

LEGAL ALERT

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AAA-ICDR INTRODUCES AI ARBITRATOR TO STREAMLINE CONSTRUCTION DISPUTE RESOLUTION – GREAT PROMISE OR REASON FOR CONCERN?

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The American Arbitration Association (AAA-ICDR) is launching a first-of-its-kind AI arbitrator this November 2025, designed to handle smaller “documents-only” construction disputes. This change will take small disputes, typically handled on a fixed fee by a single arbitrator, and offer instead AI serving as a finder of fact and law. For an industry where time is money and claims can pile up fast, the promise of innovation claiming to deliver faster, more cost-effective resolutions to modest-sized claims, is an attractive option. But can AI adequately dole out justice and are parties to a construction dispute willing to trade speed for fairness or risk of early AI errors?

THE AAA’S SALES PITCH

- **Faster Turnaround:** The AAA claims that an AI arbitrator is built to handle high-volume cases quickly, helping contractors, developers, and legal teams resolve disputes without lengthy delays associated with human scheduling. A case schedule is set, written submissions are made, and the AI arbitrator will quickly render its decision.
- **The AI was Trained on Real Construction Cases:** The AI arbitrator claims to have been trained on over 1,500 actual AAA-construction awards. The AAA claims that the AI arbitrator reflects the reasoning and standards familiar to industry professionals. Of course, the question is which cases, who won, and whether this bias affects your area of practice?
- **For Now, the AI Arbitrator Has Human Oversight to Ensure Quality:** Every AI-generated draft award will be reviewed by experienced human arbitrators to ensure accuracy, transparency, and due process. However, it is unclear how much subjective determination will

be implemented by the human overseer who may not be selected by the parties and may have their own biases.

- **The AAA Claims Parties Will Receive Clear, Legally Sound Decisions:** The AI arbitrator will be interacted with by using structured legal prompts and conversational AI. The AAA states that the AI arbitrator will deliver decisions that are easy to understand and rooted in solid legal principles.

DOES THE AAA'S SALES PITCH MATCH ANYONE'S EXPERIENCE TO DATE WITH AI?

Virtually everyone has interacted with AI in some manner, including Google searches, AI chatbot for a store, or creating images on Chat GPT. Many others have used AI in more sophisticated ways to review contracts or generate whole documents or presentations.

Most parties to a dispute understand there is risk of loss. Their concern is whether the process was “fair” and that often means that their concerns – right or wrong – were heard and considered. The question that individuals in the Construction Industry will have to decide is whether finality and speed are more valuable than the familiarity of working with a human arbitrator.

WHAT'S NEXT FOR THE AI ARBITRATOR?

The AAA may push AI on smaller disputes on the parties. It is unclear whether there is a genuine appetite for this solution. Widespread adoption of this technology, particularly on higher-value claims, will likely take years and seems unlikely. Laws may also need to change because the very narrow bases for overturning an arbitration seem ill-equipped to challenge the model on which an AI was trained. Finally, will an AI need to be tested and licensed by the state bar?

SHOULD YOU USE IT?

Maybe. You might wish to test out the technology on a small dispute over a specification or contract, where both parties seek a quick resolution, and the stakes are low (and where documents are typed rather than in handwriting). When and if the results are unfavorable, a party who has opted to have an AI will have little or no way to redress any questions about the fairness of the process.

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