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February 28, 2024

Chairman William C. Smith, Jr.
Senate Judicial Proceedings Committee
Miller Senate Office Building, 2 East Wing
11 Bladen Street
Annapolis, Maryland 21401

Re: Support for SB 827
Courts and Judicial Proceedings – Jury Examination
Committee Hearing: February 29, 2024

Dear Chairman Smith:

As a trial attorney of over 46 years and former member of the Maryland State Bar Association's (MSBA) Special Committee on *Voir Dire*, I am writing in support of Senate Bill 827 – legislation that will ensure an individual's right to a fair and impartial jury representative of the community. Unfortunately, existing law does not protect that constitutional right.

In October 2011, the MSBA convened a special committee of judges and lawyers “to develop, and recommend for acceptance, model *voir dire* questions to benefit the bench, bar and parties to court proceedings.”¹ One of the other stated goals was “to review current *voir dire* practices throughout Maryland and present suggestions for improvement.” *Id.*

I had the privilege of serving as the co-Chair of the Tort Law Subcommittee of the MSBA Special Committee. Fast forward to July 15, 2014, the Maryland Supreme Court's Standing Committee on Rules of Practice and Procedure issued a report that stated:

This is a special report in response to the Court's request, in footnote 1 to its Opinion in *Pearson v. State*, 438 Md. 350, 357 (2014), that, after conducting a national study, the Committee consider and make a recommendation to the Court whether the scope of *voir dire* examination should be extended beyond its current limited function of determining a specific cause for disqualification of jurors, **to include facilitating what has been termed the “intelligent exercise of peremptory challenges.”** (emphasis added).

185th Report of Standing Committee on Rules of Practice and Procedure (July 15, 2014).

¹ Minutes of Organizational Meeting of MSBA Special Committee on *Voir Dire* held on October 17, 2011.

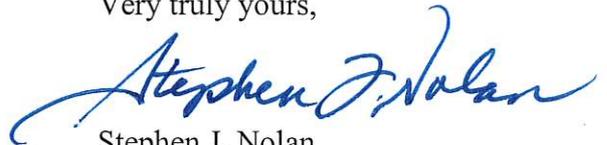
Honorable William C. Smith, Jr., Chair
Senate Judicial Proceedings Committee
On consideration of SB 827
Hearing: February 29, 2024

On April 18, 2016, the MSBA's Board of Governors adopted the report of the *Voir Dire Special* Committee. The primary substance of that report was a set of Proposed Model Jury Selection Questions for Civil and Criminal Trials (MJSQ). The report with those model questions was subsequently presented at the Joint Meeting of the Maryland Judiciary and MSBA in June, 2016 and to the Maryland Judicial College in October, 2016. The MSBA Special Committee continued to hone the MJSQ based on comments of lawyers and judges and a final set of MJSQ was presented at the MSBA's Annual Meeting in June 2017.

It has been nearly 10 years since the court's request in *Pearson* and the Rules Committee's 185th special report. The time for "*facilitating what has been termed the 'intelligent exercise of peremptory challenges'*" is long overdue. Model Jury Selection Questions are beneficial but they are not enough. SB 827 is designed to correct the constitutional defects in the current system by adding Section 8-423 to the Courts & Judicial Proceedings Article. Once enacted, that statute will make clear the fact that the purpose of jury examination is not only to "identify and remove prospective jurors who are unable to serve fairly and impartially;" it is also to "allow the parties to obtain information that may provide guidance for the use of peremptory challenges and challenges for cause."

Mr. Chair, I respectfully request that you and all members of your Committee vote in favor of SB 827, the purpose of which is to mitigate the effects of explicit and implicit bias in our society and protect our constitutional right to a fair and impartial jury.

Very truly yours,



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