NOTICE TO THE BAR

MODEL CIVIL JURY CHARGES UPDATES

The Supreme Court Committee on Model Civil Jury Charges has approved the following amended and revised Model Civil Jury Charges for use by the bar and trial courts. All approved Model Civil Jury Charges, including these revised charges, are available for downloading from the Judiciary's web site at http://www.judiciary.state.nj.us/civil/civindx.htm.

2.32 New Jersey Conscientious Employee Protection Act (CEPA) (*N.J.S.A.* 34:19-1 *et seq.*)(03/2010; revised 04/2014)

This charge is revised to include two footnotes citing *Battaglia v. United Parcel Serv*., 214 *N.J.* 518, 559 (2013). The footnotes clarify that the court must be specific in instructing the jury and identify the protected activity of the employee which could support the basis for a CEPA claim.

2.33 Mitigation of Economic Damages – Back Pay (04/2014)

This charge is amended in two respects. The title of the charge is changed to specify that it relates only to back pay. The charge also clarifies the proofs necessary for a defendant to carry its burden that plaintiff failed to mitigate his or her damages with respect to comparable employment.

2.34 Mitigation of Economic Damages - Front Pay (02/2014; revised 04/2014)

The title of the charge is revised to include the word "economic" in order to make it uniform with Model Civil Jury Charge 2.33.

3.11A Public Defamation (03/2010; revised 06/2014)

The charge includes a revised footnote that references recent caselaw. The charge also adds a footnote that defines "defamatory statement" to include libel and slander.

3.11B Private Defamation (03/2010; revised 06/2014)

The note to the judge in the charge is revised to include reference to recent caselaw. The charge also adds a footnote that defines "defamatory statement" to include libel and slander.

5.50E Pre-Existing Condition (10/2014)

The charge is amended in light of the Appellate Division's decision in *Flood v. Aluri-Vallabhaneni*, 431 *N.J. Super.* 365 (2013). The language of the charge was clarified making it easier for juries to understand.

5.50E Jury Interrogatories (04/2014)

The interrogatories are amended in light of the holding in *Flood v. Aluri-Vallabhaneni*, 431 *N.J. Super*. 365 (*App. Div*. 2013). The amended interrogatories separate into two questions the issues of proximate cause and apportionment of damages which had previously been combined in a single question. The interrogatories also include two new footnotes, one citing to *Flood* and the other clarifying that the court may include specific line items for specific categories of damages.

5.50G Medical Judgment (06/2014)

The charge is revised to include an additional sentence which clarifies that if accepted standards of medical practice did not allow for alternatives for treatment, the defendant is not negligent. The prior charge only included a reference to the situation where the accepted standards of medical practice did allow for alternative treatment or diagnosis. Additionally, the phrase "standard medical care" was changed throughout the charge to "accepted standards of medical practice."

8.46 Defamation Damages (Private or Public)(06/2014)

The charge is amended in light of the Supreme Court's decision in *W.J.A. v D.A.*, 210 *N.J.* 229 (2012) which held that in a plaintiff can claim presumed damages in a private defamation case.

8.61 Punitive Damages – Law Against Discrimination (LAD) Claims (04/2014)

This charge is amended in light of the Supreme Court's holding in *Longo v. Pleasure Productions Inc.*, 215 *N.J.* 48 (2013). The changes include a footnote citation to *Longo* as well as clarification of the language regarding the participation of upper management employees in the wrongful conduct or willful indifference complained of by the plaintiff.

8.63 Punitive Damages - New Jersey Conscientious Employee Protection Act (CEPA) Claims (04/2014)

This charge is amended in light of the Supreme Court's holding in *Longo v. Pleasure Productions Inc.*, 215 *N.J.* 48 (2013). The changes include a footnote citation to *Longo* as well as clarification of the language regarding the participation of upper management employees in the wrongful conduct or willful indifference complained of by the plaintiff.

The revised CEPA, economic damages, and defamation charges and six amended model jury charges and jury interrogatories are published with this notice. Questions regarding any of these revised or new model civil jury charges may be directed to Kristi Jasberg Robinson, Esq., Chief, Civil Practice Liaison, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, New Jersey 08625-0981; phone (609) 292-8470; e-mail Kristi.Robinson@judiciary.state.nj.us.

/s/ Glenn A. Grant

Glenn A. Grant, J.A.D.
Acting Administrative Director of the Court

Dated: October 10, 2014