August 20, 2021

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

Re: Judicial Conference on Jury Selection

Dear Judge Grant:

The New Jersey State Bar Association is committed to meaningful participation in the upcoming Judicial Conference on Jury Selection examining the nature of discrimination in the jury selection process and how to effectively address it. We look forward to engaging with the invited members of the legal community in a probing conversation about the necessary steps to root out discrimination in the selection of juries.

To ensure the conference facilitates the comprehensive discussion and debate that is envisioned, the NJSBA has a few requests for the Judiciary to consider:

(1) The NJSBA requests that the Judiciary share the date of the conference as soon as it is available, so all expected participants can plan appropriately.

(2) To adequately prepare, the NJSBA requests that the Judiciary share the following information with the NJSBA and other invited members of the conference in advance of the conference with sufficient time to study and analyze the information:

   (a) all studies, reports, statistics, or other information that is germane to the issue of addressing discrimination in the jury selection process, particularly in connection with implicit bias and the use of peremptory challenges;

   (b) the names and reports of any experts it intends to rely upon in its presentation of information to the conference members; and

   (c) any studies, statistics, articles, recordings, or other materials contained in the expert reports or relied upon in reaching any conclusions in those reports.

The NJSBA believes this sharing of information is critical to having the probing conversation that is referenced by the Supreme Court in its opinion in State v. Andujar.
(3) The NJSBA also recognizes that it is not the only voice that can provide valuable input to conference members. Many different viewpoints, experiences, and opinions can be found within the legal community, and the attendance at the Judicial Conference should reflect that breadth and depth of perspectives. To achieve that diverse representation, the NJSBA recommends that the conference member list be expanded beyond the individuals designated by statute to include the affinity bar associations and key individuals who have been zealous advocates and thought leaders on the jury selection process. Initially, the NJSBA recommends that Raymond M. Brown and Michael G. Donahue, chairs of a Working Group formed by the NJSBA to examine the issues that will be discussed at the conference, be invited to attend. Both individuals have specific knowledge, expertise, and experience that will add thoughtful value to the conversation. The NJSBA can provide additional background information on Messrs. Donahue and Brown, as well as specific recommendations upon request about other individuals who would be helpful to include as well. Again, the NJSBA believes increased participation reflecting as many segments of the legal profession as possible is critical to facilitating a valuable and meaningful discussion and debate and ultimately crafting a path ahead that will ensure all who encounter our jury system have the utmost faith in its ability to serve the cause of justice.

(4) The NJSBA requests that the Judiciary establish a reasonable schedule for the submission of materials by conference members or other attendees, and make those materials available to all conference members in advance of the conference with sufficient time for review. This will allow all participants to plan appropriately and be prepared to engage in a thoughtful and robust discussion of the significant issues at stake.

Thank you for your consideration of these requests as you coordinate this important endeavor.

Respectfully yours,

Domenick Carmagnola, Esq.
President

/sab

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