

NOTICE TO THE BAR

UPDATES TO MODEL CIVIL JURY CHARGES

The Supreme Court Committee on Model Civil Jury Charges (Committee) has approved the following list of Model Civil Jury Charges for use by the bar and trial courts. Two model charges are new and two are revised versions of previously approved charges. All approved Model Civil Jury Charges, including these new and revised charges are available for downloading from the Judiciary's web site at <http://www.judiciary.state.nj.us/civil/civindx.htm>.

2.21 (B)(5) *New Jersey Law Against Discrimination (NJLAD) – Prima Facie Elements (6/2010)*

This section of this charge was revised to move the reference to *Zive v. Stanley Roberts, Inc.*, 182 N.J. 436, 454 (2005), noting that the plaintiff in an NJLAD action based upon discriminatory discharge or demotion must merely prove that he or she “was actually performing the job prior to the termination”, to read more fluidly.

4.43 *Consumer Fraud Act (6/2010)*

A reference to 539 Absecon Blvd., *L.L.C. v. Shan Enterprises Ltd. Partnership*, 406 N.J. Super. 242, *certif. denied*, 199 N.J. 541 (2009) was added regarding limitations on the application of the *Consumer Fraud Act* to the sale of a business.

5.32C *Duty Of Drivers And Pedestrians Crossing At Marked Or Unmarked Crosswalk (Approved 6/2010)*

This new charge has been added to incorporate the provisions of N.J.S.A. 39:4-36 relating to the duty of drivers and pedestrians crossing at marked or unmarked crosswalks.

5.50 *Apparent Authority Charge (Approved 6/2010)*

This new section has been added to the medical malpractice charge setting forth the theory of “apparent authority” which arises where a hospital through its actions, holds out a particular physician as its agent and/or employee in a manner that leads a patient to reasonably believe that the doctor is rendering treatment on behalf of the hospital. Thus, under this theory, liability is determined based upon the actions of the hospital rather than merely upon the existence of a contractual relationship, citing *Basil v. Wolf*, 193 N.J. 38, 67 (2007) (quoting and approving *Arthur v. St. Peters Hosp.*, 169 N.J. Super. 575, 581 (Law Div. 1970)) and *Estate of Cordero v. Christ Hospital*, 403 N.J. Super. 306, 310-11 (App. Div. 2008).

Questions regarding any of these revised or new civil jury charges may be directed to Michelle V. Perone, Esq., Chief, Civil Court Programs, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, New Jersey 08625-0981; telephone (609) 984-5431; email michelle.perone@judiciary.state.nj.us.

/s/ Glenn A. Grant

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