

# **NOTICE TO THE BAR**

## **SUPREME COURT OF NEW JERSEY**

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### **IN THE MATTER OF DISCOVERY MOTIONS FOR ALLEGED RACIAL PROFILING BY THE NEW JERSEY STATE POLICE**

Pursuant to the Supreme Court Order dated January 31, 2000, the following case management procedures are established for the filing and hearing of all discovery motions alleging racial profiling by the New Jersey State Police, before Judge Walter R. Barisonek, Superior Court of New Jersey, Union County Courthouse, Elizabeth, NJ,

It is on this 25th day of February, 2000

#### **ORDERED THAT**

- 1) All motions for discovery are to be filed by separate motion and not joined with other demands for relief with the vicinage where the matter is pending;
- 2) If a motion requesting discovery has been filed prior to promulgation of this order, and a hearing has not commenced in the local vicinage, and includes other demands for relief, the discovery portion shall be severed and referred, pursuant to this Rule. Prior to referral and within 30 days of this Rule, counsel shall comply with Paragraphs 4, 5, 6 and 7 of this order.
- 3) All rules of procedure dealing with notice of motions are to be followed including notice to the prosecutor in that vicinage or attorney general if the attorney general is prosecuting the matter and co-counsel;
- 4) The moving party shall attach to the motion a statement of facts in support of the application which shall include:
  - a) The minority group to which the defendant belongs;
  - b) The location of the alleged stop, i.e., New Jersey Turnpike, New Brunswick, NJ  
or New Jersey Parkway, Union, NJ;
  - c) The names of the troopers involved in the stop;
  - d) The factual details of the manner in which the defendant's vehicle was stopped and whether the defendant was driver or passenger, and number of other people in the vehicle;
  - e) Whether the defendant's vehicle was searched pursuant to a consent search, warrantless search or pursuant to a subsequently secured search warrant;
  - f) Any written documentation upon which you will rely to support your application;
  - g) The status of the case, i.e., pre-indictment motion to suppress, post indictment pre-trial motion, post conviction relief application, appeal of municipal court motion to suppress;
- 5) If the State alleges that the defense is barred from filing the motion because of a violation of the Rules of Court, or that the motion is time barred or that the court does not have jurisdiction over the subject matter or that the court is otherwise procedurally barred from deciding the underlying issue upon which the discovery motion is based, the State

shall file its objection to the application with the local vicinage within 10 (ten) business days of filing of the motion for discovery, setting forth the rule and law as to why the matter should not be forwarded to Judge Barisonek for a hearing. The local vicinage shall decide that issue as soon as practicable and if the objection is denied, the file shall be forwarded for hearing on the motion for discovery after the State has filed its counterstatement of facts per Paragraph 6.

6) If the State files no objection pursuant to Paragraph 5, the State shall file a counter statement of facts dealing with the same factual issues delineated in Paragraph 4 within 10 (ten) business days of the filing of the motion for discovery. If objection is filed pursuant to Paragraph 5, and the objection is denied, the State shall file within 10 (ten) business days after denial its counterstatement of facts. If the same has not been filed, the State will be considered to have adopted the statement of facts as filed by the Defense;

7) If a co-defendant is joining in the motion for discovery, notice of joinder and a statement that co-defendant is relying upon the statement of facts previously filed shall be filed within 10 (ten) business days of the filing of the original motion, on notice to all parties. If co-

defendant is not relying on the previously filed statement of facts, co-counsel shall attach his/her own statement of facts Pursuant to Paragraph 4, at the time the notice of joinder is filed.

8) The Presiding Judge of the vicinage where the matter is pending or his or her designee, upon filing of the counterstatement of facts by the State, or the State's failure to file same, shall enter an order referring the matter to Judge Barisonek and forward all motions with attachments and objections for hearing.

JUDGE WALTER R. BARISONEKWOW

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