

1 **Litigation, Arbitration & Mediation**

A Risk Management Program For Accountants
On Dispute Resolution Alternatives

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2 **Introduction: Statistics On Accounting Malpractice
Lawsuits**

3 **Litigation, Arbitration & Mediation**

- Similarities
- Differences: Adjudication v. Mediation
- Differences: Litigation and Arbitration

4 **Your Default Dispute Resolution Clause
(What happens if you say nothing about dispute resolution)**

5 **Your Alternatives: Rules of Civil Procedure vs. ADR Rules**

- Civil Procedure Rules
- AAA Rules
- Commercial Arbitration Rules and Mediation Procedures
(Including Procedures for Large, Complex Commercial

Disputes)

Rules Amended and Effective June 1, 2009

- Professional Accounting and Related Services Dispute Resolution Rules
- Rules Amended and Effective June 1, 2009

6 ☐ **Ethics of Pre-Dispute ADR in Engagement Letters**

7 ☐ **Issues To Consider: Preview of Coming Attractions**

8 ☐ **Malpractice Insurance Coverage**

- Duty to Defend
- Duty to Cooperate and Insurer Objections To Arbitration
- Risk of No Coverage
- Coverage Within or Outside the Limits
- Impact of Deductible

9 ☐ **Reporting Claim to Regulators**

- AICPA
- State Society
- State Board of Accountancy
- PCAOB
- SEC

10 ☐ **Pre-claim screening**

11 ☐ **Privacy vs. Publicity**

12 ☐ **Filing suit: Complaint vs. Arbitration Statement of Claim**

13 ☐ **Filing Fees**

14 ☐ **Selection of Tribunal**

15 ☐ **Locale: Home or (far) Away?**

16 ☐ **Selection of Judge**

17 ☐ **Qualifications of Judge**

- 18 ☐ **Judge or Jury?**
- 19 ☐ **Juror Qualifications**
- 20 ☐ **Interim Relief**
- 21 ☐ **Counterclaims**
- 22 ☐ **Case Budget-Case Management Conference**
- 23 ☐ **Pleadings And Motions**
- 24 ☐ **Co-Defendants and Third Parties**
- 25 ☐ **Discovery**
 - Interrogatories
 - Depositions
 - Document Production
 - Electronic Discovery
- 26 ☐ **Pre-Trial Motions**
- 27 ☐ **Scheduling Control**
- 28 ☐ **Cost of Hearing Room, Decision Maker, Court Reporter**
- 29 ☐ **Rules of Evidence**
- 30 ☐ **Restrictions on Length of Hearing**
- 31 ☐ **Format of Decision**
- 32 ☐ **Timing Of Decision**
- 33 ☐ **Appeal From Decision**
- 34 ☐ **Enforcement of Decision**
- 35 ☐ **Elapsed Time**
- 36 ☐ **Conclusion**