

Appellate Division Set to Rule on Arbitration of Legal Malpractice Claims

Following oral argument on January 30, the Appellate Division will decide whether New Jersey will enforce arbitration agreements between lawyers and their clients. The trial court (Hon. Walter Koprowski, Jr., P.J.Ch., Essex County) held that the arbitration clause in the law firm's engagement letter was enforceable and that the client's legal malpractice claim had to be arbitrated. The trial court then stayed the arbitration pending appeal.

On appeal, the client (Brian Delaney, represented by Glenn Bergenfield, Esq.) argues that the arbitration clause in the attorney engagement letter violates a variety of New Jersey's attorney ethics rules. He also argues that attorney-client relationships are the exclusive domain of the New Jersey Supreme Court, and that the Federal Arbitration Act (FAA) does not preempt state regulation of fiduciary relationships.

The law firm (Sills Cummis & Gross) counters that Delaney's arguments are preempted by the FAA. The law firm also argues that the Appellate Division should ignore the arguments about New Jersey's attorney ethics rules because Delaney failed to raise them below.

Stay tuned.

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