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November 21, 2022

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

Acting Director

Administrative Office of the Courts

Attn: Rules Comments

Hughes Justice Complex; P.O. Box 037

Trenton, New Jersey 08625-0037

Dear Judge Grant:

The purpose of this letter is to address the proposed changes to Rule 4:21A-4(a) to require parties to a civil arbitration to submit their arbitration statements to the arbitrator in advance of the scheduled hearing date. The court has invited comment on all aspects of the proposal including “(1) whether to require submission of the arbitration statements in advance of the scheduled hearing date; (2) if so, how far in advance of that date; (3) whether any requirement for advance submission should apply only to virtual arbitrations or also to in-person arbitration hearings; and (4) the consequences, if any, if a party fails to submit the arbitration statements by the established deadline.” The New Jersey Association for Justice supports a change to the rule requiring submission of arbitration statements in advance of a hearing, whether in person or virtual.

Civil arbitrations are an important part of the litigation process for those cases subject to R. 4:21A. Adding a requirement that arbitration statements be submitted in advance of the hearing is eminently reasonable and provides a benefit to the parties without any additional cost or burden to the parties. The rule change would allow arbitrators to better prepare to conduct hearings.

If the court chooses to impose a submission deadline, NJAJ supports a requirement that arbitration statements be submitted five days in advance of the hearing date for both in person and virtual hearings. Imposing the requirement to both types of hearings will avoid confusion and place both types of hearings on an equal footing under the rule. There should be no substantive difference between a virtual or remotely conducted hearing and an in-person hearing.

With respect to the question of consequences for failure to comply with the deadline, NJAJ suggests that late submission of arbitration statements should be permitted under exceptional circumstances or for cause. Absent those exceptions, if a party fails to comply with the filing deadline, that party should be permitted to participate in the hearing, but should not be permitted to present a late arbitration statement to the arbitrator.

Thank you for the opportunity to comment on these proposed rule changes.

Respectfully submitted,

James S. Lynch, Esq.

President

Cc. Cornelius J. Larkin, CAE, CMP, CEM, CMM, DES

*Protecting People's Rights.*