

RULE 96. APPOINTMENT OF ARBITRATOR UNDER DELAWARE RAPID ARBITRATION ACT

(a) **Scope.** This rule governs the procedure in a summary proceeding to appoint an arbitrator under 10 Del. C. § 5805.

(b) **Commencement of proceeding.** Commencement of the proceeding under this rule shall be made under Rule 3. Service of the petition or application must be made under Rules 4 or 5, as appropriate.

(c) **Defenses.** A respondent may, but need not, serve an answer within 5 days after service of the petition or application. No counterclaims or cross-claims may be asserted in the answer.

(d) **List of proposed arbitrators.** The parties must file with the Court a joint list of persons that are qualified and willing to serve as an arbitrator under the Delaware Rapid Arbitration Act, 10 Del. C. § 5801 et seq. Unless the Court directs otherwise, the list must be filed (1) within 7 days after service of the petition or application or (2) within 3 days after service of the answer, whichever is later. The list may be filed by any party, but the list must include all persons proposed by all parties, without indicating which party proposed which person.

(e) **Limitation of proceeding.** Unless the Court directs otherwise, the parties may not take discovery in the proceeding. No dispositive motions may be filed in the proceeding.

**RULE 97. SPECIAL PROCEEDINGS UNDER DELAWARE RAPID
ARBITRATION ACT**

(a) Definitions. For purposes of this rule:

- (1) "Arbitration" shall have the meaning set forth in 10 Del. C. § 5801(2).
- (2) "Arbitrator" shall have the meaning set forth in 10 Del. C. § 5801(3).
- (3) "Party" shall mean any party to an Arbitration.

(b) Enforcement of subpoena.

(1) This Rule 97(b) governs the procedure in a proceeding to enforce a subpoena issued under 10 Del. C. § 5807(b). The proceeding will be determined in a summary fashion.

(2) An Arbitrator may commence the proceeding under Rule 3 by a petition to enforce a subpoena against the respondent named in the subpoena. Service of the petition on all Parties must be made pursuant to the methods of service in the Arbitration. Other service of the petition, including service on the respondent named in the subpoena, must be made under Rule 4.

(3) Unless the Court otherwise directs, the respondent named in the subpoena must serve an answer within 7 days after service of the petition. The Parties may appear in the proceeding but may not serve an answer or file any dispositive motions.

(4) Unless the Court otherwise directs, no discovery may be taken in the proceeding.

(c) Determination of Arbitrator's fees.

(1) This Rule 97(c) governs the procedure in a proceeding to determine an Arbitrator's fees under 10 Del. C. § 5806(b).

(2) An Arbitrator may commence the proceeding by a petition to determine fees under Rule 3. The proceeding may be commenced only after the final award in the Arbitration has been issued. No defendant need be named in the petition. The petition must be served on all Parties pursuant to the methods of service in the Arbitration.

(3) The Parties may, but need not, serve an answer.

(d) Entry of judgment.

(1) This Rule 97(d) governs the procedure for entry of judgment under 10 Del. C. § 5810(b).

(2) Any Party may commence the proceeding by a petition to enter judgment under Rule 3. No defendant need be named in the petition. The petition must be

accompanied by the final award in the Arbitration. Service of the petition must be made on all other Parties pursuant to the methods of service in the Arbitration.

(3) No answer may be filed in the proceeding. No dispositive motions may be filed in the proceeding.

(4) No discovery may be taken in the proceeding.

(5) Upon the Court's satisfaction that the requirements of 10 Del. C. § 5810 have been satisfied, final judgment shall be entered forthwith.