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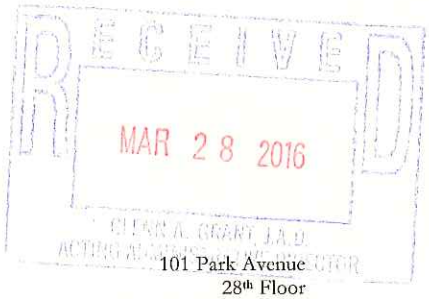
Sills Cummis & Gross
A Professional Corporation

The Legal Center
One Riverfront Plaza
Newark, New Jersey 07102
Tel: (973) 643-7000
Fax (973) 643-6500



101 Park Avenue
28th Floor
New York, NY 10178
Tel: (212) 643-7000
Fax: (212) 643-6500

600 College Road East
Princeton, NJ 08540
Tel: (609) 227-4600
Fax: (609) 227-4646

Jeffrey J. Greenbaum
Member/Chair: Class Action Practice Group
Admitted In NJ, NY
Direct Dial: 973-643-5430
Email: jgreenbaum@sillscummis.com

March 22, 2016

Hon. Glenn A. Grant, J.A.D.,
Acting Administrative Director of Courts
Rules Comments
Administrative Office of the Courts
Hughes Justice Complex
P.O. Box 037
25 W. Market Street
Trenton, NJ 08625-0037

Re: **Proposed Amendment to Rule 1:6-5 Regarding Page Limits for Trial Court Briefs**

Dear Judge Grant:

I write to address the proposed amendment to impose page limits on civil trial court briefs. I write to support the proposal and to suggest further improvements.

Page limits on briefs are nothing new for practicing lawyers. We must deal with them for appellate briefs at the federal and state level, and those who practice in the United States District Court here must deal with page limits on all briefs in the trial court. The question presented by this proposal is whether the proposal will cause undue hardship to attorneys seeking to represent their clients' positions, and whether the proposal will improve the trial court practice for judges, practicing lawyers and the court system as a whole. Since I do not believe the rule change will impose any undue hardship and will improve practice, I support it.

I have spent a significant portion of my career promoting rule changes to simplify practice, to reduce complexity and to save expense for clients and lawyers. Reasonable page limits impose a healthy discipline on a lawyer sitting down to write a brief. One must focus on the most significant points and say them in a concise way to persuade. A shorter brief that hones in on the critical points from the outset is more likely to persuade than the more prolix version.

It will also cost less to write a 40 page brief than an 80 page brief. We also cannot underestimate the negative impact on trial judges and burden to the system by repeated submission of overlength briefs in which lawyers try to include every subsidiary and many times unnecessary argument. But just as important, lawyers do not help their cases by burdening judges with meandering and overlength briefs that stray from the critical arguments.

The proposal of 40 pages for initial and response briefs and 15 pages for reply briefs is similar to that imposed by our local federal rule. The rule generally works well for most cases, even for those that are more complex than the typical state court case. While paring a brief to fit within the page limit sometimes takes extra time, I find there are shorter ways to say the same thing without losing content and the final product is usually much improved. As a result the Court reads a tighter and usually better brief in less time. And while parties can request permission to submit an overlength brief by letter, there is a healthy reluctance by litigants to request such relief unless it is truly needed. In particularly complex cases, the parties may agree in advance to propose a relaxed higher limit for both sides, and Judges will many times agree to such proposals. I would expect the rule in state court to work the same way.

I do have one suggestion for improvement. The proposal says that "a party make an application in writing to the court to file an over-length brief exceeding these limitations, which the court may permit or disallow in its discretion and without awaiting a response from any other party concerning the request." But the proposal sets no examples of when a court should exercise its discretion to permit such submissions. Some examples should be set forth. For example, the rule could add: " In evaluating such requests, the court should consider, among other factors, the complexity of the case, whether the brief pertains to a dispositive motion involving a lengthy factual record, or whether the matter involves novel issues of law requiring a more detailed written presentation and argument of counsel." While I would not eliminate the trial court's discretion on such applications, I believe helpful examples will be appreciated.

I hope these comments are of some benefit.

Respectfully yours,

JEFFREY J. GREENBAUM

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