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Via Email to Comments.Mailbox@njcourts.gov

Carol Johnson, Committee Secretary Chair
Advisory Committee on Professional Ethics
Richard J. Hughes Justice Complex
P.O. Box 970
Trenton, NJ 08625-0970

Re: Delaney v. Dickey, et al
Notice to the Bar Dated January 13, 2021 (The Notice)

Dear Committee Secretary Johnson:

Please accept these comments on behalf of Chiesa Shahinian & Giantomasi PC (“CSG”) in response to the Report and Recommendations of the Advisory Committee on Professional Ethics (ACPE), dated January 18, 2022. CSG joins in the comments submitted on behalf of Sills Cummis & Gross P.C. (“Sills”), including the revised proposed set of disclosures included therewith as Exhibit A.

CSG agrees with Sills that the ACPE’s recommendations go too far. The Supreme Court’s referral did not seek the ACPE’s views on the wisdom of its decision in *Delaney v. Dickey*, 244 N.J. 466 (2020) (holding that an engagement agreement may contain an arbitration provision to govern malpractice claims and fee disputes where the benefits and disadvantages of arbitrating a dispute between the attorney and client are explained), but instead requested that the ACPE propose guidelines on the scope of an attorney’s disclosure requirements. The disclosures recommended by the ACPE fail to place arbitration agreements on equal footing with other contracts, are cumbersome and are unworkable in current-day practice. The revised proposed disclosure submitted by Sills strikes the appropriate balance between ensuring that the client is properly informed without unduly burdening the process of entering into an engagement agreement.

We thank the Committee for considering this submission.

Respectfully submitted,

/s/ Patricia K. Costello, A.J.S.C. (Ret.)

Managing Member