

SUPERIOR COURT OF NEW JERSEY

ROBERT L. POLIFRONI, P.J.Cv.
CIVIL DIVISION



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September 4, 2020

NOTICE TO BAR

As the court continues to explore and investigate ways to assist counsel and litigants in bringing their civil cases to a conclusion, in light of the continuing complications of the pandemic, the Civil Presiding Judge is initiating an initiative utilizing the Complimentary Dispute Resolution (CDR) technique known as "Baseball Arbitration." Presiding Judge Polifroni observes that the court's prior recommendation that parties waive jury trials and submit to bench trials has not proved popular with the Bar. However, it is the court's belief that the parties may be more comfortable in submitting the dispute to a judge, without a jury, if there are specific parameters to the potential result. The concept "Baseball Arbitration" was developed by Major League Baseball and the players union. The arbitrator's decision is limited to one of two proposals, the one submitted by the player or the one submitted by the organization. The arbitrator does not have discretion to compromise and select a number between those two numbers, or to pick a number lower than the low or higher than the high. "Baseball Arbitration" effectively removes posturing because each side knows they need to select a reasonable number which they are confident they can prove through evidence. In essence, the decision is to determine which of the two numbers is "more reasonable." This procedure differs from a high/low agreement where each side sets a minimum and a maximum but the result could be anywhere in between.

Presiding Judge Polifroni suggests this technique be utilized by a Superior Court judge, with parties' consent. In light of the novelty of this suggestion, the agreement would provide the judge's decision is binding, and not subject to appeal.

If an attorney believes his/her case might be a candidate for this program, Presiding Judge Polifroni requests that the adversaries confer and then contact the court for further discussion.



Hon. Robert L. Polifroni, P.J.Cv.