

SMA Arbitration Rules – Unique Features, Practical Benefits

Rule 2: Consolidation of Disputes

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Rule 2: CONSOLIDATION OF DISPUTES

1. Rule history and commercial background
 - a) Absent a contractual agreement to consolidate, Federal Courts have ruled that the Federal Arbitration Act does not permit consolidation.
 - b) In 2003, in response to a Second Circuit Decision against consolidation, the SMA revised its rules to include Rule 2 for consolidation.

SMA Arbitration Rules – Unique Features, Practical Benefits (*continued*)

- c) If there is a challenge to a request for consolidation, Rule 2 includes default procedure for the President of SMA to issue a Partial Final Award to determine if the disputes have common questions of fact or law.
- 2. Typical multiparty disputes in which there are common questions of fact or law appropriate for consolidation such as:
 - a) Lighterage contracts;
 - b) Bunker fuel oil supply contracts, and
 - c) Time and voyage charter party contracts.

SMA Arbitration Rules – Unique Features, Practical Benefits (*continued*)

3. Best for disputes involving owner and sub-voyage charterer with time charterer in the middle which reduces time charterer liability exposure for claims, such as:
 - a) Safe berth/port, and
 - b) Cargo contamination.
4. Greatly reduces and/or eliminates risk for two (2) inconsistent Awards; Panel issues one (1) Award.
5. Reduces discovery charges, attorney's fees, arbitration costs and promotes efficiency.

SMA Arbitration Rules – Unique Features, Practical Benefits (*continued*)

6. Witnesses testify once, not twice.
7. London LMAA practice does not have a consolidation Rule. As per Rule 16, LMAA has concurrent arbitration procedure with two (2) Panels and separate awards.

Questions?



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