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March 4, 2024

Chairman Luke Clippinger
House Judiciary Committee
House Office Building, Room 101
6 Bladen Street
Annapolis, Maryland 21401

Re: **Favorable Support of HB 1079**
Courts and Judicial Proceedings – Jury Examination
Committee Hearing: March 6, 2024

Dear Chairman Clippinger:

As a trial attorney of over 46 years, former President of the Baltimore County Bar Association, and former member of the Maryland State Bar Association's (MSBA) Special Committee on *Voir Dire*, I am writing in support of House Bill 1079 – 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*

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

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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).

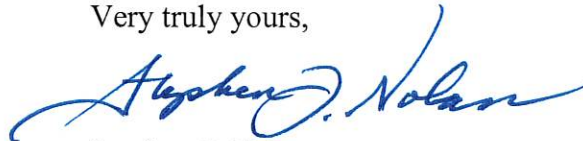
On April 18, 2016, the MSBA’s Board of Governors adopted the report of the *Voir Dire Special* Committee. The primary substance of that report was a set of Proposed Model Jury Selection Questions for Civil and Criminal Trials (MJSQ). The report with those model questions was subsequently presented at 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. I was a member of the panel that presented the final set of MJSQ at the MSBA’s Annual Meeting on June 16, 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. HB 1079 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.”

Earlier today, the Baltimore County Bar Association joined the Charles County and Howard County bar associations and many other specialty bar groups in voicing support for this important legislation that aligns Maryland with U.S. Supreme Court precedent and at the same time preserves the trial court’s control over the jury selection process.

Mr. Chair, I respectfully request that you and all members of your Committee vote in favor of HB 1079, the purpose of which is to protect our constitutional right to a fair and impartial jury.

Very truly yours,



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