

Changes to Arbitration Rules: Evidence Sharing FAQ (Effective April 2, 2023)

Q. *Which forum(s) are impacted by these changes?*

A. The changes apply to the **Auto Forum** only.

Q. *Which rules are changing, and what is the specific language?*

A. The following rules have been updated with specific *additional* language:

Rule 2-1 (Para. 3) For new Auto filings, evidence attached to the supporting features damages sought will be viewable to the responding party(ies) for the purposes of the specific arbitration filing and may not be copied for use in any other claim arising out of the same accident.

Rule 2-5 (Para. 2) For new Auto filings, evidence attached supporting disputed damages will be viewable to the recovering party and other responding parties, if applicable, for the purposes of the specific arbitration filing and may not be copied for use in any other claim arising out of the same accident.

Rule 5-3 (Para. 2) [For new Auto filings, evidence submitted by the parties to support or dispute supplemental damages will be viewable by the parties] and may not be copied for use in any other claim arising out of the same accident.

Q. *Why are these rules changing?*

A. Recent member feedback shared a concern that less documentation is being shared by the parties, specific to the damages sought and disputed, and that more claims are being filed in arbitration with no prior E-Subro Hub demand having been issued. In these cases, the responding company is being asked to pay for damages for which it has no information.

These rule changes will create more fairness in the arbitration process, by making evidence associated with damages viewable to all parties.

Q. *To comply with this rule, does it matter where damages evidence is attached? For example, what would occur if the **supporting features damages sought** evidence is attached to the *Liability Arguments* only?*

A. Attaching damages evidence **anywhere other than to the supporting features damages sought** will eliminate the ability of other case parties to view it, and the arbitrator will not award damages when this occurs, if the issue is raised as a damage dispute.

Note: If damage evidence has been previously shared in E-Subro Hub or direct negotiations, the damages should not be disputed because the evidence was not properly attached in the

arbitration filing. The evidence documentation was previously shared and specific damages can be disputed, if needed.

Q. *What if evidence is attached to the **supporting features damages sought** as a batch file?*

A. If evidence is attached to the **supporting features damages sought** as a batch file, meaning one that includes multiple evidence types such as a statements, a police report, an estimate, etc., the entire batch of evidence will be viewable by other case parties.

If this is the only available method to submit evidence, we suggest attaching the batch file to both the liability arguments and feature damages workflow steps to ensure the documents are considered by the arbitrator.

Q. *Where exactly will evidence be viewable?*

A. Evidence attached to the **supporting features damages sought** will be viewable to the case parties:

- With the Recovering Party's feature damages.
- With the Adverse Party's damage dispute, if applicable.
- With the Recovering Party's damage dispute revisit rebuttal, if applicable.

Q. *How, specifically, does this rule change apply to filings?*

A. The following three scenarios show when evidence will and will not be viewable.

1. Alpha files on March 31. Their damages evidence is **not** viewable by Beta (Responder). Beta responds and adds its own damages on April 4. Beta's damages evidence is **not** viewable even though the response was submitted after April 2. We did not want to create an unfair process where only one party's evidence was viewable when the case was heard.
2. Alpha files on March 31. Their damages evidence is **not** viewable by Beta (Responder). Beta responds and indicates it has a pending Total Loss. Following the liability decision, Beta submits its damages. Beta's damages evidence **is** viewable. While similar to the above scenario, in this instance, the Responder's damages are submitted after the liability decision on Alpha's damages.
3. Alpha files on March 31. Their damages evidence is **not** viewable by Beta (Responder). Beta responds and adds its own damages on April 6. Beta's damages evidence is **not** viewable. Subsequently, Gamma is added as a new party seeking its damages. The following applies to Gamma's damages evidence:
 - o It will **not be viewable** if Gamma is added prior to a liability decision being rendered.

- o It **will be viewable** if Gamma is added after a liability decision is rendered on Alpha vs. Beta.