual basis in the arbitration award.
- Relevance of Rule 237

## A Party's Participation in "Good-Faith and in a Meaningful Manner" – Rule 91(b) Cont.



- A party who does not appear at the arbitration hearing is not necessarily in bad faith.
- Likewise, a party who appears at the arbitration hearing is not necessarily participating in a "good-faith and meaningful manner."
- An evaluation of the totality of the circumstances is necessary to determine whether a party has participated "in good faith and in a meaningful manner."

## Miscellaneous Additional Items

- *Comparative negligence*—For those cases in which comparative negligence is an issue, the panel will need to make a determination concerning each party’s respective comparative negligence and include that finding in the award. One way to include the relevant information is to complete the award as follows: “Award in favor of [name of Plaintiff] and against [name of Defendant] in the amount of [\$ \_\_\_\_\_], reduced by [\_\_\_\_\_ %], for a net award of [\$ \_\_\_\_\_].”
- *Attorney’s Fees*—Where a prevailing party is entitled to an award of fees (pursuant to statute, contract, etc.), separately note the award of attorney’s fees in the arbitration award.

## Miscellaneous Additional Items

- *Costs*—Separately note which party is entitled to an award of costs, and itemize the specific costs so awarded.
- *Dissent*—A member of the arbitration panel may dissent from the award. In such a case, that arbitrator simply adds his or her name on the blank line preceding the words “Dissents as to the Award” in the bottom portion of the form award. No further narrative or language is required or advisable.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Federated Mutual, R.A. Shavitz Inc.

Plaintiff(s)

v.

Roni Sultan

Defendant(s)

No. 16-M1-012072

SEP 26 2017  
Clerk of Court

All parties participated in good faith.

\_\_\_\_\_ did NOT participate in good faith based upon the following findings: \_\_\_\_\_

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

FINANCIAL FOR PLAINTIFF, FEDERATED, AND AGAINST DEFENDANT,  
RONI SULTAN, AND AWARD \$10,840.79 IN DAMAGES

In addition to the above award, court costs in the amount of: \$66.00 itemized as follows:

are awarded to SERVICE OF SUMMONS.

The arbitration hearing began at 8:30 and ended at 9:05 on Tuesday, September 26, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Sheila Washington

v.

Jekera Wyatt

Plaintiff(s),

Defendant(s).

No. 15-L-012364

All parties participated in good faith.

\_\_\_\_\_ did NOT participate in good faith based upon the following findings: \_\_\_\_\_

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

*Parties and counsel agreed to (2) two arbitrators  
Award is hereby entered in favor of Plaintiff  
Sheila Washington in aid against Defendant  
Jekera Wyatt in the amount of \$ 5000.00.  
Five Thousand and no/100 Dollars.*

In addition to the above award, court costs in the amount of: 0- itemized as follows:

are awarded to \_\_\_\_\_

The arbitration hearing began at 9:15 AM and ended at 9:45 AM on Wednesday, September 27, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Terry Whitcomb

Plaintiff(s),

v.

Abraham Araujo

Defendant(s).

No. 16-L-007869

All parties participated in good faith.

did NOT participate in good faith based upon the following findings:

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

IN FAVOR OF IT TERRY WHITCOMB AND ABRAHAM ARAUJO AGAINST ABRAHAM ARAUJO IN THE AMOUNT OF \$8,013.00 AS FOLLOWS:  
MEDICAL EXPENSE: \$3,013.00  
PAIN + SUFFERING \$5,000.00  
TOTAL \$8,013.00

ARAUJO ADMITS NEGLIGENCE (PER COURT ORDER)

In addition to the above award, court costs in the amount of \$425.00 itemized as follows:  
(\$359.00 FILINGS + \$66.00 SERVICE)  
are awarded to \_\_\_\_\_

The arbitration hearing began at 8:30 AM and ended at 9:20 AM on Wednesday, September 13, 2017.



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

State Farm Mutual, Nicole N. Jones  
v.  
Jose Tena

No. 17-M1-010722

Nicole N. Jones  
v.  
Jose Tena

No. 17-M1-300820

All parties participated in good faith.

did NOT participate in good faith based upon the following findings:

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

In the case of Jones v. Tena, 17 M1 300820, award in favor of Plaintiff in the amount of \$15,000.00

In the case of State Farm Mutual Jones v. Tena, 17 M1 010722, award in favor of Plaintiff in the amount of \$10,000.00

The Parties Stipulate To Two Arbitrators

In addition to the above award, court costs in the amount of: 451.<sup>00</sup> (PI) + 379.<sup>00</sup> (AR/PL) itemized as follows:

284.<sup>00</sup> Filing Fee

95.<sup>00</sup> Service Fee

Plaintiff in case 17 M1 010722

The arbitration hearing began at 8:45 and ended at 9:30 on Wednesday, September 13, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Marlo Martinez

Plaintiff(s),

v.

Crystal Bagget

Defendant(s).

No. 16-M1-302074

All parties participated in good faith.  
 did NOT participate in good faith based upon the following findings:

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:  
~~For Plaintiff, Marlo Martinez - \$2500.00~~ ~~Defendant, Crystal~~  
~~Bagget, in the amount of Eight - 7 thousand - Dollars~~  
~~(\$8,000.00).~~

In addition to the above award, court costs in the amount of: \$529.00 itemized as follows:  
Cook County Clerk: \$374.00; Cook County Sheriff \$60.00  
All Plaintiff's appeal process fees are awarded to Plaintiff, Marlo Martinez.

The arbitration hearing began at 2:00 PM and ended at 2:40 PM on Wednesday, September 27, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Unique Insurance, David E. Henry

Plaintiff(s),

v.

No. 17-M1-012037

Dontell D. Lawrence

Defendant(s).

All parties participated in good faith.

did NOT participate in good faith based upon the following findings:

*However, defendant did not appear pursuant to  
plaintiff's Rule 237 notice.*

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

*Award in favor of plaintiff and against defendant  
in the amount of \$9,452.51.*

In addition to the above award, court costs in the amount of: *\$338.00* itemized as follows:

*fee \$278.00, de minimis \$60.00*

are awarded to *plaintiff*.

The arbitration hearing began at *2:00* and ended at *2:30* on Wednesday, September 27, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Zaim Durovic

v.

Maria Domingues

Plaintiff(s),

Defendant(s).

No. 16-L-001449

All parties participated in good faith.

ZAIM DUROVIC did NOT participate in good faith based upon the following findings: Plaintiff  
FAILED TO APPEAR

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

In favor of the Defendant, MARIA DOMINGUES, and against  
Plaintiff ZAIM DUROVIC.

\* Defendant stipulated to two person panel.

In addition to the above award, court costs in the amount of: NOT REQUESTED itemized as follows:

are awarded to \_\_\_\_\_

The arbitration hearing began at 8:45 AM and ended at 8:47 AM on Wednesday, September 27, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

William J. Pappas

Plaintiff(s),

v.

No. 15-L-012207

Chicago Transit Authority, Vercysia J. Hollins  
Defendant(s).

All parties participated in good faith.

did NOT participate in good faith based upon the following findings:

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

*Award in favor of Plaintiff for \$549.00*

In addition to the above award, court costs in the amount of: \$549.00 itemized as follows:

*359 filing, Sheriff (20), special process service \$10.*

are awarded to Plaintiff

The arbitration hearing began at 8:30 am and ended at 9:35 am on Wednesday, September 27, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Blanca Terry, Angela Terry, Eugene Terry, Jazlyn Terry  
Plaintiff(s)

v.

Juan Zuniga, Michelle Cimpean, Zuniga Properties  
Defendant(s)

No. 15-L-007945

SEP 12 PM 11

COURT

CLERK

All parties participated in good faith.

did NOT participate in good faith based upon the following findings:

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

*award in favor of Plaintiff Blanca Terry and Eugene Terry and award of the disbursements from Zuniga Properties to Plaintiff Blanca Terry and Eugene Terry. The disbursements are not addressed to the issue of any attorney fees sought which were incurred by the court as well as any appropriate costs.*

In addition to the above award, court costs in the amount of: \_\_\_\_\_ itemized as follows:

are awarded to \_\_\_\_\_

The arbitration hearing began at 2:00 PM and ended at 4:20 PM on Tuesday, September 12, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Progressive Univer, John Kabelman  
Plaintiff(s),

v.

Salvatore Faso, John Kabelman  
Defendant(s).

No. 17-MI-011213

All parties participated in good faith.

\_\_\_\_\_ did NOT participate in good faith based upon the following findings:

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

*Per AS*

In addition to the above award, court costs in the amount of: 0 itemized as follows:

are awarded to \_\_\_\_\_

The arbitration hearing began at 2:15 and ended at 2:16 on Tuesday, September 19, 2017.

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Latisha Tay Dudley

Plaintiff(s),

v.

Lakendra S. Lottie, Gregory Lottie  
Defendant(s).

No. 16-L-007477

All parties participated in good faith.

did NOT participate in good faith based upon the following findings:

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

*Awarded for Defendant (Lottie)  
against the Plaintiff (Dudley)*

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

In addition to the above award, court costs in the amount of \_\_\_\_\_ itemized as follows:

are awarded to \_\_\_\_\_

The arbitration hearing began at \_\_\_\_\_ and ended at \_\_\_\_\_ on Wednesday, September 27, 2017.



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
FIRST MUNICIPAL DISTRICT-MANDATORY ARBITRATION

Natalie Bloodgood, Natalie Blood

Plaintiff(s),

v.

No. 15-M1-301814

Victor Carrera, John E. Pierce Jr., Pierce Jr.  
Defendant(s).

All parties participated in good faith.

\_\_\_\_\_ did NOT participate in good faith based upon the following findings: \_\_\_\_\_

We the undersigned arbitrators, having been duly appointed and sworn (or affirmed), make the following award:

*Award in favor of plaintiff ~~Pierce~~ and against defendant  
Carrera in the amount of \$872,500.*

*Award in favor of defendant Pierce and against plaintiff.  
No award in favor of defendant Pierce against defendant  
Carrera.*

*No award in favor of defendant Carrera against defendant  
Pierce.*

In addition to the above award, court costs in the amount of: 0 itemized as follows:

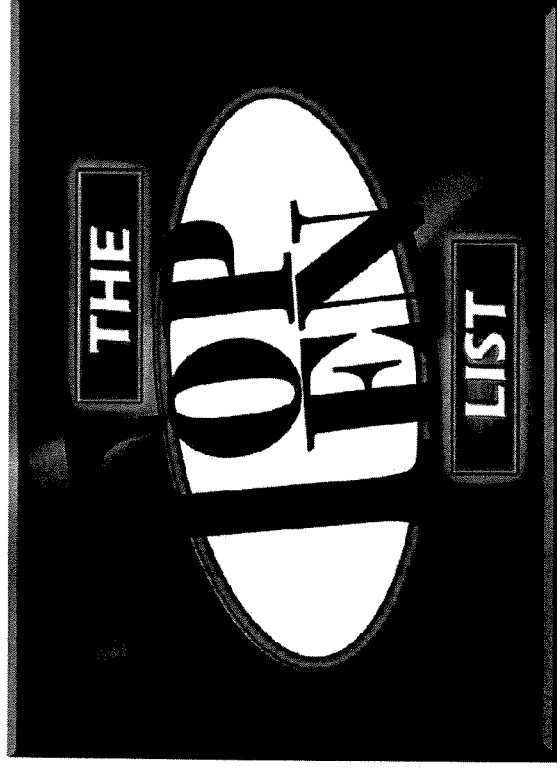
are awarded to \_\_\_\_\_

The arbitration hearing began at 8:40 a.m. and ended at 10:15 p.m. on Wednesday, September 27, 2017

Circuit Court of Cook County  
Mandatory Arbitration Program – Arbitrator Training

Top Ten Rules for Being an Effective Arbitrator

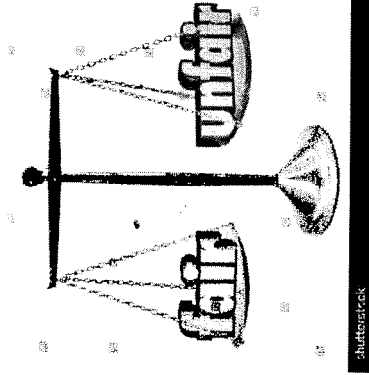
- 1) No Sleeping!
- 2) No Phones!
- 3) Be on Time
- 4) Demeanor Matters
- 5) Give Full and Fair Hearings



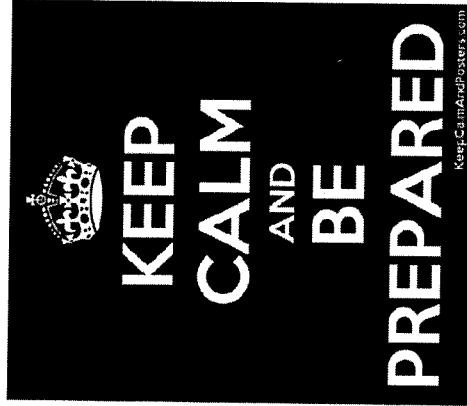
Circuit Court of Cook County  
Mandatory Arbitration Program – Arbitrator Training

Top Ten Rules for Being an Effective Arbitrator con't

- 6) Don't Be an Advocate
- 7) It's a Panel Decision
- 8) Neatness and Organization are a MUST!



shutterstock



- 9) Be Prepared
- 10) Dress for Success

Circuit Court of Cook County  
Mandatory Arbitration Program – Arbitrator Training

Visit [www.cookcountycourt.org](http://www.cookcountycourt.org) for more information

- "Mandatory Arbitration" section of the website includes further explanations of the process as well as frequently asked questions
- Uniform Arbitrator Reference Manual is available in pdf format

## MOCK MANDATORY ARBITRATION HEARING

Chairperson swears in the witnesses: Any person who is going to testify today, please raise your right hand. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth?

Chairperson asks plaintiff if she wants to make an opening statement

Plaintiff Attorney: Good morning. This case involves a motor vehicle accident. The evidence today will show that the Plaintiff, Dorothy, was driving her vehicle in a westerly direction on the yellow brick road, approaching apple orchard intersection. The intersection has no traffic controls. Cowardly lion was traveling in his vehicle in a southerly direction on Apple Orchard Lane. Dorothy intended to and did make a left turn to proceed southbound on Apple Orchard Lane when Lion, at a high rate of speed, and in failing to give Dorothy the right of way, collided with the passenger side of Dorothy's vehicle. The evidence will show that as a result of the impact, Dorothy was jerked about in the vehicle causing injury to her neck and cervical spine. She was caused to treat at the emergency room and had follow up treatment with her treating physician, Tin Man. After examination and diagnosis, Dorothy was treated by the Tin Man over a course of 6 months with various modalities to address the injury, pain and discomfort. Dorothy also was unable to work on her farm for 6 weeks, accruing lost income, and her vehicle was damaged, but repaired. Plaintiff has submitted a 90(c) packet which details the medical treatments and Tin Man's bill, the details of her lost income and the repairs to her vehicle at the Lollipop Guild Garage. At the close of the hearing the Plaintiff will be asking for a finding in her favor and a judgment in an amount commensurate with her injuries and damages.

Chairperson asks defendant if he wishes to make and opening statement

Defense Attorney: Good morning. Defendant believes the evidence will show that Dorothy contributed to this accident with her actions, including failing to keep a lookout and failure to give the right of way to Cowardly Lion. Defendant will also show that much of the treatment from Tin Man was unnecessary and that her lost income claim is non-existent. Defense has included photographs of the scene, the vehicles involved and the police report in his 90(c).

Chairperson asks the Plaintiff to begin its case in chief:

Plaintiff's attorney: First the Plaintiff objects to the photographs and the police report in the 90(c) and ask that they be stricken.

Defense attorney: Well the police report will help the panel to understand how the scene is laid out and you will note that no one left the scene in an

ambulance. The photos of the scene will help the panel understand what it looked like and the photos of the vehicle show the points of impact.

Panel reserves ruling on the 90(c) and asks Plaintiff to begin her case in chief.

Plaintiff calls Dorothy

Dorothy upon direct explains she was traveling to Munchkinland to see Glinda for lunch. She explains the speed limit on yellow brick road for westbound traffic at apple orchard was 25 and she was traveling approximately that speed.

There was no traffic control for westbound traffic at apple orchard, and she thinks none for southbound traffic on apple orchard. She intended to turn left at apple orchard and when she made her left turn she was hit by Cowardly Lion, who had been southbound on Apple Orchard. She states that it was a heavy impact to the middle of the passenger side of her vehicle. She was jerked about in the car both front and back and to the left and right. She had her seat belt on. She did go to the emergency room on the date of the accident. There they examined her and she had an xray of her neck. She followed up with the Tin Man and saw him 3X per week for 4 months and then 2X per week for about 2 months when she started feeling better. She had terrible pain in her neck and upper back at first. She has a farm and mainly raises chickens. She was not able to look after them as she was in too much pain. She had to hire a hand to do that for about 6 weeks. She was still able to sell the eggs, but lost her profit because she had to pay the hand. She took her car to Lollipop Guild Garage

There was damage to the passenger side of her car that was repaired. Her bills are as follows:

ER \$1200

Tin Man \$8,500

Lost Income \$500

Vehicle repair \$3,300

Plaintiff asks the panel to consider the bills and medical records to establish that the treatment was related to the accident and that it was reasonable and necessary. Plaintiff makes a similar request as to the lost income and vehicle repair as well.

Defense counsel objects to the unpaid medical bills.

On cross examination of Dorothy defense counsel establishes: Dorothy didn't see Lion before the collision; She didn't go the ER from the scene because she thought she would be ok. Her car was driveable. After lunch with Glinda she felt sick and sore, so she went to the hospital. She had never treated with Tin Man before. She wasn't sure how she was referred to Tin Man, but thinks maybe her lawyer referred her. Even though she wasn't able to take care of the chickens, she did still keep milking the cow as she had no one to help out with that.

Defense calls Cowardly Lion. Upon direct examination he establishes that he was southbound on Apple Orchard approaching Yellow Brick Road. He was familiar with the intersection as he passes through it every day he goes to work.

This day he was heading home from work early because he had afternoon courage training classes. He says neither street has a traffic control and the speed limit on both streets is 25 mph. He was traveling at about that speed.

As he approached the intersection he saw Dorothy. He thought she would stop to let him go through first because he thought he had the right of way. She didn't stop and made a left turn in front of him. He tried to stop but hit the front right corner of Dorothy's car. He thought it was a low impact and he only had a damaged front light and a small crack on his bumper. He got out of his vehicle at the scene. The police came to the scene. There were no tickets issued. He saw Dorothy walking around at the scene and talking to the police.

She looked fine. No one left the scene in an ambulance. He had his vehicle repaired and the total repairs were \$800.

Plaintiff attorney objects to: how Lion thought Dorothy looked as speculation; to the \$ amount of the repairs to Lion's car as irrelevant and not proof of anything, to the police report as hearsay, and to whether any tickets were issued as irrelevant.

On cross examination Lion admits he had to "slam on his brakes". He also admits that right before the accident he was drinking some of his V8 juice because it gives him energy for his courage classes.

Chairperson asks if plaintiff would like to make a closing argument

Plaintiff's attorney argues that the evidence clearly established that Cowardly Lion was going too fast and that since Dorothy was turning ahead of him she clearly had the right of way. Lion was traveling so fast she couldn't have seen him and his speed accounted for the heavy impact. Lion was the sole proximate cause of the accident. Plaintiff argues that Dorothy acted reasonably even though she waited to see a doctor. Plaintiff stresses that she sought medical attention when she knew she may have been injured in the accident. She argues that Dorothy testified she wasn't well enough to take care of the chickens so she is clearly entitled to her lost wages and that all of the treatment is directly related to the incident since Dorothy was tossed about in the car and had injury and treatment to her neck and upper back. Plaintiff asks for a judgment in her favor in the amount of \$20,000 for Dorothy's medical bills and pain and suffering, plus \$500 for her lost income and for \$3300 for the damage to her vehicle.

Chairperson asks if Defense would like to make a closing argument:

Defendant argues that he had the right of way as he was approaching from Dorothy's right and that Dorothy clearly wasn't keeping a proper lookout. She was also executing a left turn and should have waited for all traffic to clear before turning. Defendant argues that Dorothy is more than 50% at fault for the accident and so she is barred from recovering from Lion. Defendant argues that if the panel find lion partially at fault then they panel should consider that his vehicle had only slight damage which goes to his speed being much less than what plaintiff argued. He argues that Dorothy couldn't have been severely hurt if she went out to lunch after the accident and didn't seek treatment until much later and argues that 6 months of "soft tissue manipulation" is excessive based upon the accident. Defendant also argues that it doesn't make sense that Dorothy couldn't take care of the chickens but was able to milk the cow, so she shouldn't recover anything for her lost wages claim. Defendant asks for a judgment in his favor or in the alternative an amount of \$5000 as proper for PLaintiff's medical, pain and suffering, and then also incorporating on top of that, plaintiff's comparative fault to the BI and PD claims.

Chairperson asks if plaintiff would like to make a rebuttal argument:

Plaintiff's attorney adds that Dorothy was a more credible witness and so the panel should enter an award as requested earlier.

#### QUESTIONS:

How do you rule on excluding from the 90(c):

- Photographs of the vehicles?
- Photographs of the scene?
- The police report?

How do you rule on the objections:

- how Lion thought Dorothy looked as speculation;
- to the \$ amount of the repairs to Lion's car as irrelevant and not proof of anything,
- to the police report as hearsay, and
- to whether any tickets were issued as irrelevant.

What is allotment of negligence between Dorothy and Cowardly Lion?

What amount do you believe is reasonable and fair for Dorothy's bodily injury claim?

Do you think Dorothy proved lost wages as a result of the accident?

Are you going to award Dorothy damages to her vehicle?

Fill out the Judgment of Award under the fact scenario given.



WHAT IF Lion had a counterclaim for the damage to his vehicle in the amount of \$1500, and provided estimates from Toto's Garage.

WHAT IF there were a third vehicle involved: Scarecrow was also driving southbound on Apple Orchard, behind Lion. Scarecrow ran into Lion, causing Lion's vehicle to collide with Dorothy's a second time. Dorothy has sued both Lion and Scarecrow and Lion and Scarecrow both have claims for contribution against each other. How would you enter the Award now (same facts as before, but now Scarecrow comes along moments later and collides with Lion, pushing him into Dorothy).

WHAT IF Dorothy's attorney had brought a motion to strike Lion's photographs of the vehicle from Lion's 90(c) before arbitration and the court struck it but without prejudice. How would you deal with the evidence at the hearing?

WHAT IF Lion fails to attend the hearing. Lion's attorney is present and cross examines Plaintiff and her evidence. How will you deal with Cowardly Lion's absence and would you make a bad faith finding? Would you answer change if Plaintiff had served an IL SCR 237 notice to Lion?