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Re: Proposed revised jury charge regarding use of Internet

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Dear Ms. Perone:

I am writing to you in my capacity as the President of the Trial Attorneys of New Jersey ("TANJ"), and in response to Judge Brogan's letter dated August 20, 2009 seeking input from our membership regarding proposed jury charge revisions.

I have set forth below the current Civil Model Jury Charge regarding juror investigation and research, which has been expanded to include electronic research, along with our proposed revision. As you will note, the revision explains the reason for the prohibition against outside research, which is not the approach usually taken in jury instructions. Based upon our research and experience, it appears that jurors may not readily accept prohibitions against using the internet since it is so common place. We believe that an explanation may help produce better understanding and compliance.

The existing Civil Model Jury Charge (Charge 1.11c) reads as follows:

You should not review or seek out information about issues in the case, the parties, attorneys or the witnesses, either in traditional formats such as newspapers, books, advertisements, television or radio broadcast or magazines or through the internet or other computer research. You should also not attempt to communicate with others about the case, either personally or through computers, cell phone messaging, personal electronic and media devices, or other forms of wireless communication. You should not go on the

Parliamentarian
Edwin R. Matthews

internet or participate in or review any websites, internet "chat rooms" or "blogs" nor should you seek out photographs or documents of any kind that in any way relate to the case.

We suggest the following revisions:

You should not review or seek out information about issues in the case, the parties, attorneys or the witnesses, either in traditional formats such as newspapers, books, advertisements, television or radio broadcast or magazines or through the internet or other computer research. You should also not attempt to communicate with others about the case, including other jurors, witnesses, or the parties, either personally or through computers, cell phone messaging, personal electronic and media devices, or other forms of wireless communication. You should not go on the internet or participate in or review any websites, internet "chat rooms" or "blogs." Do not "google" me, the attorneys, the parties or the witnesses. Do not seek out photographs or documents of any kind that in any way relate to the case.

While many of you may regularly use the internet to research topics that are new or of interest to you, computers, cell phones, and using the internet, or any other media, to research the issues that you will have to decide in this case may produce an unfair result. The information you obtain over the internet or through any type of independent research may be incomplete or inaccurate it maybe out of date, or may be biased in favor of one side or the other. The purpose of our Rules of Evidence, and the reason that a Judge presides over a trial and rules on what evidence the jury may or may not hear, is not to keep useful information away from the jury. The purpose is to make certain that all jurors hear the same evidence and that the evidence that the jury hears is complete and reliable. The purpose is also to allow each party a fair opportunity to refute or explain evidence that is offered against it or that is unfavorable to its case. If individual jurors were to conduct their own research, through the internet or through any other means, it would undermine these safeguards, and could lead to an unfair or unjust result.

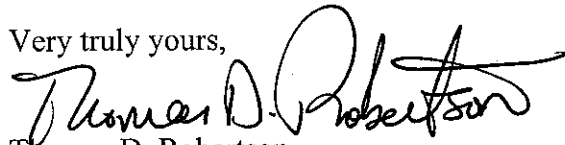
Michelle V. Perone, Esq.

January 15, 2010

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Thank you for the opportunity to address this issue. If you or any of the committee members have any thoughts, comments or questions, please feel free to contact me at your convenience.

Very truly yours,

A handwritten signature in black ink, appearing to read "Thomas D. Robertson". The signature is fluid and cursive, with a large initial "T" and "R".

Thomas D. Robertson

Sedgwick, Detert, Moran & Arnold LLP

TDR/kbc

cc: Thomas F. Brogan, Presiding Judge, Civil Division
Chambers 322
77 Hamilton St.
Paterson, NJ 07505