

ARBITRATION—DISCOVERY CLAUSES

- The arbitrator shall have the discretion to order a prehearing exchange of information by the parties, including, without limitation, production of requested documents, exchange of summaries of testimony of proposed witnesses, and examination by deposition of parties.
- The parties shall allow and participate in discovery in accordance with the Federal Rules of Civil Procedure for a period of ninety (90) days after the filing of the Response to demand for arbitration or other responsive pleading. Unresolved discovery disputes may be brought to the attention of the [arbitrator or chair of the arbitration panel] and may be disposed of by him.
- Limited civil discovery shall be permitted for the production of documents and taking of depositions. All discovery shall be governed by the [specify a particular State or the Federal] Rules of Civil Procedure. All issues regarding conformation with discovery requests shall be decided by the arbitrator.

Comment by Ed Costello: Unless you want to leave open the possibility that the arbitration panel will find that no discovery is available, a clause like this is probably a must. Even if the panel took that view, however, the parties could always *agree* to specific discovery.