

## **ARBITRATION REMEDIES—ATTORNEY FEES**

- The prevailing party shall be entitled to an award of reasonable attorney fees.

[OR]

The arbitrator(s) is authorized to award any parties such sums as shall be deemed proper for the time, expense, and trouble of arbitration, including arbitration fees and attorney fees.

**[Comment by Ed Costello:** The principal practical difference between the two clauses above is the use of the word "reasonable" in the first of them. By incorporating that word, the parties give to the arbitrator the discretion to assess what fees of the prevailing party are reasonable before awarding them. Otherwise, an arbitrator could be bound to award the prevailing party *all* fees paid or incurred, no matter how unreasonable they might seem. These clauses are both unusual in that they treat attorney fees only and do not mention costs.