LAW OFFICES
KOPLETON & TAMBI, LLC
A LIMITED LIABILITY COMPANY
508 HAMBURG TURNPIKE, SUITE 103
WAYNE, NEW JERSEY 07470
(973) 720-9700

RICHARD S. KOPLETON

KAZBEK TAMBI
JOEL M. BACHER
OF COUNSEL

FAX
(973) 720-9800

January 31, 2025

Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Comments on Arbitration Rules and Procedure
Hughes Justice Complex
Trenton, NJ 98625-0037

**Re: Supreme Court Joint Working Group on Arbitration Rules and Procedures Request for Comment**

Dear Judge Grant:

Thank you for allowing me to comment upon the recommendations of the Supreme Court Joint Working Group on Arbitration Rules and Procedures.

I have served as an arbitrator in Passaic County for over 25 years. I served as chairman of the arbitration committee in Passaic County for eight years and have taught the arbitration training course twice. I have participated in approximately 300 remote arbitration hearings.

## A. ARBITRATION STATEMENTS

### 1. Advance submission of the arbitration statement

I strongly support the proposal that each party's arbitration statement be submitted at least three days in advance of the arbitration hearing. My arbitration list is usually 5-8 cases with 2-3 attorneys on each. This can mean as many as 24 submissions. I do advise the parties to have their statements in at least two days prior to the hearing. However, inevitably, I get statements emailed to me after 5pm the day prior to the arbitration. There are currently no rules for submission timing of statements to the arbitrator for a remote arbitration. A deadline is very much needed.

**2. Page limitations for arbitration statements**

I strongly support the page limitation suggested by the NJSBA of 5 pages for statements and 35 pages for the index. Every attorney for whom I conduct an arbitration receives instructions on submissions. My instructions literally say "quality over quantity" and advise them not to just attach their answers to interrogatories with hundreds of pages of attachments. Invariably, I receive a statement with the only attachment being the party's answers to interrogatories with hundreds of pages of attachments, including physical therapy records, medical bills, and other documents irrelevant to the arbitration. As an arbitrator, what I need is the police report, narrative reports from the medical/liability experts, and photographs. While the statements are generally less than 5 pages, the attachments are endless, especially from out of state law firms. A page limit would shave hours off the arbitration hearing preparation time.

**3. Creation of an On-line Portal**

Currently, arbitrators are required to provide their personal emails for statements. This leads to the receipt of dozens of emails from arbitration participants that can not be distinguished from our active cases. Additionally, it creates issues with pro se parties who feel the need to continue to email the arbitrator on a daily basis even after the arbitration has concluded. It would also allow all parties to see the other parties statements, as I notice many times the submitting attorney does not copy their adversaries. A portal would streamline the process, allow for transparency by all parties, and protect the privacy of the arbitrators.

**B. ARBITRATION HEARINGS**

**1. Remote v. In-person**

I support the process detailed in the Court's October 27, 2022, Order.

**2. Arbitrations by telephone**

I support the continued use of arbitration by telephone for remote arbitration. The main reason for this is that I need my computer to reference the documents submitted by the parties during the arbitration hearing. I also serve as a municipal prosecutor and prosecute using Zoom. For Zoom prosecutions, I have to set up two computers, one for Zoom and one to review discovery. If we are not taking testimony, there is really no reason to be on Zoom and I have always found it easier and more productive to conduct the arbitration by telephone. Additionally, pro se litigants seem to prefer the telephone to Zoom.

**3. Settlement conferences**

While this proposal is sound, it is not practical. Plaintiff attorneys need time review the award with their clients and defendant attorneys need time to review the award with their respective carriers. The carriers then need time to obtain settlement authority. Referring the case to a judge immediately following the arbitration is just not practical for personal injury cases.

## C. COMPENSATION OF ARBITRATORS AND TRIAL DE NOVO FEES

I very strongly support the proposal to increase the rate of compensation to $500.00 per day. The $350.00 rate has not been increased in almost 40 years. While I personally do not bill, I know many attorneys that bill at over $700.00 an hour. The $350.00 rate is essentially paying them for half an hour. With having to read hundreds of pages of statements and attachments prior to the hearing, I have to block out the entire afternoon prior to the hearing to read the statements and prepare arbitration forms. This makes my rate, including the hearings, $43.75/hour for the approximately eight hours I spend as an arbitrator. I know many arbitrators that have quit the program since the advent of remote arbitration.

Increasing the de novo fee to fund the compensation increase is an excellent trade off. The vast majority of de novo fees are paid by insurance carriers. An increase of $65.00 as proposed would not make any difference to the carriers. I would respectfully suggest increasing the fee to an even $300.00 to account for future increases and program costs.

## D. EXTENDING THE 30 DATE TIME LIMIT TO FILE A TRIAL DE NOVO

The Trial de novo deadline has always been 30 days. Increasing the time to 60 days would cause confusion and delay. By the time a plaintiff has an arbitration hearing, the case has probably been pending in the Court for over a year and it has almost certainly been at least 2-3 years since the accident. Extending the deadline to 60 days will only prolong the case for the injured plaintiff and delay resolution by another month.

As someone who has practiced personal injury law for over 30 years, the 30 days is ingrained in my memory. Changing that to 60 days would change the way we handle personal injury cases. The chances of missing a deadline increases with the length of the deadline. The current 30 days has worked for so many years I do not support any change in the time.

The Alternate Proposal of 30 days with an extra 7 days to file a motion upon a demonstration of good cause is an acceptable compromise. I still do not think the 30 days system needs any change. However, the compromise suggestion does have some merit.

Thank you for your consideration.

Sincerely,

KOPLETON & TAMBI

By: _____
Richard S. Kopleton

RSK:pp