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NEW JERSEY STATE BAR ASSOCIATION

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March 16, 2022

Ronald K. Chen, Esq.
Chair, Advisory Committee on Professional Ethics
Richard J. Hughes Justice Complex
P.O. Box 970
Trenton, NJ 08625-0970

Re: Advisory Committee on Professional Ethics –
Request for Comments on a Replacement Opinion 685

Dear Dean Chen:

Thank you again for providing additional time for a substantive response from the New Jersey State Bar Association (NJSBA) to the recent Notice to the Bar from the Advisory Committee on Professional Ethics (ACPE) indicating the Committee's withdrawal of Opinion 685 and seeking additional comments. Thank you as well for responding to my request to delay substantive action until the Judicial Conference Committee prepares its report and recommendations in connection with addressing implicit bias in the jury selection process.

We appreciate the ACPE's diligence and commitment to providing members of the bar with appropriate ethical guidance. After careful consideration, though, the NJSBA has concluded that it would be difficult to provide further recommendations about the application of RPC 8.4(g) to lawyers' conduct in the jury selection process without the benefit of knowing what that process will be following the issuance and consideration of the Judicial Conference Committee report which is expected to be released shortly. As I previously expressed, there should be no doubt that the NJSBA embraces the goal of the elimination of bias in the justice system and, in particular, the jury selection process; however, we anticipate that the ultimate changes to that process will have a direct effect on the ACPE discussion and analysis in this area.

The NJSBA would welcome the opportunity to provide specific recommendations for the ACPE's consideration once there is a clear understanding of how the jury selection process may change going forward. I hope there will be an opportunity to do so.

Thank you again for the ACPE's continued dedication, work and consideration.

Sincerely,



Domenick Carmagnola, Esq.
President

cc: Jeralyn L. Lawrence, Esq., NJSBA President-Elect
Angela C. Scheck, NJSBA Executive Director