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March 28, 2016

Hon. Glenn A. Grant, JAD
Acting Administrative Director of the Courts
Comments: Final Offer Arbitration Pilot Proposal
Hughes Justice Complex PO Box 037
Trenton, NJ 08625-0037

Dear Judge Grant:

Kindly accept this letter expressing my objection to the Final Offer Arbitration Pilot Proposal. As a trial attorney with over 25 years of experience handling civil litigation, primarily personal injury defense in both Union and Middlesex Counties, it is my opinion that this proposal will not work and in fact will be detrimental to the goals of non-binding arbitration.

I am aware that the Union County Bar Association, and the Middlesex County Bar Association are expressing their objections, and I would join in the letters submitted by these organizations.

In addition, I offer the following comments:

- The sample of cases, even numbered non-auto BI cases, seems to be too small a sample to get a valid analysis of the efficacy of such a program.
- Non-auto BI cases often involve a disputed liability scenario. This will lead each side to believe their position on liability is right and “justify” high demands and low offers.
- The ability to *de novo* an award minimizes the “cost” of an unreasonable demand or offer.
- What is wrong with the current program?

Thank you for your attention to these comments. Please feel free to contact me with any questions.

Very truly yours,



John J. Kapp

JJK