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VIA E-MAIL

Glenn A. Grand, J.A.D.
Acting Administrative Director of the Courts
Hughes Justice Complex
P.O. Box 037
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Comments.Mailbox@judiciary.state.nj.us

Re. Comments on Proposed Amendments to Rules 1:38 and 4:72

Dear Judge Grant:

On behalf of the American Civil Liberties Union of New Jersey (“ACLU-NJ”), I write in support of the proposed amendments to Rules 1:38 and 4:72 recommended in the 2019-2021 Report of the Supreme Court Committee on Diversity, Inclusion, and Community Engagement. These rule amendments would eliminate the publication requirements for adults and children seeking name changes. The ACLU-NJ also supports the Committee’s recommendation to review the Judiciary’s internal and external style guides to update or add guidance for diversity-inclusive communication standards and model practices.

At the outset, we would like to thank the Honorable Hany A. Mawla, J.A.D., and the entire Committee on Diversity, Inclusion, and Community Engagement, for their thoughtful and hard work in formulating recommendations for the Judiciary. We also appreciate the opportunity to submit comments to the Supreme Court for review.

The ACLU-NJ strongly urges the Judiciary to adopt Recommendations 2021:11 and 12 to exclude name-change matters from public access under Rule 1:38, and to revise Rule 4:72-4 so that the Judgment of Name Change is made effective with the entry of judgment. The ACLU-NJ agrees with and relies on the comments provided by Robyn Gigl (March 26, 2021), that explains the risks to the transgender, gender non-conforming, and non-binary communities if the publication requirements remain in place. As the ACLU-NJ has explained in previous comments on the Rules, while name changes can be affirming and liberating for people, they are also a matter of safety and practical necessity. We agree with the recommendations of the Committee and amplify its reliance on the Human Rights Campaign 2020 Report documenting violence against transgender and gender non-conforming people. We particularly call attention to the Report’s findings that Black transgender women are at a heightened risk of deadly violence. In light of the well-documented and publicly available information about the risks of harm to transgender, gender non-conforming, and non-binary people we believe that it is burdensome and

unnecessary to require people within those communities to show a particularized risk of harm before granting a motion to seal their identities. Allowing transgender people seeking a name change to publicly express their identities on their own terms and timeline is not simply a matter of self-determination, but a fundamental question of safety, and significantly outweighs the public's interest in access to that information. Thus, the ACLU-NJ urges the Judiciary to adopt Recommendations 2021:11 and 12 as a matter of gender and racial equity.

The ACLU-NJ also supports Recommendation 2021:03, suggesting “that the Judiciary undertake a review of its current style guides, as well as external style guides on which it relies, and as applicable update or add guidance in the form of best practices or an online glossary for diversity-inclusive communication standards and model practices.” As the Committee aptly noted, the significance of language in our profession and in our world cannot be understated. Prioritizing the use of diversity-informed inclusive language, and eliminating the use of language with prejudicial histories, is an important step towards advancing procedural fairness towards the diverse groups who appear before the Judiciary.

We are grateful that the Court is evaluating these Rules.

Respectfully submitted,

A handwritten signature in cursive script, reading "Shira Wisotsky". The signature is written in black ink and is positioned above the printed name.

Shira Wisotsky