

## PREFACE

This edition of the 2024 pocket parts is the result of the biennial cycle of amendments to the rules proposed by the Civil Practice Committee, the Special Civil Part Practice Committee, the Tax Court Committee and the Professional Responsibility Committee. The most important issue was the result of a few Supreme Court opinions that dealt with or directed that a Committee on Jury Selection meet and work on jury selection. This was most clear in *State v. Andujar*, 245, 318 (2021) and a Committee formed in November 2021. The Committee issued 25 recommendations. On July 12, 2022, the Supreme Court essentially accepted all of the recommendations. The most significant recommendation was Recommendation 13 regarding Attorney Conducted Voir Dire (ACVD).

Most states allow attorney conducted voir dire. New Jersey has been an outlier and reliant of Judge conducted voir dire. While this is common in most state courts, including New York, the practice here has been judicial controlled voir dire. Beginning in September 2022, ACVD will be conducted as a voluntary pilot program in Bergen, Camden and Middlesex counties for single party criminal matters. It is conceivable that ACVD will begin in all vicinages in 2023. As far as rule amendments, the Court amended Rule 1:8-3 to require a party who challenges a juror to state the basis for the challenge. The other parties may contest the challenge who must state their basis for the opposition. The trial court then determines whether to grant the challenge or overrule it. The September 2022 amendments included amendments to Rule 1:8-5 which now provides for more robust information on jurors and the list for the expected trial. However, the turn over of information by the jury is not automatic. It has to be requested from the Trial Court Administrator, as is the current practice. It must be requested no later than 10 days before the date fixed for trial as is the current practice. Rule 1:8-3A governs challenges. The right to peremptory challenges are retained. However, it may not be used to circumvent those persons protected by the United States Constitution, the New Jersey Constitution and the Law against Discrimination. In short, if an adversary believes that the use of the peremptory is to eliminate a person because of race or gender, the party can challenge the peremptory. The court then determine if there was a violation of the above standard. The Supreme Court in *State v. Dangel*, 248 N.J. 114l, 146 (2021) directed the collection of voluntary

demographic information as to race, ethnicity and gender. This information will be useful for the practitioner who needs background information on prospective jurors in order to engage in ACDV. The Court also approved enhanced juror questionnaires.

Another set of rules deals with the Offer of Judgment Rules, R.4:58-1 etc. While the rule has worked well in single party plaintiff and defendant cases, it has been too difficult to work in multi-party cases. The Supreme Court in *Wilner v. Vertical Realty Inc.* 235 N.J. 65 (2018) found the rule lacking clarity in multi party litigation and instructed the rules committee to clarify the Offer of Judgment rule in multiparty situations. The Civil Practice Committee proposed amendments which the Court approved. The result was amendments Rule 4:58 to cover multiple parties, both plaintiffs and defendants as well as multiple claims. Various situations are spelled out in the sections for “Per Quod and Derivative Plaintiffs”, “Multiple Defendants”. There are many iterations of possibilities among the various parties and their claims such as global offers and, global counter offers and other scenarios of offers among multiple parties.

There have been a few other amendments to the rules contained herein but not as many in previous years. The court system has been increasingly more electronically oriented, In fact, almost everything is now handled on line both at the trial level and at the appellate level.

JOHN H. KLOCK  
SCOTCH PLAINS, NJ  
FEBRUARY 2024