

# NOTICE TO THE BAR

## UPDATES TO MODEL CIVIL JURY CHARGES

The Supreme Court Committee on Model Civil Jury Charges (Committee) has approved the following listed Model Civil Jury Charges for use by the bar and trial courts. Some of these model charges are new, some are revised versions of previously approved charges. The approved Model Civil Jury Charges, included these new and revised charges, are available for downloading from the Judiciary's Internet web site at <http://www.judiciary.state.nj.us/civil/civindx.htm>.

- 2.15**            ***Employment Law — Good Faith and Fair Dealing (9/2009)***  
A new Employment Law — Good Faith and Fair Dealing charge number 2.15C thus requiring existing charge 2.15 to be renumbered as 2.16.
- 2.16**            ***Employment Law — Defamation and Employment (9/2009)-***  
Renumbered only. Formerly number 2.15.
- 2.21 (B)(5)**    ***New Jersey Law Against Discrimination (NJLAD) – Prima Facie Elements (9/2009)***  
A new section to *Prima Facie* Elements, has been added to the existing *New Jersey Law Against Discrimination (NJLAD)* charge citing *Zive v. Stanley Roberts, Inc.*, 182 N.J. 436 (2005).
- 2.22**            ***Unlawful Employment Practices Under the New Jersey Law Against Discrimination (LAD) – Retaliation (9/2009)***  
The charge on Retaliation under the LAD was rewritten to provide additional clarity and to update case law, including *Carmona v. Resorts Int'l Hotel, Inc.*, 189 N.J. 354 (2007); *Nardello v. Twp. of Voorhees*, 377 N.J. Super. 428 (App. Div. 2005); *Green v. Jersey City Bd. of Educ.*, 177 N.J. 434 (2003); *Donofry v. Autotote Systems, Inc.*, 350 N.J. Super. 276 (App. Div. 2001); and *Kolb v. Burns*, 320 N.J. Super. 467 (App. Div. 1999).
- 2.32**            ***New Jersey Conscientious Employee Protection Act (CEPA) (9/2009)***  
The charge on Retaliation under *New Jersey Conscientious Employee Protection Act (CEPA)* was rewritten to provide additional clarity and to update case law, including *Green v. Jersey City Bd. of Ed.*, 177 N.J. 434 (2003); *Nardello v. Township of Voorhees*, 377 N.J. Super. 428 (App. Div. 2005); *Beasley v. Passaic County*, 377 N.J. Super. 585 (App. Div. 2005);

*Maw v. Advanced Clinical Communications, Inc.*, 359 N.J. Super. 420 (App. Div. 2003); *Dzwonar v. McDevitt*, 177 N.J. 451 (2003); *Estate of Roach v. TRW, Inc.*, 164 N.J. 598 (2000); *Donofry v. Autotote Systems, Inc.*, 350 N.J. Super. 276 (App. Div. 2001); and *Fleming v. Correctional Healthcare Solutions, Inc.*, 164 N.J. 90 (2000).

**4.10J      *Bilateral Contracts — Implied Terms — Covenant of Good Faith and Fair Dealing (9/2009)***

The title of the existing Bilateral Contracts charge was changed to Bilateral Contracts — Implied Terms — Covenant of Good Faith and Fair Dealing and the content revised to update case law, including *Brunswick Hills Racquet Club, Inc. v. Route 18 Shopping Center Assoc.*, 182 N.J. at 230 (2005); *Wilson v. Amerada Hess Corp.*, 168 N.J. 236 (2001); *Wade v. Kessler Institute*, 172 N.J. 327 (2002); *Price v. New Jersey Manufacturers Insurance Company*, 182 N.J. 519 (2005); *Silvestri v. Optus Software, Inc.*, 175 N.J. 113 (2003); and *R.J. Gaydos Insurance Agency, Inc. v. National Consumer Insurance Company*, 168 N.J. 255 (2001).

**4.43      *Contract — Consumer Fraud Act (9/2009)***

Footnotes 6 and 8 to the existing Contract — Consumer Fraud Act charge were revised to alert the judges and litigants to the plaintiff's burden to establish the claim by a preponderance of the evidence.

**5.40J      *Products Liability — Comparative Fault (9/2009)***

The existing Products Liability — Comparative Fault charge was revised to add a cautionary footnote concerning employee comparative fault citing *Suter v. San Angelo Foundry & Machine Company*, 81 N.J. 151 (1979); *Cavanaugh v. Skil Corp.*, 231 N.J. Super. 134 (App. Div. 1999); and *Butler v. PPG Industries, Inc.*, 201 N.J. Super. 558 (App. Div. 1985).

Questions regarding any of these new or revised civil jury charges may be directed to Michelle V. Perone, Esq., Chief, Civil Court Programs, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, New Jersey 08625-0981; telephone (609) 984-5431; email address michelle.perone@judiciary.state.nj.us.

/s/ Glenn A. Grant

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

Dated: October 7, 2009