

# NOTICE TO THE BAR

## Family Part Arbitration Track Procedures

This Notice advises of the court rule amendments that were effective September 1, 2015 relating to arbitration in family matters.

New paragraph (f) of R. 4:21A-1, entitled "Arbitration of Certain Civil Actions" was adopted to include a cross-reference to new R. 5:1-5 ("Arbitration") as the authority for arbitration in Family matters.

There were several amendments to R. 5:1-4 ("Differentiated Case Management in Civil Family Actions"). Paragraph (a)(4) of R. 5:1-4 was amended so as to include the arbitration track.

New paragraph (a)(5) of R. 5:1-4 was adopted to establish a track for arbitration in Family matters. Parties may agree to execute a consent order or agreement to enter arbitration under the Uniform Arbitration Act, N.J.S.A. 2A:23B-1 et seq., the New Jersey Alternative Procedure for Dispute Resolution Act, N.J.S.A. 2A:23A-1 et seq., or any other agreed upon framework for arbitration of disputes.

Paragraph (b) of R. 5:1-4 was amended to indicate that the good cause exception allowing the court to reassign cases to other tracks does not apply after a case has been assigned to the arbitration track.

Paragraph (c) of R. 5:1-4 was amended to indicate that an action assigned to the arbitration track may only be reassigned if the parties mutually elect to opt out of the arbitration track.

New R. 5:1-5, entitled "Arbitration," was adopted to establish the procedure and requirements for arbitration in family matters. Paragraph (a) lists the causes of action that are excluded from arbitration and thus must be resolved by the court. Paragraph (b) lists the prerequisites for arbitration such as:

- the requirement of the parties to enter into an agreement or consent order to arbitrate (including the language that must be contained in the agreement),
- the requirement to file the Arbitration Questionnaire (Appendix XXIX-A),
- the requirement of the record in cases involving child custody and parenting time,
- references to the form agreements (Appendix XXIX-B and -C) under both applicable statutes, and
- reference to the arbitrator's disclosure form (Appendix XXIX-D).

Paragraph (c) establishes a one-year limit for cases assigned to the arbitration track, which may be extended by the court for good cause shown.

New R. 5:3-8, entitled "Review and Enforcement of Arbitration Awards," sets forth the procedure for confirming an interim or final arbitration award. Paragraph (a) outlines the procedural steps in confirming a final or interim economic award where there are no children involved. Paragraphs (b) and (c) address custody, parenting time, and child support awards and indicate that an award may not be confirmed if certain recordkeeping requirements have not been met or if the court finds that there is *prima facie* evidence of harm to the child, in which case a hearing is required.



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Acting Administrative Director of the Courts

Dated: November 5, 2015