



NEW JERSEY STATE BAR ASSOCIATION

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Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Administrative Office of the Courts
Hughes Justice Complex
25 W. Market St.
P.O. Box 037
Trenton, NJ 08625-0037

Re: Recommendation of Amendments to *Rule* 1:21-11

Dear Judge Grant:

On behalf of the New Jersey State Bar Association, I write to follow up on the association's letter of Feb. 17, 2016, concerning the implementation of *Rule* 1:21-11. First, the NJSBA would like to express its appreciation for how closely your office worked with the association on issues surrounding the roll-out of the [New Jersey Judiciary Pro Bono Organizations Portal](#). That collaboration enabled a smoother start, with many *pro bono* organizations recertifying online and on time. Please extend our thanks to Julie Higgs, Danelle Parker-Mason, and others on your staff who were involved in the process.

The initial experience of New Jersey's *pro bono* organizations with the online certification and recertification process has raised some questions and issues with the Rule, however, which are outlined below. The NJSBA urges the Court to consider amending *Rule* 1:21-11 to address the concerns.

First, there is a question about the necessity of requiring an organization filing a recertification to include "a list of attorneys who have provided qualifying *pro bono* service under the auspices of the organization or program in the preceding year." *R.* 1:21-11(b)(1)(ii)(b). The online forms implement this provision by asking the organizations to upload a list of volunteer attorneys. N.J. Courts, *Pro Bono Online System – Annual Recertification*, <http://www.judiciary.state.nj.us/supreme/apps/pbos/probonoorganization/Renew/ApplyRenewal?Id=tENF95plKHKzTwZhyqOZkQ%3d%3d&mode=SFH1Du9hrKlfjBN5zSp78g%3d%3d>.

This requirement is burdensome for many *pro bono* organizations and does not appear to serve any significantly appreciable purpose. The information collected would not provide the comprehensive information that would be necessary for the Court to ascertain reliable statistics on the number of lawyers volunteering their time on a *pro bono* basis, nor would it provide useful information to conduct audits to check on lawyers claiming a *Madden* exemption. The Rule only seeks to collect information from those nonprofit organizations subject to the Rule's certification requirement. The state's largest legal services

provider, Legal Services of New Jersey, and its regional offices, are excluded from the Rule's requirement, so all the lawyers volunteering through LSNJ will not be reported to the Court. In addition, while organizations are diligent in reporting the names of volunteers, they may not have complete information on every volunteer attorney, as lead *pro bono* attorneys from firms, corporations, and other practices habitually enlist help from other lawyers unknown to the organization. Thus, volunteer lists collected pursuant to the recertification process will be incomplete and will fail to serve as a source from which the Court could draw any reliable statistics, such as the number of attorneys providing *pro bono* services, or the accuracy of self-reported *Madden* exemptions.

Considering the administrative burdens to the already strapped and short-staffed nonprofit legal sector caused by compiling the required volunteer lists and that the lists do not appear to provide any tangible benefit to the Court, the NJSBA urges the Court to consider eliminating that requirement.

Second, the Rule specifies that certifications and re-certifications should be filed by "the organization's or program's lead attorney *who practices law in New Jersey*." R. 1:21-11(b)(1)(i), (ii) (emphasis added). Some *pro bono* organizations and programs, however, do not have lawyers who are licensed to practice in New Jersey. Several national organizations that solicit *pro bono* counsel for *New Jersey clients*, in the immigration field, among others, may not maintain New Jersey offices or employ New Jersey lawyers. Such organizations and programs can and do effectively screen clients in New Jersey and train and mentor *pro bono* volunteers here without practicing law in New Jersey. The NJSBA is aware of some that were deterred from certifying through the New Jersey Judiciary *Pro Bono* Organizations Portal because they had no lawyer licensed in the state. The NJSBA suggests, therefore, excising the phrase "who practices law in New Jersey" from the provisions where it appears in the Rule.

As always, I thank you for your willingness to consider these comments and suggestions, and I welcome the opportunity to continue to work with your office on the proposed amendments to the Rule. Please do not hesitate to contact me if you need further information or have any questions.

Sincerely,



Thomas H. Prol
President

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cc: Robert B. Hille, Esq., NJSBA President-Elect
Cathy Keenan, Esq., Chair, NJSBA Pro Bono Committee
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