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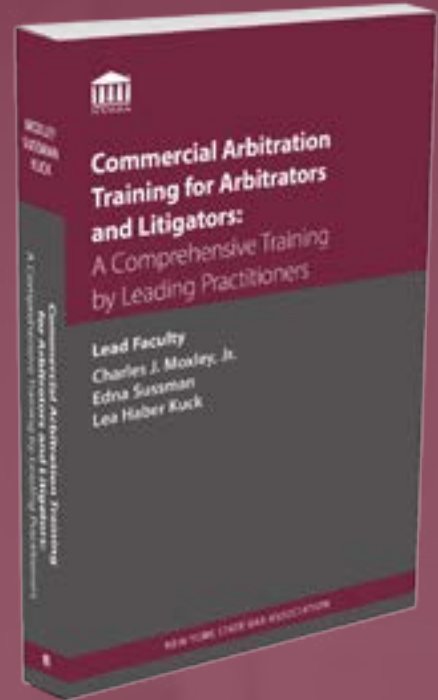


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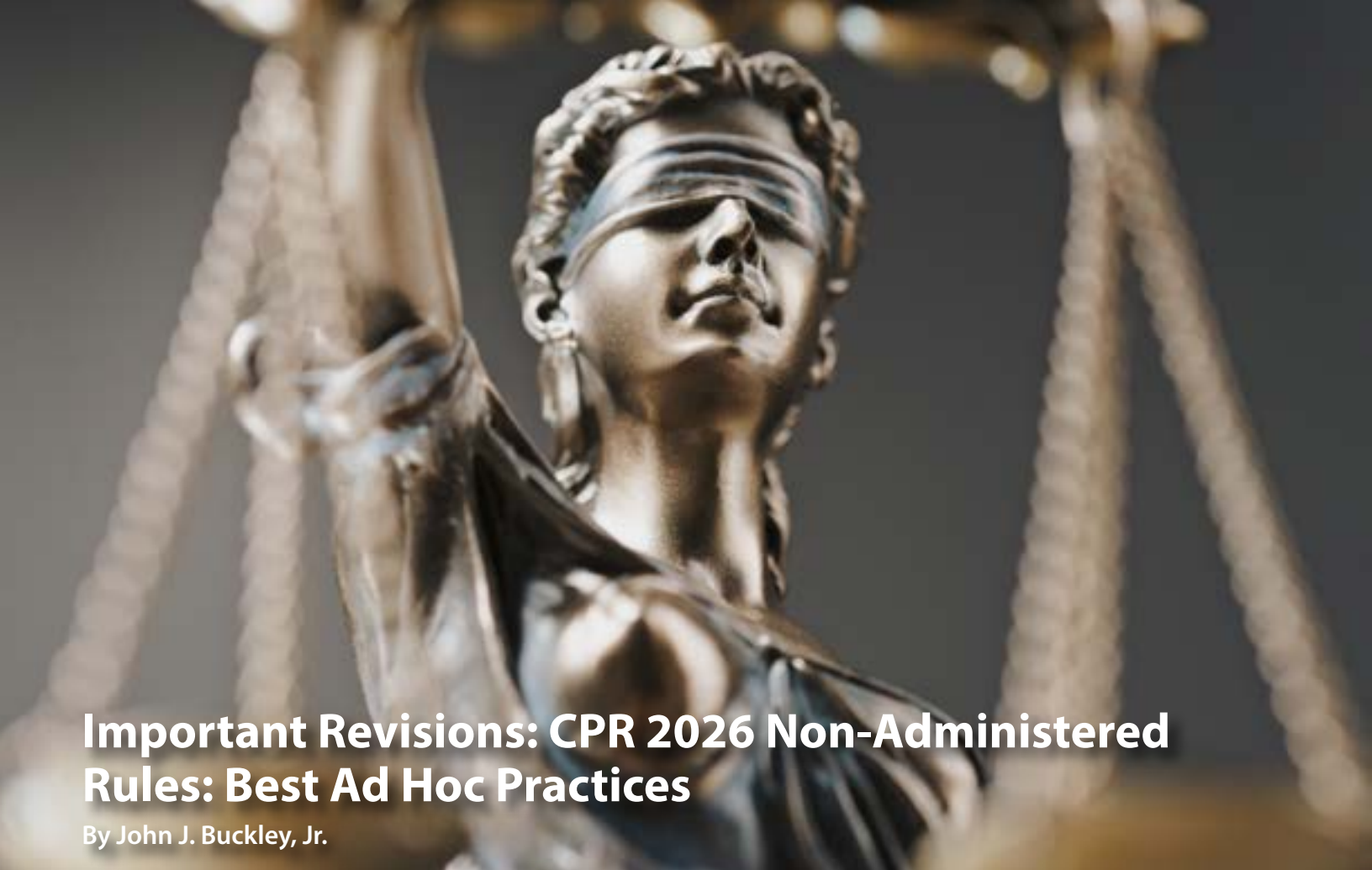
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Important Revisions: CPR 2026 Non-Administered Rules: Best Ad Hoc Practices

By John J. Buckley, Jr.

Effective July 1, 2026, the International Institute for Conflict Prevention & Resolution (CPR) released its 2026 Rules for Non-Administered Arbitration and 2026 Rules for Non-Administered Arbitration of International Disputes, updating the 2018 versions of these rules.¹ This article addresses the most important features of the new rules.

In an ad hoc arbitration, the parties and the tribunal themselves administer the proceeding, without the involvement of an institutional intermediary. Since their inception in 1989, CPR's Non-Administered Rules have served that objective by providing a reliable, time-tested procedural framework for conducting an expeditious, efficient, economic, and fair ad hoc arbitration, culminating in enforceable awards. The rules enhance party autonomy by empowering the tribunal to manage directly all aspects of the proceeding not controlled by the parties' agreement.

A core philosophy of the CPR Non-Administered Rules is that the success, speed and efficiency of arbitration depend ultimately on the managerial skills of the tribunal. The rules are specifically structured to give the tribunal robust, explicit authority to control the schedule, limit discovery, determine the mode of proceeding, deal with dilatory or obstructionist tactics, and keep the arbitration moving forward without compromising due process.

The CPR Rules contain pre-drafted "gap fillers" to address potential deadlock situations where the parties have stopped cooperating, running the risk of derailing the arbitration by forcing the parties into court to appoint an arbitrator or resolve a challenge. In these instances, the rules provide that, upon request of one or more parties, CPR may intervene through its dispute resolution services to break the impasse by, for example, appointing an arbitrator or resolving a challenge, with the parties paying only for the services that they use. By merging the flexibility of a self-administered resolution process with occasional administrative support, this hybrid approach can provide a safety net.

CPR's 2026 Non-Administered Rules are the product of extensive consultations between CPR leadership and end-users, including parties, their in-house and external counsel, and neutrals.

I. The Use of Generative Artificial Intelligence Tools

As new and better technology becomes available at a break-neck pace, arbitration faces both opportunities and risks.² Leading arbitral institutions and organizations have recognized the rapid adoption of generative artificial intelligence (AI) tools and their integration into legal practice, spurred

by parties' expectations of enhanced efficiency and quality, deserves attention. The first case management conference is the most logical time for the tribunal and parties to discuss whether any ground rules should be established for the use of AI tools to avoid procedural train wrecks down the road.³ Accordingly, revised Rule 9.3.g of the 2026 Non-Administered Rules invites the tribunal and parties to discuss, at the first case management conference (the "initial pre-hearing conference" under the CPR Rules), "the possibility of implementing steps to address the use of artificial intelligence or other emerging advanced technologies to generate material for use in the proceeding, including by requiring disclosure of such use and/or of safeguards that protect confidentiality and ensure reliability." By referring to "emerging advanced technologies," the rule also recognizes that AI tools may be just the precursor of future technological developments.

The CPR Rules take a non-prescriptive approach. They do not recommend specific procedures or guidelines regarding use of AI tools. Instead, the rules allow the tribunal and the parties to address these issues on a case-by-case basis, taking into account the relevant circumstances. This cautious attitude reflects the fact that AI technology is swiftly evolving, making it difficult and even inadvisable to dictate rigid boundaries that new developments may soon render obsolete or, worse, give rise to spurious challenges to arbitral awards. Indeed, a respected school of thought maintains that specific AI-targeted regulation is unnecessary and potentially counterproductive because existing ethical and professional rules are adequate (and preferable) for managing any risks arising from use of AI. and that case law and ethical opinions can be expected to develop, providing more specific and useful guidance.⁴ It may also potentially be confusing to stack new and possibly conflicting obligations on top of those that already exist.

At the same time, the parties' use of AI tools, particularly generative AI, can raise legitimate concerns about the preparation of materials used in the proceedings.⁵ There is the risk that AI tools may generate inaccurate or fabricated information, undermine the integrity of the evidentiary record, lead to breaches of confidentiality or privacy, and potentially affect the enforceability of the award. At the initial conference, a tribunal may therefore appropriately inquire: (i) to what extent the parties anticipate utilizing generative AI tools in preparing their submissions or analyzing evidence; (ii) whether they will use a secure, closed, enterprise version of a large language model (LLM) and what data or security protocols are in place to ensure that protected case information is not inadvertently fed into public AI models; (iii) what steps will be taken to ensure the reliability of AI-generated materials (e.g., detecting and preventing "hallucinations"); and (iv) whether there is a need for a specific procedural order, AI disclosure protocol,

or other measures such as adoption of soft-law guidelines to govern or inform the use of these tools.

Parties may also legitimately wish to know whether the tribunal anticipates that it will use generative AI tools (as opposed to basic, non-generative digital tools) in performing substantive case management responsibilities and whether it is using a secure, closed, enterprise LLM or a public, open-source platform. The tribunal may also want to consider disclosing use of AI to the parties beforehand in the interests of transparency. The initial conference is the juncture for these questions. As is the case with the parties' use of AI tools, the CPR Rules take a non-prescriptive approach. Notably, several arbitral institutions and other organizations promulgated guidance on this topic. These include the AAA-ICDR Guidance (2025),⁶ AAA-ICDR AAAi Standards (2025),⁷ SVAMC Guidelines (2024),⁸ the CIArb Guidelines (2025),⁹ and the SCC Guide.¹⁰ Discussion and analysis of the features of this guidance are beyond the scope of this article. However, there is a strong consensus across these organizations that arbitrators must not use AI tools for substantive decision-making. Arbitrators should never delegate the evaluation of evidence, the weighing of witness credibility, or core legal reasoning to AI. The arbitrator retains personal, non-delegable responsibility for the ultimate decision.¹¹ Failure to observe this stricture can lead to the setting aside of the arbitral award.¹²

Revised Rule 9.3.g therefore appropriately seeks to ensure that the appropriate use of generative AI is not overlooked but instead discussed at the initial conference.

II. Early Disposition of Claims, Defenses and Other Issues

In the 2025 empirical survey conducted by Queen Mary, University of London and White and Case, respondents identified early determination procedures for manifestly unmeritorious claims or defenses as an important procedural mechanism that they believed would enhance the efficiency of arbitration.¹³ Rule 12.6 of CPR's 2026 Non-Administered Rules, titled "Early Disposition of Claims, Counterclaims, Defenses and Other Issues," addresses that need by carrying forward the innovative early disposition procedure from CPR's 2019 Administered Rules.¹⁴

CPR's early disposition rule presents a novel procedural philosophy and operational roadmap. Rather than focus exclusively on legal issues and disposing of or narrowing entire claims or defenses, Rule 12.6 addresses the early disposition of "issues" and permits early factual examination. An "issue" under CPR Rules can be not only an entire claim or defense, but also a standalone factual or legal question.

The CPR Rules provide a structure for the early disposition procedure that connects it to the initial conference, making it

a topic for discussion at the outset. Rule 9.3 recommends that the tribunal actively review the case with an eye to identifying and isolating determinative issues. Rule 9.3.b lists as a suggested agenda item “[t]he early identification and narrowing of the issues in the arbitration, including the possibility of early disposition of any claims, counterclaims, defenses or other issues in accordance with Rule 12.6 and the CPR Guidelines on Early Disposition of Issues in Arbitration.”¹⁵ The rule, therefore, draws attention to the CPR Guidelines on Early Disposition from the very start of the arbitration.

Before scheduling discovery or proceeding to a hearing of the entire dispute, the first task is to identify what issues are appropriate for early disposition. Early limited discovery and the taking of evidence may be appropriate before hearing the entire case. Issues of jurisdiction and standing often fall into this category. Claims or theories of recovery may sometimes be accepted or rejected as a matter of law as when, for example, they are barred by defenses such as contractual covenants, prescription/limitation periods, statute of frauds, releases, settlements, *res judicata*, or collateral estoppel, or rendered untenable by the demonstrable inability of a party to provide evidence to satisfy required elements of the claim(s) presented. By the same token, it may be possible to resolve defenses at an early stage because the defense fails as a matter of law, or the party asserting the defense will not be able to establish one or more required elements of the defense, or the party is barred from asserting the defense. In some cases, issues relating to damages, including issues that significantly limit damages, may be appropriate for early disposition.

But there is no automatic right to file an early disposition motion. Rule 12.6 establishes a screening phase with the tribunal acting as gatekeeper to protect parties from wasting time and money. The requesting party must file a preliminary application (typically in the form of a short letter) seeking leave to file a motion for early disposition. The application must include (1) the issue or issues to be resolved; (2) a short statement of the basis for the proposed motion and the relief requested; (3) an explanation how early disposition will “advance efficient resolution of the overall dispute”; and (4) the applicant’s proposal as to the procedure by which the issues submitted for early disposition should be resolved.

Once submitted, the tribunal will “promptly” review the application and any responses from the other party(ies). The standard for granting the application under Rule 12.6.c is whether “there is a reasonable likelihood” that hearing a motion for early disposition “may result in increased efficiency in resolving the overall dispute while not unduly delaying the rendering of a final award.” Early disposition is appropriate only when greater overall efficiencies will be achieved through early disposition of one or more issues than if all the issues were considered in a single hearing.¹⁶

If the tribunal finds these criteria met, it will establish procedures for adjudicating the motion. The motion for early disposition may be resolved on the basis of written submissions, witness testimony by affidavit, other written form, limited hearings, or in any other manner that the tribunal deems appropriate. The responding party must be given “a reasonable opportunity . . . to make factual and other presentations in opposition.”¹⁷ The tribunal must structure the process recognizing its responsibility under Rule 9.1 to provide “each party a fair opportunity to present its case.” The tribunal must endeavour to render a decision on the motion expeditiously, which in most circumstances is expected to be within sixty days of the date of the motion.

III. The Scope of Document Production and the CPR Protocol on Disclosure

Surveys consistently show that users of international and commercial arbitration remain deeply concerned about the scope of document disclosure and the tendency of some tribunals to permit overly broad requests,¹⁸ commonly referred to as “fishing expeditions.” The 2026 Rules respond to these concerns in several ways.

First, revised Rule 9.3.a adds to the list of matters the parties and the tribunal are invited to discuss at the initial conference, “the scope of any document production.” By highlighting this issue from the outset, the Rule encourages the tribunal to assume the initiative to manage the boundaries of proper document disclosure, avoiding or limiting problems or misunderstandings later in the process.

Second, revised Rule 9.3.a encourages the tribunal to draw the parties’ attention to CPR’s Protocol on Disclosure of Documents & Presentation of Witnesses in Commercial Arbitration¹⁹ and consider incorporating it into the procedures governing the arbitration. The protocol contains general guidance to tribunals for dealing with requests for the disclosure of documents and electronic information under CPR’s Rules and specifies that these principles apply whether or not the parties happen to adopt any of the particular modes of disclosure in the protocol. It emphasizes that the proceedings are to be conducted in a manner that is expeditious and cost-effective as well as fundamentally fair and that, consistent with that philosophy, arbitration is not a place for the “leave no stone unturned” approach. It consequently instructs that disclosure be granted only as to items that are “relevant and material to the outcome of the dispute and for which a party can demonstrate a need in order to present its position, taking into account the proportionality criteria” of the protocol. The proportionality analysis entails the tribunal weighing the likely value of the requested documents against the costs and burdens, both financial and temporal, of producing the documents or information, having further considered the amount

of the dispute, the importance of the issues, and the relevance and materiality of the documents or information to resolving the core legal or factual issues.

The protocol also outlines various “modes” of disclosure, ranging from minimal to extensive, that the parties may agree to at the time of contracting or sometime thereafter, including at the initial conference. Revised Rule 9.3.a encourages the parties to consider these modes of disclosure and possibly agree upon an approach that they and the tribunal will follow.

The 2026 Rules also require that the tribunal ensure that the time and costs of the proceeding are in proportion to the economic value and complexity of the dispute. Under revised Rule 11, titled “Discovery,” the tribunal must assess whether the requested discovery is “appropriate in the circumstances, taking into account the needs of the parties.” In addition, the tribunal is expressly reminded to consider “the limitations of relevance, materiality, proportionality and undue burden.”

Proportionality must also be considered by the tribunal when apportioning costs. Rule 17.3 provides that, subject to a contrary agreement by the parties, the tribunal, apportioning the costs of arbitration between or among the parties, must consider “the circumstances of the case, the conduct of the parties during the proceedings, and the result of the arbitration.” Accordingly, a greater share of the costs may be assessed against a party that has failed to cooperate in the efficient conduct of the proceedings by, for example, engaging in abusive behavior by exceeding the proper bounds of discovery.

IV. Leveraging Technology To Reduce Costs and Improve Efficiency

The 2026 Rules streamline the arbitral process in several additional ways by encouraging electronic transmission of notices and submissions, the use of virtual or hybrid hearings, and other measures that would reduce costs and conserve resources.

Revised Rule 2, titled “Notices,” now provides that unless otherwise agreed by the parties or ordered by the tribunal, “notices and communications may be given by email, registered mail, courier service, facsimile, *or any means of communication that allows for a record of its transmission*, or by any other service methods provided for under the applicable procedures of the courts where the party to be served is located.”

Revised Rule 9.3.a recommends that the matters to be discussed at the initial conference include “*electronic transmission of submissions*,” rather than the use of hard copies.

Revised Rule 9.5 provides that the tribunal may “conduct status conferences and hearings at whatever location it considers appropriate or *via a remote video proceeding*.”

More generally, Revised Rule 9.3.j recommends that the matters to be discussed at the initial conference include “[t]he *possibility of implementing measures to conserve costs and resources*.” The revisions highlighted in this article (electronic communications, use of videoconference technology) are intended to support that goal. Reducing waste and increasing sustainability are seen as important benefits of the revised rules.

V. Joinder and Representation

Revised Rule 3.10, titled “Joinder,” now specifies the factors that CPR may take into account in arriving at a decision on joinder of third parties in the arbitration. These criteria were previously available only on CPR’s website. It further provides that CPR, in its discretion, may refer any issues of joinder to the CPR Domestic Arbitration Council for determination.

Revised Rule 4.3, titled “Representation,” provides that “[o]nce the Tribunal is constituted, any addition or substitution of counsel is subject to the approval of the Tribunal if it will impact the integrity of the proceeding.” This provision empowers the tribunal to prevent a party from misusing the right to add or change counsel to undermine the proceedings.

Overall, the 2026 Rules reflect changing needs. The rules have evolved to help guide the tribunal and the parties with the new risks of generative AI and the continuing pressures of excessive disclosure demands, and costs. These rules continue to serve the important goal of fostering speedy and efficient resolution of disputes while ensuring fundamental fairness.

John J. Buckley, Jr. serves as an independent arbitrator through Buckley Arbitration LLC and is senior counsel with Williams & Connolly LLP. He co-led the CPR Rules Revision Committee that drafted the 2026 CPR Non-Administered Rules as well as the CPR Administered and Non-Administered Rules in 2018 and 2019. He is a CPR Distinguished Neutral and a member of the CPR Council. He is ranked as an International Arbitrator by Chambers in its 2026 USA Guide. John@BuckleyArbitration.com.

The views expressed in this article are those of the author and not the official position of CPR.

Endnotes

1. CPR has promulgated a total of four sets of arbitration rules: two sets for domestic disputes (one for non-administered, the other for administered arbitration) and two sets for international disputes (non-administered and administered arbitration). With the release of the new 2026 rules, CPR’s sets of arbitration rules include the 2026 Rules for Non-Administered Arbitration (effective July 1, 2026); 2026 Rules for Non-Administered Arbitration of International Disputes (effective July 1, 2026); 2019 Rules for Administered Arbitration (effective March 1, 2019); and 2019 Rules

- for Administered Arbitration of International Disputes (effective March 1, 2019). These four sets of rules and prior versions are available on the website of CPR's Dispute Resolution Services (DSR) at <https://drs.cpradr.org/rules>. This article reviews the 2026 Rules for Non-Administered Arbitration. The 2026 Rules for Non-Administered Arbitration of International Disputes are substantially similar but contain legal, cultural and linguistic differences reflective of an international dispute. None of these differences affects the features addressed in this article
2. See White & Case LLP, Univ. of London Sch. of Int'l Arb., 2025 International Arbitration Survey: The Path Forward: Realities and Opportunities in Arbitration 27-28 (2025) (hereinafter "QMUL 2025 Survey"), <https://www.qmul.ac.uk/arbitration/research/2025-international-arbitration-survey/>, observing that 91% of survey participants expect to use AI and 52% believe that arbitrators will increasingly use AI in their work.
 3. The Chartered Institute of Arbitrators Guideline[s] on the Use of AI in Arbitration (2025) (hereinafter "CI Arb Guidelines"), for example, provide that where the arbitration agreement is silent or unclear on the use of AI, and the parties have not otherwise raised the issue, the arbitrators are encouraged to invite the parties to express their views, preferably at the first management conference, https://www.ciarb.org/media/bpndtcgu/guideline-on-the-use-of-ai-in-arbitration_updated-sept-2025.pdf.
 4. The conduct of counsel in arbitral proceedings is governed by the ABA Model Rules of Professional Conduct, as adopted by the states. Arbitrators have ethical responsibilities pursuant to the Code of Ethics for Arbitrators in Commercial Disputes and the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes. The duties of competence, candor and honesty, confidentiality, and supervision are plainly relevant to lawyers' use of AI tools.
 5. One issue concerns privilege. See *United States v. Heppner*, 820 F. Supp. 3d 292 (S.D.N.Y. 2026), holding that documents generated through a public AI platform were not protected by the attorney-client privilege or the work product doctrine.
 6. AAA-ICDR Guidance on Arbitrators' Use of AI Tools—March 2025 (2025), https://go.adr.org/rs/294-SFS-516/images/2025_AAA-ICDR%20Guidance%20on%20Arbitrators%20Use%20of%20AI%20Tools%20%282%29.pdf. The Guidance lists considerations when using AI tools as including accuracy and reliability of information, maintaining fairness and due process, independent decision-making, transparency with parties, confidentiality and data protection, and competence and professionalism.
 7. AAA-ICDR, AAAi Standards for AI in ADR, https://www.adr.org/media/sx2mjdj/aaai_standards_for_ai_in_adr_.pdf (last visited June 30, 2026). The Standards are structured around six tenets: ethical and human-centric values, privacy and security, accuracy and reliability, explainability and transparency.
 8. Silicon Valley Arb. & Mediation Ctr., Guidelines on the Use of Artificial Intelligence in Arbitration (1st ed. 2024), (hereinafter "SVAMC Guidelines"), <https://svamc.org/wp-content/uploads/SVAMC-AI-Guidelines-First-Edition.pdf>.
 9. CI Arb Guidelines, *supra* note 3.
 10. Stockholm Chamber of Commerce Arbitration Institute, SCC Guide to the Use of Artificial Intelligence in Cases Administered Under the SCC Rules, (2024), https://sccarbitrationinstitute.se/wp-content/uploads/2024/12/scc_guide_to_the_use_of_artificial_intelligence_in_cases_administered_under_the_scc_rules-1.pdf.
 11. See, e.g., Guideline 6 of the SVAMC Guidelines: "This Guideline underlines the critical principle that an arbitrator's mandate, especially their ultimate decision-making function, is personal and non-delegable. . . . While AI tools are capable of managing information, analyzing data, and predicting outcomes, they must not replace the human judgment, discretion, responsibility and accountability inherent in an arbitrator's role. Therefore, arbitrators must be mindful that they are not inadvertently delegating part of this personal mandate to an AI tool." *Id.*
 12. In the first publicly reported instance of a court annulling an arbitral award due to AI-generated reasoning, the Quebec Superior Court set aside an award after finding that the arbitrator had used artificial intelligence to draft the substantive part of the award, supported by hallucinated authorities, without disclosure to the parties. See *ARIHQ v. Santé Québec*, 2026 QCCS 1360 (Apr. 22, 2026). The court held that an arbitrator who delegates his or her core decision-making authority to AI tools commits a serious procedural irregularity.
 13. QMUL 2025 Survey, *supra* note 2, at 16-17.
 14. See O. Andre and K. Reisenfeld, *The Future Is Now: New 2019 CPR Arbitration Rules Incorporated Best Practices for Fast and Efficient Administered Arbitrations*, 12 N.Y. Disp. Resol. Law., no. 1, at 64 (2019).
 15. Guidelines on Early Disposition of Issues in Arbitration, CPR Disp. Resol. Serv. (hereinafter "CPR Early Disposition Guidelines"), <https://drs.cpradr.org/rules/protocols-guidelines/guidelines-on-early-disposition-of-issues-in-arbitration> (last visited June 30, 2026).
 16. CPR Early Disposition Guidelines, *supra* note 15.
 17. CPR Early Disposition Guidelines, *supra* note 15, sec. 3.6.
 18. QMUL 2025 Survey, *supra* note 2, at 16.
 19. See *Protocol on Disclosure of Documents & Presentation of Witnesses in Commercial Arbitration*, CPR Disp. Resol. Serv., <https://drs.cpradr.org/rules/protocols-guidelines/protocol-on-disclosure-of-documents-presentation-of-witnesses-in-commercial-arbitration> (last visited June 30, 2026). The author was a member of the 2021 task force that reviewed and updated the protocol.