

COMMERCE CASE MANAGEMENT PROGRAM

NOTICE TO THE BAR

RE: COMMERCE CASE MANAGEMENT PROGRAM PROTOCOLS FOR ALTERNATIVE DISPUTE RESOLUTION PROGRAM USING THREE JUDGE PANEL AND COMMON LAW ARBITRATION ("ABRAMSON PROTOCOLS")

Effective January 3, 2006, Protocols for Alternative Dispute Resolution making complementary use of a Three Judge Panel and Common Law Arbitration in cases pending or assigned to the Commerce Case Management Program shall be available for parties in such cases, subject to the terms and conditions of the Protocols issued herewith and available on the Court's website at <http://courts.phila.gov/common-pleas/trial/civil/commerce-program.html>, along with Form A, setting forth the manner as to how to request use of these ADR Protocols, and Form B, setting forth the Stipulation and Order that must be entered by the parties and executed by the Court for use of these Protocols. These Forms are likewise available on the Court's website and from Cathy Hart, Court Administrative Officer, Room 521 City Hall. All parties considering use of these Protocols should carefully read the Protocols and Forms A and B.

The Honorable James J. Fitzgerald, III
Administrative Judge
The Honorable William J. Manfredi
Supervising Judge

The Honorable Albert W. Sheppard, Jr.
The Honorable C. Darnell Jones, II
The Honorable Howland W. Abramson

**COMMERCE CASE MANAGEMENT PROGRAM PROTOCOLS
FOR ALTERNATIVE DISPUTE RESOLUTION PROCEDURE USING
THREE JUDGE PANEL AND COMMON LAW ARBITRATION
(“ABRAMSON PROTOCOLS”)**

The procedure described herein shall be available to parties with matters assigned to and/or pending in the Commerce Case Management Program, subject to the following terms and conditions:

1. The procedure provided for herein shall only be utilized if all parties are in agreement to use this procedure.

2. The Judge to whom the case is initially assigned off the wheel (the “Assigned Judge”) shall determine whether or not to permit the parties to utilize the procedure set forth herein. The Assigned Judge’s determination is final and not subject to review.

3. The procedure shall include a three Judge panel (the “Three Judge Panel”), consisting of three (3) Judges then assigned to the Commerce Case Management Program, which Three Judge Panel will determine the legal issues specified by the parties, the Assigned Judge and/or the Three Judge Panel, which legal determinations will be applied in a private common law arbitration process for resolution of the dispute(s) between the parties.

4. The legal issues to be decided by the Three Judge Panel shall include all legal issues in the dispute, which the parties shall agree will be dispositive of the entire matter. To the extent identified by the parties, these legal issues must be jointly prepared and submitted to the Three Judge Panel, in the manner set forth below. This will not limit the Assigned Judge and/or the Three Judge Panel from identifying additional issues. Further, upon leave of the Three Judge Panel, the parties may jointly identify additional issues to the Court prior to submitting their Briefs. If an issue(s) arises during oral argument that has not been previously briefed, the Three Judge Panel may Order additional briefing and/or oral argument on that issue(s) in the Panel’s discretion.

5. The determination of all legal issues of the Three Judge Panel, which shall be set forth in an Opinion, shall be final and non-appealable. The parties shall agree that there are no legal issues between them that have not been submitted to the Three Judge Panel, and shall not attempt to reopen argument to the Three Judge Panel to include additional issues, with the limited exception set forth below concerning the Arbitrator(s) request that the Three Judge Panel rule on additional issue(s).

6. The Arbitrator(s) shall be required pursuant to the parties’ arbitration agreement to apply the law as set forth the by the Three Judge Panel in its Opinion. The Arbitrator(s) shall render a decision, or a referral of factual findings to the Three Judge Panel, if appropriate, within thirty (30) days after the conclusion of the arbitration proceedings. The Arbitrator(s) decision shall be in writing and shall include a separate determination as to each of the Counts in the Complaint and Counterclaim and a separate explanation of how the Arbitrator(s) resolved the facts on each legal issue ruled upon by the Court. The explanation need not be lengthy or in the

form of a judicial opinion, but shall be sufficient to inform the parties of the basis for the Arbitrator(s) conclusions.

7. The arbitration agreed to and provided for herein is subject to 42 Pa.C.S. § 7341 (“Common Law Arbitration”). It is the burden of each party hereto to select professional and responsible Arbitrators whom they can rely upon to act in accordance with, and to respect, the Panel’s Opinion and the terms of this Stipulation and Order, and it shall not be a basis for relief under 42 Pa.C.S. § 7341 to assert that an Arbitrator(s) decision was not in accord with the Panel’s Opinion. The Court exhorts the parties, without requiring it, to select arbitrators who will agree to abide by “The Code of Ethics for Arbitrators in Commercial Disputes.” A copy can be found at <http://www.adr.org/sp.asp?id=21958>. The pool of potential arbitrators need not be limited to legal professionals.

8. Parties seeking to utilize the procedure herein shall jointly sign and submit a written request, following Form A issued herewith, requesting that the Assigned Judge permit the parties to utilize these procedures. The parties shall jointly set forth the following in their Request:

- a. A statement of why the case would benefit from the use of this procedure;
- b. The identity of the arbitrator(s)¹;
- c. A copy of the arbitration agreement, including but not limited to the required terms and conditions set forth in paragraph 6 and 7 above;
- d. The specific legal issues that the Three Judge Panel is being asked to decide;
- e. Whether the parties mutually agree on the scope of discovery, or if they want any discovery. This shall include a statement that no discovery is needed, or a specific statement of the forms of discovery that the parties have mutually agreed upon and a proposed time table for that discovery. If the parties agree to discovery, they can agree to limit the number of interrogatories, depositions, requests for admissions and/or document requests. Thus, depending upon the parties’ agreement, they shall jointly set forth:
 - i. whether any discovery is needed;
 - ii. whether interrogatories, document requests and requests for admissions, if requested, are to be limited to a certain number;

¹NO REQUEST FORM WILL BE ACCEPTED ABSENT THE IDENTIFICATION OF THE ARBITRATOR(S) TO ASSURE THAT THE PARTIES ARE FULLY PREPARED TO ADHERE TO THIS PROCEDURE.

iii. the approximate number of depositions, if any, and any limits on the numbers of depositions, if any limit is requested;

iv. whether expert reports will be submitted and the proposed order and timing of their submission;

v. any anticipated problems in the prompt completion of discovery, including but not limited to non-party deponents who may be difficult to bring to deposition or who may be located in other states, anticipated objections to discovery, etc. and

vi. a proposed time table for the completion of discovery.

The parties are expected to work promptly, cooperatively and in good faith in providing discovery responses and in resolving discovery disputes to avoid delays, and before seeking the Court's intervention. Any discovery disputes will be resolved through Discovery Court practice by the Assigned Judge.

f. Whether the parties wish the Arbitrator(s) to adhere to the Pennsylvania Rules of Civil Procedure and/or the Pennsylvania Rules of Evidence.

A form of such Request Form is issued herewith as Form A and should be reviewed by parties along with these Protocols.

9. After the Request Form is submitted, and if the procedure herein is permitted, the Assigned Judge shall prepare a Stipulation and Order, following Form B issued herewith, and shall issue that Stipulation and Order to the parties. The parties, through counsel, shall execute the Stipulation and jointly submit it to Catherine Hart, the Court Administrative Officer of the Commerce Case Management Program, in Room 521 of City Hall. It shall thereafter be signed and entered as an Order of Court by the Assigned Judge.

The Stipulation and Order shall:

a. provide dates for the completion of discovery, setting forth the discovery agreed upon by the parties;

b. set forth the specific legal issue(s) outlined by the parties, and any other issue(s) the Assigned Judge deems necessary;

c. set forth the date on which the parties' Briefs are due, each party's Brief to be submitted the same date, with an expeditious date for any Reply Briefs to be submitting thereafter; but, Reply Briefs shall only be submitted if the party is raising new analysis or argument that has not been addressed in that party's initial brief. The briefing schedule shall include the page length for each brief; and

d. set forth terms of this procedure described in these Protocols, to which Protocols the parties have fully agreed by requesting this procedure. Reference shall be made to these Protocols in interpreting the terms and conditions of the Stipulation and Order, if necessary.

A form of such Stipulation and Order is issued herewith as Form B and should be reviewed by parties along with these Protocols.

10. The Stipulation and Order shall set forth a date, time and place for oral argument before the Three Judge Panel, which shall be set for a date after the date by which all Briefs are to be submitted. In the Request Form, the parties may jointly inform the Assigned Judge that they do or do not want oral argument, or subsequent to filing their briefs, may inform the Court that they do or do not want oral argument, but any final determination on whether or not oral argument shall be permitted or required remains with the Three Judge Panel, and a date for oral argument may be listed in the Stipulation and Order if so required, even if not requested.

11. The Three Judge Panel shall issue an Opinion deciding each legal issue before it. The Opinions of the Three Judge Panels shall be written on a rotating basis. All such Opinions are final and non-appealable.

12. As soon as feasible after the Three Judge Panel issues its Opinion, the Assigned Judge shall conduct a settlement conference among the parties.

13. If the matter is not settled, within forty-five (45) days of the settlement conference, the parties shall begin the arbitration process.

14. If the Three Judge Panel determines that it cannot rule on a legal issue absent evidence:

a. The Panel shall identify those areas in which factual findings are needed and shall advise the parties and the Arbitrator(s) by entering an Order identifying the areas in which factual findings are required.

b. The Arbitrator(s) shall make their findings of fact, after hearings thereon, no more than sixty (60) days from the date of the Order describing the factual determinations to be made by the Arbitrator(s). This time may be adjusted by the Court in light of needs for discovery.

c. In this circumstance, upon receipt of the factual findings by the Arbitrator(s), the Three Judge Panel shall make the final legal ruling on the issues, which shall be non-appealable and binding on the Arbitrator(s).

i. If no further factual findings are required, however, then the Three Judge Panel may make a final adjudication on the entire matter and enter a final, non-appealable judgment on the case.

ii. If after the Opinion is issued further factual determinations are necessary to resolve the case, then the Arbitrator(s) shall hold the final hearings within fifteen (15) days of its receipt of the Three Judge Panel's ruling, and render their decision on the same timetable and in the same manner as in the usual circumstance where the Three Judge Panel Opinion is issued giving final determination on all legal issues. This time may be adjusted, within limits, by the Assigned Judge in light of the availability of the Arbitrator(s), the parties and/or counsel.

15. If during the arbitration process, the Arbitrator(s) determine that there is a legal issue that has not been determined in the Three Judge Panel's Opinion, and which is necessary for the Arbitrator(s) to decide the case, then the Arbitrator(s) may submit that issue to the Assigned Judge, who shall bring it to the Three Judge Panel. The Three Judge Panel may supplement its Opinion on this issue(s) and provide that supplemental Opinion to the Arbitrator(s); may determine that the issue is not one that needs to be decided and shall so inform the Arbitrator(s) who shall rule on the basis of the initial Opinion; and/or the Three Judge Panel may simply clarify its existing determination(s) for the Arbitrator(s). Under the foregoing circumstances, the Three Judge Panel may request additional briefing or oral argument.

16. It is to be anticipated by the parties and the Court that the matter will proceed with a legal decision by the Three Judge Panel to be applied by the Arbitrator(s), without the need for the referrals described in paragraphs 14 and 15 above, one object of these Protocols being to expedite the decision making process and not to extend it. **The alternative procedures are set forth above to define how to proceed under these atypical unexpected circumstances, and are not intended to reflect that this process is to encourage such referrals, or that the parties should routinely seek or urge such referrals.**

17. Unless the parties agree otherwise, they shall equally share all fees and costs associated with the arbitration. In the event that each party picks one arbitrator who then pick a third arbitrator, each party shall pay the arbitrator they have chosen and one-half (or whatever appropriate pro-rated share depending on the number of parties) of the fees of the neutral arbitrator.

18. After an arbitration decision is rendered, the successful party, or parties if the decision is mixed, shall promptly petition to have the award entered as a judgment upon the docket in the matter first filed. The Assigned Judge shall retain jurisdiction, shall entertain the petition, and any judgment entered shall not be appealable. Review of the Arbitrator(s) decision is subject to 42 Pa. C. S. § 7341, and the parties and counsel shall remain fully aware that they are subject to the strictures of Pa.R.C.P. 1023.1-1023.4 and 42 Pa.C.S. § 2503.

19. The Court and the Assigned Judge shall retain Jurisdiction of the matter to enforce the Stipulation and Order.

20. Counsel shall stipulate that they have obtained the consent of their respective clients to enter the Stipulation and Order.

21. The procedure set forth herein shall only be available to cases which have been included in the Commerce Case Management Program pursuant to Administrative Docket 02 of 2003, dated April 29, 2003, as defined in section B.1. of that Order, available at <http://courts.phila.gov/pdf/regs/2003/cptad02-03.pdf>. Matters assigned to the Commerce Case Management Program pursuant to the Supplement Notice to the Bar Re: Non Jury Program, available at <http://courts.phila.gov/pdf/notices/2003/notice-09mnsup-03.pdf>, shall not be subject to the procedure herein.

FORM A -- REQUEST TO USE “ABRAMSON PROTOCOLS”

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT
CIVIL TRIAL DIVISION**

Caption : *court term and number*

**REQUEST TO USE COMMERCE CASE MANAGEMENT PROGRAM PROTOCOLS
FOR ALTERNATIVE DISPUTE RESOLUTION PROCEDURE USING
THREE JUDGE PANEL AND COMMON LAW ARBITRATION
 (“ABRAMSON PROTOCOLS”)**

**(TO BE SUBMITTED TO CATHERINE HART, COURT ADMINISTRATIVE OFFICER
OF THE COMMERCE CASE MANAGEMENT PROGRAM, ROOM 521 CITY HALL)**

All parties in the above-captioned matter, by and through their undersigned counsel, mutually and jointly request that they be permitted to use the Commerce Case Management Program Protocols for Alternative Dispute Resolution using a Three Judge Panel and binding Common Law Arbitration, as set forth below:

1. Joint statement of why this action would benefit for use of these Protocols:

2. The names of the arbitrator or arbitrators that will determine the factual issues:

3. A copy of the arbitration agreement is to be provided herewith, but will not be docketed.

4. A joint statement of each legal issue as to which the parties seek a ruling. This list shall constitute the sole and entire set of issues that the parties will stipulate and agree is necessary to fully determine this action.

The legal issues shall be set forth on a separate sheet and attached to this Request Form.

5. The parties have agreed to the following discovery. (Insert yes or no in space provided, and a specific number or "none" as to any limits on the discovery to which the parties agree).

a. Request for Production of Documents: _____. Number limit _____.

b. Interrogatories: _____. Number limit _____.

c. Depositions: _____. Number limit _____.
Estimate of total number of depositions to be taken by all parties: _____.

d. Requests for Admissions: _____. Number limit _____.

e. Expert Reports:_____.

i. Will expert reports be exchanged simultaneously? _____.

ii. If expert reports will not be exchanged simultaneously, then set forth the order of the expert reports to be submitted, included provision for any rebuttal reports. Any rebuttal report must be submitted within _____ days of the report to which it is responding:

f. The parties (do/do not) _____ anticipate any difficulties or problems in the prompt completion of discovery. If the parties do anticipate any difficulties or problems, set forth those difficulties or problems below, and how the parties anticipate such problems will affect the completion of discovery, with an estimate of how long it will take to resolve such difficulties or problems:

6. Jointly proposed date for the completion of all discovery: _____.

The parties are expected to work promptly, cooperatively and in good faith in providing discovery responses and in resolving discovery disputes to avoid delays, and before seeking the Court's intervention. Any discovery disputes will be resolved through Discovery Court practice by the Assigned Judge.

7. Oral argument (is/is not) _____ requested before the Three Judge Panel.

8. The parties fully understand that all decisions rendered by the Assigned Judge and/or the Three Judge Panel shall be governed by applicable Pennsylvania law, including but not limited to the Pennsylvania Rules of Civil Procedure and the Pennsylvania Rules of Evidence. The parties jointly agree as follows as to whether the Pennsylvania Rules of Civil Procedure and/or the Pennsylvania Rules of Evidence shall be applied by the arbitrators, by stating yes or no:

Pennsylvania Rules of Civil Procedure: _____

Pennsylvania Rules of Evidence: _____

This Request is jointly submitted by:

[Name of Counsel]
As counsel for [Name of Party]

[Name of Counsel]
As counsel for [Name of Party]

**JOINT STATEMENT OF LEGAL ISSUES PER ITEM NUMBER 4.
(EACH ISSUE SHOULD BE DISTINCT AND NUMBERED SEPARATELY)**

FORM B -- STIPULATION AND ORDER

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY
FIRST JUDICIAL DISTRICT
CIVIL TRIAL DIVISION**

Caption

: court term and number

STIPULATION AND ORDER

AND NOW, this _____ day of _____, 200_, the parties, by and through their undersigned counsel, hereby stipulate and agree as follows, subject to an Order of the Court.

1. The parties desire a prompt and final resolution of their disputes, and to that end agree they shall conduct themselves so as to reach such a resolution as promptly and simply as possible consistent with this Stipulation and Order.

2. a. The parties agree to submit their claims to binding, "Common Law Arbitration," subject to 42 Pa.C.S. § 7341, before _____ [names of Arbitrator(s)] (the "Arbitrator(s)") pursuant to a binding Arbitration Agreement, a true and correct copy of which has been provided to the Court, and subject to the terms and conditions set forth below. The terms and conditions in this Stipulation and Order shall be controlling over the terms and conditions of the arbitration agreement.

b. If, during the arbitration process, an unexpected issue of bias or conflict that reaches a level requiring disqualification, if true, arises, then the parties shall refer the matter to the Assigned Judge, the Honorable _____, who shall rule on the issue. Judge _____'s decision on the issue of disqualification will be final and non-appealable. Any new arbitrator shall be appointed within ten (10) business days of the date of any Order of disqualification or this Stipulation and Order shall be vacated. **It is the full understanding of the parties and the Court that any effort to disqualify an arbitrator shall be a rare occurrence and shall only be raised on the clearest grounds, and that no party hereto has any current expectation of such an issue arising.**

3. The parties having agreed to the scope of discovery in their Request Form submitted to the Court:

a. All discovery shall be complete on or before _____, including, by agreement of the parties:

i. Interrogatories numbering no more than _____, each subpart constituting a separate interrogatory if it asks a new question;

ii. Requests for Production of Documents, numbering no more than _____;

iii. Depositions, numbering no more than ____ per party;

iv. Requests for Admissions, numbering no more than _____;

v. Expert Reports. The Expert Reports shall be served by the parties on the following dates:

Plaintiff's Report _____

Defendant's Report _____

Plaintiff's Rebuttal Report _____

Defendant's Rebuttal Report _____

b. The parties agree that they shall work promptly, cooperatively and in good faith in providing discovery responses and in resolving discovery disputes to avoid delays, and before seeking the Court's intervention. All discovery disputes shall be determined by the Assigned Judge through Discovery Court practice, and the Assigned Judge's determinations and Orders concerning discovery are not appealable.¹

c. The parties may mutually agree to further discovery, up to the time of the arbitration hearings, but this shall not be subject to enforcement by the Court, and shall not delay any of the dates set forth herein.

4. a. Each party shall submit its Brief to the Court on _____[date], and shall submit a Reply Brief on _____ [date] only if the Reply Brief includes new arguments not set forth in the party's initial Brief.

b. Each Brief may be no more than ____ pages, and each Reply Brief may be no more than ____ pages.

c. The parties shall submit to the Court an original and six (6) copies of any brief. All briefs shall be served by hand-delivery or express mail on opposing counsel on the same day that such briefs are filed with the Court.

5. Each party's Brief(s) shall address the following specific legal issues:

a. _____.

b. _____.

c. _____.

Etc.

¹This includes any means to challenge the discovery order whether by mandamus, interlocutory appeal, final appeal or otherwise.

6. The legal issues set forth above are the sole legal issues submitted by the parties to the Court for the complete resolution of the parties' disputes, subject to the discretion of the Court to subsequently permit and/or include additional issues.

7. a. The legal issues set forth above shall be resolved by a Three Judge Panel consisting of [names of Judges], which shall issue a written Opinion deciding each issue, after consideration of the parties' Briefs, and oral argument if permitted and/or required by the Panel.

b. Oral argument in this matter is set for _____
_____ (time, date and place).

c. The time, date and place of oral argument, if permitted or required, shall be set for a date after all Briefs have been submitted. The parties may jointly request that oral argument be held or waived, but oral argument shall be foregone at the parties' request only if waiver of oral argument is requested and oral argument is not required by the Court.

8. The determination of all legal issues by the Three Judge Panel, which shall be set forth in the Opinion, shall be final and non-appealable.

9. Subsequent to the Panel's Opinion being issued, a settlement conference before the Assigned Judge shall be set as soon as is practicable.

10. a. In the event the matter is not settled, the arbitration hearings shall be convened within forty-five (45) days of the settlement conference.

b. It is the intent of the parties that the Arbitrator(s) shall faithfully apply the law, as set forth by the Three Judge Panel's Opinion, to the facts presented to them during the arbitration, or shall make a referral of factual findings to the Three Judge Panel, if appropriate, as described below. It is the burden of each party hereto to select professional and responsible Arbitrators whom they can rely upon to act in accordance with, and to respect, the Panel's Opinion and the terms of this Stipulation and Order, and it shall not be a basis for relief under 42 Pa.C.S. § 7341 to assert that an Arbitrator(s) decision was not in accord with the Panel's Opinion. While not requiring it as a prerequisite for arbitration, the parties recognize that the Court would consider it of great benefit for the Arbitrator(s) to adhere to "The Code of Ethics for Arbitrators in Commercial Disputes."

c. The Arbitrator(s) shall render a decision within thirty (30) days after the conclusion of the arbitration proceedings. The Arbitrator(s)' decision shall include a separate conclusion as to each of the Counts in the Complaint and Counterclaim, and a separate explanation of how the Arbitrators resolved the facts on each legal issue ruled upon by the Court. The explanation need not be lengthy or in the form of a judicial opinion, but shall be sufficient to inform the parties of the basis for the Arbitrator(s) conclusions.

d. The arbitration [shall/shall not] be subject to:
The Pennsylvania Rules of Civil Procedure _____; and/or
The Pennsylvania Rules of Evidence _____.

11. a. If the Three Judge Panel determines that it cannot rule on a legal issue absent evidence, the Three Judge Panel shall identify those areas in which factual findings are needed and shall refer those issues to the Arbitrator(s) to make findings as to that evidence. The Three Judge Panel shall issue an Order identifying the issues of fact to be determined and a date by which the Arbitrator(s) are to make such a determination.

b. In this circumstance, upon receipt of the factual findings after determination by the Arbitrator(s), the Three Judge Panel shall make the final rulings on the legal issues, which rulings shall be non-appealable. If the Three Judge Panel's conclusions can be applied to the facts referred from the Arbitrator(s) to resolve the entire case, then the Three Judge Panel shall issue the final Order and Judgment in the matter.

c. If once the Three Judge Panel issues its legal Opinion, the matter requires further factual findings to resolve the case, then the matter shall again be referred to the Arbitrator(s) for final resolution of the facts in dispute. These legal rulings shall be provided to the Arbitrator(s), and the Arbitrator(s) shall render a decision based upon those legal rulings of the Three Judge Panel within fifteen (15) days of its receipt of the Three Judge Panel's ruling. This time may be adjusted, within limits, by the Assigned Judge in light of the availability of the Arbitrator(s), the parties and/or counsel. The proceedings will otherwise follow the applicable terms of paragraph 10 immediately above.

12. If during the arbitration process, the Arbitrator(s) determine that there is a legal issue that has not been determined by the Three Judge Panel in its Opinion, and which is necessary for the Arbitrator(s) to decide the case, then the Arbitrator(s) may direct the parties to submit that issue to the Assigned Judge, who shall bring it to the Three Judge Panel. The Three Judge Panel may supplement its Opinion on this issue(s) and provide that supplemental legal Opinion to the Arbitrator(s); may determine that the issue is not one that needs to be decided and shall so inform the Arbitrator(s) to decide based on the Opinion originally issued; and/or may simply clarify the Panel's existing legal determination(s) for the Arbitrator(s). Under the foregoing circumstances, the Three Judge Panel may request additional briefing or oral argument.

13. As to the subject matter of paragraphs 10 through 12 above, it is anticipated by the parties and the Court that the matter will proceed with a legal decision by the Three Judge Panel to be applied by the Arbitrator(s), without the need for the referrals described therein, one object of this Stipulation and Order being to expedite the decision making process and not to extend it. The alternative procedures are set forth to define how to proceed under these atypical unexpected circumstances, and should not be read to reflect that this process is to encourage such referrals, or that the parties should routinely seek or urge such referrals.

14. Unless the parties agree otherwise, they shall equally share all fees and costs associated with the arbitration. In the event that each party picks one arbitrator who then pick a third arbitrator, each party shall pay the arbitrator they have chosen and one-half (or whatever appropriate pro-rated share depending on the number of parties) of the fees of the neutral arbitrator.

15. a. After an arbitration decision is rendered, the successful party, or parties if the decision is mixed, shall promptly, within at least ten (10) days of receiving the Arbitrator(s) decision, petition to have the award entered as a judgment upon the docket in the matter first filed pursuant to the applicable Rules of Court.

b. The Assigned Judge shall retain jurisdiction, shall entertain the petition, and any judgment entered shall not be appealable.

c. Review of the Arbitrator(s) decision by the Assigned Judge is solely subject to 42 Pa. C. S. § 7341 (“Common Law Arbitration”), and the parties and counsel shall remain fully aware that they are subject to the strictures of Pa.R.C.P. 1023.1-1023.4 and 42 Pa.C.S. § 2503 if challenging the petition to enter the Arbitrator(s) decision.

16. The Court and the Assigned Judge shall retain Jurisdiction of the matter to enforce this Stipulation and Order. The terms of this Stipulation and Order, and the terms of the “Abramson Protocols” issue by the Court, and incorporated herein by reference, shall be controlling over the terms of the parties’ arbitration agreement in the event of any conflict or need for interpretation.

17. Counsel stipulate that they have obtained the consent of their respective clients to enter this Stipulation.

18. After receipt and execution by counsel for all parties, this Stipulation shall be submitted to Catherine Hart, the Court Administrative Office of the Commerce Case Management Program in Room 521 of City Hall, for final approval and entry as an Order of the Court by the Assigned Judge.

19. The parties and the Court recognize that this Stipulation and Order is to be read and interpreted consistently and in conjunction with the “Commerce Case Management Program Protocols for Alternative Dispute Resolution Program Using Three Judge Panel and Common Law Arbitration.”

It is so Stipulated and Agreed:

Counsel Name/Address
Attorney for Plaintiff

Counsel Name/Address
Attorney for Defendant

It is so ORDERED, this _____ day of _____, 200_.

J.