

# ***GARDEN STATE CLE***

Presents:

## ***Arb It!***

*1.5 credit course*

***FREE DOWNLOAD  
LESSON PLAN AND EVALUATION FORM***

*Featuring*

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*and*

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Certified Civil Trial Attorney

*and*

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## ***Arbitration***

a form of alternative dispute resolution, is a way to resolve disputes outside the courts. The dispute will be decided by one or more persons, which renders the "arbitral award". An arbitral award is legally binding on both sides and enforceable in the courts.

**TYPE 1: Court Mandated Arbitration**

**TYPE 2: Uninsured & Underinsured Motorist Arbitration**

**TYPE 3: Personal Injury Case Arbitration**

### **Automobile Insurance Cost Reduction Act of 1998 (AICRA):**

- The act was aimed at lowering insurance rates in New Jersey and also allow for more insurance company competition. As a result New Jersey began to accept basic 'dollar-a-day' (\$15,000/\$30,000 in coverage).
- Mandatory arbitration in personal injury protection (PIP) and no fault benefits cases.

**RULE 4:21A-1. Arbitration of Certain Civil Actions**

- (a) **Mandatory Arbitration**
- (b) **Voluntary Arbitration**
- (c) **Removal From Arbitration**
- (d) **Notice of Arbitration; Scheduling; Adjournment**
- (e) **Pretrial Discovery**
- (f) **Arbitration in Family Part Matters**

**RULE 4:21A-2. Qualification, Selection, Assignment and  
Compensation of Arbitrators**

- (a) **By Stipulation**
- (b) **Appointment From Roster**
- (c) **Number of Arbitrators**
- (d) **Compensation of Arbitrators**

## ***Alternative Dispute Resolution***

ADR procedures can be either mediation (attempting to work the matter out to mutual agreement) or arbitration (a more formal proceeding ending with a decision). An arbitration proceeding operates much like a trial in which witnesses testify and evidence is presented.

### **New Jersey Court Rule 1:40-4.**

#### **COMPLEMENTARY DISPUTE RESOLUTION PROGRAMS**

### **N.J.R.E. 519. Mediator Privilege**

### **New Jersey Uniform Mediation Act, N.J.S.A. 2A:23C-1 to 13.**

### **New Jersey Arbitration Act, N.J.S.A. 2 A: 23 B-1 to 32**

(Notable statutes)

### **N.J.S.A. 39:6A-4.5:**

Loss of right to sue for failure to insure, for DWI, for intentional acts.

### **N.J.S.A. 39:6A-8:**

Tort exemption; limitation on the right to noneconomic loss.

(Notable case law)

PRE AICRA case law:

**OSWIN V. SHAW, 129 N.J. 290 (1992)**

- must show serious impact

Post AICRA case law:

**DIPROSPERO V. PENN, 183 NJ 477 (2005)**

&

**SERRANO V. SERRANO, 183 NJ 508 (2005)**

- affidavit of permanency is sufficient; in most cases no summary judgement (rare)