



# NEW JERSEY ASSOCIATION for JUSTICE<sup>Inc.</sup>

Formerly the Association of Trial Lawyers of America - New Jersey (ATLA-NJ)

## PRESIDENT

Daniel E. Rosner, Cumberland  
Rosner & Tucker, P.C.  
311 W. Landis Avenue  
Vineland, NJ 08360

## PRESIDENT-ELECT

Michael G. Donahue, III, Mercer  
1ST VICE PRESIDENT  
Eric G. Kahn, Union

## 2ND VICE PRESIDENT

Lynne M. Kiza, Middlesex

## 3RD VICE PRESIDENT

Kevin M. Costello, Burlington

## TREASURER

Edward P. Capozzi, Bergen

## SECRETARY

Kathleen M. Reilly, Hudson

## ASST. SECRETARY

James S. Lynch, Bergen

## PARLIAMENTARIAN

Patricia M. Giordano, Camden

## IMMEDIATE PAST PRESIDENT

Thomas M. Comer, Monmouth

## NATIONAL GOVERNORS

E. Drew Britcher, Bergen

Diana L. Cardoso, Hudson

Joseph C. Grass, Cape May

Christopher M. Placitella, Monmouth

## STATE DELEGATES

Michael A. Galpern, Camden

Scott G. Leonard, Morris

## BOARD OF GOVERNORS

### Northern Region

Jeffrey I. Amman, Bergen

Donald A. Caminiti, Bergen

Michael J. Epstein, Bergen

Michael A. Fruhling, Bergen

Evan L. Goldman, Bergen

Lee S. Goldsmith, Bergen

Deborah R. Gough, Bergen

Eric H. Jaso, Bergen

Adam B. Lederman, Bergen

Michael J. Maggiano, Bergen

Kristen B. Miller, Bergen

Garry R. Salomon, Bergen

Marc C. Saperstein, Bergen

Jonas K. Seigel, Bergen

Hugh M. Turk, Bergen

Russell S. Warren, Jr., Bergen

K. Raja Bhattacharyya, Essex

Stephen D. Brown, Essex

Paul M. de Costa, Essex

Amos Gern, Essex

John D. O'Dwyer, Essex

Elen Reikin, Essex

Jeffrey A. Ruzika, Essex

Nancy Enka Smith, Essex

Gregg Alan Stone, Essex

Gerald H. Baker, Hudson

Alan T. Friedman, Hudson

Jonathan Koles, Hudson

Luis A. Martinez, Hudson

John E. Molinaro, Hudson

Evelyn Padin, Hudson

Francisco J. Rodriguez, Hudson

John S. Hoyt, Morris

Elizabeth Kronisch, Morris

Steven J. Loewenthal, Morris

Alisa M. Platone, Morris

Howard D. Popper, Morris

Thomas L. Bell, Passaic

Jack Corradino, Passaic

Michael S. Rafi, Passaic

Shari A. Rivkind, Passaic

Louis J. Serafini, Passaic

Andrew A. Fraser, Sussex

Thomas P. Fischer, Warren

Christina M. Perruccio, Warren

### Central Region

Mark W. Davis, Mercer

Tracey C. Hinson, Mercer

Jeffrey S. Monaghan, Mercer

David M. Schmidt, Mercer

Bruce H. Stern, Mercer

Sherri L. Warfel, Mercer

Alfred M. Anthony, Middlesex

Craig M. Aronow, Middlesex

Harold J. Gorr, Middlesex

Michael F. Lombardi, Middlesex

Adam L. Rothenberg, Middlesex

Eileen Torregrossa-O'Connor, Middlesex

Michelle M. Tullio, Middlesex

Brian D. Drazin, Monmouth

Dennis A. Drazin, Monmouth

Kelly Krall, Monmouth

Jonathan H. Lomuro, Monmouth

Gary S. Shapiro, Monmouth

Frances A. Jones, Monmouth

Michael J. Deem, Ocean

Barry R. Sugerman, Somerset

Francis M. Smith, Union

Shelley L. Stangier, Union

Wade F. Sulhard, Union

### Southern Region

Richard J. Albuquerque, Atlantic

Robert S. Sandman, Atlantic

Daria A. Quattrone, Atlantic

Thomas J. Vesper, Atlantic

Stephen P. DeNittis, Burlington

Saul G. Gruber, Burlington

Michael A. Kaplan, Burlington

Deborah L. Mains, Burlington

Kenneth G. Andrea, Jr., Camden

Esther E. Berezhnisky, Camden

Michael S. Berger, Camden

Nitza Blasi, Camden

Vincent J. Ciecka, Camden

Reno John Ciccolotta, Camden

Jennifer L. Emmons, Camden

Michael A. Ferrara, Jr., Camden

Thomas F. Flynn, III, Camden

Benjamin Folkman, Camden

Tommie Ann G. Bney, Camden

Yaron Helmer, Camden

José W. Hernández, Camden

David J. Karbasian, Camden

Jerry A. Lindeheim, Camden

Charles N. Riley, Camden

Richard J. Talbot, Camden

Heidi Ruth Weintraub, Camden

John A. Zolman, III, Camden

Tariq H. Chaudhri, Cumberland

Joseph D. O'Neill, Cumberland

Michael L. Testa, Jr., Cumberland

Jacqueline M. Vigilante, Gloucester

Emily A. McDonough, Salem

Past President

#009

150 West State Street  
Capitol View Building • Trenton NJ 08608  
P: 609-396-0096 • F: 609-396-2463  
www.nj-justice.org • info@nj-justice.org

## EXECUTIVE DIRECTOR

Cornelius J. Larkin, CAE, CMP

## DIRECTOR OF GOVERNMENTAL RELATIONS

Deborah R. Bozarth

March 16, 2016

Hon. Glenn A. Grant, J.A.D.

Acting Administrative Director of the Courts

Comments: Final Offer Arbitration Pilot Proposal

Hughes Justice Complex

P.O. Box 037

Trenton, NJ 08625-0037

Dear Judge Grant:

The New Jersey Association for Justice has reviewed the report of the Supreme Court Arbitration Advisory Committee with respect to a proposal for a "Final Offer Arbitration Pilot Program." NJAJ is a statewide organization of over 2,600 members in private practice, public service, paralegals and law students. One of our goals is to uphold the adversary system and trial by jury.

At the outset, NJAJ disagrees with two basic assertions which form the foundation of the Committee's report. First, the Committee states that mandatory non-binding arbitration "has generally been successful throughout the state in resolving cases and saving litigant, counsel and court resources in the process." The Committee has not produced any data to support this conclusion. Nor is such a conclusion supported by the Annual Report of the Supreme Court Committee on Mandatory Arbitration.

In fact, most civil litigators would agree that the mandatory non-binding arbitration program has not been generally successful and has not saved litigant, counsel or court resources. In fact, the most effective resource in resolving civil claims is the traditional reliance on trial by jury.

Second, the Committee states that the proposal represents "a minor variation" in the mandatory arbitration process and "has the potential to promote settlements before the arbitration hearing and to foster greater litigant satisfaction with the arbitration process." In reality, the proposal represents a major variation in the current system because it promotes an entirely new method for the presentation of demands, offers and awards.

In addition, the Committee has produced no evidence that the proposal will "incentivize" the parties to make reasonable offers and demands, will "foster" settlements and will result in greater litigant "satisfaction." In fact, most civil litigators will agree that final offer arbitration will have no effect on the submission of offers and demands, whether the offer or demand has more or less chance of being selected by the arbitrator, simply because the award is not binding on the parties.

*Protecting People's Rights.*





The Honorable Glenn A. Grant, J.A.D.  
March 16, 2016  
Page 2

The "social science" literature submitted by the Committee does not validate the proposal with "experimental evidence." The two articles of Jeff Monhait and Benjamin Tulis on "Baseball Arbitration" are inapposite because baseball arbitration is binding while Rule 4:21A arbitration is non-binding. Thus, there is no special "incentive" under the New Jersey rule for either party to submit a lower demand or a higher offer.

NJAJ has read the eloquent letter submitted by the Trial Attorneys of New Jersey. We recognize TANJ as an important organization of both plaintiff and defense attorneys who have a long history of fighting to preserve "the right to trial by jury, a fundamental and inviolate right that is integral to the proper functioning of our judicial system."

We agree with their comments that Final Offer Arbitration:

1. Gives a capricious quality to the decision-making process and lacks the solemnity appropriate to deciding litigation matters;
2. Diminishes the credibility of the courts, erodes the judicial system and undermines the public's confidence in the resolution of civil matters;
3. Conveys the impression to personal injury litigants that the judicial system is relying upon an arbitrary procedure;
4. Undermines the confidence of civil litigants in their attorneys, the courts and the judicial system; and
5. Will have a negative impact on the public's perception of the civil justice system.

Accordingly, NJAJ agrees with TANJ that the proposal for Final Offer Arbitration should be rejected.

Very truly yours,

Daniel E. Rosner, Esq.  
President