

**§ 95-36.9. Stay of proceedings.**

(a) If any action or proceeding be brought in any court upon any issue referable to arbitration under an agreement described in subsection (a) of G.S. 95-36.8, the court where the action or proceeding is pending or a judge of the superior court having jurisdiction in any county where the dispute arose shall stay the action or proceeding, except for any temporary relief which may be appropriate pending the arbitration award, until such arbitration has been had in accordance with the terms of the agreement. The application for stay may be made by motion in writing of a party to the agreement, but such motion must be made before answer or demurrer to the pleading by which the action or proceeding was begun.

(b) Any party against whom arbitration proceedings have been initiated may, within 10 days after receiving written notice of the issue or questions to be passed upon at the arbitration hearing, apply to any judge of the superior court having jurisdiction in any county where the dispute arose for a stay of the arbitration upon the ground that he has not agreed to the arbitration of the controversy involved. Any such application shall be made in writing and heard in a summary way in the manner and upon the notice provided by law or rules of court for the making and hearing of motions generally, except that it shall be entitled to priority in the interest of prompt disposition. If no such application is made within said 10-day period, a party against whom arbitration proceedings have been initiated cannot raise the issue of arbitrability except before the arbitrator and in proceedings subsequent to the award.

(c) Any party against whom an arbitration award has been issued may, within 10 days after receiving written notice of such award, apply to any judge of the superior court having jurisdiction in any county where the dispute arose for a stay of the award upon the ground that it exceeds the authority conferred by the arbitration agreement. Any such application shall be made in writing and heard in a summary way in the manner and upon the notice provided by law or rules of court for the making and hearing of motions generally, except that it shall be entitled to priority in the interest of prompt disposition. If no such application is made within said 10-day period, a party against whom arbitration proceedings have been initiated cannot raise the issue of arbitrability except before the arbitrator or arbitrators, or in proceedings to enforce the award. Any failure to abide by an award shall not constitute a breach of the contract to arbitrate, pending disposition of a timely application for stay of the award pursuant to this paragraph. (1951, c. 1103, s. 1.)