

STUDY:

Don't Pay When You Don't Have To

THE TAKEAWAY

Ward off the AAA's new ruling with this key phrasing in your pre-inspection agreement: "Client agrees to and shall bear all filing fees required by the American Arbitration Association."

Just The Facts

Believe it or not, the American Arbitration Association is now looking to defendants for large sums of money when a claim originates. Absurd, right? I sure think so. But now we have to focus on ways that you can avoid this change.

Example from the Field

A home inspector wrote to me after reading one of the articles. He had attended a local law course in Connecticut and learned of the AAA's new ruling. During the course, the "professor" advised each participant to specify arbitration using an attorney "qualified to arbitrate."

My advice on how to fend off the AAA? Insert the following phrase into the arbitration clause in your contract: "Client agrees to and shall bare all filing fees required by the AAA."

In terms of "an attorney qualified to arbitrate," I'm not entirely sure what the instructor of the course was getting at. In fact, I think that any experienced trial attorney is qualified to arbitrate. I'm assuming that the instructor meant "home inspection experience" when he said "related experience." But it is better for the parties in question and especially you, the home inspector, if the arbitrator does not have a clear-cut notion of what a home inspection entails.

Your Professional Advocate

This way, the arbitrator will listen to the client's dramatic story about how he discovered wood rot in his kitchen and how awful it is that the home inspector could've managed to miss it, but will suppress all judgment until he hears that the plain-as-day wood rot was only discovered after the contractor who was remodeling the kitchen pulled out the cabinetry. Home inspectors are not expected to maneuver a kitchen like that in order to find defects.

In the end, the arbitrator will favor the home inspector (as he or she should), due to the reality of a limited, non-invasive, visual home inspection.

Visit my website, www.JoeFerry.com to learn more about my proven strategic response to meritless claims. My mission is to stop the UNDERBUSSING of competent home inspectors.