



NEW JERSEY STATE BAR ASSOCIATION

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

Re: Proposed Rule Amendments Relating to Discovery and Jailhouse Informants

Dear Judge Grant:

Thank you for publishing the Criminal Practice Committee's Ad Hoc Report on whether the Part III Court Rules should be amended to address the discovery obligation related to jailhouse informants. The New Jersey State Bar Association (NJSBA) commends the efforts of the Committee to consider these important, yet vexing issues, and appreciates the opportunity to review the Committee's proposal and provide comments.

The NJSBA supports the Committee's recommendations, with one proposed change. The NJSBA suggests the elimination of language related to cases where a prosecutor "intends" for an informant to testify. Members of the NJSBA who practice as prosecutors and criminal defense attorneys agree that the proposal will ensure clearer and more just discovery rules concerning jailhouse informants; however, NJSBA members thought the language referencing an "intent" to testify would be subject to multiple interpretations, leading to confusion and ambiguity, and creating a standard that would be impossible for prosecutors to comply with. To address this concern, the NJSBA proposes the following specific amendment:

(K) . . .The prosecutor also shall provide the known criminal history of the jailhouse informant, including any pending charges; any records of statements allegedly made by the defendant and heard by the jailhouse informant and, to the extent known, the time, location and manner of their alleged disclosure(s) to the jailhouse informant; any information relevant to the jailhouse informant's credibility as required to be disclosed by law or rule, including but not limited to any consideration or promises made to, or sought by, the jailhouse informant, in exchange for truthful testimony; any prior recantation known to the prosecution in which the jailhouse informant recanted the defendant's statement, to include the time, location and manner of any such recantation; and the case name and jurisdiction of any criminal case known to the prosecutor in which the jailhouse informant testified, ~~or in a case in which the prosecutor intended to have the informant testify,~~ about statements made by another suspect or criminal defendant while detained or incarcerated, and whether the jailhouse informant was offered or received any benefit in exchange for, or subsequent to, such testimony.

Again, the NJSBA is grateful for the opportunity the Court provides for allowing the organized bar and public to review this proposal and hopes that these comments represent a meaningful contribution to the Court's consideration of the issue.

Respectfully submitted,

A handwritten signature in cursive script, reading "Domenick Carmagnola". The signature is written in black ink and is positioned below the text "Respectfully submitted,".

Domenick Carmagnola
NJSBA President

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