

## **Arbitration Frequently Asked Questions**

Arbitration is a process in which a dispute is submitted to experienced and knowledgeable neutral attorneys or retired Superior Court Judges who hear arguments, review evidence and render a non-binding decision. It is less formal, less complex and often can be concluded more quickly than court proceedings.

### **What types of cases are arbitrated?**

Arbitration is mandatory statewide for civil cases involving automobile negligence, personal injury, contracts and commercial matters, products liability and personal injury protection suits against one's own insurance carrier for unpaid insurance benefits.

### **Who are the arbitrators?**

Arbitrators are attorneys who have at least ten years of consistent and extensive experience in New Jersey in the pertinent substantive area of law. Arbitrators are selected by the Assignment Judge or his/her designee on recommendation of the local bar association and are paid a per diem fee by the court for their services. Retired Superior Court Judges may also serve as arbitrators.

### **How does arbitration work?**

All attorneys and all parties are notified of their date for an arbitration hearing. Before the scheduled hearing, each party shall exchange a statement of the factual and legal issues. Although attendance by each party or their attorney is required, all attorneys and parties are strongly encouraged to appear at the hearing.

The arbitrator conducts the hearing during which each party presents its case. Parties are permitted to introduce exhibits and other relevant documentary evidence. The arbitrator generally exercises the powers of the court in the management and conduct of the hearing.

After the hearing, the arbitrator renders a non-binding decision and a written award. The decision is usually rendered on the day of the arbitration hearing in the presence of the participants.

### **What if I am not satisfied with the arbitrator's award?**

A party who is not satisfied with the arbitrator's award can reject the award and get a trial by filing a notice called a "demand for a trial *de novo*" with the court and serving it upon all parties within 30 days of the filing of the arbitrator's award. The court is very strict concerning enforcing the 30-day time limit. The effect of not filing the demand for trial *de novo* is that the award, whether a monetary award or a dismissal, can be converted into a judgment.

A party requesting a trial *de novo* must pay a trial *de novo* fee to the Treasurer, State of New Jersey. Under certain circumstances if the requesting party does not significantly improve their position at trial, they may also be liable to pay other reasonable costs, including attorney fees of the other party up to \$750, and witness costs up to \$500 after the trial is concluded.

## **What are the advantages of arbitration?**

Some of the advantages of arbitration include:

- < arbitrators are knowledgeable and experienced attorneys or retired Superior Court Judges;
- < prompt scheduling, expeditious procedures, and established time frames for each step serve to limit the time required to resolve the case;
- < many of the costs associated with the formal court process can be eliminated by arbitration;
- < each party tells his or her side of the case to an arbitrator in an atmosphere that is less formal than a court proceeding;
- < an arbitrator's decision and award may resolve a case or serve as the basis for further negotiations to a settlement; and
- < arbitration awards, if accepted by all parties and confirmed by the court, are legally binding and enforceable.

## **What cases are amenable to resolution by arbitration?**

Arbitration has been found to be particularly effective in resolving cases having the following characteristics:

- < the parties require an independent decision to resolve the dispute;
- < the parties have full information, but seek the opinion of a third party respecting the extent of damages, or the credibility of witness;
- < the parties are committed to “litigating” and are not open to negotiation;
- < the parties have no relationship beyond a single incident and the disputed issues involve only the amount of money damages; or
- < the amount at stake is relatively small and a quick third-party decision is of primary importance, *e.g.*, simple book account cases.