



April 29, 2013

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

Re: Proposed Amendments to N.J.R.E. 104 and 702

Dear Judge Grant:

On behalf of the New Jersey Lawsuit Reform Alliance, we respectfully ask that the Supreme Court adopt the attached amendments to New Jersey Rules of Evidence (“N.J.R.E.”) 104 and 702.

As the report of the Evidence Committee points out, this is second time that our organization has petitioned for this change; we last raised the issue to the Committee in 2009. NJLRA hopes that the Court will view our respectful persistence on these proposed amendments as a testament to the significance of this issue to the business and medical provider communities in the state.

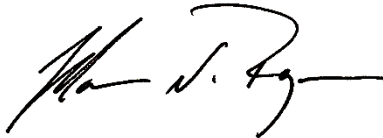
We also feel that it is appropriate given the evolution of evidence rules both at the federal level and with state courts across the country. Whereas four years ago the Court would have been at the forefront of the nationwide shift towards a Daubert-style approach to expert testimony, New Jersey now finds itself in the minority of states that have yet to update our rules of evidence to reflect a more structured reliability test. As a result, we believe that New Jersey's attractiveness to litigation which turns on scientific evidence is becoming a more acute problem.

When the Court last considered amending its rules on expert testimony, it opted against adopting the recommendations included in the 2009 report of the Evidence Committee. As the Evidence Committee report noted, we also opposed the recommended language from that report, because it would not have provided the necessary additional guidance on the criteria to be used when evaluating expert testimony.

Indeed, the critical element continues to be the need for greater clarity in the standards by which expert testimony is evaluated. While New Jersey case law has laid the foundation for effective gate-keeping by the courts, the rules on expert testimony have not kept pace. The proposed amendments in the attached letter would provide the necessary guidance for trial courts to evaluate expert testimony in a predictable and consistent manner, ensuring that the testimony presented is based on sound scientific principles and reliable methodology.

We appreciate very much the Evidence Committee's acknowledgement of our request and its inclusion of our letter in the report. And while we welcome additional discussion and analysis of this issue, we believe that it is time for New Jersey to join the majority of states, and the federal courts, in adopting strong and predictable rules for the admissibility of expert testimony.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'M. J. Rayner', with a long horizontal flourish extending to the right.

Marcus Rayner
Executive Director
New Jersey Lawsuit Reform Alliance