



NEW JERSEY STATE BAR ASSOCIATION

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Honorable Glenn A. Grant, J.A.D.
Administrative Director of the Courts
Hughes Justice Complex, P.O. Box 037
Trenton, NJ 08625-0037

Re: Comments on Civil Practice Committee Rules Report

Dear Judge Grant:

Thank you for the opportunity to review and provide comments on the 2022 Rules Reports. I am pleased to submit the New Jersey State Bar Association's recommendations and comments regarding the Civil Practice Committee Report.

The NJSBA has engaged in a wide-ranging discussion and debate about all of the proposed amendments in the report, and we applaud the efforts of the committee in researching, discussing and debating the issues addressed. The NJSBA recognizes the importance of ensuring our rules are clear, establish procedures that are fair to all parties, and, most importantly, advance the interests of and access to justice. While the NJSBA agrees with a majority of the proposals in the report, we offer these comments in connection with specific recommendations in the spirit of further improving the administration of justice in our court system:

Recommendations C.5-C.31 – Various Changes to Appellate Practice Rules

The NJSBA generally supports the proposed changes, except the changes to R. 2:6-7. There, the proposed amendments would shorten the length of briefs and require the filing of a motion to exceed those page limitations 20 days before a brief is due. The NJSBA does not see the need to shorten the briefs and allow less information to be presented to the Court, especially since it is sometimes difficult to meet the current page limitations. In addition, with the change in font, fewer characters will be allowed on each page, resulting in even less space for argument. While there is a mechanism to request an increased page limit, it is unlikely that a party will know how long a brief will be 20 days before it is due, so the timing for such a motion is unrealistic and will result in practical difficulties for all involved.

In addition, the NJSBA specifically notes its support for Recommendation C.31, to rename the "presiding Judge for Administration" to "Chief Judge of the Appellate Division." The NJSBA believes this is a well-deserving accolade for Judge Carmen Messano and successors.

Recommendation E – Proposed Amendments to Rule 4:22-1 (Request for Admission)

The NJSBA supports the concept of adopting the federal rule on requests for admission but submits the same comments it submitted previously on the issue. Those comments were: The NJSBA supports the concept of the proposal, but believes that by only adding “or opinion,” the language proposed by the Civil Practice Committee goes farther than what the federal rule permits. Specifically, that rule does not permit requests to admit to the truth or accuracy of all opinions (including, most importantly, expert opinions), but only those that “relate to statements or opinions of fact or of the application of law to fact.” See comments to *Fed. R. Civ. Pro. 36(a)*, as revised. By limiting admissions to opinions of fact, the federal rule does not provide unchecked ability to seek admission as to expert or lay opinions or as to the law. It is respectfully suggested that the proposed amendment be revised to be consistent with the federal rule it seeks to emulate.

Recommendation H – Proposed Amendments to Rule 4:58 (Offer of Judgment)

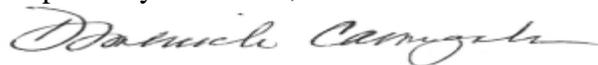
The NJSBA supports this amendment as proposed. Overall, the proposed amendment is well reasoned and appropriately deals with multi-party issues.

Recommendation K – Proposed Amendments to Form Interrogatories

The NJSBA generally supports the proposed amendments to the form interrogatories, but recommends reconsideration of two proposals: (1) The amendments seek to add a question addressing the consumption of alcoholic beverages, drugs, or medication prior to the subject incident. The question has no timeframe and includes “any occupant of the vehicle,” which is information that clients may not have and could rise to libel or slander if an occupant is identified to have been on drugs or medication; and (2) The amendments seek to replace references to “accident or occurrence” with “your version of the alleged occurrence, incident, accident, or act of negligence asserted.” The term “act of negligence” is a legal term of art and it seems inappropriate to require a client to certify to a response that contains vague references to the client’s negligence.

Again, the NJSBA thanks the Supreme Court for allowing the Association to submit comments and recommendations. We commend the volunteers involved for their efforts and hope that our comments represent a meaningful contribution to their debate. Our leaders also look forward to addressing the Court at its annual public hearing on the Court Rules. The opportunity to participate in all aspects of the rule-making process, which has a significant impact on the practice of law in New Jersey, is appreciated. If you have any questions regarding these recommendations, please do not hesitate to contact me.

Respectfully submitted,



Domenick Carmagnola
NJSBA President

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