
Resolução Administrativa n.º 3/2023**Ref.: Produção antecipada de provas na arbitragem nos casos administrados pelo CAM AMCHAM**

O Conselho Consultivo do Centro de Arbitragem e Mediação AMCHAM (“CAM AMCHAM”), no exercício de suas atribuições, previstas no Estatuto Social, decide expedir a seguinte resolução sobre a possibilidade de utilização do procedimento de árbitro de emergência para a hipótese de necessidade de produção antecipada de provas nas arbitragens administradas pelo CAM AMCHAM.

Considerando:

- i. O contínuo processo de aprimoramento dos fluxos internos do CAM AMCHAM;
- ii. O teor do recente acórdão do STJ – Recurso Especial nº 2.023.615 - SP (2022/0272239-0); e
- iii. O objetivo de disciplinar o exercício do direito de produção antecipada de provas, desde que ausente a urgência, através da utilização do procedimento de árbitro de emergência nos procedimentos arbitrais administrados pelo CAM AMCHAM.

Ficam estabelecidas as regras abaixo, relativas à utilização do procedimento de árbitro(a) de emergência nos casos em que for necessária a produção antecipada de provas em arbitragens administradas pelo CAM AMCHAM, desde que não configurada a urgência:

Artigo 1º - Da aplicação do procedimento de Árbitro(a) Emergência ao Pedido de Produção Antecipada de Prova na Arbitragem (“Pedido”).

Artigo 1.1. – A parte interessada que necessitar produzir antecipadamente prova(s), como por exemplo, provas documentais, periciais ou testemunhais, quando a prova a ser produzida for suscetível de viabilizar a autocomposição ou outro meio de solução de conflito e/ou o prévio conhecimento dos fatos possa justificar ou evitar ajuizamento de ação judicial poderá valer-se do Procedimento de Árbitro(a) de Emergência, previsto no artigo 21 do Regulamento de Arbitragem em vigor desde 1º de janeiro de 2023.

Artigo 1.2. – Quando da apresentação do Pedido, a parte interessada poderá requerer ao Conselho Consultivo, a nomeação de um(a) único(a) Árbitro(a), cuja incumbência será deliberar exclusivamente sobre a produção antecipada de provas no âmbito arbitral.

Artigo 1.3. – Caberá ao(à) Árbitro(a) decidir sobre a forma de produção da prova, inclusive quanto à nomeação de perito e/ou a participação de peritos de parte, decidindo, preferencialmente, por uma das seguintes opções: (i) a atuação unicamente de profissional técnico (perito) indicado por ele(a); (ii) a atuação unicamente de profissional técnico (perito) indicado pelo(a) Árbitro(a), com a participação de assistentes técnicos da(s) Parte(s); ou (iii) atuação unicamente de profissional(is) técnico(s) indicado pela(s)

Parte(s), que apresentará(ão) parecer(es) ou laudo(s) técnico(s) solicitado(s) pela(s) Parte(s), sem atuação de Perito indicado pelo(a)(s) Árbitro(a)(s).

Artigo 1.4. – As decisões do(a) Árbitro(a) único(a) responsável pela análise sobre o Pedido deverão ter a forma de Ordens Processuais, ficando afastado o prazo especificado no Artigo 21.3.3 do Regulamento de Arbitragem.

Artigo 1.5. – Competirá ao(à) Árbitro(a) Único(a) o deferimento da produção antecipada de prova e a decisão que proferir será vinculante entre as Partes e à eventual arbitragem.

Artigo 1.6. – O(A) Árbitro(a) único(a) responsável pela apreciação do Pedido não poderá atuar como Árbitro(a) na arbitragem principal.

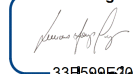
Artigo 1.7. – O Pedido não obsta o protocolo de eventual arbitragem que envolva as mesmas partes e objeto. Entretanto, o Pedido deverá ser apresentado antes da instauração da arbitragem principal.

Artigo 1.8. - Ao utilizar o procedimento de árbitro de emergência para a produção antecipada de provas, a parte interessada concorda integralmente com as demais regras estabelecidas no artigo 21 do Regulamento de Arbitragem em vigor desde 1º de janeiro de 2023, inclusive as custas aplicáveis do Procedimento de Árbitro, que serão coincidentes para apreciação do Pedido.

Artigo 1.9. - Esta Resolução passa a vigorar imediatamente.

São Paulo, 7 de agosto de de 2023.

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Luciano de Souza Godoy

Presidente do Conselho Consultivo do CAM AMCHAM

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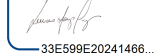
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