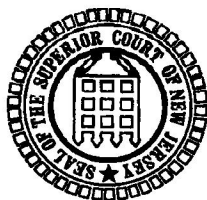


#013

SUPERIOR COURT OF NEW JERSEY
SOMERSET, HUNTERDON AND WARREN COUNTIES
VICINAGE 13

Hany A. Mawla
Presiding Judge – Family Part



Somerset County Historic Court House
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Somerville, New Jersey 08876
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April 7, 2017

Honorable Glenn A. Grant, J.A.D.
Acting Administrative Director of the Courts
Rules Comments
Richard J. Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625-0037
Via email (comments.mailbox@njcourts.gov)

Re: Rules Comments from the Supreme Court Committee on Minority Concerns regarding 2015-2017 Biennial Reports -- Supreme Court Committees on Complementary Dispute Resolution, Rules of Evidence, Criminal Practice, Family Practice, and Municipal Practice

Dear Judge Grant:

The Supreme Court Committee on Minority Concerns has reviewed the other biennial reports submitted for the 2015-2017 and in support of those committees' work, as far as they intersect with the mission and mandate of the Committee on Minority Concerns, offers the following observations and comments.

COMMITTEE ON COMPLEMENTARY DISPUTE RESOLUTION (CDR)

1. With regard to the CDR plan to review the 12-hour law clerk mediation training, the SCCMC would strongly encourage that a sufficient base of diversity and inclusion training, including but not limited to race/ethnicity, gender, sexual orientation, and gender identity, be incorporated as standard elements into this training, consistent with the principles underlying related recommendations in the SCCMC 2015-2017 report. (See page 15 of the CDR report and page 4 and pages 25-28 of the SCCMC report.)

CRIMINAL PRACTICE COMMITTEE (CPC)

2. The SCCMC has great interest in the CPC's discussion of R. 3:21-8 and the unavailability of jail credit for certain Drug Court participants based on commitment to a residential treatment facility due to the admission tracks articulated in N.J.S.A. 2C:45-1 and N.J.S.A. 2C:35-14, i.e., special probation versus regular probation. The SCCMC concurs with the CPC in recommending that "the Court consider making a recommendation to the Legislature to consider statutory amendments to the Track 1 provision that would allow jail credits for Drug Court participants admitted under Track 2 pursuant to N.J.S.A. 2C:45-1" (see page 60 of the CPC report). Such consideration would meet general programmatic goals and institutional priorities as well as address proactively some of the issues relating to reentry discussed in the SCCMC report (see pages 34-35 of the SCCMC report.)
3. The SCCMC acknowledges the ongoing work of the Criminal Practice Committee particularly as related to the implementation of Criminal Justice Reform and specifically pretrial release and speedy trial.

COMMITTEE ON THE RULES OF EVIDENCE (CRE)

The SCCMC is particularly interested in and supportive of the CRE discussion of oaths and affirmations. The SCCMC strongly supports the adoption of a uniform witness affirmation that is devoid of any reference to religious text, artifact or deity. The SCCMC wholeheartedly agrees that use of an affirmation as an alternate, and/or the inclusion of a special jury instruction where applicable, would totally defeat the benefits and purposes of adopting a uniform witness affirmation. The SCCMC defers entirely to the thorough analysis by the CRE as to resolution of some of the identified logistical issues, such as conflicting statutes, and recommends that the Court proceed to meet the specific concerns underlying the CRE engagement with this issue. The SCCMC hopes that the CRE will continue to engage this issue as it relates to oaths for depositions and jury service, but for now believes it is an essentially important step, in recognition of New Jersey's growing religious and cultural diversity, to adopt the recommendation of the CRE regarding the N.J.R.E. 603, N.J.R.E. 604, and N.J.R.E. 803(a)(1)(B) with regard to testimony in court as a means of ensuring optimal access and fairness for court users from diverse belief systems and thereby ensuring consistent compliance with N.J.R.E. 512 and N.J.R.E. 610.

FAMILY PRACTICE COMMITTEE (FPC)

4. The SCCMC is interested in the work of the Working Group on the Clarification of Divisions – Civil, Family, or General Equity. However, since the recommendations of the Working Group are not included in the FPC report, the SCCMC anticipates responding to those matters under separate cover.

MUNICIPAL PRACTICE COMMITTEE (MPC)

5. The SCCMC has no specific comments to offer regarding this report, but acknowledges the ongoing work of the Municipal Practice Committee particularly as related to the implementation of Criminal Justice Reform.

The SCCMC appreciates the ongoing opportunity to serve the Court in an advisory capacity and remains available to serve as a resource to the other Supreme Court Committees as may be deemed beneficial with regard to the matters referenced herein.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Hany A. Mawla', with a stylized flourish at the end.

Hany A. Mawla, P.J.F.P.

HM:lrb
Enclosure

cc: SCCMC Executive Board
Steven D. Bonville, Chief of Staff
Yolande P. Marlow, Minority Concerns Program Manager
Lisa R. Burke, Minority Concerns Program Coordinator