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Managing Mass Arbitration Risk: Looking Beyond Provider "Mass Arbitration" Rules

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JAMS and the American Arbitration Association (AAA)—the leading arbitral organizations in the United States—issued rule changes and updated fee schedules in 2024 to directly address mass arbitration and mitigate some of the cost and administrative burdens that mass filings impose on businesses.

Procedural Developments: JAMS and AAA Rule Changes

The AAA's recent revisions to its Consumer Arbitration Rules, effective May 1, 2025, illustrate that point. These rule changes have material implications for mass proceedings because they give the AAA greater flexibility to manage large volumes of cases. For example, a new consolidation provision allows the AAA, in its discretion, to treat multiple claims by the same party under the same contract as a single administered case. AAA Consumer Arb. R. & Mediation Procs. R-4 (2025). The rules also make hearings virtual by default, reducing logistical barriers when hundreds or thousands of matters must be heard.

Other rule changes, however, may significantly increase a company's expense in defending against mass filings. Under revised Rule R-31, an arbitrator must "consider the time and cost associated with the briefing of a dispositive motion in deciding whether to allow any such motion." AAA Consumer Arb. R. & Mediation Procs. R-31 (2025). Dispositive motions are a critical tool for early dismissal of claims that fail threshold tests—for example, time-barred claims or claims outside the scope of the arbitration agreement. This additional constraint may make arbitrators more hesitant to permit such motions, potentially limiting a company's ability to efficiently cull non-meritorious claims across a large docket of related arbitrations.

Judicial Scrutiny and Uncertainty

Around the same time, courts have begun to scrutinize mass arbitration procedures and how provider protocols function in practice. For example, in *Heckman v. Live Nation Entertainment, Inc.,* the Ninth Circuit held that a provider's mass-arbitration protocol was unconscionable. 120 F.4th 670, 685-86 (9th Cir. 2024). In contrast, more recent decisions have rejected unconscionability challenges to JAMS and AAA rules affecting the coordination of mass filings within those frameworks. *See, e.g., Carolus v. Coinbase Glob., Inc.,* No. 25-cv-03089-CRB, 2025 WL 3033736 (N.D. Cal. Oct. 7, 2025); *Jones v. Starz Entm't, LLC,* 129 F.4th 1176 (9th Cir. 2025).

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Against the backdrop of active litigation over mass-arbitration protocols, providers may be cautious about rolling out additional mass-arbitration rules until existing frameworks are fully tested in the courts. In the meantime, businesses should closely monitor changes to other arbitral rules—particularly those governing case management and motion practice—that can significantly influence how mass arbitrations proceed.

Implications for Businesses

Mass arbitration is now a prominent feature of the litigation landscape that companies must factor into their litigation and risk-management strategies. When drafting consumer arbitration agreements and advising on the selection of alternative dispute resolution (ADR) providers, counsel should look beyond a provider's mass-arbitration rules and evaluate how broader rule changes—such as consolidation authority, default hearing formats, and limits on dispositive motions—interact with existing contract terms and shape a company's strategy for responding to mass arbitrations.

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