

26 **31A-22-321. Use of arbitration in third party motor vehicle accident cases.**

27 (1) A person injured as a result of a motor vehicle accident may elect to submit all third
28 party bodily injury claims to arbitration by filing a notice of the submission of the claim to
29 binding arbitration in a district court if:

30 (a) the claimant or the claimant's representative has:

31 (i) previously and timely filed a complaint in a district court that includes a third party
32 bodily injury claim; and

33 (ii) filed a notice to submit the claim to arbitration within 14 days after the complaint
34 has been answered; and

35 (b) the notice required under Subsection (1)(a)(ii) is filed while the action under
36 Subsection (1)(a)(i) is still pending.

37 (2) (a) If a party submits a bodily injury claim to arbitration under Subsection (1), the
38 party submitting the claim or the party's representative is limited to an arbitration award that
39 does not exceed [~~\$50,000~~] \$75,000 or the defendant's per person limits of third party bodily
40 insurance ~~↳~~ **↳**, **whichever is less,** ~~↳~~ **↳** in addition to any available personal injury protection
40a benefits and any claim for
41 property damage.

42 (b) A claim for reimbursement of personal injury protection benefits is to be resolved
43 between insurers as provided for in Subsection 31A-22-309(6)(a)(ii).

44 (c) A claim for property damage may not be made in an arbitration proceeding under
45 Subsection (1) unless agreed upon by the parties in writing.

46 (d) A party who elects to proceed against a defendant under this section:

47 (i) waives the right to obtain a judgment against the personal assets of the defendant;
48 and

49 (ii) is limited to recovery only against available limits of insurance [~~coverage~~], plus a
50 maximum \$15,000 in excess of policy limits, and available costs if appealed.

51 (e) (i) This section does not prevent a party from pursuing an underinsured motorist
52 claim as set out in Section 31A-22-305.3.

53 (ii) An underinsured motorist claim described in Subsection (2)(e)(i) is not limited to
54 [~~the \$50,000 limit~~] the defendant's per person limits of third party bodily insurance coverage
55 [~~described in Subsection (2)(a)~~] or the \$75,000 limit.

56 (iii) There shall be no right of subrogation on the part of the underinsured motorist

150 [and]

151 (ii) the costs of expert witnesses and depositions[-];

152 (iii) the arbitration costs paid by the prevailing party under Subsection (7);

153 (iv) prejudgment interest described in Section 78B-5-824; and

154 (v) postjudgment interest described in Section 15-1-4.

155 [~~(c) An award of costs under this Subsection (14) may not exceed \$6,000;~~]

156 (15) For purposes of determining whether a party's verdict is greater or less than the
157 arbitration award under Subsections (13) and (14), a court may not consider any recovery or
158 other relief granted on a claim for damages if the claim for damages:

159 (a) was not fully disclosed in writing prior to the arbitration proceeding; or

160 (b) was not disclosed in response to discovery contrary to the Utah Rules of Civil
161 Procedure.

162 (16) If a district court determines, upon a motion of the nonmoving party, that the
163 moving party's use of the trial de novo process was filed in bad faith as defined in Section
164 78B-5-825, the district court may award reasonable attorney fees to the nonmoving party.

165 (17) Nothing in this section is intended to affect or prevent any first party claim from
166 later being brought under any first party insurance policy under which the injured person is a
167 covered person.

168 (18) (a) If a defendant requests a trial de novo under Subsection (11)[~~, in no event can~~
169 ~~the total verdict at trial~~], the total damages award at trial may not exceed \$15,000 above any
170 available per person limits of insurance coverage [~~and in no event can the total verdict exceed~~
171 ~~\$65,000~~], not including the costs described in Subsection (14)(b).

172 (b) If a plaintiff requests a trial de novo under Subsection (11), the verdict at trial may
173 not exceed [~~\$50,000~~] ~~→~~ **\$75,000, or ←** ~~→~~ the per person limits of insurance coverage ~~→~~ , ~~←~~
173a **→** [~~→~~] whichever is less. ~~←~~

174 (19) All arbitration awards issued under this section shall [~~bear postjudgment interest~~
175 ~~pursuant to Section 15-1-4.~~] include:

176 (a) the costs described in Rule 54(d), Utah Rules of Civil Procedure;

177 (b) the arbitration costs paid by the prevailing party under Subsection (7);

178 (c) prejudgment interest described in Section 78B-5-824; and

179 (d) postjudgment interest described in Section 15-1-4.

180 (20) If a party requests a trial de novo under Subsection (11), the party shall file a copy