

EXHIBIT A

Description of OIA Staff

OIA Staff Descriptions

Sharon Oxborough, Esq., Independent Administrator. Ms. Oxborough is the principal of the Law Offices of Sharon Oxborough. Ms. Oxborough is a graduate of Hamline University, *summa cum laude*, and Harvard Law School, *cum laude*. She was a federal law clerk in the Central District of California. She has twenty-five years of experience in general civil litigation, appeals, and alternative dispute resolution. She was of counsel to the Law Offices of Sharon Lybeck Hartmann. In that capacity, Ms. Oxborough drafted and negotiated the original *Rules* and forms used by the OIA and consulted about issues as they arose. She drafted all amendments and the OIA contracts and had primary responsibility for negotiating them with Kaiser and the AOB. Now, as Independent Administrator, she supervises the overall operation of the OIA, meets with Ms. Bell and Ms. O'Neal monthly regarding the status of cases, and writes the Annual Reports.

Marcella A. Bell, Esq., Director. Ms. Bell is a graduate of Loyola Marymount University and the University of West Los Angeles School of Law, where she served on the Moot Court Board of Governors. Her legal experience is primarily in the areas of civil rights and alternative dispute resolution. Ms. Bell was an attorney with the Law Offices of Sharon Lybeck Hartmann firm from 1995 to 2003. As Director of the OIA, Bell supervises day-to-day operations of the OIA and its staff. She also decides fee waiver applications and petitions for expedited proceedings, selects neutral arbitrators based on parties' responses, speaks with neutral arbitrators about their selection and the progress of their cases, compiles and analyzes statistical data, and answers substantive questions from claimants and attorneys. She also reviews neutral arbitrators disclosures to ensure that the disclosure required by Ethics Standard 12(b) is made and is timely, and the Standard 8 disclosures provided by the OIA are served on the parties. Ms. Bell speaks with neutral arbitrators about the status of their cases, monitoring the progress of those open more than 15 months. She served as a volunteer attorney at the West Los Angeles Domestic Violence Prevention Clinic from 1998 to 2000. Ms. Bell is fluent in Spanish and Italian.

Stephanie L. O'Neal, Esq., Assistant Director. Ms. O'Neal is a graduate of Dartmouth College and UCLA School of Law. She also holds a Masters in Urban Planning from UCLA. Her legal experience is primarily in the areas of civil rights and alternative dispute resolution. Ms. O'Neal was an attorney with the Hartmann firm from 1996 to 2003. At the OIA, Ms. O'Neal reviews arbitrator applications and fee waiver applications, decides fee waiver applications and petitions for expedited proceedings, selects neutral arbitrators based on parties' responses, speaks with neutral arbitrators about their selection and the progress of their cases, and answers substantive questions from claimants and attorneys. She reviews neutral arbitrators disclosures to ensure that the disclosure required by Ethics Standard 12(b) is made and is timely, and the Standard 8 disclosures provided by the OIA are served on the parties. Ms. O'Neal speaks with neutral arbitrators about the status of their cases, monitoring the progress of those open more than 15 months. She also assists Ms. Bell in supervision of the OIA and its staff. Ms. O'Neal is an adjunct instructor in the UCLA Extension Paralegal Training Program, and an adjunct instructor at Los Angeles Valley College, where she teaches Business Law.

Tracy Holler, Management Information Systems. Ms. Holler is a graduate of California State Polytechnic University, Pomona. She studied Business Administration, with a concentration in Management and Human Resources. She worked at the Hartmann firm from 1994 to 2003. She is the computer network administrator and is responsible for all parts of the firm's computer network. She designed, set up, and maintains the OIA's extensive computer databases. She was responsible in 2002 for redesigning the OIA's software to meet the reporting requirements of both the Ethics Standards and of California Code of Civil Procedure §1281.96. Because of her, the OIA posted all data required before the statutory deadline of January 1, 2003. She generates the statistical reports upon which these annual reports are based.

Vivian Arroyo, Administrative Staff. Ms. Arroyo worked as an administrator at the Hartmann firm from 1997 to 2003. Prior to that, she worked for Mexicana Airlines as a sales representative for fifteen years. Ms. Arroyo traveled all over the world during her career with the airline. At the OIA, Ms. Arroyo is responsible for tracking each case's compliance with the *Rules* to the extent that it can be tracked through our computer database, sending form letters reminding parties and neutrals of deadlines, and maintaining case files. She also assists Ms. Bell and Ms. O'Neal in the neutral arbitrator selection process. She is fluent in Spanish.

Maria Garcia, Administrative Staff. Ms. Garcia worked at the Hartmann firm from 1996 to 2003. She is responsible for sending out the lists of possible arbitrator ("LPA") packets to the parties. She generates the LPAs, assembles copies of the neutral arbitrators applications for the LPAs, and maintains the neutral arbitrator application files. She inputs the information the neutral arbitrators provide about themselves in their applications into the OIA computer database and sends out neutral arbitrator applications to potential applicants. She sends letters confirming the granting of 90 day postponements with new due dates. Ms. Garcia also maintains the database of Kaiser Senior Advantage plan members who elect to opt out of arbitration. Those Senior Advantage members who do not wish to arbitrate any disputes that may arise under their plan sign and return a form, provided by Kaiser, to the OIA. Ms. Garcia adds their names and other pertinent information to the database. She is fluent in Spanish.

Aura Armas, Administrative Staff. In 2009, Ms. Armas received her degree in Political Science and Philosophy from Mount St. Mary's College. While at Mount St. Mary's, Ms. Armas received a Leadership Award for three years, for her participation in Mock Trial/Moot Court. She was also a member of the Phi Alpha Delta Pre-Law Fraternity. Ms. Armas is a JusticeCorps volunteer, with the Self-Help Legal Center, Los Angeles Superior Court. At the OIA, Ms. Armas is responsible for assisting Ms. Garcia, with sending out the LPA packets to the parties, copying neutral arbitrator applications, and maintaining the neutral arbitrator application files. She calls the parties to remind them of the deadline to respond to the LPA. She also assists Ms. Garcia with the Senior Advantage opt out forms. She is fluent in Spanish.

Lynda Tutt, Legal Assistant. A native of Philadelphia, Pennsylvania, Ms. Tutt attended Temple University. She has many years' experience as a legal assistant, and worked for the Hartmann firm from 1995 to 2003. Ms. Tutt is a licensed notary and a member of the Legal Secretaries Association, Beverly Hills/Century City Chapter. Ms. Tutt answers incoming telephone calls and responds to questions from lawyers, claimants, and the public. She creates case files, enters information about new cases into the OIA's computer database, sends letters to neutral arbitrators confirming their selection, and sends letters regarding payment of filing fees.

EXHIBIT A

EXHIBIT B

**Redlined Version of Rules for Kaiser
Permanente Member Arbitrations
Administered by
the Office of the Independent Administrator,
Amended as of January 1, 2009**

**RULES FOR KAISER PERMANENTE MEMBER
ARBITRATIONS**

ADMINISTERED BY

THE OFFICE OF THE INDEPENDENT ADMINISTRATOR

AMENDED AS OF JANUARY 1, 200710

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A. GENERAL RULES

1. Goal

These Rules are intended to provide an arbitration process that is fair, timely, lower in cost than litigation, and that protects the privacy interests of all Parties.

2. Administration of Arbitration

The arbitrations conducted under these Rules shall be administered by the Office of the Independent Administrator. Arbitrations conducted under these Rules shall be considered to be consumer arbitrations under California law.

3. Confidentiality

Information disclosed to, and documents received by, an Arbitrator or the Independent Administrator by or from the Parties, their representatives, or witnesses in the course of the arbitration shall not be divulged by the Arbitrator or the Independent Administrator. With respect to the Independent Administrator, this Rule shall not apply to communications concerning Arbitrators, disclosures required by law, or statistical information used in its annual reports.

4. Code of Ethics

All Neutral Arbitrators appointed on or after July 1, 2002, shall comply with the Ethics Standards for Neutral Arbitrators in Contractual Arbitration, Division VI of the Appendix to the California Rules of Court ("Ethics Standards.") All other arbitrators shall comply with the AAA Code of Ethics for Arbitrators in Commercial Disputes.

5. Meaning of Arbitrator

The term "Arbitrator" in these Rules refers to the arbitration panel, whether composed of one or more Arbitrators or whether the Arbitrators are Neutral or Party. The term "Party Arbitrator" means an Arbitrator selected by one of the sides to the arbitration. The term "Neutral Arbitrator" means any Arbitrator other than a "Party Arbitrator."

6. Authority of Arbitrators

Once appointed, the Neutral Arbitrator will resolve disputes about the interpretation and applicability of these Rules, including disputes relating to the duties of the Arbitrator and the conduct of the Arbitration Hearing. In cases involving more than one Arbitrator, however, issues that are dispositive with respect to a claim, including summary judgment motions, will be ruled on by all three Arbitrators and decided by a majority of them. Upon commencement of the Arbitration Hearing and thereafter, all substantive decisions shall be made by a majority of the full panel or as otherwise agreed by them.

7. Contents of the Demand for Arbitration

The Demand for Arbitration shall include the basis of the claim against the Respondent(s); the amount of damages the Claimant(s) seeks in the Arbitration; the name, address and telephone number of the Claimant(s)

and their attorney, if any; and the name of all Respondent(s). Claimant(s) shall include all claims against Respondent(s) that are based on the same incident, transaction, or related circumstances in the Demand for Arbitration.

8. Serving Demand for Arbitration

- a. In Northern California, Kaiser Foundation Health Plan, Inc. ("Health Plan"), Kaiser Permanente Insurance Corporation ("KPIC"), Kaiser Foundation Hospitals, and/or The Permanente Medical Group, Inc. shall be served with a Demand for Arbitration by mailing the Demand for Arbitration addressed to that Respondent(s) in care of:

Kaiser Foundation Health Plan, Inc. or
Legal Department
P.O. Box 12916
Oakland, CA 94604

Kaiser Foundation Health Plan, Inc.
Legal Department
1950 Franklin Street, 17th Floor
Oakland, CA 94612

Service on that Respondent shall be deemed completed when received.

- b. In Southern California, Health Plan, Kaiser Foundation Hospitals, and/or Southern California Permanente Medical Group, shall be served with a Demand for Arbitration by mailing the Demand for Arbitration to that Respondent(s) in care of:

Kaiser Foundation Health Plan, Inc.
Legal Department
393 East Walnut Street
Pasadena, CA 91188

Service on that Respondent shall be deemed completed when received.

- c. All other Respondent(s), including individuals, must be served as required by the California Code of Civil Procedure for a civil action.
- d. All Respondent(s) served with a Demand for Arbitration in the manner described above shall be Parties to the Arbitration. The Arbitrator shall have jurisdiction only over Respondent(s) actually served. If Claimant(s) serves any Respondent(s) other than an organization affiliated with Kaiser Permanente, the Claimant(s) shall serve a proof of service of that Respondent(s) on the Independent Administrator.
- e. Where an order to arbitrate has been entered, the underlying court complaint constitutes the Demand for Arbitration and the entry of the order constitutes its service.

9. Serving Other Documents

- a. Service of other documents required by these Rules will be made on the Parties or Arbitrator at their last known address. If the Party is represented in this arbitration, that counsel shall be served instead of the Party. Service may be made by personal service, Federal Express or other similar services, facsimile transmission, or by U.S. mail.
- b. Parties should only serve the Independent Administrator with those documents specified in these Rules. Unless otherwise directed by the Neutral Arbitrator, the parties should not serve the Independent

Administrator with copies of motions or briefs. Service for the Independent Administrator shall be directed to:

- c. ~~Office of the Independent Administrator for the Kaiser Foundation Health Plan, Inc.
P. O. Box 76587
Los Angeles, California 90076-0587~~
or
Office of the Independent Administrator for the Kaiser Foundation Health Plan, Inc.

Fax: 213-637-8658:

or

Email: uia@uia-kaiserarb.com.

- d. If a Party or Arbitrator serves the Independent Administrator by fax or email, the Party or Arbitrator shall call the Independent Administrator's office at 213-637-9847 to confirm receipt or shall retain confirmation of receipt of the faxed or emailed document.
- e. Service on the Independent Administrator is effective on the date the Independent Administrator receives the document.

10. Representation

Parties represented by counsel shall not contact the Independent Administrator except through counsel.

B. RULES ON COMMENCEMENT OF ARBITRATION AND SELECTION OF ARBITRATORS

11. Initiation of Arbitration

Demands for Arbitration shall be served in accordance with Rule 8. Whether or not the Claimant(s) has enclosed a filing fee, within ten (10) days of such service upon the Health Plan at the address set forth in Rule 8, Health Plan shall transmit the Demand for Arbitration and the envelope it came in to the Independent Administrator using the Transmission Form. If the Claimant(s) submitted a filing fee with the Demand, the Health Plan shall transmit the filing fee as well. Health Plan shall also serve a copy of the Transmission Form on the Claimant(s).

12. Filing Fee

- a. Claimant(s) seeking arbitration shall pay a single, non-refundable, filing fee of \$150 per arbitration payable to "Arbitration Account" regardless of the number of claims asserted in the Demand for Arbitration or the number of Claimants or Respondents named in the Demand for Arbitration.
- b. **The Independent Administrator will waive the filing fee for Claimant(s) who submit forms that show that the Claimants' gross monthly income is less than 300 percent of the federal poverty guidelines. A copy of this form may be obtained from the**

Independent Administrator. Claimants should not serve a copy of this form on Respondent(s).

- c. If Claimant(s) wishes to have both the filing fee and the Neutral Arbitrators' fees waived, the Claimant(s) should follow the procedure set out in Rule 13. If Claimant(s) wishes only to avoid paying the fees for the Neutral Arbitrator, but can afford the filing fee or has received a waiver under 12.b, the Claimant(s) should follow the procedure set out in Rule 15.
- d. If a Claimant(s) fails to pay the filing fee or obtain a waiver of that fee within seventy-five (75) days of the date of the Transmission Form, the Independent Administrator will not process the Demand and it shall be deemed abandoned.
- e. While the filing fee is normally non-refundable, if Claimant(s) has paid the filing fee with the Demand for Arbitration before receiving notice of the opportunity to have it waived, the Independent Administrator will refund the fee if it receives a completed waiver form within seventy-five (75) days of the date of the Transmission Form and grants the waiver.

13. Waiver of Filing and Neutral Arbitrator Fees

Any Claimant(s) who claims extreme hardship may request that the Independent Administrator waive the filing fee and Neutral Arbitrator's fees and expenses. A Claimant(s) who seeks such a waiver shall complete the Fee Waiver Form and submit it to the Independent Administrator and simultaneously serve it upon Respondent(s). The Fee Waiver Form sets out the criteria for waiving fees and is available from the Independent Administrator or by calling the Kaiser Permanente Member Service Customer Center at 1-800-464-4000. Respondent(s) may submit any response to the Independent Administrator within ten (10) days of the date of Claimant's Fee Waiver Form, and shall simultaneously serve any submission upon Claimant(s). Within fifteen (15) days of receipt of a Fee Waiver Form, the Independent Administrator shall determine whether the fees should be waived and notify the Parties in writing of the decision. In those cases where the Independent Administrator grants the waiver of fees, the Independent Administrator shall waive the filing fee and Health Plan shall pay the Neutral Arbitrator's fees and expenses.

14. Number of Arbitrators

- a. If the Demand for Arbitration seeks total damages of \$200,000 or less, the dispute shall be heard and determined by one Neutral Arbitrator, unless the Parties otherwise agree in writing that the arbitration shall be heard by two Party Arbitrators and a Neutral Arbitrator. The Arbitrators shall not have authority to award monetary damages that are greater than \$200,000.
- b. If the Demand for Arbitration seeks total damages of more than \$200,000, the dispute may be heard and determined by one Neutral Arbitrator and two Party Arbitrators, one appointed by the Claimant(s) and one appointed by the Respondent(s). Parties who are entitled to select a Party Arbitrator under these Rules may agree to waive this right. If both Parties agree, these arbitrations will be heard by a single Neutral Arbitrator.
- c. A Party who is entitled to a Party Arbitrator and decides to waive this right shall sign a Waiver of Party Arbitrator Form and serve a copy of it upon the Independent Administrator, Neutral Arbitrator, and other Party. The

Claimant(s) shall serve this form on the Neutral Arbitrator and Respondent(s) no later than the date of the Arbitration Management Conference set out in Rule 25 and shall serve the Independent Administrator no later than five (5) days after serving the other Parties. If a Claimant(s) serves Respondent(s) with a signed Waiver of Party Arbitrator Form, Respondent(s) shall inform Claimant(s) within five (5) days of the date of that Form if Respondent(s) will also waive the Party Arbitrator.

- d. The Blue Ribbon Advisory Panel on Kaiser Permanente Arbitration concluded that Party Arbitrators increase the cost and cause more delay than would occur with a single Neutral Arbitrator. The Independent Administrator therefore encourages Parties to use a single Neutral Arbitrator to decide cases.
- e. The number of Arbitrators may affect the Claimant(s)' responsibility for paying the Neutral Arbitrator's fees and expenses, as set out in Rule 15.

15. Payment of Neutral Arbitrator Fees and Expenses

- a. Respondent shall pay for the fees and expenses incurred by the Neutral Arbitrator if
 - i. Claimant(s) agrees to waive any potential objection arising out of such payment, signs the Waiver of Objection Form, and serves a copy of it on the Independent Administrator and Respondent(s); and
 - ii. either the arbitration has only a single Neutral Arbitrator or the Claimant(s) has served a Waiver of Party Arbitrator Form as set out in Rule 14.c.
- b. In arbitrations where the Independent Administrator has granted Claimant's Fee Waiver request, Respondent shall pay the fees and expenses incurred by the Neutral Arbitrator.
- c. In all other arbitrations, the fees and expenses of the Neutral Arbitrator shall be paid one-half by the Claimant(s) and one-half by the Respondent(s).
- d. Nothing in this Rule shall prohibit an order requiring the payment of the Neutral Arbitrator's fees and expenses which were incurred as a result of conduct which causes the Neutral Arbitrator to incur needless fees and expenses. Such conduct includes, but is not limited to, failure to respond to discovery requests, abusive discovery practices, the filing of frivolous motions of all sorts, and untimely requests for continuances. In the event that such a finding is made by the Neutral Arbitrator, those fees and expenses shall be paid by the responsible Party or counsel. The Neutral Arbitrator shall make such a finding in writing, shall specify what fees and expenses are covered by the order, and shall serve a copy of the finding on the Independent Administrator with the Parties' names redacted.
- e. In arbitrations brought by Health Plan or KPIC:
 - i. "Claimant(s)" means KPIC or Health Plan. "Respondent(s)" means the member or member's family or representative.

- ii. Claimant KPIC or Health Plan shall pay for fees and expenses incurred by the Neutral Arbitrator if:
 - (a) Respondent(s) agrees to waive any potential objection arising out of such payment, signs the Waiver of Objection Form, and serves a copy of it on the Independent Administrator and Claimant(s); and
 - (b) either the arbitration has only a single Neutral Arbitrator or the Respondent(s) has served a Waiver of Party Arbitrator Form as set forth in Rule 14c.
- iii. If the Respondent fails to appear in the arbitration, KPIC or Health Plan shall pay for the fees and expenses incurred by the Neutral Arbitrator.

16. List of Possible Arbitrators

- a. Within three (3) business days after the Independent Administrator has received both the Demand for Arbitration and the filing fee, or has granted a request for waiver of fees, it shall simultaneously send to each Party an identical List of Possible Arbitrators, along with the Application forms of and redacted Awards, if any, by each of the possible Neutral Arbitrators.
- b. The List of Possible Arbitrators shall contain the names of twelve (12) persons. The Independent Administrator will choose the twelve (12) names at random from the Independent Administrator's arbitration panel for San Diego, Southern or Northern California, based on the location where the cause of action arose.
- c. Unless there is a ninety (90) day continuance pursuant to Rule 21, the Independent Administrator must receive the Parties' responses to the List of Possible Arbitrators on or before the deadline date appearing on the List of Possible Arbitrators. This deadline will be twenty (20) days from the day the Independent Administrator sent the List of Possible Arbitrators. Rules 17 and 18 specify how the Parties may respond.

17. Joint Selection of the Neutral Arbitrator

- a. The Parties may all agree upon a person listed on the List of Possible Arbitrators. If they do, the Parties and counsel shall sign the Joint Selection of Neutral Arbitrator Form. Unless there is a ninety (90) day continuance pursuant to Rule 21, the Independent Administrator must receive the form by the deadline set out in Rule 16.c.
- b. Rather than selecting a Neutral Arbitrator from the List of Possible Arbitrators, the Parties may agree to select another person to serve as Neutral Arbitrator, provided that the person agrees in writing to comply with these Rules. If the Parties collectively select a person not on the List of Possible Arbitrators, all the Parties and counsel shall complete and sign the Joint Selection of Neutral Arbitrator Form. Unless there is a ninety (90) day continuance pursuant to Rule 21, the Independent Administrator must receive the form by the deadline set out in Rule 16.c.
- c. The Independent Administrator encourages Parties, if possible, to make more than one joint selection and requires the Claimant and Respondent to individually submit the List of Possible Arbitrators under Rule 18. If the

person the Parties have jointly selected is unable to serve, the Independent Administrator will then first use other joint selection(s). If only one joint Selection was submitted, the Independent Administrator will then use the strike and ranked List(s) of Possible Arbitrators. If no such List was submitted, Rule 18.c shall apply, and the Independent Administrator will randomly select a possible Neutral Arbitrator from the List of Possible Arbitrators.

- d. After the Independent Administrator has received these forms, it will send a Letter Confirming Service to the person who has agreed to act as Neutral Arbitrator, with a copy to the Parties.

18. Selection of the Neutral Arbitrator When the Parties Do Not Agree

- a. If the Parties do not collectively agree upon a Neutral Arbitrator, the Neutral Arbitrator shall be selected from the List of Possible Arbitrators in the following manner. Claimant(s) and Respondent(s) may each strike up to four (4) names to which the Party objects and shall rank the remaining names in order of preference with "1" being the strongest preference. No name should be left blank. Unless there is a ninety (90) day continuance pursuant to Rule 21, the Independent Administrator must receive the forms by the deadline set out in Rule 16.c.
- b. Regardless of the number of Claimants or Respondents, the Claimant(s) shall return only one list of preferences and the Respondent(s) shall return only one list of preferences. If they do not, Rule 18.c will apply.
- c. Unless there is a ninety (90) day continuance pursuant to Rule 21, if the Independent Administrator does not receive a response from a Party by the deadline set out in Rule 16.c, all persons named on the List of Possible Arbitrators shall be deemed equally acceptable Neutral Arbitrators to that Party.
- d. At any time before the Party's response is due, a Party or representative may request to review further information, if any, which the Independent Administrator has in its files about the persons named on the List of Possible Arbitrators. Parties and their representatives may call the Independent Administrator at 213-637-9847 to request such information. The Parties and their representatives may review the information by going to the Independent Administrator's office. If requested, the Independent Administrator will also send the information to the Party or attorney by mail or fax. Parties who request that further information be sent to them shall be responsible for the Independent Administrator's cost of providing it, with no charge made for duplication of the first twenty-five (25) pages. Time spent requesting or waiting for the additional information shall not extend the time to respond to the List of Possible Arbitrators.
- e. Working from the returned Lists of Possible Arbitrators it has timely received, the Independent Administrator shall invite a person to serve as the Neutral Arbitrator, asking first the person with the lowest combined rank whose name has not been stricken by either Party. If the person with the lowest combined rank is not available, the Independent Administrator will ask the second lowest ranked person who was not stricken by either party, and will continue until a person whose name was not stricken agrees to serve. When the Independent Administrator contacts the persons, it shall inform them of the names of the Parties and their counsel and ask them not to accept if they know of any conflict of interest. If there

is a tie in ranking, the Independent Administrator shall ~~select~~ choose at random a person ~~at random~~ from the list of those choices who are tied.

- f. ~~If, for any reason, a Party disqualifies a Neutral Arbitrator cannot be obtained from the first List of Possible Arbitrators,~~ the Independent Administrator shall send ~~second~~ another List of Possible Arbitrators to the Parties. The procedure and timing in that case shall be the same as that for the first List of Possible Arbitrators. ~~If, for any reason, a~~ After two Neutral Arbitrators have been disqualified, the Independent Administrator shall randomly select a Neutral Arbitrator from the other members on the panel who have not been named on ~~either~~ prior Lists of Possible Arbitrators.
- g. If a Neutral Arbitrator should die, become incapacitated, ~~be disqualified,~~ or otherwise become unable or unwilling to proceed with the arbitration after appointment, the Independent Administrator shall serve the Parties with a new List of Possible Arbitrators and the selection process as set out in Rules 16 through 18 shall begin again.

19. Acceptance by the Neutral Arbitrator

- a. If a person in the Independent Administrator's pool is appointed as the Neutral Arbitrator in a case and either served a notice saying no further work by the Parties or the attorneys would be accepted during the pendency of the case, or failed to serve any Standard 12(b) disclosure, the person shall be removed from the pool until the case is closed.
- b. When a person agrees to act as a Neutral Arbitrator under Rule 18, the Independent Administrator shall send the person a copy of these Rules and a Letter Confirming Service. The Independent Administrator shall also serve the Parties with a copy of the Letter Confirming Service.

20. Disclosure and Challenge

- a. The person who has agreed to serve as Neutral Arbitrator shall make disclosures as required by law, including California Code of Civil Procedure Section 1281.9 or its successor statute and the Ethics Standards simultaneously upon the Parties and the Independent Administrator. Party responses, if any, shall be in accordance with the Code, with a copy served to the Independent Administrator. After the time for any response has passed, the Independent Administrator will deem that the Neutral Arbitrator has been appointed if no timely objection is received.
- b. The Neutral Arbitrator shall make all further disclosures as required by law, including California Code of Civil Procedure Section 1281.9 or its successor statute and the Ethics Standards simultaneously upon the Parties and the Independent Administrator. Party responses, if any, shall be in accordance with the code, with a copy served to the Independent Administrator.

21. Postponement of Selection of Neutral Arbitrator

- a. The Claimant(s) may obtain a single postponement of up to ninety (90) days for the appointment of the Neutral Arbitrator if the Independent Administrator receives a written request for postponement on or before the date that the response to the List of the Possible Arbitrators is due under Rule 16. Claimant(s) shall serve a copy of this request for postponement

on the Respondent(s). Regardless of the number of Claimants, Claimant(s) is entitled to only a single ninety (90) day postponement of the appointment of the Neutral Arbitrator.

- b. If the Claimant(s) agrees in writing, Respondent(s) may obtain a single ninety (90) day postponement for the appointment of the Neutral Arbitrator. The Independent Administrator must receive this written request for postponement before the date that the response to the List of the Possible Arbitrators is due under Rule 16.c.
- c. There shall be only one postponement whether made by either Claimant(s) or Respondent(s) pursuant to this Rule in any arbitration.
- d. In arbitrations brought by Health Plan or KPIC, in 21.a and 21.b, "Respondent(s)" means the member or member's family or representative and "Claimant(s)" means KPIC or Health Plan.

22. Selection of the Party Arbitrator

- a. If the Parties are entitled to a Party Arbitrator and have not waived that right, the Claimant(s) and the Respondent(s) shall each select a Party Arbitrator and notify the Independent Administrator and the Neutral Arbitrator of the Party Arbitrator's name, address, and telephone and fax numbers. Each Party Arbitrator shall sign the Agreement to Serve, and submit it to the Independent Administrator before serving in the arbitration.
- b. If possible, the Parties should select the Party Arbitrators before the Arbitration Management Conference that is set forth in Rule 25. Any Party Arbitrator who is selected after the Arbitration Management Conference shall conform to any arbitration schedule established prior to his or her selection. Notwithstanding any other Rule, if a Party Arbitrator has not been selected, or has not signed the Agreement to serve, or does not attend a hearing, conference or meeting set by the Neutral Arbitrator of which the Party Arbitrator or Party had notice, the remaining Arbitrators may act in the absence of such Party Arbitrator.
- c. Regardless of the number of Claimants or Respondents, all of the Claimant(s) are entitled to only one Party Arbitrator and all of the Respondent(s) are entitled to only one Party Arbitrator.
- d. No Claimant, Respondent, or attorney may act as Party Arbitrator in an arbitration in which he or she is participating in any other manner.

23. Appointment of Chairperson

In cases involving more than one Arbitrator, the Neutral Arbitrator will chair the arbitration panel. Absent objection by any Party, the Neutral Arbitrator shall have the authority to decide all discovery and procedural matters, but may not decide dispositive issues without the Party Arbitrators. Dispositive issues shall be decided by a majority of the Arbitrators. The Neutral Arbitrator will also set the time and location of hearings and be responsible for submitting all necessary forms to the Independent Administrator. Upon commencement of the Arbitration Hearing and thereafter, all substantive decisions shall be made by a majority of the Arbitrators or as otherwise agreed by them.

C. RULES FOR REGULAR PROCEDURES

24. Deadline for Disposing of Arbitrations

- a. Unless Rule 24.b, 24.c, or 33 applies, the Neutral Arbitrator shall serve an Award on the Parties and the Independent Administrator, or the arbitration shall be otherwise concluded, within eighteen (18) months of the Independent Administrator receiving the Demand for Arbitration and filing fee or granting the fee waiver. The Parties and Arbitrator are encouraged to complete the arbitration in less time than the maximums set forth in the Rules, if that is consistent with a just and fair result.
- b. ~~If all of the Parties and their counsel agree that the claim is a complex case and the Neutral Arbitrator agrees, the Neutral Arbitrator shall serve an Award on the Parties and the Independent Administrator, or the arbitration shall be otherwise concluded, within twenty-four (24) to thirty (30) months of the Independent Administrator receiving the Demand for Arbitration and filing fee or granting the fee waiver. The Unrepresented Parties, counsel, and the Neutral Arbitrator shall sign and serve the Designation of Complex Arbitration Form upon the Independent Administrator.~~
- c. There may be some small number of extraordinary cases which cannot be disposed of within thirty (30) months, such as those where the damages or injuries cannot be ascertained within that time. If all the unrepresented Parties, counsel, and Neutral Arbitrator agree, the Neutral Arbitrator may select a later date for disposition of the case. ~~The Unrepresented Parties, counsel, and the Neutral Arbitrator shall sign and serve the Designation of Extraordinary Arbitration Form upon the Independent Administrator. This form will set forth the reason for this designation and the target disposition date.~~
- d. It is the Neutral Arbitrator's responsibility to set a hearing date and to ensure that the arbitration proceeds within the time limits set out in these Rules. ~~Failure by the Parties or, counsel, or Neutral Arbitrator to comply with this Rule may subject them to sanction. Failure by the Neutral Arbitrators to comply with this Rule, removal as Neutral Arbitrator, may subject them to suspension or removal from the pool of Neutral Arbitrators.~~ However, this Rule is not a basis to dismiss an arbitration or a claim. Nothing in this paragraph affects the remedies otherwise available under law for violation of any other Rule.

25. Arbitration Management Conference

- a. The Neutral Arbitrator shall hold an Arbitration Management Conference with the attorneys representing the Parties, or the Claimant in pro per and the attorney(s) representing Respondent(s) within sixty (60) days of the date of the Letter Confirming Service of the Neutral Arbitrator. The Neutral Arbitrator shall give notice to the Parties of the time and location at least ten (10) days in advance. The Arbitration Management Conference may be conducted by telephone or by video conference if such facilities are available.
- b. The Neutral Arbitrator shall discuss, but is not limited to, the following topics:
 - i. the status of the Parties, claims, and defenses;
 - ii. a realistic assessment of the case;

- iii. any pending or intended motions;
 - iv. completed and intended discovery;
 - v. the procedures to be followed, including any written submissions the Neutral Arbitrator requires or permits; and
 - vi. if appropriate, whether the Parties have or will waive any Party Arbitrator.
- c. At the Arbitration Management Conference, the Arbitrator shall establish:
- i. the schedule for motions and the mandatory settlement meeting and
 - ii. the dates of the Arbitration Hearing. The Arbitrator and the Parties shall schedule the Arbitration Hearing for consecutive days if more than one day is necessary. If the Arbitrator permits post-Arbitration briefs, the dates for the Arbitration Hearing must be set early enough to ensure that it will be closed within the deadlines established in Rule 24.
- d. If any of the Parties is not represented by counsel, the Neutral Arbitrator should refer the Parties to Rule 54 and offer to explain the process to be followed. Parties who have questions about at the Arbitration Hearing, use of motions, need for expert witnesses waivers, and costs, etc. should raise them at the Arbitration Management Conference.
- e. The Neutral Arbitrator shall record all deadlines established by the Neutral Arbitrator during the Arbitration Management Conference on the Arbitration Management Conference Form. The Neutral Arbitrator shall serve the Arbitration Management Conference Form on the Parties and the Independent Administrator within five (5) days of the Arbitration Management Conference. The Neutral Arbitrator shall also serve a copy of the Arbitration Management Conference Form on the Party Arbitrators if and when they are named.
- f. At any time after the Arbitration Management Conference, the Neutral Arbitrator may require, or the Parties may request, additional conferences to discuss administrative, procedural, or substantive matters and to assure that the case continues to move expeditiously. Neutral Arbitrators are encouraged to conduct such conferences by telephone or video conference if facilities are available.

26. Mandatory Settlement Meeting

- a. No later than six (6) months after the Arbitration Management Conference, attorneys representing the parties, or the claimant in pro per and the attorneys representing the respondents shall conduct a mandatory settlement meeting. Represented parties are not required to attend, but if they choose not to do so, either their attorneys must be fully authorized to settle the matter, or the parties not present must be immediately available by phone for consultation with their attorneys while the meeting is in progress. The Parties shall jointly agree on the form these settlement discussions shall take, which may include a conference by telephone, a video-conference, an in-person meeting or any other format they shall agree upon. This Rule does not require that a neutral third party oversee

the mandatory settlement meeting; nor does it preclude the presence of such a person. The Neutral Arbitrator shall not take part in the mandatory settlement meeting. Within five (5) days after the mandatory settlement meeting, the Parties and their counsel shall sign the Mandatory Settlement Meeting Form and serve a copy on the Independent Administrator to confirm that the meeting occurred. If the Parties have settled the claim, they shall give notice as required in Rule 40.

- b. This Rule sets a deadline for the Parties to conduct a mandatory settlement meeting. The Parties are encouraged to engage in settlement discussions at an earlier date.
- c. Section 998 of the California Code of Civil Procedure (Offers by a Party to Compromise) applies to arbitrations conducted under these Rules.

27. Discovery

- a. Discovery may commence as soon as the Health Plan serves Claimant(s) with a copy of the Transmission Form, unless some Party objects in writing. If a Party objects, discovery may commence as soon as the Neutral Arbitrator is appointed. Discovery shall be conducted as if the matter were in California state court. Any extension of time for completion of discovery shall not affect the date of the Arbitration Hearing.
- b. The Parties should address problems stemming from the discovery process to the Neutral Arbitrator for rulings. The time for serving any discovery motions shall commence as required by the California Code of Civil Procedure or upon the appointment of the Neutral Arbitrator, whichever is later.
- c. If the Claimant(s) requests and at the Claimant's expense, Health Plan or the affiliated entities that are named as Respondent(s) shall serve a copy of that portion of Claimant's medical records requested on the Claimant(s) within thirty (30) days of Claimant's request.
- d. At the request of the Parties and as would be permitted in state court, the Neutral Arbitrator may issue orders to protect the confidentiality of proprietary information, trade secrets, or other sensitive or private information.

28. Postponements

- a. Any postponement of dates other than that set out in Rule 21 shall be requested in writing from the Neutral Arbitrator if one has been appointed or from the Independent Administrator if the Neutral Arbitrator has not been appointed or has become incapacitated. The request shall set out good cause for the postponement and whether the other Party agrees. Postponements, absent extraordinary circumstances, shall not prevent the Arbitration Award from being served within the time periods specified in Rule 24. Failure of the parties to prepare for a scheduled hearing or to keep the hearing dates free from other commitments does not constitute extraordinary circumstances.
- b. Whenever a Party requests a postponement of an Arbitration Hearing, the request must be in the form of a written motion to the Neutral Arbitrator, with a copy served on the Parties.

- i. The motion must state the reasons for the request.
- ii. The Neutral Arbitrator must issue a written order that either denies or grants the motion for postponement, states who made the motion, and gives the reason for the decision. The order must be served on the parties and the Independent Administrator. If the Neutral Arbitrator grants the motion, the order must state the date to which the hearing has been postponed.
- iii. If the motion for a postponement is granted, the Neutral Arbitrator has the discretion to enter an order requiring that the Neutral Arbitrator's costs and fees associated with the postponement of an Arbitration Hearing be paid by the party requesting the postponement

29. Failure to Appear

- a. The arbitration may proceed in the absence of a Party, a Party's attorney, or a Party Arbitrator who, after due notice of the date, time, and location of the Arbitration Hearing, or any other conference or hearing, fails to be present and failed to obtain a postponement. If the date of the Arbitration Hearing has not been changed, service of the Arbitration Management Conference Form on a Party shall constitute due notice.
- b. An Award shall not be made solely on the default of a Party. The Arbitrator may require each Party who attends to submit such evidence as the Arbitrator requires for the making of an Award.

30. Securing Witnesses for the Arbitration Hearing

The Party's attorney, the Neutral Arbitrator, or other entity authorized by law may issue subpoenas for the attendance of witnesses or the production of documents. The Independent Administrator shall not.

31. Close of Hearing or Proceeding

- a. When the Parties have rested, the Neutral Arbitrator shall declare the Arbitration Hearing closed.
- b. The Neutral Arbitrator may defer the closing of the Arbitration Hearing until a date agreed upon by the Neutral Arbitrator and the Parties, to permit the Parties to submit post-Hearing papers. The date for the post-Hearing submissions shall not be more than fifteen (15) days after the Parties have rested. If post-Hearing papers are to be submitted, the Arbitration Hearing will be deemed closed on the date set for the submission. If a Party fails to submit the papers by the closing date, the Neutral Arbitrator need not accept or consider them.
- c. The time limit under Rule 37 for the Neutral Arbitrator to make the Award shall begin to run upon the closing of the Arbitration Hearing or proceeding. The late filing of a post-hearing paper shall not affect the deadline for making the Award.

32. Documents

After making the Award, the Neutral Arbitrator has no obligation to preserve copies of the exhibits or documents the Neutral Arbitrator has previously received.

D. RULES FOR EXPEDITED PROCEDURES

33. Expedited Procedures

- a. Expedited Procedures are available in an arbitration where the Claimant(s) requires an Award in less time than that set out in Rule 24.a. The need for the Expedited Procedures shall be based upon any of the following:
 - i. a Claimant or member suffers from an illness or condition raising substantial medical doubt of survival until the time set for an Award according to Rule 24.a; or
 - ii. a Claimant or member seeks a determination that he or she is entitled to a drug or medical procedure that the Claimant or member has not yet received; or
 - iii. other good cause.
- b. The Claimant(s) and Respondent(s) may submit evidence, including declarations by physicians or others, to establish any of these criteria.
- c. If either the Independent Administrator or the Neutral Arbitrator decide that Expedited Procedures are required, the arbitration shall be disposed of within the time set out in that order. No extension of that time is allowed.
- d. Except when inconsistent with orders made by the Neutral Arbitrator to meet the deadline for the disposition of the case, the other Rules shall apply to cases with Expedited Procedures.

34. Seeking Expedited Procedures from the Independent Administrator

- a. If Claimant(s) believes that Expedited Procedures are required and a Neutral Arbitrator has not yet been appointed, the Claimant(s) may serve a written request, with a brief statement of the reason for request for Expedited Procedures and the length of time in which an Award is required, on the Independent Administrator, with a copy to Respondent(s). Respondent(s) shall provide written opposition to the request for Expedited Procedures, if any, within seven (7) days of the date of the request. The Independent Administrator shall decide the request and inform the Parties of the decision no later than five (5) days after any opposition by Respondent(s) is due.
- b. Should the Independent Administrator determine that Expedited Procedures are necessary, the selection procedures set out in Section B of these Rules shall be followed except that no ninety (90) day continuance shall be allowed and the Independent Administrator shall require that the Neutral Arbitrator agree to render an Award within the period required.
- c. After the Neutral Arbitrator is appointed, he or she shall promptly confer with the Parties to decide what schedule, actions, or modifications of these Rules will be needed to meet the deadline. The Neutral Arbitrator shall issue any additional orders that are necessary to assure compliance with that deadline and serve the Independent Administrator with a copy of such orders. The orders may require, by way of example and without limitation, shortening the length of time for discovery responses or motions.

35. Seeking Expedited Procedures from the Neutral Arbitrator

If a Neutral Arbitrator has been appointed, the Party seeking Expedited Procedures may, at any time, petition the Neutral Arbitrator to proceed on an expedited basis. If the Neutral Arbitrator issues an order to proceed on an expedited basis, he or she shall issue any additional orders that are necessary to assure compliance with that decision. The orders may require, by way of example and without limitation, shortening the length of time for discovery responses or motions. The Neutral Arbitrator shall serve a copy of any such orders on the Independent Administrator, including the date by which such Award shall be served.

36. Telephonic Notice

When Expedited Procedures apply, the Parties shall accept all notices, process, and other communications (other than the List of Possible Arbitrators) from the Independent Administrator and Arbitrator by telephone. The Independent Administrator and the Arbitrator shall promptly confirm any such oral notices, process, and other communications, in writing to the Parties.

E. RULES ON AWARD AND ENFORCEMENT

37. Time of Award

The Neutral Arbitrator shall serve the Award on the Parties and the Independent Administrator promptly. Unless otherwise specified by law, the Neutral Arbitrator shall serve the Award in Extraordinary and Complex cases, no later than thirty (30) business days after the closing of the Arbitration hearing, and in all other cases, no later than fifteen (15) business days after the date of the closing of the Arbitration Hearing. If post arbitration briefs are submitted, the Arbitration Hearing is closed on the date the briefs are due.

38. Form of Award

a. A majority of the Arbitrators shall sign the Award. The Award shall specify the prevailing Party, the amount and terms of the relief, if any, and the reasons for the decision. In setting forth the reasons, the Award, or any decision deciding an arbitration, shall provide findings of fact and conclusions of law, consistent with California Code of Civil Procedure Section 437c(g) or Section 632. The reasons for the decision will not become part of the Award nor be admissible in any judicial proceeding to enforce or vacate the Award. The Arbitrator may use the Arbitration Award Form. The Neutral Arbitrator shall be responsible for preparing the written Award.

b. As required by California regulation, all written decisions, except for those involving KPIC products or self-funded products, must contain the following language in bold, twelve (12) point type,

"Nothing in this arbitration decision prohibits or restricts the enrollee from discussing or reporting the underlying facts, results, terms and conditions of this decision to the Department of Managed Health Care."

39. Delivery of the Award

- a. The Neutral Arbitrator shall serve a copy of the Award on the Parties and Independent Administrator by mail.
- b. Respondent(s) shall redact the Award by eliminating the names of the enrollees, the plan, witnesses, providers, health plan employees, and health facilities.
- c. Respondent(s) shall serve the redacted Award on the Independent Administrator and Claimant(s). The redacted version of the Award will become part of the Neutral Arbitrator's file.
- d. In arbitrations brought by Health Plan or KPIC, in 39.b and 39.c, "Respondent(s)" means the member or member's family or representative and "Claimant(s)" means KPIC or Health Plan.

40. Notice after Settlement or Withdrawal

- a. At any point in the proceedings, if the Parties reach a settlement, they shall promptly inform the Neutral Arbitrator and the Independent Administrator in writing. Upon receiving such notice, the Independent Administrator shall deem the arbitration terminated.
- b. If a Claimant decides to withdraw a demand, the Claimant or the Claimant's attorney shall serve a notice of withdrawal upon Respondent, the Neutral Arbitrator, and the Independent Administrator.
- c. Except in cases in which the Independent Administrator receives a decision from the Neutral Arbitrator, the Neutral Arbitrator's appointment is terminated on the date the Independent Administrator receives written notice under Rule 40.a or 40.b. No further Neutral Arbitrator will be appointed.

41. Sanctions

The Neutral Arbitrator may order appropriate sanctions for failure of any Party to comply with its obligations under any of these rules or applicable law. These sanctions may include any sanction available under applicable law, as well as payment of all or a portion of the other Party's expenses for its Party Arbitrator or the Neutral Arbitrator's fees and expenses.

42. Release of Documents for Judicial Proceedings

The Independent Administrator shall, upon the written request of and payment by a Party, furnish to the Party, at the Party's expense, copies of any papers, notices, process or other documents in the possession of the Independent Administrator that may be required in judicial proceedings relating to that Party's arbitration.

F. RULES OF ADMINISTRATION

43. Counting of Days

- a. Unless a Rule specifies otherwise, "days" mean calendar days. Thus, all days, including holidays, Saturdays and Sundays are to be counted when

counting the number of days. In determining the date an action is required, the date of the event or document that triggers the action is not included, but the date by which the action must occur is included.

- b. If a Rule refers to "business days," federal holidays, Saturdays, and Sundays are excluded when counting the number of days.
- c. If the date on which some action is to be taken, or a notice, process, or other communication would otherwise be required to be sent or a period would otherwise expire, falls on a holiday, a Saturday, or a Sunday, the date is extended to the next succeeding business day.

44. No Limit on Immunity

Nothing in these Rules limits any statutory or common law immunity that the Independent Administrator or Neutral Arbitrator may otherwise possess.

45. Neutral Arbitrator Fees

- a. If the Neutral Arbitrator was selected from the List of Possible Arbitrators, the Neutral Arbitrator's compensation for an arbitration shall accord with the fees and terms sent out to the Parties by the Independent Administrator with the List of Possible Arbitrators.
- b. The Independent Administrator is not responsible for, or involved in the collection of, the Neutral Arbitrator's fees.

46. Expenses

The expenses of witnesses for any Party shall be paid by the Party producing them. The fees and expenses of the Party Arbitrator shall be paid by the Party who selected that Party Arbitrator.

47. Forms

The Parties and the Neutral Arbitrator may request blank copies of any forms mentioned in these Rules from the Independent Administrator.

48. Questionnaire

- a. At the conclusion of the arbitration, the Neutral Arbitrator shall complete and timely return the arbitration questionnaire supplied by the Independent Administrator. This information may be used by the Independent Administrator and the Arbitration Oversight Board ("AOB") in evaluating the arbitration system.
- b. If the Independent Administrator received the Demand for Arbitration on or after January 1, 2003, at the conclusion of the arbitration, the Neutral Arbitrator shall inform the Independent Administrator of the total fee and the percentage of fee allocated to each party. This information will be used by the Independent Administrator to comply with the disclosure requirements of California law.

49. Evaluation

At the conclusion of the arbitration, each Party shall complete and timely return the evaluation form supplied by the Independent Administrator.

50. Amendment of Rules

- a. The AOB may amend these Rules in consultation with the Independent Administrator and Health Plan. The Rules in effect on the date the Independent Administrator receives the Demand for Arbitration will apply to that arbitration throughout unless the Parties agree in writing that another version of the Rules applies. The Parties shall serve a copy of that agreement on the Independent Administrator.
- b. If the relevant law changes or an event occurs which is not contemplated by these Rules, the Arbitration Oversight Board may adopt a new Rule(s) to deal adequately with that event. New Rule(s) shall apply to all pending arbitrations if the AOB deems such a change necessary notwithstanding Rule 50.a. Any such new Rule(s) shall be created in consultation with the Independent Administrator and Health Plan and shall not be inconsistent with existing Rules unless the Independent Administrator agrees to the change. The Independent Administrator shall serve all Parties and Arbitrators in pending arbitrations with a copy of any such new Rule(s) and it shall be binding upon the Parties and Arbitrators.
- c. In the event of an urgent condition that in the judgment of the Independent Administrator threatens the orderly administration of the arbitration system, with the concurrence of the Chair or Vice-Chair of the AOB, the Independent Administrator shall adopt such temporary rules as it deems necessary to preserve the orderly administration of the arbitration system.

51. Conflict with Law

If any of these Rules, or a modification of these Rules agreed on by the Parties, is discovered to be in conflict with a mandatory provision of applicable law, the provision of law will govern, and no other Rule will be affected.

52. Acknowledgment of No Warranty

The Independent Administrator makes no representation about, or warranty with respect to, the accuracy, or completeness of any information furnished or required to be furnished in any Application Form or with respect to the competence or training of any Neutral Arbitrator. Information is supplied to allow Parties to conduct their own inquiries.

53. Public Reporting

Annually, the Independent Administrator will report in a collective fashion the lengths of times it took to complete various tasks in the process of adjudicating the claims, how the arbitrations were disposed of, and the choices made by the Parties and Arbitrators. This report may be available to the public. The Independent Administrator will also post on its website disclosures required by statute or the Ethics Standards.

54. Legal Advice

While the Independent Administrator will try to answer questions about these Rules, it cannot give legal advice to Parties or their counsel or provide them with referrals. The following "Information for Claimants Who Do Not Have Attorneys" may answer some of the most commonly asked questions.

If You Do Not Have An Attorney

This handout is for people who represent themselves in arbitration without help from a lawyer. Lawyers say that a person who represents him or herself is acting *in propria persona* or "in pro per." This Office of the Independent Administrator wants you to know about our system and its procedures. We cannot, however, give you legal advice. This is because we do not take sides in any case.

Please note: We try to ensure that the facts in this handout are accurate. However, where there are rules, the rules take priority.

What is the Office of the Independent Administrator, or the OIA?

The OIA oversees the arbitration process. We are neutral. We are not part of Kaiser Permanente. The written Rules for Kaiser Permanente Member Arbitrations Administered by the Office of the Independent Administrator control the arbitrations. If you represent yourself, read these Rules carefully. If you have questions about these Rules, call the OIA at (213) 637-9847.

We cannot give legal advice. We will tell you what the Rules mean and how to follow them. However, we cannot advise you on how the Rules might affect your case.

What is arbitration?

Arbitration is a legal proceeding. It is similar to a case filed in court. At the arbitration hearing, you and the other side present witnesses, including medical experts, and other evidence. Unlike most trials in court, there is no jury. A neutral arbitrator hears the evidence and acts as a judge. This person decides both the facts and the law.

Neutral arbitrators cannot give legal advice. They decide cases based on the law and the facts presented by both sides. Their decision is final, binding, and can be enforced in court. Only rarely can a court overturn the arbitrator's decision.

Are arbitration and mediation different?

Yes. Arbitration is not mediation. Arbitration is a legal proceeding where evidence is presented. It is similar to a trial in a court. Mediation, however, is not a legal proceeding. People solve their dispute with the help of a neutral person, called the "mediator." A mediator cannot make a decision that the parties have to accept. Mediation is a voluntary attempt to settle the dispute. A mediator tries to help the parties reach an agreement and end their dispute.

Is a medical expert always necessary to prove a claim of medical malpractice?

Almost always. Under California law, a medical expert's testimony is nearly always needed to prove medical malpractice. This is true in both arbitration and in court. If you do not have a medical expert, you will probably lose the case.

Neither the neutral arbitrator nor the OIA can help you find or hire a medical expert.

What is summary judgment and why is it important to my claim of medical malpractice?

Kaiser Permanente may make a motion for summary judgment. This means they argue that there is no dispute about the facts. They also argue they deserve to win under the law. If this happens, you must prepare your position in writing and send it to the neutral arbitrator and the other side before the deadline. If you fail to do this, the neutral arbitrator will probably grant the motion and your case will be over. If Kaiser Permanente has included an expert declaration, you probably need to do the same. You can also take part in the hearing on the motion in person or by phone. If the neutral arbitrator grants a motion for summary judgment, the case is over.

Are any other expert witnesses needed?

Sometimes. If you are asking for lost wages or future damages, you may need an economist or other financial expert to testify. You may also need other experts based on your claims.

May I ask a friend or relative to assist me in the case?

You may only be represented by a lawyer. This is true both in arbitration and in court. However, an unpaid friend or family member may accompany and assist you, if in the judgment of the Arbitrator, your personal circumstances warrant such assistance.

When are party arbitrators used?

Only parties who claim more than \$200,000 in damages may have a party arbitrator. However, you can claim more than \$200,000 without having one. If you choose to have a party arbitrator, you will have to find and pay your party arbitrator. You must also pay one-half of the neutral arbitrator's fees, unless you qualify for a fee waiver under Rule 13. While both sides choose the neutral arbitrator, each side chooses its own party arbitrator. In cases with party arbitrators, at least two of the three arbitrators must agree on all rulings, including the award.

If you claim more than \$200,000, you may give up your right to a party arbitrator. If the respondent also agrees to give up its party arbitrator, a single neutral arbitrator will hear your case. This neutral arbitrator will be authorized to award more than \$200,000. If the respondent will not give up its party arbitrator, you must also have a party arbitrator. In either case, the respondent will pay all of the neutral arbitrator's fees and expenses if you sign the Waiver of Objection to Payment of Fees and the Waiver of Party Arbitrator - Claimant Forms.

For more information about party arbitrators and payment of the neutral arbitrator's fees, see Rules 13, 14, 15, and 22.

What is *ex parte* communication?

Ex Parte communication occurs when one party talks or writes to the neutral arbitrator without giving the other party a chance to participate or respond. *Ex Parte* communication is prohibited unless it is about the time or place of a hearing or conference. If you need to contact the neutral arbitrator for any other reason, write a letter to the neutral arbitrator. You must also send a copy of the

letter to the other party. You may also ask for a conference call with the neutral arbitrator and the other party.

What are my responsibilities when proceeding without a lawyer?

When you represent yourself, you must do all the tasks that a lawyer would do:

- Learn the California law that applies to the case.
- Meet deadlines.
- Find and subpoena witnesses when they are needed.
- Find, hire, and pay expert witnesses when they are needed.
- Write and deliver all documents that the neutral arbitrator tells you to prepare.

Some of these tasks take time, are difficult, cost money, and must be done in advance. If this sounds like a lot of work, it is. The neutral arbitrator will not make the job any easier because you represent yourself. We encourage people to get a lawyer to represent them. If you represent yourself, we will help you understand the Rules. But neither the OIA nor the neutral arbitrator can give you legal advice or help you find an expert witness.

Are there other resources to help people who represent themselves?

There are useful books written for people who represent themselves. Please check your local library or bookstore. If you need help finding a lawyer, call the State Bar or County Bar Association.

If you have any questions, please call the OIA at (213) 637-9847. You can get copies of the Rules, our forms and other helpful items at our website at www.oia-kaiserarb.com.

EXHIBIT C

Revised Fee Waiver Explanation and Waiver Forms

Explanation of Waivers

Under California law, the fees and expenses of the neutral arbitrator are divided between the claimants and the respondents. OIA Rules provide ways for claimants to shift that obligation to Kaiser. The Rules also allow claimants to be excused from paying the \$150 filing fee if they cannot afford it.

1. **Waiver of the \$150 Filing Fee**

A claimant whose gross monthly income is less than three times the federal poverty guidelines does not have to pay the filing fee. The claimant must complete the **Claimant's Request for Waiver of \$150 Arbitration Filing Fee** form on page 1 and mail or fax it to the OIA *within 75 days* of the day the OIA received the demand for arbitration. Please note: This waiver request has a deadline. See Rule 12.

A claimant whose gross monthly income is more than three times the federal poverty guidelines may still qualify for a waiver of the filing fee because of financial hardship. The necessary waiver request form, provided on pages 4-8, requires evidence that the claimant is receiving some form of public assistance or detailed personal financial information to document the financial hardship.

2. **Waiver of the Neutral Arbitrator's Fees and Expenses**

A claimant who signs and returns the **Waiver of Objection to Payment of Fees** and the **Waiver of Party Arbitrator - Claimants** forms does not have to pay the neutral arbitrator's fees. *No financial information is required.* All claimants and their attorneys, however, must sign the forms.¹ By signing these forms, a claimant agrees 1) not to object that the arbitration is somehow unfair because Kaiser pays all the neutral arbitrator's fees and expenses and 2) not to use a party arbitrator. See Rule 15 and pages 2-3 for the forms.

This is the most common waiver. It only requires the signatures of all claimants and their counsel.

3. **Waiver of the \$150 Filing Fee and the Neutral Arbitrator's Fees and Expenses While Retaining the Right to a Party Arbitrator**

A claimant with extreme financial hardship may request a waiver of both the filing fee and the neutral arbitrator's fees and expenses while retaining the right to a party arbitrator. The test of financial hardship is met if a claimant is receiving some form of public assistance. It can also be satisfied if the claimant has large expenses in relation to income. A claimant must complete the **Request Form for Waiver of Filing Fee and Fees and Expenses of Neutral Arbitrator** found on pages 4-8.

A copy of this form is given to Kaiser. While Kaiser may object to the request, it is the OIA that decides whether to grant the waiver. If granted, Kaiser pays both the filing fee and the neutral arbitrator's fees and expenses and the claimant is allowed to select a party arbitrator. The claimant, however, is responsible for the party arbitrator's fees and expenses. See Rule 13.

If you have any questions, please call us at (213)637-9847.

¹Claimants who seek less than \$200,000 do not need to submit the party arbitrator form.

Claimant's Request for Waiver of \$150 Arbitration Filing Fee

Instructions: If you seek a waiver of the \$150 arbitration filing fee, please complete and sign the following form and return it to the address below. Claimants who have a gross monthly income that is less than 300 percent of the federal poverty guidelines are entitled to have this fee waived. This waiver will not affect your obligation to pay one half of the neutral arbitrator's fees and expenses. The last section of the System Description explains the different methods for obtaining waivers in our system. The form must be sent to the OIA within 75 days of the OIA receiving your demand for arbitration. Return this form to the address below. **This form is confidential – do not serve a copy on Respondents.** The OIA will notify you if you are not eligible for the waiver, in which case you must either pay the \$150 filing fee or obtain a waiver based upon extreme hardship, as described in Rule 13.

Office of the Independent Administrator

Name of Arbitration _____ Arbitration Number _____

I declare under oath that my gross monthly income is _____. The number of persons living in my household is _____.

Signature of Claimant

Date

Signature of Claimant

Date

Signature of Claimant

Date

Signature of Claimant

Date

Signature of Claimant

Date

Waiver of Objection to Payment of Fees

Instructions: Health Plan will only pay Claimant's share of the Neutral Arbitrator's fees and expenses if this form is completed and returned to the Independent Administrator and a copy served on Respondents. **All Claimants and their counsel must sign this form.** If Claimants seek damages of more than \$200,000, they must also sign and return the Waiver of Party Arbitrator Form to be entitled to Health Plan's payment of the Neutral Arbitrator's fees. See Arbitration Rule 15.a. Return this form to

Office of the Independent Administrator

Name of Arbitration _____ Arbitration number _____

Normally, the fees and expenses of a Neutral Arbitrator are divided between the Claimants and Respondents. I/We, the Claimant(s) in the arbitration listed above, agree that I/we will waive any or all claims, present or future, I/we may have based on Kaiser Foundation Health Plan' payment of the fees and expenses incurred by the Neutral Arbitrator. In exchange for waiving any such claims and waiving any right to a Party Arbitrator, Kaiser Foundation Health Plan will pay the fees and expenses incurred by the Neutral Arbitrator.

I/We make this decision voluntarily and after the opportunity to discuss the decision with counsel.

Signature of Claimant

Date

Signature of Claimant

Date

Signature of Claimant

Date

Signature of Claimant's Counsel

Date

To be effective, all of the Claimants and Counsel must sign this Form.

Waiver of Party Arbitrator — Claimants

Note: Under California law, Party Arbitrators are used in arbitrations seeking more than \$200,000. Parties may waive the Party Arbitrators. Even if you waive your right to a Party Arbitrator, you may still be awarded more than \$200,000. While waiving a Party Arbitrator is voluntary, if you choose to do this, you must use this Form. **To be effective, all of the Claimants and Counsel must sign this Form.**

If you want Respondent to pay your share of the Neutral Arbitrator's fees and expenses and the claim is more than \$200,000 in damages, you must sign and return both this Form and the Waiver of Objection to Payment of Fees Form to the Independent Administrator. See Arbitration Rules 14 and 15.

Office of the Independent Administrator

Name of Arbitration _____ Arbitration number _____

I/We, the Claimant(s) in the arbitration listed above, agree that I/we will waive my/our right to a Party Arbitrator.

I/We have had the opportunity to discuss this decision with counsel and make this decision voluntarily.

Signature of Claimant

Date

Signature of Claimant

Date

Signature of Claimant

Date

Signature of Counsel

Date

To be effective, all of the Claimants and Counsel must sign this Form.

Revised 1/31/07

**Request Form for Waiver of Filing Fee
and Fees and Expenses of Neutral Arbitrator**

Instructions: If you wish to arbitrate a claim in this system but cannot afford to pay the filing fee and the fees and expenses of the Neutral Arbitrator, you will not have to pay them if you qualify for a waiver. You have three options to show you qualify for a waiver.

1. You are receiving financial assistance under one or more of the programs provided on the next page. *Fill out Pages 4 and 5.*
2. Your gross monthly household income is less than one of the limits on the next page. *Fill out Pages 4 and 5.*
3. Your income is not enough to pay for the common necessities of life for you and the people in your family, plus also pay for the filing fee and the fees and expenses of the Neutral Arbitrator. *Fill out Pages 4 - 8.*

Please note: A copy of this form is given to Kaiser. While Kaiser may object to the request for a waiver, the Office of the Independent Administrator (OIA) decides whether to grant this waiver. See Rule 13. The OIA keeps all information on this form confidential. Return this form to:

Office of the Independent Administrator

Name of Arbitration _____ Arbitration Number _____

I request an order by the Independent Administrator that I do not have to pay the \$150 filing fee or the fees and expenses of the Neutral Arbitrator.

My Name _____

My current street or mailing address is: (Please include apartment number, if any, city, and zip code.) _____

My attorney's name, address and phone number is: _____

My occupation, employer, and employer's address is: _____

My spouse's occupation, employer, and employer's address is: _____

1. ___ I am receiving financial assistance under one or more of the following programs:

- ___ **SSI and SSP:** Supplemental Security Income and State Supplemental Payments Programs
- ___ **CalWORKs:** California Work Opportunity and Responsibility to Kids Act, implementing TANF, Temporary Assistance for Need Families (formerly AFDC)
- ___ **Food Stamps:** The Food Stamps program
- ___ **County Relief:** General Relief (G.R.), or General Assistance (G.A.)

If you checked any of the lines in #1, attach copies of the document confirming the benefit(s), sign below and return pages 4 and 5 to the OIA. ***You do not need to fill out the rest of the form. Sign below.***

I declare under penalty of perjury, under the laws of the State of California that the information provided on this form and all attachments are complete, true and correct. I waive any claim I may have based on Kaiser Foundation Health Plan, Inc., paying the Neutral Arbitrator's fees.

Type or Print Name Signature Date

If #1 does not apply to you, please continue.

2. ___ My total gross monthly household income is less than the amount shown below.

Number in Family	Family Income		Number in Family	Family Income		Number in Family	Family Income
One	\$1,083.34		Four	\$2,208.34		Seven	\$3,333.34
Two	\$1,458.34		Five	\$2,583.34		Eight	\$3,708.34
Three	\$1,833.34		Six	\$2,958.34		Each Add'l Person	\$ 375.00

If you checked #2, fill in the blank lines in the following paragraph below.

My gross monthly income is _____. The number of persons living in my household is _____. If your gross monthly income is less than the amount shown above, sign below and return pages 4 and 5 to the OIA. ***You do not need to fill out the rest of the form. Sign below.***

I declare under penalty of perjury, under the laws of the State of California that the information provided on this form and all attachments are complete, true and correct. I waive any claim I may have based on Kaiser Foundation Health Plan, Inc., paying the Neutral Arbitrator's fees.

Type or Print Name Signature Date

If neither #1 nor #2 applies, please continue.

3. ___ My family income is not enough to pay for the common necessities of life for me and the people in my family, and also pay the filing fee and the fees and expenses of the Neutral Arbitrator.

Note: If you checked line 3 above, please complete items 4, 5, 6, 7, 8. Sign on page 8. Return all 5 pages to the OIA.

4. My income and expenses change significantly from month to month. ___ Yes ___ No

Note: If you checked yes for #4, in each of the following items enter your average monthly income and average monthly expenses based on the previous 12 months.

5. Monthly Income

a. My gross monthly pay is: \$ _____.

b. My monthly payroll deductions: (specify purpose and amount.)

- i. _____ \$ _____
- ii. _____ \$ _____
- iii. _____ \$ _____
- iv. _____ \$ _____
- v. _____ \$ _____
- vi. _____ \$ _____

c. My total monthly payroll deductions: \$ _____

d. My net monthly pay: \$ _____
(Subtract Line c, total monthly payroll deductions from Line a, gross monthly pay)

e. My monthly income from other sources:

Source:	Amount:
a. _____	\$ _____
b. _____	\$ _____
c. _____	\$ _____
Total income from other sources:	\$ _____

f. **My total Monthly Income from all sources:** \$ _____
(Add Line d and Line e)

6. My Monthly Financial Obligations

a. Persons living in my home for whom I have a financial responsibility

Name	Age	Relationship	Gross Monthly Income

Total Gross Monthly Income of these persons is: \$ _____

7. My Monthly Financial Obligations

- a. Rent or house payment and maintenance \$ _____
- b. Food and household supplies \$ _____
- c. Utilities and telephone \$ _____
- d. Clothing \$ _____
- e. Laundry and cleaning \$ _____
- f. Medical and dental payments \$ _____
- g. Insurance (life, health, accident, etc.) \$ _____
- h. School, child care \$ _____
- i. Child, spousal support (prior marriage) \$ _____
- j. Transportation and auto expenses \$ _____
(insurance, gas, repairs)
- k. Total Monthly installment payments \$ _____
- l. **Total Monthly Financial Obligations:** \$ _____

8. Describe other financial obligations, unusual medical needs, expenses for family circumstances or emergencies in order that the Independent Administrator may fully understand your financial situation with respect to your request for a waiver of fee. If the space provided is insufficient, feel free to add a page or pages, labeling each as "Attachment to Item 8."

I declare under penalty of perjury, under the laws of the State of California that the information provided on this form and all attachments are complete, true and correct. I waive any claim I may have based on Kaiser Foundation Health Plan, Inc., paying the Neutral Arbitrator's fees.

Type or Print Name	Signature	Date
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EXHIBIT D

Analysis of Lien Cases

MEMORANDUM

To: AOB Board Members
From: Sharon Oxborough
Date: May 28, 2009
Re: **Analysis of Lien Cases**
cc: Mary Parks, Tony Santos

Through May 14, 2009, the OIA has received 199 Demands for Arbitration from Kaiser that assert lien claims.¹ The fundamental difference between the DFA's brought by members against Kaiser and the lien cases brought by Kaiser against members is that, in the former, the worst that can happen to members is that they will not recover any money and may have to pay for expenses incurred by their attorneys in bringing their case; in the latter, they may be faced with a judgment requiring them to pay money to Kaiser. This memo discusses other ways in which lien cases differ from the vast majority of cases brought by members against Kaiser.

As Table¹² shows, Kaiser brought 132 of the 199 lien cases (80%) in the past 3 and ½ years. All but nine of them (95%) were filed in Northern California. The percentage of members who represent themselves is more than 80% greater than arbitration cases as a whole. (42% vs. 24%.)

¹Lien claims seek to recover what Kaiser claims is the value of medical care provided to members for which the members have previously received compensation from a third party, such as from the driver of the other car in a car accident.

²Table 1, 2, and 2a follow the text as they contain too many columns to be incorporated into the text.

Table 2, which shows how lien cases closed, illustrates another more recent difference.³ The percentage of lien cases that close with an award for Kaiser is double the percentage for cases overall. (20% vs. 9%) This difference is reduced if these cases are grouped with cases decided by summary judgment. Unlike cases brought by members, very few lien cases are decided by summary judgment. This comparison of the two categories is 23% vs. 19%.

While I had a general understanding of the prior differences before beginning this analysis, I did not know that only Kaiser's attorney selects the neutral arbitrators in most lien cases. In 83 of the 128 lien cases in which a NA was selected, the OIA received a LPA only from Kaiser.⁴ Thus, 65% of the NAs in lien cases were selected by Kaiser's attorney only.

Lien cases are also more likely to be decided by a small number of NAs, which can happen when only one person selects the NA. There are 128 lien cases in which a neutral arbitrator has been selected. Sixty-four different NAs have been selected in those cases. Thirty-three of them were selected two or more times. The five NAs who were chosen most frequently served in 32 cases, or 25% of the cases. None of the five was jointly selected.

In comparison, there are 7,274 total cases in which a NA has been selected. 546 different NAs have been selected in those cases. The five NAs who were chosen most frequently served in 698 cases, or 10% of the cases. In more than 50% of the cases (376), the five were jointly selected. The table on the next page lays out the differences for comparison.

³Chart 2a shows the number of cases that were returned to Kaiser because the cases occurred during a time when use of the OIA was optional and the member either failed to opt in or affirmatively opted out.

⁴Statistics for other cases are not available, but this is an uncommon experience. Normally, if a side forgets or fails to return a timely LPA and a NA is selected using only the other side's list, the party who failed to submit a timely LPA will disqualify the NA and a new LPA will be sent out. (This is a large part of why we call the parties to remind them of the deadline to return the LPA – it is simply more efficient all around if both parties submit their LPAs.)

	LIEN CASES	ALL CASES
# of cases w/ NA	128	7,274
# of different NAs	64	546
# of cases w/ 5 top NAs	32	698
% of all cases w/ NA that cases w/ 5 top NAs represent	25%	10%
# of cases w/ 5 top NAs that were jointly selected	0	376
% j/s in cases w/ 5 top NAs	0	54%

This pattern of concentration of work is repeated in the writing of awards. Twenty-one different NAs wrote the 32 awards. The 5 NAs who wrote the most awards wrote 15, or almost half of the awards. In comparison, the 5 NAs who wrote the most awards in all the cases wrote 10 % of the awards (108 out of 1111).

The tenth annual report noted that members obtained some compensation in 48% of the cases, by combining the number of cases that settled with the number of cases in which there was an award in the members' favor. In contrast, Kaiser obtained some compensation in 72 % of the lien cases.

The AOB is aware from prior discussions that most of the cases that are "late" in being delivered by Kaiser to the OIA are lien cases. In 2008, 22 of the 28 late cases were lien cases. It takes an average of 16 days for the OIA to receive lien cases from Kaiser, and the median and mode are 8. More than a third of the lien cases (73 out of 199) were late.

While there was recently a lien case that had many disqualifications, that case was an anomaly. There have only been 8 cases with any disqualifications and 48 cases with a 90 day postponement. Excluding the anomalous case, it takes 68 days to select a NA in lien cases vs. 61 days in all cases.⁵ Similarly, lien cases close on average in 217 days, vs. 311 days for all cases.

⁵The average for all cases is decreased by all of the cases the OIA received in the first three years in which a neutral arbitrator was selected without a 90 day postponement. During those years, only one demand for arbitration was a lien claim.

Because the number of cases where the NA was selected only by Kaiser is so large, we looked at the notes in our database to see if they would provide some explanation for the failure of the members or their counsel to act. The results are shown below.

ISSUE	NUMBER	PERCENT
OIA did not have phone number, it didn't work, could not leave message	31	37%
Attorney or member refused to participate	10	12%
Case w/drawn or settled soon after NA selected	23	28%
Pro per contacted, no explanation (results: 6 award against, 2 settled, 1 open)	10	12%
Attorney contacted, no explanation (results: 3 award against, 1 s.j., 2 settled, 3 open)	9	11%

Cases in which the OIA did not have a phone number for the member or there was a problem with the phone number is the largest category.⁶ These cases were analyzed further as to how they closed. Surprisingly, seven of them settled, which indicates that Kaiser's attorney did have some way to contact the member, even if the OIA did not. The results are shown on the table below.

DISPOSITION	NUMBER	PERCENT
Settled	7	23%
Withdrawn	6	19%
Judgment against member	11	35%
Open	7	23%

In preparing this analysis, the OIA discovered that it had not received redacted versions of lien awards to include in the NA packets. When the need to do so was brought to the attention of Kaiser's lien attorney, he agreed to provide the redacted awards for the 32 cases decided in the past and to arrange a procedure for this to occur in the future.

⁶The member's phone number is part of the information that is supposed to be included in the transmission form that accompanies the DFA if the member is *pro per*. If the form does not include one, the OIA contacts Kaiser's attorney to attempt to obtain one, but is not always successful.

Table 1

	1999-2001	2002	2003	2004	2005	2006	2007	2008	thru 5/14/09	all lien cases thru 5/14/09	all cases thru 12/31/08
DFAs received	1	11	13	16	26	42	25	44	21	199	9,125
N. Cal.	1	11	10	12	24	42	25	44	21	190/95%	4,556/50%
S. Cal / San Diego	0	0	3	4	2	0	0	0	0	9 / 5%	4,569/ 50%
Represented	1	6	4	8	23	26	10	25	12	115/ 58%	6,961/ 76%
<i>In pro per</i>	0	5	9	8	3	16	15	19	9	84 / 42%	2,164/ 24%

Table 2

	1999-2001	2002	2003	2004	2005	2006	2007	2008	thru 5/14/09	all lien cases thru 5/14/09	all cases thru 12/31/08
Cases closed in sys	1	3	4	9	22	36	24	38	19	156	7,525
Other (Dismissed/ <u>Abandoned/ Consol.</u>	0	0	1	0	0	0	0	0	1	2 / 1%	555 / 7%
Summary Judgment	0	0	0	1	1	1	1	0	0	4 / 3%	728 / 10%
Withdrawn	0	1	2	2	5	9	8	9	5	41 / 26%	1,850 / 25%
Settled	1	2	0	5	14	24	13	13	5	77 / 49%	3,321 / 44%
Award for Member	0	0	0	0	0	0	1	0	0	1 / 1%	397 / 5%
Award for Kaiser	0	0	1	1	2	2	1	16	8	31 / 20%	674 / 9%
Smallest Award	na	na	9,000	9,000	5,000	16,000	11,000	6,000	5,000	5,000	1
Largest Award	na	na	9,000	9,000	7,500	33,000	11,000	43,000	33,000	43,000	6,000,000

Table 2a

Lien Cases	1999-2001	2002	2003	2004	2005	2006	2007	2008	thru 5/14/09	all lien cases thru 5/14/09	all cases thru 12/31/08
Total closed including those w/ no opt in	1	5	12	10	23	36	24	38	19	168	8,740
Returned to K/opt out	0	2	8	1	1	0	0	0	0	12	834

EXHIBIT E

**Lists of Neutral Arbitrators
On The OIA Panel as of
December 31, 2009**

OIA Panel of Neutral Arbitrators

Northern California

Title	First	Middle	Last	Suffix
Justice	Nat	Anthony	Agliano	(Ret.)
Mr.	Roger	F.	Allen	Esq.
Justice	Carl	West	Anderson	(Ret.)
Mr.	J. Randall		Andrada	Esq.
Ms.	Karen	G.	Andres	Esq.
Judge	Robert	A.	Baines	(Ret.)
Mr.	G. Archer		Bakerink	Esq.
Judge	Michael	E.	Ballachey	(Ret.)
Ms.	Eileen		Barker	Esq.
Judge	Michael J.		Berger	(Ret.)
Judge	Joseph	F.	Biafore	Jr., (Ret)
Mr.	Stephen	M.	Biersmith	Esq.
Mr.	Daniel	V.	Blackstock	Esq.
Judge	Cecily		Bond	(Ret.)
Mr.	Robert	J.	Brockman	Esq.
Ms.	Mary Margaret		Bush	Esq.
Mr.	Thomas		Campbell	Esq.
Justice	Walter	P.	Capaccioli	(Ret.)
Mr.	Casey		Clow	Esq.
Ms.	Patricia Lee		Connors	Esq.
Judge	Thomas		Dandurand	(Ret.)
Mr.	Gary	S.	Davis	Esq.
Mr.	Thomas	H.R.	Denver	Esq.
Ms.	Reggie		Derryberry	Esq.
Judge	Benjamin	A.	Diaz	(Ret.)
Mr.	John	M.	Drath	Esq.
Mr.	Paul	J.	Dubow	Esq.
Mr.	Charles	A.	Dyer	Esq.
Mr.	Joseph		Elie	Esq.
Mr.	Eric	S.	Emanuels	Esq.
Mr.	Douglas	L.	Field	Esq.
Judge	John	A.	Flaherty	(Ret.)
Judge	Richard S.		Flier	(Ret.)
Mr.	Kenneth	D.	Gack	Esq.
Judge	David A.		Garcia	(Ret.)
Ms.	Ruth	V.	Glick	Esq.
Mr.	Stephen	B.	Gorman	Esq.
Judge	Ronald		Greenberg	(Ret.)
Mr.	Arnold	B.	Haims	Esq.
Mr.	Jon	Anders	Hammerbeck	Esq.
Judge	Zerne	P.	Haning	(Ret.)
Mr.	Stephen	S.	Harper	Esq.
Ms.	Catherine	C.	Harris	Esq.
Mr.	David M.		Helbraun	Esq.
Mr.	David Keith		Hicks	Esq.
Mr.	Robert		Hirsch	Esq.
Mr.	Douglas	W.	Holt	Esq.
Mr.	Val	D.	Hornstein	Esq.
Mr.	Garry	J.D.	Hubert	Esq.
Mr.	C. Mark		Humbert	Esq.

OIA Panel of Neutral Arbitrators

Northern California

Title	First	Middle	Last	Suffix
Ms.	Nancy		Hutt	Esq.
Mr.	Ralph	L.	Jacobson	Esq.
Judge	Ellen	Sickles	James	(Ret.)
Judge	Ken	M.	Kawaichi	(Ret.)
Mr.	John P.		Kelly	Esq.
Judge	Margaret J.		Kemp	(Ret.)
Mr.	Lawrence E.		Kern	Esq.
Mr.	Donald	H.	Kincaid	Esq.
Mr.	Alfred	P.	Knoll	Esq.
Ms.	Dorine R.		Kohn	Esq.
Ms.	Barbara		KongBrown	Esq.
Mr.	P. Beach		Kuhl	Esq.
Dr.	Urs	Martin	Laeuchli	Esq.
Mr.	Ernest	B.	Lageson	Esq.
Judge	David C.		Lee	(Ret.)
Mr.	B. Scott		Levine	Esq.
Mr.	Salvador A.		Liccardo	Esq.
Mr.	Perry D.		Litchfield	Esq.
Mr.	Ernest A.		Long	Esq.
Justice	Harry	W.	Low	(Ret.)
Mr.	Kenneth M.		Malovos	Esq.
Judge	John	A.	Marlo	(Ret.)
Mr.	James D.		Mart	Esq.
Mr.	Allan	J.	Mayer	Esq.
Mr.	John	J.	McCauley	Esq.
Mr.	Otis		McGee	Jr., Esq.
Mr.	John	P.	McGlynn	Esq.
Mr.	Brick	E.	McIntosh	Esq.
Mr.	Mel		McKinney	Esq.
Mr.	David	J.	Meadows	Esq.
Justice	Fred K.		Morrison	(Ret.)
Ms.	Susan	H.	Mosk	Esq.
Mr.	Robert	A.	Murray	Esq.
Ms.	Sadhana		Narayan	Esq.
Mr.	Jeffrey	Scott	Nelson	Esq.
Ms.	Trish		Nugent	Esq.
Judge	Suzanne	K.	Nusbaum	(Ret.)
Mr.	William	J.	O'Connor	Esq.
Ms.	Julia	J.	Parranto	Esq.
Judge	Lise A.		Pearlman	(Ret.)
Mr.	Anthony	F.	Pinelli	Esq.
Ms.	Andrea	M.	Ponticiello	Esq.
Mr.	Daniel	F.	Quinn	Esq.
Mr.	Thomas	D.	Reese	Esq.
Judge	Hadden		Roth	(Ret.)
Mr.	Geoffrey	E.	Russell	Esq.
Judge	Ronald M.		Sabraw	(Ret.)
Judge	Alex		Saldamando	(Ret.)
Mr.	George J.		Shelby	Esq.
Ms.	Rhonda	D.	Shelton	Esq.

OIA Panel of Neutral Arbitrators

Northern California

Title	First	Middle	Last	Suffix
Mr.	Paul S.		Silver	Esq.
Mr.	Douglas L.		Smith	Esq.
Judge	Norman		Spellberg	(Ret.)
Judge	Leonard	B.	Sprinkles	(Ret.)
Judge	Frederick	R.	Stevens	(Ret.)
Mr.	John A.		Sullivan	Esq.
Professor	Jon	H.	Sylvester	
Mr.	Ronald	I.	Toff	Esq.
Mr.	Gregory	D.	Walker	Esq.
Judge	Rebecca		Westerfield	(Ret.)
Mr.	Matthew N.		White	Esq.
Mr.	Barry	S.	Willdorf	Esq.
Judge	Raymond D.		Williamson	Jr., (Ret)
Mr.	Daniel		Yamshon	Esq.
Judge	Robert B.		Yonts	Jr., (Ret)
Mr.	Otis Philip		Young	Esq.
Mr.	Maurice L.		Zilber	Esq.

OIA Panel of Neutral Arbitrators

Southern California

Title	First	Middle	Last	Suffix
Justice	Nat	Anthony	Agliano	(Ret.)
Mr.	Leon	J.	Alexander	Esq.
Judge	James J.		Alfano	(Ret.)
Ms.	Karen	G.	Andres	Esq.
Mr.	Maurice	J.	Attie	Esq.
Judge	Michael		Berg	(Ret.)
Judge	Joseph	F.	Biafore	Jr., (Ret)
Mr.	Stephen	M.	Biersmith	Esq.
Mr.	Michael	J.	Bonesteel	Esq.
Judge	David	H.	Brickner	(Ret.)
Mr.	Michael D.		Brown	Esq.
Ms.	Adriana	M.	Burger	Esq.
Honorable	Yvonne B.		Burke	(Ret.)
Judge	Luis	A.	Cardenas	(Ret.)
Mr.	Richard	A.	Carrington	Esq.
Judge	Eli		Chernow	(Ret.)
Mr.	Walter	K.	Childers	Esq.
Judge	Dennis Sheldon		Choate	(Ret.)
Mr.	Michael	A.	Cholodenko	Esq.
Mr.	Richard M.		Coleman	Esq.
Judge	Chris R.		Conway	(Ret.)
Judge	Barnet	M.	Cooperman	(Ret.)
Mr.	Timothy J.		Corcoran	Esq.
Mr.	Donald B.		Cripe	Esq.
Judge	Lawrence W.		Crispo	(Ret.)
Mr.	Joseph	Sylvester	D'Antony	Esq.
Mr.	Joseph	E.	Deering	Esq.
Mr.	Greg David		Derin	Esq.
Justice	Robert	R.	Devich	(Ret.)
Judge	Daniel J.		Didier	(Ret.)
Ms.	Katherine	J.	Edwards	Esq.
Mr.	James	M.	Eisenman	Esq.
Mr.	Eric	S.	Emanuel	Esq.
Judge	Joyce	K.	Fahey	(Ret.)
Judge	Richard O.		Frazee	Sr., (Ret)
Mr.	Thomas	I.	Friedman	Esq.
Ms.	Dolly	M.	Gee	Esq.
Mr.	Gerald F.		Gerstenfeld	Esq.
Mr.	William		Ginsburg	Esq.
Judge	Jack	E.	Goertzen	(Ret.)
Judge	Arnold H.		Gold	(Ret.)
Mr.	Martin	S.	Goldberg	Esq.
Judge	Norman	W.	Gordon	(Ret.)
Mr.	Ernest	S.	Gould	Esq.
Mr.	Darryl		Graver	Esq.
Mr.	Bruce	A.	Greenberg	Esq.
Judge	Richard		Haden	(Ret.)
Mr.	Jon	Anders	Hammerbeck	Esq.
Justice	James Gary		Hastings	(Ret.)
Judge	Margaret	M.	Hay	(Ret.)
Judge	Joe	W.	Hilberman	(Ret.)

OIA Panel of Neutral Arbitrators

Southern California

Title	First	Middle	Last	Suffix
Judge	David	Allen	Horowitz	(Ret.)
Mr.	Jerry	W.	Howard	Esq.
Mr.	Godfrey		Isaac	Esq.
Judge	Karl W.		Jaeger	(Ret.)
Judge	C. Robert		Jameson	(Ret.)
Mr.	B. Elliott		Johnson	Esq.
Judge	Joseph E.		Johnston	(Ret.)
Judge	Eric Michael		Kaiser	(Ret.)
Mr.	Kevin	M.	Kallberg	Esq.
Judge	Craig S.		Kamansky	(Ret.)
Judge	Burton S.		Katz	(Ret.)
Ms.	Laurel	Greenspan	Kaufer	Esq.
Judge	Bernard		Kaufman	(Ret.)
Judge	John W.		Kennedy	Jr., (Ret)
Mr.	Steven R.		Klaif	Esq.
Judge	Ann		Kough	(Ret.)
Mr.	Martin		Krawiec	Esq.
Judge	Peter		Krichman	(Ret.)
Judge	Stephen	M.	Lachs	(Ret.)
Mr.	Philip	R.	LeVine	Esq.
Mr.	Leonard S.		Levy	Esq.
Judge	Richard		Lyman	(Ret.)
Judge	Michael D.		Marcus	(Ret.)
Mr.	Allan	J.	Mayer	Esq.
Mr.	John	J.	McCauley	Esq.
Mr.	James	J.	McKee	Esq.
Mr.	Kenneth		Miller	Esq.
Judge	Wendell		Mortimer	(Ret.)
Ms.	Barbara Reeves		Neal	Esq.
Justice	Richard	C.	Neal	(Ret.)
Judge	Jack M.		Newman	(Ret.)
Judge	Michael G.		Nott	(Ret.)
Judge	Thomas F.		Nuss	(Ret.)
Mr.	Kenan		Oldham	Esq.
Mr.	Jeffrey	P.	Palmer	Esq.
Judge	Robert W.		Parkin	(Ret.)
Judge	Lorna		Parnell	(Ret.)
Mr.	Charles	B.	Parselle	Esq.
Mr.	Carl	B.	Pearlston	Esq.
Judge	Alan S.		Penkower	(Ret.)
Judge	Victor		Person	(Ret.)
Mr.	Alexander	S.	Polsky	Esq.
Mr.	Leonard H.		Pomerantz	Esq.
Mr.	Byron		Rabin	Esq.
Mr.	Kendall C.		Reed	Esq.
Mr.	Robert	A.	Rees	Esq.
Mr.	James		Reynolds	Esq.
Judge	Elwood		Rich	(Ret.)
Mr.	Roy	G.	Rifkin	Esq.
Mr.	Edward J.		Roberts	Esq.
Judge	Paul		Rosenthal	(Ret.)

OIA Panel of Neutral Arbitrators

Southern California

Title	First	Middle	Last	Suffix
Mr.	Charles		Rossman	Esq.
Judge	Marvin D.		Rowen	(Ret.)
Mr.	Gene	E.	Royce	Esq.
Judge	Charles	G.	Rubin	(Ret.)
Judge	Michael B.		Rutberg	(Ret.)
Judge	Philip M.		Saeta	(Ret.)
Mr.	Daniel R.		Saling	Esq.
Mr.	Michael	F.	Saydah	Esq.
Ms.	Jan Frankel		Schau	Esq.
Mr.	Steven	A.	Schneider	Esq.
Judge	Thomas		Schneider	(Ret.)
Judge	R. William		Schoettler	(Ret.)
Judge	Keith		Schulner	(Ret.)
Mr.	Peter	J.	Searle	Esq.
Mr.	Herbert	E.	Selwyn	Esq.
Judge	Tully	H.	Seymour	(Ret.)
Mr.	Eugene	E.	Siegel	Esq.
Judge	Leroy	A.	Simmons	(Ret.)
Mr.	Joel M.		Simon	Esq.
Judge	James L.		Smith	(Ret.)
Judge	Sherman W.		Smith	Jr., (Ret)
Judge	Bruce J.		Sottile	(Ret.)
Judge	Frederick	R.	Stevens	(Ret.)
Justice	Steven J.		Stone	(Ret.)
Mr.	T. Emmet		Thornton	Esq.
Mr.	Christopher B.		Townsley	Esq.
Judge	John Leo		Wagner	(Ret.)
Judge	Stuart T.		Waldrip	(Ret.)
Mr.	Jack	A.	Weichman	Esq.
Mr.	Garry	W.	Williams	Esq.
Mr.	Joseph		Winter	Esq.
Mr.	Alan	E.	Wisotsky	Esq.
Ms.	Deborah	Z.	Wissley	Esq.
Judge	Leonard	S.	Wolf	(Ret.)
Mr.	Robert	K.	Wrede	Esq.
Judge	Eric	E.	Younger	(Ret.)
Judge	Raymond	F.	Zvetina	(Ret.)

OIA Panel of Neutral Arbitrators

San Diego

Title	First	Middle	Last	Suffix
Mr.	Marc	D.	Adelman	Esq.
Justice	Nat	Anthony	Agliano	(Ret.)
Judge	E. Mac		Amos	Jr., (Ret)
Mr.	Douglas	H.	Barker	Esq.
Ms.	Nancy	T.	Beardsley	Esq.
Judge	Joseph	F.	Biafore	Jr., (Ret)
Mr.	Stephen	M.	Biersmith	Esq.
Judge	David	H.	Brickner	(Ret.)
Judge	Luis	A.	Cardenas	(Ret.)
Mr.	James Edward		Chodzko	Esq.
Mr.	Richard M.		Coleman	Esq.
Judge	Chris R.		Conway	(Ret.)
Judge	Geary	D.	Cortes	(Ret.)
Judge	Patricia Ann Yim		Cowett	(Ret.)
Mr.	Joseph	Sylvester	D'Antony	Esq.
Judge	Daniel J.		Didier	(Ret.)
Judge	Richard O.		Frazee	Sr., (Ret)
Mr.	William		Ginsburg	Esq.
Mr.	Thomas	E.	Gniatkowski	Esq.
Judge	Jack	E.	Goertzen	(Ret.)
Mr.	Darryl		Graver	Esq.
Judge	Richard		Haden	(Ret.)
Mr.	Jon	Anders	Hammerbeck	Esq.
Judge	Herbert	B.	Hoffman	(Ret.)
Mr.	Lawrence	A.	Huerta	Esq.
Judge	Anthony	C.	Joseph	(Ret.)
Judge	John W.		Kennedy	Jr., (Ret)
Mr.	Salvador A.		Liccardo	Esq.
Mr.	Thomas	L.	Marshall	Esq.
Mr.	John	J.	McCauley	Esq.
Mr.	Donald		McGrath	Esq.
Judge	Kevin W.		Midlam	(Ret.)
Judge	James	R.	Milliken	(Ret.)
Judge	David B.		Moon	(Ret.)
Ms.	Barbara Reeves		Neal	Esq.
Mr.	Kenan		Oldham	Esq.
Mr.	Dale E.		Ordas	Esq.
Judge	Wayne L.		Peterson	(Ret.)
Mr.	Byron		Rabin	Esq.
Judge	Sheridan		Reed	(Ret.)
Mr.	James		Reynolds	Esq.
Mr.	Charles	D.	Richmond	Esq.
Mr.	Gene	E.	Royce	Esq.
Mr.	Robert	F.	SaintAubin	Esq.
Mr.	Daniel R.		Saling	Esq.
Mr.	Michael	F.	Saydah	Esq.
Mr.	Peter	J.	Searle	Esq.
Judge	Tully	H.	Seymour	(Ret.)
Mr.	Thomas E.		Sharkey	Esq.
Judge	John Leo		Wagner	(Ret.)
Judge	Stuart T.		Waldrip	(Ret.)
Judge	Henry		Wien	(Ret.)
Judge	Raymond	F.	Zvetina	(Ret.)

EXHIBIT F

Qualifications for Neutral Arbitrators

**Qualifications for Neutral Arbitrators
for Kaiser Permanente's Mandatory Arbitration System**

1. Neutral arbitrators shall be members of the State Bar of California, members of the state bar of another state with extensive practice in California during the past five years, or retired state or federal judges.
2. Neutral arbitrators shall not have received public discipline or censure from the state bar of California or any other state bar in the past five years. In the case of former judges, they shall not have received public discipline or censure from any government body that has authority to discipline judges in the past five years.
3. Neutral arbitrators shall
 - (a) have been admitted to practice for at least ten years, with substantial litigation experience; AND
 - (b) have had at least three civil trials or arbitrations within the past five years in which they have served as either (i) the lead attorney for one of the parties or (ii) an arbitrator; OR
 - (c) have been a state or federal judge; OR
 - (d) have completed within the last five years a program designed specifically for the training of arbitrators.
4. Neutral arbitrators shall provide satisfactory evidence of ability to act as an Arbitrator based upon judicial, trial, or legal experience.
5. Neutral arbitrators shall not have served as party arbitrators on any matter involving Kaiser Permanente, or any affiliated organization or individual, within the last three years.
6. Neutral arbitrators shall not presently serve as attorney of record or an expert witness or a consultant for or against Kaiser Permanente, or any organization or individual affiliated with Kaiser Permanente, or have had any such matters at anytime within the past three years.
7. Neutral arbitrators shall successfully complete an application provided by the Independent Administrator.
8. Neutral arbitrators shall follow applicable arbitration statutes, substantive law of the issues addressed, and procedures of the Independent Administrator.
9. Neutral arbitrators shall comply with the provisions of code of ethics selected by the Office of the Independent Administrator.
10. Neutral arbitrators shall administer Kaiser arbitrations in a fair and efficient manner.

EXHIBIT G

**List of 2009 Awards to Kaiser Members
(Redacted)**

List of All Awards to Claimants (Redacted)

Case Number (not actual OIA case number)	Amount of Awards	Month/Year
1	\$349,273.92	01/09
2	\$497,683.15	01/09
3	\$666,450.00	02/09
4	\$1,422,994.18	02/09
5	\$3,594,656.00	03/09
6	\$3,547,030.82	03/09
7	\$288,475.00	03/09
8	\$13,900.00	03/09
9	\$356,271.00	04/09
10	\$881,660.00	05/09
11	\$250,000.00	05/09
12	\$299,474.41	05/09
13	\$93,000.00	05/09
14	\$279,899.00	06/09
15	\$307,334.74	07/09
16	\$254,233.00	07/09
17	\$649,484.00	08/09
18	\$235,000.00	08/09
19	\$764,798.00	08/09
20	\$550,000.00	08/09
21	\$325,905.00	08/09
22	\$247,664.78	09/09
23	\$227,708.00	09/09
24	\$414,928.92	10/09
25	\$353,503.89	10/09
26	\$1,914,610.00	11/09
27	\$213,758.34	11/09
28	\$5,000,000.00	11/09
29	\$60,000.00	12/09
30	\$290,000.00	12/09

EXHIBIT H

Pro Per and Attorney Evaluations of Neutral Arbitrators

Party or Attorney Evaluation of Neutral Arbitrator

Instructions: In accordance with Rule 49 of the *Rules for Kaiser Permanente Member Arbitrations Administered by the Office of Independent Administrator*, we ask that you complete the enclosed anonymous evaluation. It will be placed in the folder of the neutral arbitrator who handled your case and copies of it will be sent to other parties who are considering using your neutral arbitrator in the future. We ask for comments where you have them and are glad to receive any that you have the time to offer. Please feel free to add sheets if you need additional space. A stamped, self-addressed envelope is included for your convenience. Please send your response to the address below in the enclosed self-addressed envelope. Thanks for your help.

Office of Independent Administrator

I am the Claimant _____ OR

I am the attorney who represented _____ the Claimant OR _____ the Respondent

This claim was:

- _____ Withdrawn
- _____ Settled
- _____ Dismissed by the Neutral Arbitrator
- _____ Decided by a Motion for Summary Judgment
- _____ Decided After a Hearing:
 - _____ For Claimant
 - _____ For Respondent
- _____ Other - please specify: _____

Type of injury:

- _____ Medical Malpractice
- _____ Benefits
- _____ Third Party Lien
- _____ Premises Liability
- _____ Other Tort
- _____ Other - please specify: _____

Neutral Arbitrator's Name: _____
 _____ Chosen Jointly OR _____ Chosen through Strike and Rank Process

On the scale below, please rank your experiences with your Neutral Arbitrator. Please circle the number that applies. If the statement does not apply to your case, please circle the "N/A" which appears at the right-hand side. We ask for your comments where you have time and inclination.

1. The neutral arbitrator was impartial and treated all parties fairly.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

2. The neutral arbitrator treated all parties with respect.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

3. The neutral arbitrator kept the case moving in a timely fashion.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

4. The neutral arbitrator responded within a reasonable time to telephone calls or written communications.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

5. The neutral arbitrator explained procedures and decisions clearly.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

6. The neutral arbitrator understood the applicable law governing my case.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

7. The neutral arbitrator understood the facts of my case.

5 4 3 2 1 N/A
Agree Disagree

Please comment: _____

8. The neutral arbitrator served his/her decision within a reasonable time.

5 4 3 2 1 N/A
Agree Disagree

Please comment: _____

9. The fees billed by the neutral arbitrator were consistent with those described in his/her application materials which I received from the OIA at the beginning of case.

5 4 3 2 1 N/A
Agree Disagree

Please comment: _____

10. The fees charged by the neutral arbitrator were reasonable given the work performed.

5 4 3 2 1 N/A
Agree Disagree

Please comment: _____

11. I would recommend this arbitrator to another person or another lawyer with a case like mine.

5 4 3 2 1 N/A
Agree Disagree

Please comment: _____

Party Evaluation / Total Counts

Report Date Range: 1/1/2009 through 12/31/2009

General Counts

	<u>Sent</u>	<u>Received</u>	<u>Percent</u>
Total Count of Evaluations	996	423 *	42%
Count of Pro Pers	91	17	19%
Count of Claimant Counsel	407	152	37%
Count of Respondents	498	239	48%
Count of Anonymous		15	

Counts of Received

	<u>By Disposition</u>		<u>How NA Chosen</u>	
Withdrawn	36	Hearing - Claimant 42	Joint	126
Settled	166	Hearing - Respondent 61	Strike and Rank	257
Dismissed by NA	14	Hearing 0	<u>Blanks</u>	
MSJ	39	Other 3	Blank	4

*4 of these are Blank

Claimant and Attorney Evaluations of Neutrals; Statistical Summary of 2009 Responses

As of 12/31/09

Claimant or Respondent?	Evals Rec'd	Fair Q1	Respectful Q2	Timely Q3	Response Q4	Explained Q5	Knew Law Q6	Knew Facts Q7	Decision Q8	Fees Q9	Fees Q10	Recommend Q11	Cnt/Avg
Unidentified Count	15	14	14	14	15	11	9	9	8	10	10	14	
Unidentified Average		4.6	4.9	4.9	4.8	4.5	4.4	4.4	4.9	4.9	4.9	4.5	4.7
Unidentified Median		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Unidentified Mode		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Claimant Attorney Count	152	143	146	141	135	129	112	102	82	64	68	138	
Claimant Attorney Average		4.5	4.8	4.7	4.8	4.6	4.5	4.4	4.6	4.8	4.6	4.3	4.6
Claimant Attorney Median		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Claimant Attorney Mode		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Pro Per Count	17	16	17	16	17	15	16	16	11	8	9	15	
Pro Per Average		3.3	3.7	3.6	3.9	3.5	3.3	3.1	3.9	3.8	2.8	3.1	3.5
Pro Per Median		5.0	5.0	5.0	5.0	5.0	4.0	4.0	5.0	5.0	1.0	3.0	4.3
Pro Per Mode		5.0	5.0	5.0	5.0	5.0	5.0	1.0	5.0	5.0	1.0	5.0	4.3
Respondent Count	239	235	235	228	227	186	171	154	132	216	212	224	
Respondent Average		4.9	4.9	4.8	4.9	4.9	4.8	4.7	4.8	4.9	4.8	4.7	4.8
Respondent Median		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Respondent Mode		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Total Count	423	408	412	399	394	341	308	281	233	298	299	391	
Total Average		4.7	4.8	4.7	4.8	4.7	4.6	4.5	4.7	4.8	4.7	4.5	4.7
Total Median		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0
Total Mode		5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0	5.0

EXHIBIT I

Neutral Arbitrator Evaluations of OIA Procedures and Rules

Questionnaire for Neutral Arbitrators

Instructions: In accordance with Rule 48 of the *Rules for Kaiser Permanente Member Arbitrations Administered by the Office of Independent Administrator*, we ask that you complete the enclosed questionnaire about the arbitration named below. Your answers will be used to evaluate and make changes in the OIA system. We ask for comments and are glad to receive any that you have to offer. Please feel free to add sheets if you need additional space. A stamped, self-addressed envelope is enclosed for your convenience. Please send the returned form to the address below in the enclosed self-addressed, stamped envelope. Thanks for your help.

Office of Independent Administrator

Neutral Arbitrator: _____

Arbitration Name: _____ Arbitration Number: _____

This claim was:

- Withdrawn
- Settled
- Dismissed by the Neutral Arbitrator
- Decided After a Motion for Summary Judgment
- Decided After a Hearing

On the scale below, please rank your experiences in this matter. Please circle the number that applies. If the statement does not apply to your case, please circle the "N/A" which appears at the right-hand side. We ask for your comments where you have time and inclination.

1. In this case, I thought the procedures set out in the *Rules for Kaiser Permanente Members Arbitrations Administered by the Office of Independent Administrator* worked well.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

2. Based on my experience in this case, I would participate in another arbitration in the system administered by the Office of Independent Administrator.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

3. In this case, the Office of Independent Administrator accommodated my questions and concerns.

5	4	3	2	1	N/A
Agree				Disagree	

Please comment: _____

4. Based on my experience in this case, I found that the following characteristics of the system **worked well**. (Check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> manner of neutral arbitrator's appointment | <input type="checkbox"/> the system's rules overall |
| <input type="checkbox"/> early management conference | <input type="checkbox"/> hearing within 18 months |
| <input type="checkbox"/> availability of expedited procedures | <input type="checkbox"/> availability of complex/extraordinary procedures |
| <input type="checkbox"/> award within 15 business days of closure of hearing | <input type="checkbox"/> other (please describe): _____ |
| <input type="checkbox"/> claimant's ability to have respondent pay cost of neutral arbitrator | |

Please comment: _____

5. Based on my experience in this case, I found that the following characteristics of the system **need change or improvement**. (Check all that apply):

- | | |
|---|---|
| <input type="checkbox"/> manner of neutral arbitrator's appointment | <input type="checkbox"/> the system's rules overall |
| <input type="checkbox"/> early management conference | <input type="checkbox"/> hearing within 18 months |
| <input type="checkbox"/> availability of expedited procedures | <input type="checkbox"/> availability of complex/extraordinary procedures |
| <input type="checkbox"/> award w/in 15 business days of closure of hearing | <input type="checkbox"/> other (please describe): _____ |
| <input type="checkbox"/> claimant's ability to have respondent pay cost of neutral arbitrator | |

Please comment: _____

6. Have you had experience with a similar case in Superior Court? Yes No
If yes, what was your role? _____
If yes, was your experience in this system with this case:
 better worse about the same?

Please comment: _____

7. Please offer your suggestions for improving the communications with our office.

8. Please offer your suggestions for how this office can improve the system.

9. Please offer your suggestions for improvement or change in the *Rules*.

NA Questionnaire / Count by Disposition - 2009 Responses

Disposition	Count	Percent
Decided After Hearing	95	20%
Decided After MSJ	46	10%
Dismissed by NA	34	7%
Settled	235	49%
Withdrawn	36	8%
Unidentified	30	6%
No Questions Answered	74	16%
Total Returned	476	
Total Mailed	498	

Neutral Arbitrator Questionnaire - Responses to Questions 1 thru 3 - 2009 Responses

Count	Disposition	Procedures Worked Well	Would Participate Again	OIA Responsive Questions/Concerns
		Q1	Q2	Q3
95	Decided After Hearing Count	90	90	60
	Decided After Hearing Average	4.9	5.0	4.9
	Decided After Hearing Median	5.0	5.0	5.0
	Decided After Hearing Mode	5.0	5.0	5.0
	Decided After Hearing Min	3.0	3.0	3.0
	Decided After Hearing Max	5.0	5.0	5.0
46	Decided After MSJ Count	43	43	34
	Decided After MSJ Average	4.8	5.0	5.0
	Decided After MSJ Median	5.0	5.0	5.0
	Decided After MSJ Mode	5.0	5.0	5.0
	Decided After MSJ Min	2.0	4.0	4.0
	Decided After MSJ Max	5.0	5.0	5.0
34	Dismissed by NA Count	19	19	13
	Dismissed by NA Average	4.9	5.0	5.0
	Dismissed by NA Median	5.0	5.0	5.0
	Dismissed by NA Mode	5.0	5.0	5.0
	Dismissed by NA Min	4.0	5.0	5.0
	Dismissed by NA Max	5.0	5.0	5.0
235	Settled Count	187	188	143
	Settled Average	4.7	4.9	4.9
	Settled Median	5.0	5.0	5.0
	Settled Mode	5.0	5.0	5.0
	Settled Min	3.0	4.0	3.0
	Settled Max	5.0	5.0	5.0
36	Withdrawn Count	27	30	18
	Withdrawn Average	4.8	4.9	4.9
	Withdrawn Median	5.0	5.0	5.0
	Withdrawn Mode	5.0	5.0	5.0
	Withdrawn Min	3.0	4.0	4.0
	Withdrawn Max	5.0	5.0	5.0
30	BLANK Count	23	23	16
	BLANK Average	4.7	5.0	4.8
	BLANK Median	5.0	5.0	5.0
	BLANK Mode	5.0	5.0	5.0
	BLANK Min	1.0	4.0	4.0
	BLANK Max	5.0	5.0	5.0
476	Total Count	389	393	284
	Total Average	4.8	4.9	4.9
	Total Median	5.0	5.0	5.0
	Total Mode	5.0	5.0	5.0
	Total Min	1.0	3.0	3.0
	Total Max	5.0	5.0	5.0

NA Questionnaire / Count of Questions 4-5*1/1/2009 - 12/31/2009*

4. I found that the following characteristics of the system worked well.

5. I found that the following characteristics of the system need change or improvement.

	4. Worked Well	5. Needs Change/ Improvement
a) Manner of neutral arbitrator's appointment	300	1
b) Early management conference	278	2
c) Availability of expedited procedures	86	2
d) Award within 15 business day of hearing	83	12
e) Claimant's ability to have respondent pay cost of neutral arb.	230	11
f) The system's rules overall	260	8
g) Hearing within 18 months	111	4
h) Availability of complex/extraordinary procedures	50	5
i) Other	7	8

6. Have you had experience with a similar case in Superior Court?

If yes, what was your role?

If yes, was your experience in this system with this case Better, Worse, or About the Same?

<i>Role</i>	<i>Made Comparison</i>	<i>Better</i>	<i>Worse</i>	<i>Same</i>
	13	11		2
Attorney	49	33	1	15
Judge	175	91	2	82
Mediator	2	2		
Neutral Arbitrator	13	5		8
Party Arbitrator	4	2		2
<i>Total</i>	256	144	3	109

EXHIBIT J

Pro Per and Attorney Evaluations of OIA Procedures and Rules

Evaluation of OIA Procedures and Rules / Total Counts

Report Date Range: 1/1/2009 through 12/31/2009

General Counts

	<u>Sent</u>	<u>Received</u>	<u>Percent</u>
Total Count of Evaluations	996	349 *	35%
Count of Pro Pers	91	12	13%
Count of Claimant Counsel	407	131	32%
Count of Respondents	498	193	39%
Count of Anonymous		13	

Counts of Received

	<u>By Disposition</u>		<u>How NA Chosen</u>	
Withdrawn	33	Hearing - Claimant 36	Joint	113
Settled	145	Hearing - Respondent 45	Strike and Rank	202
Dismissed by NA	12	Hearing 0	<u>Blanks</u>	
MSJ	31	Other 2	Blank	37

*37 of these are Blank

Evaluations of OIA Procedures and Rules - Questions 1 thru 3 - 2009 Responses

Count	Role	Procedures Worked Well	Obtaining Medical Records Worked Well	OIA Responsive Questions/Concerns
		Q1	Q2	Q3
131	Claimant Attorney Count	114	93	93
	Claimant Attorney Average	4.2	3.2	4.5
	Claimant Attorney Median	5.0	3.0	5.0
	Claimant Attorney Mode	5.0	5.0	5.0
12	Pro Per Count	12	9	10
	Pro Per Average	3.1	2.8	3.7
	Pro Per Median	3.5	3.0	5.0
	Pro Per Mode	1.0	1.0	5.0
193	Respondent Count	162	110	133
	Respondent Average	4.8	4.8	4.9
	Respondent Median	5.0	5.0	5.0
	Respondent Mode	5.0	5.0	5.0
13	BLANK Count	11	12	12
	BLANK Average	4.5	4.5	4.5
	BLANK Median	5.0	5.0	5.0
	BLANK Mode	5.0	5.0	5.0
349	Total Count	299	224	248
	Total Average	4.5	4.1	4.7
	Total Median	5.0	5.0	5.0
	Total Mode	5.0	5.0	5.0

Evaluations of OIA Procedures and Rules - Questions 1 thru 3 - 2009 Responses

Count	Disposition	Procedures Worked Well	Would Participate Again	OIA Responsive Questions/Concerns
		Q1	Q2	Q3
81	Decided After Hearing Count	71	56	59
	Decided After Hearing Average	4.2	3.6	4.5
	Decided After Hearing Median	5.0	4.5	5.0
	Decided After Hearing Mode	5.0	5.0	5.0
31	Decided After MSJ Count	27	19	20
	Decided After MSJ Average	4.6	4.5	4.8
	Decided After MSJ Median	5.0	5.0	5.0
	Decided After MSJ Mode	5.0	5.0	5.0
12	Dismissed by NA Count	11	5	9
	Dismissed by NA Average	3.5	3.4	3.7
	Dismissed by NA Median	5.0	5.0	5.0
	Dismissed by NA Mode	5.0	5.0	5.0
145	Settled Count	123	90	101
	Settled Average	4.5	3.9	4.8
	Settled Median	5.0	5.0	5.0
	Settled Mode	5.0	5.0	5.0
33	Withdrawn Count	29	22	25
	Withdrawn Average	4.9	4.4	5.0
	Withdrawn Median	5.0	5.0	5.0
	Withdrawn Mode	5.0	5.0	5.0
47	BLANK Count	38	32	34
	BLANK Average	4.8	4.8	4.8
	BLANK Median	5.0	5.0	5.0
	BLANK Mode	5.0	5.0	5.0
349	Total Count	299	224	248
	Total Average	4.5	4.1	4.7
	Total Median	5.0	5.0	5.0
	Total Mode	5.0	5.0	5.0

Evaluations of OIA Procedure and Rules - Results of Question 4

4. Have you had experience with a similar case in Superior Court?

If yes, was your experience in this system with this case Better, Worse or About the Same?

Role	Made Comparison	Better	Worse	About the Same
Claimant Attorney	96	38	16	42
Pro Per	4	1		3
Respondent	103	53	4	46
Blank	7	5		2
Total	210	97	20	93

EXHIBIT K

Kaiser Arbitration Oversight Board Comments on the Annual Report for 2009

Kaiser Arbitration Oversight Board

Comments on the Eleventh Annual Report

Introduction

Each year the Arbitration Oversight Board reviews and comments on the Annual Report of the Independent Administrator. Members of the Board received a draft copy of the 11th annual report (for calendar year 2009) in advance of its meeting of March 25, 2010. The following comments reflect the Board's review of the report at the March meeting.

The Board general finds the annual report a well-organized and comprehensive accounting of the performance of the Kaiser arbitration system for 2009. Overall, the report shows that the independently administered arbitration system continues to meet performance goals and to receive favorable evaluations from participants.

The Board paid particular attention to the Report Summary because it condenses and crystallizes the extensive body of data contained in the report, and is the section of the report that is most widely read. While the Board offered suggestions to improve its clarity and thoroughness, it should be noted that final decisions regarding the content and presentation remain the province of the Independent Administrator.

The Second Decade

The Annual Report for 2009 marks the start of the second decade of a Kaiser arbitration system that was substantially transformed, beginning in 1999, following the report of a Blue Ribbon Committee that had been commissioned to study the system and recommend ways to improve it. The Blue Ribbon report provided an exceedingly useful guide to the development of the arbitration system that is now in place. All the recommendations of the Blue Ribbon report have been implemented—most notably that the system be independently administered (i.e., not administered by Kaiser). Since 2003, the system has been administered by Ms. Sharon Oxborough in her law firm, based in Los Angeles.

The 2009 report provides extensive data to document how well the system, as currently administered, meets the desired goals of providing arbitration “this is fair, timely, lower in cost than litigation, and protects the privacy of the parties.”

Noteworthy Findings in the Report

The Office of the Independent Administrator has been remarkably effective in enforcing the various deadlines that assure arbitrations will be concluded in a timely fashion. Even with delays related to allowable postponements and disqualifications in selection of neutral arbitrators, closures of cases are concluded well within satisfactory time limits.

The Office has successfully maintained a sizeable pool of well-qualified neutral arbitrators, allowing wide selection, whether by strike and rank procedures or by joint selection. (Parties may jointly select neutral arbitrators from outside the pool. However the majority of those jointly selected come from the pool.)

Many of the arbitrators in the OIA pool are retired judges; most have had experience in medical malpractice cases; and the majority of the arbitrators mainly spend their practice time as neutral arbitrators. Relatively few report spending significant practice time in claimant or defense counsel practice. Statistics provided by the Independent Administrator show that the arbitration work is widely distributed among the neutrals.

There is a continuous effort by the Office to increase the diversity of the pool. At the recommendation of the Board, the Office will collect information (on a voluntary basis and with assurance of privacy) related to race and ethnicity of the arbitrators, so as to monitor the success of these efforts.

Evaluations obtained from participants in the arbitration system provide exceedingly valuable information about how well it is functioning. Conducted with appropriate anonymity as

desired, parties are asked to evaluate the neutral arbitrators when their cases are concluded. The evaluations rate such qualities as: “treated all parties with respect,” “explained procedures and decisions clearly,” “understood the facts of my case,” and “would recommend this arbitrator to another with a case like mine.” In general, the arbitrators receive very high ratings. The Office has tried with phone calls to obtain these evaluations. The evaluations not only provide valuable information to the Office and Board about the quality of the arbitrators in the pool, but also to parties considering their selection at a later time. The evaluations are maintained in file, to be shared with parties in future arbitration selections. The expectation is that arbitrators with unsatisfactory ratings are unlikely to be selected.

Neutral arbitrators concluding arbitration, are asked to evaluate the arbitration system itself: whether its procedures worked well; how it compared to experiences in court. The responses indicate a high degree of satisfaction with the arbitration system and favorable comparisons to experience in Court. More recently, at Board recommendation, the Office has begun to request similar evaluations from the parties.

A small percentage (4.6%) of the cases submitted to the Office are *lien cases*. Quite unlike medical malpractice cases, which have been the principal focus of the Oversight Board, in lien cases it is Kaiser that is making a claim against a member — most often to recover the costs of medical care provided for injuries resulting from an automobile accident covered by auto insurance. The Independent Administrator has responsibility for administering the arbitrations in these claims, as well as the more accustomed medical malpractice claims. During the year, the Rules were modified and procedures clarified to enable more effective administration of the arbitrations in these lien cases.

Consistency of data reporting by the Office of the Independent Administrator enables meaningful year-to-year comparisons and cumulative data on the various performance measures used to gauge how well the arbitration system is operating. The data attest to a stable, smoothly functioning system. One striking year-to-year change, however, is the continuing decline in the number of demands submitted to the Office. It fell to 726 in 2009 — a drop of 42 from the previous year, and down from a peak of 1053 in 2002. The explanation for the decline in demands is not known with certainty, but apparently reflects continually improving ability to resolve issues internally, closer to the setting of care, without having to go to arbitration.

Approximately one fourth of those filing claims in the Kaiser arbitration system are not represented by an attorney. A handout is made available to those acting in their own behalf, *in pro per*, to explain their responsibilities. The Board has reviewed and revised the Rule 54 “handout” to present the information as clearly as possible and answer some of the most commonly asked questions.

The Board notes, as it has in the past, that the number of Kaiser members who become involved with the arbitration system seems quite finite: 726 demands were filed in a health care system with over six million members in California and extraordinary numbers of office and emergency room visits, hospitalizations, surgical procedures, laboratory tests and other health care encounters. Of the 726 claims filed, 26% were subsequently withdrawn and 4% were abandoned, so the actual number finally involved in arbitration was 508. It is also noteworthy that there are relatively few demands for arbitration related to disputes about insurance coverage and benefits (less than 2%), suggesting that Kaiser members seldom encountered problems in this sphere that could not be resolved without arbitration.

The Oversight Board

The Oversight Board meets quarterly to fulfill its governance and oversight responsibilities. One of the regular items of business is to receive and review reports that monitor the operation of the arbitration system. The Independent Administrator provides pertinent data on the time-lines of the process, selection of arbitrators, distribution of cases and other indices of performance. These data are finally aggregated and analyzed in much greater detail in the Annual Report.

The Board is kept informed about the Office of the Administrator, and whether there are any issues or problems that can benefit from Board advice or support. At the invitation of the Administrator, most Board members have visited the Office to see at first hand how it goes about its work. Board members have been most favorably impressed. The Office is very well-organized; staff are skilled and dedicated to their work; responses to calls and inquiries are courteous and user-friendly.

Elements of a Model Arbitration System

In discussions at an earlier point in time, the Oversight Board sought to identify the hallmarks of an exemplary arbitration system. What were the essential elements or attributes of a model system? The underlying idea of the Board discussion was to develop some general criteria for judging how the Kaiser system measured up. It is useful to have these features of a model arbitration system in mind when reading the annual report of the Independent Administrator.

These were considered to be essential elements:

Independent Administration: The system is administered by a neutral entity, independent of the parties involved, and empowered to achieve desired goals for fair, timely, and cost-effective arbitration.

Rules: An explicit, written set of rules governs the system, to assure that it is fair. All parties must abide by the rules. The rules are periodically reviewed and modified, as necessary, based on experience, to improve the system.

Oversight: The administration of the system has oversight by a body reflecting the diverse perspectives of interested parties, and the public interest.

Accessibility: The system is readily accessed by claimants and their claims are entered into the system promptly

Qualified Arbitrators, Fairly Selected: The system provides well-qualified, experienced and fair-minded arbitrators selected through a process consciously designed to avoid bias.

Timeliness: Deadlines are established to move the arbitration process along as expeditiously as possible, with appropriate safeguards for extenuating circumstances. They must be respected. The meeting of deadlines is monitored and enforced.

Performance Measures: Accurate and verifiable data are collected systematically to permit objective review of the processes and outcomes of the arbitration system.

Evaluation: The performance of the system is routinely evaluated by surveys of its participants.

Cost Effectiveness: The costs of arbitrations are tracked wherever possible. Costs to claimants are kept reasonably low.

Convenience: Arbitration meetings and hearings are scheduled at times, and in locations, that are convenient for the parties.

Understandability: Basic information about the arbitration system and its procedures is provided in easily understood, non-technical language.

Audit: The data recorded and reported by administrator of the system are periodically checked by an independent auditor.

Transparency: Detailed information about the operation and performance of the arbitration system is published, and readily available to interested parties and the public-at-large.

Concluding Comments

The Oversight Board believes the Annual Report provides very considerable transparency to the Kaiser arbitration system. The report provides detailed analyses of the system's performance during the year. It documents the timeliness of the system; characterizes the use of arbitrators; records systematic evaluations by participants; and supplies information on the economics of the system, to the extent such data are available. Finally, the report allows year-to-year comparisons and examination of the performance of the system over the course of time.

On reviewing the work of the past year, the Oversight Board concludes that the Kaiser arbitration system is operating well and continues to meet desired goals of performance. In the Board's view, Ms. Oxborough and her staff maintain high standards in administration of the system.