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May 19, 2021

Via: Stuart.Rabner@NJCourts.Gov
Chief Justice Stuart Rabner
Hughes Justice Complex
25 W. Market St.
Trenton, NJ 08625

Re: Comments on Report of the Judiciary Special Committee on Landlord Tenant

Dear Justice Rabner:

I was honored to receive a letter dated March 2, 2021 from Glenn A. Grant, J.A.D. thanking me on your and his behalf for agreeing to serve on the Judiciary Special Committee on Landlord Tenant. I was eagerly anticipating working with the Committee on the stated goals of swiftly “addressing critical aspects of landlord tenant practices, recognizing the pending backlog of cases, and anticipated tsunami of new filings caused by the COVID-19 pandemic.” The Committee was to “collaborate to advance the common goal of reimagining the landlord tenant process,” and “solicit new ideas to enhance procedural safeguards, expand opportunities for resolving cases without trial, and to support procedural fairness and equitable outcomes for all parties.” I was an active participant in the Committee and felt aptly qualified to have done so. Our law firm currently has about 7500 active Lt cases pending in the State, and I am the senior partner at the firm overseeing our tenancy department. Our clients certainly have an interest in the way landlord tenant eviction cases are handled.

Unfortunately, my feeling as the Committee’s work was proceeding was that the lion’s share of the recommendations were preordained and that there were meaningful dissenting voices that were muffled and intentionally distorted by the way the final Report is presented. In the Report, Judge Grant says *the Committee*, “endorsed 18 recommendations to improve landlord tenant processes...” This gives the appearance that the recommendations were a unanimous byproduct of the collaboration of the members. This is misleading as several of the recommendations in the Report seemed preset and were not truly the subject of significant discussions. As the March 2nd letter I received also said, Judge Grant was already in receipt of “existing draft proposals” and I

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can absolutely assure you that those were tendered by tenant organizations, social justice warriors, and LSNJ, and not by any pro-landlord interest group. In other words, the imbalance of competing interests going into the meeting had the deck stacked against landlords, and the results of that "stack" are obvious in many of the stated recommendations. Debate is a necessary component of developing good policy, and people in many organizations have varying opinions. That is part of our democracy. The harried pace at which this Report was cobbled together did not afford the appropriate debate necessary to develop good policy and it should be rejected.

Several letters from my colleagues registering an array of objections have been forwarded to Judge Grant, and I am sure that you will be receiving many more letters voicing various objections to many of the Committee's recommendations. I will not parse through each of the Report's 18 points with my personal position, however, I did want to request that a more "bird's eye view" of the recommendations be taken because at the end of the day, the Committee's Report clearly falls wide of the stated objectives in that initial letter to me.

As you know, most Lt cases involve the default in the payment of rent by a tenant where there is no bona fide dispute and no bona fide defense. There is no justiciable reason to foist additional filing obligations upon landlords and have the "system" afford multi-tiered opportunities for tenants to cure. The law already provides that. See NJSA 2A:42-10.16a and 46:8-49.3. Simplification of the process should have been the goal of the committee, and it should be the goal of the Judiciary. Adding resources is positive; adding filing requirements and procedural hurdles is not. Summary actions for possession have always intended to be "summary"; i.e. to provide expedited procedures consistent with the purpose of R. 1:1-2, to wit, "to secure a just determination, simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay."

The judiciary already does a thorough job in handling the high volume of tenancy cases filed every year. Changing the filing requirements will not address the volume of cases. Mandating additional paperwork looks procedurally meaningful but does nothing but create "busy work" for employees at the courthouse. The backlog will only grow with added hurdles and additional handling. Don't fix it if it's not broken. The objectives of the report will not improve a system that is not "broken." To impose significant permanent changes should be presented and debated by the Special Civil Part Committee to avoid this result. Sweeping procedural changes to landlord tenant practice should not come from a committee that was really assembled with addressing the fallout of the pandemic.

Past problems presented to the judiciary resulting from backlogs in various divisions have been met by the most expeditious and readily available remedy of re-assigning judges from one division to the division which has accumulated a problematic backlog on as "as needed" basis. That remedy is now available without any change of procedures; it would require no additional personnel, space, training, time or effort.

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Please let me know if you would like to discuss the contents of this letter further, or if I can be of further assistance to the judiciary.

Respectfully submitted,



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CC: Glenn A. Grant, J.A.D. Acting Administrative Director of the Courts
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