

#009

**MIDDLESEX  
COUNTY  
BAR ASSOCIATION**



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2020-21 Term

December 14, 2020

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Hon. Glenn Grant, AOC Director  
25 West Market Street, PO Box 037  
Trenton, NJ 08625-0037

Dear Judge Grant:

The Middlesex County Bar Association would like to thank you for the opportunity to offer comments on the New Jersey Supreme Court's recommendations for conducting virtual civil jury trials.

The Association formed an ad hoc committee which has conferred and we respectfully offer the following comments/suggestions which we ask the Court to consider incorporating into its recommendations:

**Jurors**

Voir Dire – Judges should be encouraged to be more liberal in excusing jurors unwilling to serve so as not to force counsel to exercise peremptory challenges unnecessarily. It is in the best interests of justice to all parties to have jurors that are committed to focusing their attention on the case being tried and the Court should weed out those potential jurors who demonstrate an unwillingness to make the necessary commitment to focusing on the trial.

Voir dire questions should be expanded to allow up to ten (10) open-ended questions per attorney, given the challenges of conducting jury selection virtually.

The Court should not place rigid time restrictions on voir dire, so as to ensure that all parties are afforded the time they need to properly assess potential jurors without the added stress and prejudice of time limitations.

The Court should require all jurors to have their video set to "on" at all times during jury selection and during the course of the trial itself to ensure they are not distracted or otherwise engaged.

**Trials**

The Court should identify a uniform platform across the State to be used for hosting virtual trials (Zoom/Microsoft Teams/Webex).

*In limine* motions should have a date, on or before which to be filed, such that the Court shall hear the *in limine* motions no less than 30 days prior to the actual trial date. Narrowing the issues will serve to promote settlement and streamline trials.

All trial days should be either half-days or two-thirds of a day to avoid juror "Zoom fatigue" and to ensure a high level of concentration.

At breaks, jurors should be kept in breakout rooms and permitted to interact so as to allow them to bond in the way they normally would during breaks of in-person trials, which contributes to greater comfort during deliberations.

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Evidence should not be provided to jurors in binders prior to trial so as to prevent jurors from examining and reviewing evidence other than when presented, or during jury deliberations.

Thank you again for the opportunity to offer these comments and for your time and consideration in this regard.

Respectfully submitted,

*Eugene S. Wishnic*

EUGENE S. WISHNIC  
President

Cc: Hon. Michael Toto, AJSC  
Hon. Jamie Happas, PJ, Civil

ESW/jpc