July 15, 2014

The Honorable Mary Ellen Barbera,
Chief Judge
The Honorable Glenn T. Harrell, Jr.
The Honorable Lynne A. Battaglia
The Honorable Clayton Greene, Jr.
The Honorable Sally D. Adkins
The Honorable Robert N. McDonald,
The Honorable Shirley M. Watts
Judges
The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its One Hundred Eighty-Fifth Report. This is a special report in response to the Court's request, in footnote 1 to its Opinion in *Pearson v. State*, 437 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."

That issue was raised in *Pearson*, but the Court determined that the appeal could be resolved on another ground, that "it would be imprudent for [the Court] to address this far-reaching issue without the benefit of study regarding the possible ramifications," and that it was unaware of any such study. The matter was referred to the Rules Committee to gather more information.

As a preface, a study conducted by the National Center for State Courts (NCSC), updated as of 2012, shows that, despite some calls for their elimination following the Supreme Court's decision

in *Batson v. Kentucky*, 476 U.S. 79 (1986)[1], the Federal Courts and all 50 States permit peremptory challenges in both criminal and civil cases, although the number of challenges allowed varies from State to State and, within the States, between criminal and civil cases and between felonies and misdemeanors. The data supplied by the NCSC is attached as Appendix A. NCSC and the State Justice Institute, in 2007, undertook a broader study of jury improvement efforts in the 50 States, part of which touched on *voir dire* generally. A copy of their Report is attached as Appendix B. The section on *voir dire* begins on page 27. Of some interest, in the context of our investigation, is their comment, on page 27:

> "[A]ll courts agree that the purpose of voir dire is to identify and remove prospective jurors who are unable to serve fairly and impartially. But not all states recognize the exercise of peremptory challenges as a legitimate purpose of voir dire. Although most judges frown on the practice, many lawyers also view voir dire as the beginning of trial advocacy – that is, their first opportunity to gain favor with trial jurors or even present evidence if they can."

NCSC was unaware of any official national study regarding the general scope of *voir dire* in the various States or, in particular, whether it extends to eliciting information to guide the exercise of peremptory challenges, and we have found none. The Committee had available an article written by Nancy S. Forster, Esq. in 40 U. Balt. L. Forum 229 (2010) in which cases from around the country are cited for the proposition that "most states permit both the prosecutor and the defense counsel to ask questions of the venire that will aid counsel in making peremptory challenges." *Id*. at 245. The Committee conducted its own investigation of the Rules, statutes, and case law governing *voir dire* practice in the Federal courts and in all 50 States and the District of Columbia. We also consulted the Criminal Justice Standards approved by the American Bar Association.

Because the Court indicated an interest not just in whether other jurisdictions permit *voir dire* to extend to information that would be helpful in guiding the exercise of peremptory challenges but as well in the *ramifications* of such expanded scope, we looked also at the Rules, statutes, and case law governing the *voir dire* process itself, especially in jurisdictions that permit that

[1] *See* discussion in *United States v. Annigoni*, 96 F.3d 1132 , 1140 (9th Cir. 1996).

extended scope. The 2007 NCSC study was helpful in that regard.

GENERAL CONCLUSIONS

Standard 15-2.4(c) of the American Bar Association Criminal Justice Standards states explicitly: "Voir dire examination should be sufficient to disclose grounds for challenges for cause and to facilitate intelligent exercise of peremptory challenges." Comparable language also appears in the statutes, Rules, or case law in many of the States and in opinions of some of the Federal appellate courts. In most instances, particularly in court opinions, it is immediately coupled with the caveat that the trial court has a large measure of control over the *voir dire* process, including the allowance of particular questions, and, at the appellate level, the issue ordinarily becomes whether the trial judge abused his or her discretion in refusing to allow specific questions or a particular line of inquiry.[2]

In a number of opinions, the issue of whether *voir dire* may be used to guide the exercise of peremptory challenges is not addressed quite so directly, or broadly, but rather is in the context of the specific line of inquiry that was sought – questions dealing with the effect of pre-trial publicity, possible racial or ethnic prejudice, direct or familial connection with a law enforcement agency, for example, the answers to which may not have sufficed to support a challenge for cause but might incline the party to exercise a peremptory challenge. Where possible racial bias is involved, the courts have held that the inquiry must be allowed; there has been somewhat less tolerance in allowing extensive questioning regarding pre-trial publicity, especially as to the content of the publicity. One needs to be careful in counting those courts as effectively adopting the broad ABA Standard.

The U.S. Supreme Court has addressed the issue on several occasions. In *Mu'Min v. Virginia*, 500 U.S. 415 (1991), the Court observed that their cases involving the requirements of *voir dire*

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[2] This nearly universal subjection of *voir dire* examination to overall court control, particularly in the context of questioning beyond what is necessary to determine whether a juror may be challenged for cause, has a special significance in Maryland. As pointed out in *Curtin v. State*, 393 Md. 593, 602 (2006), in the case that initially led the Court to reject expanded *voir dire*, *Handy v. State*, 101 Md. 39 (1905), the arguments presented to and rejected by the Court were

> (1) "the absolute and unqualified right of the prisoner's counsel, after a juror upon his *voir dire* has been by the Court declared to be competent, to interrogate him at pleasure, and without the interference of the Court, for the purpose of determining whether the right of peremptory challenge shall be exercised" and
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> (2) "the claim that the Court is bound to put to the jury any question which counsel may request the Court to put."

Handy, 101 Md. at 40. The *Handy* Court knew of no case recognizing such an unlimited right, and the Committee knows of none now.

fell into two categories – those that were tried in the Federal courts, which were subject to the Supreme Court's supervisory power, and those tried in the State courts, in which the question was whether what occurred was consistent with Federal Constitutional requirements. With respect to the former, the Court confirmed what it had said years earlier in *Connors v. United States*, 158 U.S. 408 (1895), that "a suitable inquiry is permissible in order to ascertain whether the juror has *any* bias, opinion, or prejudice that would affect or control the fair determination by him of the issues to be tried. . . [but] that inquiry is conducted under the supervision of the court, and a great deal must, of necessity be left to its sound discretion" (Emphasis added).

With respect to cases emanating from State courts, the Court noted that it had singled out questions relating to racial prejudice as necessary, but, with respect to other issues – in *Mu'Min*, the issue of pre-trial publicity – there was greater flexibility. The Court stated:

> "Undoubtedly, if counsel were allowed to see individual jurors answer questions about exactly what they had read, a better sense of the juror's general outlook on life might be revealed, and such a revelation would be of some use in exercising peremptory challenges. But, since peremptory challenges are not required by the Constitution [citation omitted], this benefit cannot be a basis for making 'content' questions about pretrial publicity a constitutional requirement."

Id at 424-25.

From that, the Court concluded that, "[t]o be constitutionally compelled, however, it is not enough that such questions might be helpful" but "[r]ather, the trial court's failure to ask these questions must render the defendant's trial fundamentally unfair." *Id*. at425-26. Even with regard to an inquiry into racial bias, the Court observed that although "[*v*]*oir dire* examination serves the dual purposes of enabling the court to select an impartial jury and assisting counsel in exercising peremptory challenges," and possible racial bias must be covered by the questioning, the Court had not specified "the particulars by which this could be done." *Id*. at 431. *See* also *Skilling v. United States*, 561 U.S. 358, (2010) – a case arising in Federal court – where the Court confirmed that "[n]o hard-and-fast formula dictates the necessary depth or breadth of *voir dire*."

Most of the U.S. Courts of Appeal have explicitly adopted and applied the view that *voir dire* should generally be allowed to assist counsel in exercising peremptory challenges, subject to the overall control of the court with respect to particular questions or specific lines of inquiry.[3] A Second Circuit case emphasizes the limitation:

> "In sum, the right of the peremptory challenge does not command a right to the peremptory question. Whatever the attorney's power to strike a number of venirepersons at will may be, to recognize a correlative right to question at will without in any way identifying the motivating concern would strip the judge of his control over the proceedings. Any question could be labelled necessary for some unspoken element in the decision to challenge peremptorily."

United States v. Gibbons, 602 F.2d 1044 (2nd Cir. 1979).

Among the States, it appears that, aside from Maryland, only Pennsylvania, California in criminal cases, and Virginia purport clearly to limit *voir dire* to eliciting grounds for a challenge for cause.

The clearest expression of the Pennsylvania view was in *Commonwealth v. England*, 375 A.2d 1292 (Pa. 1977), where the court noted that, although the goal of permitting the questioning of prospective jurors is to provide the accused a competent, fair, impartial, and unprejudiced jury, "[v]oir dire examination is not intended to provide a defendant with a better basis upon which to utilize his peremptory challenges." *Id.* at 1295. Thus, the court continued, "although latitude should be permitted on a voir dire, the inquiry should be strictly confined to disclosing qualifications or lack of qualifications and whether or not the juror had formed a fixed opinion in the case as to the accused's guilt or innocence." *Id.* That view, and much of that language, was confirmed in *Commonwealth v. Karenbauer*, 715 A.2d 1086 (1998).

California has different rules for civil and criminal cases. Section 222.5 of the California Code of Civil Procedure, applicable to civil cases, provides that, following an examination of

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[3] *See United States v. Noone*, 913 F.2d 20 (1st Cir. 1990); *United States v. Gibbons*, 602 F.2d 1044 (2nd Cir. 1979); *United States v. Segal*, 534 F.2d 578, 581 (3rd Cir. 1976); *United States v. Lancaster*, 96 F.3d 734, 738-39 (4th Cir. 1996); *Knox v. Collins*, 928 F.2d 657 (5th Cir. 1991); *Miller v. Webb*, 385 F.3d 666 (6th Cir. 2004); *Alcala v. Emhart Industries, Inc.*, 495 F.3d 360 (7th Cir. 2007); *United States v. Underwood*, 122 F.3d 389 (7th Cir. 1997); *United States v. Love*, 219 F.3d 721 (8th Cir. 2000); *United States v. Annigoni*, 96 F.3d 1132 (9th Cir. 1996); *Photostat v. Ball*, 338 F.2d 783 (10th Cir. 1964).

prospective jurors by the judge, counsel for each party has the right to examine, by oral and direct questioning, any of the prospective jurors "in order to enable counsel to intelligently exercise both peremptory challenges and challenges for cause." The statute directs judges to permit "liberal and probing examination calculated to discover bias or prejudice with regard to the circumstances of the particular case." Section 223, in contrast, provides that, in a criminal case, "[e]xamination of prospective jurors shall be conducted only in aid of the exercise of challenges for cause." In a 2007 study of *voir dire* in California, NCSC noted, with respect to criminal cases, "Maryland, for example, is similar to California in that the detection of juror bias or partiality is recognized as the only legitimate purpose of voir dire," citing *Dingle v. State*, 361 Md. 1 (2000) as authority.

Virginia has taken a view similar to Pennsylvania but appears to allow some discretion by the trial court to permit additional questioning. In *Green v. Commonwealth*, 580 S.E.2d 834, 843 (Va. 2003), the court confirmed that "a defendant does not have a right to propound any question he wishes" and that "voir dire questions must relate to the four statutory factors of relationship, interest, opinion, or prejudice." In the earlier case of *Davis v. Sykes*, 121 S.E.2d 513, 516 (Va. 1961), the court held that the purpose of *voir dire* is to ascertain whether any juror has an interest in the case or any bias or prejudice regarding it, that "[q]uestioning beyond this scope lies within the sound discretion of the trial court," and that "[s]uch discretion is not abused by refusing to ask whether jurors know persons expected to testify merely to aid litigants in making the peremptory challenges allowed by [the Virginia Code]."

Most of the other States, by statute, rule, or case law, clearly permit *voir dire* to be used to elicit information relevant to the exercise of peremptory challenges, at least in criminal cases.[4] There are others that have not articulated that principle

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[4] *See* Ala. R. Cr. Pr. 8.4(d); *Ex parte Dobyne*, 805 So.2d 763 (Ala. 2001); *Bachner v. Pearson*, 479 P.2d 319 (Alaska 1970); Ariz. R. Cr. Pr. 18.5; *State v. Melendez*, 588 P.2d 294 (Ariz. 1978); Ark. R. Crim. Pr. 32.2; *Percefull v. State*, 383 S.W.3d 905 (Ark. App. 2011); *Oglesby v. Conger*, 507 P.2d 883 (Colo. 1972); *State v. Ebron*, 975 A.2d 17 (Conn. 2009); *Ortiz v. State*, 869 A.2d 285 (Del. 2005); *Burgess v. United States*, 786 A.2d 561 (D.C. 2001); *Solorzano v. State*, 25 So.3d 19 (Fla. App. 2009); Ga. Code § 15-12-133; *Ellington v. State*, 735 S.E.2d 736 (Ga. 2012); *State v. Altergott*, 559 P.2d 728 (Haw. 1977); *People v. Rinehart*, 962 N.E.2d 444 (Ill. 2012); *Perryman v. State*, 830 N.E.2d 1005 (Ind. 2005); *State v. Tubbs*, 690 N.W.2d 911 (Iowa 2005); *Fields v. Commonwealth*, 274 S.W.3d 376 (Ky. 2009); *State v. Holmes*, 5 So.3d 42 (La. 2009); *Grover v. Boise Cascade Corp.*, 860 A.2d 851 (Me. 2004); *Commonwealth v. Fudge*, 481 N.E.2d 199 (Mass. App. 1985); Mich. R. Crim. Pr. 6.412; *People v. Harrell*, 247 N.W.2d 829 (Mich. 1976); *People v. Tyburski*, 494 N.W.2d 20 (Mich. App. 1993); Minn. R. Crim. Pr. 26.02; *State v. Greer*, 635 N.W.2d 82 (Minn. 2001); *In Matter of Care and Treatment of Wolfe*, 291 S.W.2d 829 (Mo. App. 2009); *Whitlow v. State*, 183 P.3d 861 (Mont. 2008); *State v. Iromuanya*, 806 N.W.2d 404 (Neb. 2011); Nev. Code §16.030(6); *Whitlock v. Salmon*, 752 P.2d 210 (Nev. 1988); N.H. Code § 500-A:12-a; *State v. Goding*, 474 A.2d 580 (N.H. 1984); *State v. Tinnes*, 877 A.2d 313

quite so clearly but have described the scope of *voir dire* in such a way as to indicate that it is not limited just to discovering a basis for a challenge for cause.[5] There seems to be some ambiguity regarding the applicable rule in Idaho.[6]

As noted, nearly every court, including those that have permitted *voir dire* examination to extend to eliciting information in aid of exercising peremptory challenges, has made clear that the process is subject to control by the court and that attorneys do not have free rein to ask any question they want. There are a number of control techniques that are used, often in combination. A significant one is the extent to which the court permits the attorneys to conduct the *voir dire* examination, which varies from State to State. The 2007 NCSC Study showed that, in 10 States, including Maryland, *voir dire* was conducted predominantly or exclusively by the judge,[7] in 18 States, the judge and the attorneys conducted the examination equally,[8] and in 23 States, the attorneys conducted the examination, predominantly or exclusively.[9]

Apparently on the basis of questionnaires returned by attorneys and judges, NCSC reported, on the one hand, that juror responses to attorney questions were generally more candid because (i) jurors were less intimidated than when questioned by the judge,

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(N.J. Super. 2005); *Pellicer v. St. Barnabas Hospital*, 974 A.2d 1070 (N.J. 2009); *Sutherlin v. Fenenga*, 810 P.2d 353 (N.M. App. 1991); *State v. Johnson*, 229 P.3d 523 (N.M. 2010); *People v. Robinson*, 973 N.Y.S.2d 570 (A.D. 2013); N.C. Code § 15A-1214; *State v. Maness*, 677 S.E.2d 796 (N.C. 2009); *State v. Anderson*, 282 N.E.2d 568 (Ohio 1972); *Sanchez v. State*, 223 P.3d 980 (Okla. App 2009); *State v. Nefstad*, 789 P.2d 1326 (Or. 1990); *State v. Wise*, 596 S.E.2d 475 (S.C. 2004); Tenn. R. Crim. Pr. 24; *Smith v. State*, 327 S.W.2d 308 (Tenn. 1959); *Wallace v. State*, 546 S.W.2d 244 (Tenn. App. 1976); *In re Commitment of Hill*, 334 S.W.3d 226 (Tex. 2011); *Fowlie v. McDonald*, 82 A. 677 (Vt. 1912); Wash. Super. Ct. Crim. R. 6.4(b); *State v. Davis*, 10 P.3d 977 (Wash. 2000); *State v. Karl*, 664 S.E.2d 667 (W.Va. 2008).

[5] *See State v. Reyna*, 234 P.3d 761 (Kan. 2010); *Jordan v. State*, 995 So.2d 94 (Miss. 2008); *State v. Gross*, 351 N.W.2d 428 (N.D. 1984); *State v. Purdy*, 491 N.W.2d 402 (N.D. 1992); *State v. Lopez*, 78 A.3d 773 (R.I. 2013); *State v. Foot Bull*, 766 N.W.2d 159 (S.D. 2009); *Hammil v. State,* 278 N.W.2d 821 (Wis. 1979); *State v. Van Straten*, 409 N.W.2d 448 (Wis. 1987); *Wardell v. McMillan*, 844 P.2d 1052 (Wyo. 1992).

[6] *See* Idaho R. Crim. Proc. 24; *compare State v. Larsen*, 923 P.2d 1001 (Ida. App. 1996) and *State v. Moses*, 2013 WL 1846550 (Ida. 2013).

[7] Arizona, District of Columbia, Delaware, Massachusetts, Maryland, Maine, New Hampshire, New Jersey, South Carolina, and Utah.

[8] California, Colorado, Hawaii, Idaho, Illinois, Kentucky, Michigan, Minnesota, Mississippi, New Mexico, Nevada, New York, Ohio, Oklahoma, Pennsylvania, Virginia, Wisconsin, and West Virginia.

[9] Alaska, Alabama, Arkansas, Connecticut, Florida, Georgia, Iowa, Indiana, Kansas, Louisiana, Missouri, Montana, North Carolina, Nebraska, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Vermont, Washington, and Wyoming.

and (ii) attorneys were more knowledgeable about the nuances of their cases and better suited to formulate questions on those issues. NCSC also reported, however, that many judges prefer to conduct the examination because they believe that the attorneys waste too much time and unduly invade jurors' privacy. *See* Appendix B at 28. Whether the questions are actually put by the judge or the attorney, the ultimate measure of control is whether the questions or line of inquiry must be approved in advance by the judge, a matter not specifically addressed in the NCSC Study.[10]

Another difference noted in the NCSC Study that can act as a control measure is how the examination is conducted – by use of a general questionnaire, case-specific questionnaires, questions addressed orally to the full panel, to individuals in the jury box, to individuals at the bench or in chambers. Many courts use a combination of those methods.[11] In its April 2000 Report, the Council on Jury Use and Management, a body created by the Maryland Conference of Circuit Judges, recommended that "[w]here feasible, and in appropriate cases, advance written questionnaires for jury panels should be utilized." The Council added:

> "Questionnaires can provide information in a more efficient form and with less invasion of juror privacy (e.g. whether a juror has been charged with a crime or has been the victim of a crime.) Advance written questionnaires can be especially useful in protracted or complex cases where jury selection will require prospective jurors to answer many questions. They may also be useful in more routine cases where jurors are asked certain standard questions."[12]

That effort has taken root in Maryland. Several years ago, the Criminal Pattern Jury Instruction Committee began to explore the idea of drafting pattern *voir dire* in criminal cases. That effort was suspended when, in 2011, the president of the Maryland

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[10] The *voir dire* process in Maryland is governed by Rules 2-512(d) (civil cases) and 4-312(e) (criminal cases). Under both Rules, the trial judge may permit the parties to conduct the examination of qualified jurors or may conduct the examination him/herself after considering questions proposed by the parties. In the latter event, the judge may permit the parties to supplement the examination by further inquiry or may submit additional questions proposed by the parties.

[11] A few courts, New Jersey being a prime example, have developed model *voir dire* questions, both general and case-specific. *See* Directive 4-07 of the New Jersey Administrative Office of the Courts (May 16, 2007), attached as Appendix C.

[12] *See* Report, attached as Appendix D at 6. The Council indicated that it had discussed, but made no recommendation regarding who should conduct the questioning of prospective jurors. *Id.* at 7.

State Bar Association (MSBA) appointed a special committee to develop form *voir dire* questions for both civil and criminal cases. In an Interim Report sent to the then-current president of MSBA on April 11, 2014, the special committee presented proposed model *voir dire* questions for civil tort cases and advised that, in the "not too distant future," the special committee would be presenting proposed model questions for criminal cases. The Interim Report noted that the focus of the special committee had been on lines of inquiry permissible under current Maryland law. A copy of the Interim Report is attached as Appendix E.

A control measure addressed in several of the cases and noted in the NCSC Study are time limits imposed by the court. As the NCSC points out, those limits necessarily vary depending on the nature and complexity of the case, the number of parties, the number of peremptory challenges allowed, the number of jurors to be selected, who conducts the examination, and how the examination is conducted. *See* Appendix B at 30.

We allude to these various control measures because, should the Court decide to alter the current rule and expand the scope of *voir dire* to include inquiries designed to guide the exercise of peremptory challenges, these measures may be considered adjunctively in ameliorating any perceived adverse ramifications from such an expansion. In 2005, as part of its American Jury Project, the American Bar Association proposed nineteen Principles for Juries and Jury Trials. Principle 11 – ensuring that the process used to empanel jurors effectively serves the goal of assembling a fair and impartial jury – dealt with some of these control mechanisms. Section B.3. confirmed the ABA view that "[v]oir dire should be sufficient to disclose grounds for challenges for cause and to facilitate intelligent exercise of peremptory challenges."

Other sections of the Principle recommended:

(1) the use of general and issue-specific questionnaires, to be agreed upon by the parties if possible;

(2) that the questioning of jurors should be conducted initially by the court and should be sufficient, at a minimum, to determine the jurors' legal qualification to serve in the case;

(3) that following initial questioning by the court, each party should have the opportunity, under the supervision of the court and subject to reasonable time limits, to question jurors directly, both individually and as a panel;

(4) that, where there is reason to believe that jurors have been previously exposed to information about the case, or for other reasons are likely to have preconceptions concerning it, the

parties should be given liberal opportunity to question jurors individually about the existence and extent of their knowledge and preconceptions; and

(5) that it is the responsibility of the court to prevent abuse of the juror selection examination process.[13]

RECOMMENDATIONS

The Rules Committee considered the Court's request, in light of the information recounted above and presentations made by interested persons, at an open meeting on June 19, 2014. The Committee presents the following recommendations to the Court.

FIRST: The Court should join the Federal courts and the great majority of State courts and permit *voir dire* to include relevant inquiries designed to facilitate or guide the intelligent exercise of peremptory challenges, in both civil and criminal cases.

SECOND: The process should remain subject to the overall supervision and control by the trial court, exercised in a manner that will permit a fair inquiry but (1) avoid unduly prolonging the *voir dire* process and inappropriate intrusions on jurors' privacy or security, and (2) preclude attempts to use the process for inappropriate purposes or in inappropriate ways.

THIRD: The purpose and scope of *voir dire* should be defined by Rule, as it is in several of the States, so that it can be coupled with the Rules that govern the process (Rules 2-512 and 4-312).

FOURTH: The MSBA special committee should be encouraged to expand its work to develop form questions or lines of inquiry relevant to the intelligent exercise of peremptory challenges.[14] The special committee seems to have a fair balance of knowledgeable practitioners and judges and appears fully competent to undertake that task.

FIFTH: Full implementation of the extension should await the completion of such form questions or lines of inquiry and review of

[13] *See Principles for Juries and Jury Trials*, American Bar Association (2005), at 13, attached as Appendix F.

[14] In a letter to an Assistant Reporter to the Rules Committee, the Chair of the MSBA special committee advised that, if the Court were to expand the scope of *voir dire*, the special committee (or a successor to it) "will expand proposed *voir dire* questions.

those recommendations by the Rules Committee.[15] The Committee believes that form questions or lines of inquiry, developed by judges and practitioners and with the imprimatur of the MSBA and the Rules Committee, and possibly the Court, can go a long way in providing some uniformity in the process and, coupled with overall court supervision and control, avoiding undesirable ramifications from the extension.

There is precedent for this approach. *See* the Form Interrogatories, Guidelines Regarding Compensable and Non-Compensable Attorneys' Fees and Related Expenses, and Court Interpreter Inquiry Questions in the Appendix of Forms attached to the Maryland Rules.

In its consideration of these recommendations at its June 19, 2014 meeting, the Rules Committee was not fully aware of the progress that had been made by the MSBA special committee and anticipated that it might take as much as two years for the special committee to develop form questions relevant to the exercise of peremptory challenges. Whether it would, in fact, take that long, especially if the Court were to urge some greater expedition, is unclear.

Respectfully submitted,

Alan M. Wilner
Chair

[15] The Rules Committee does not envisage itself as having approval authority over the recommendations of the MSBA special committee but only the ability to review those recommendations in light of comments that may be received from other persons or groups so that it may make its own recommendation to the Court. That would be especially useful if the Court were to consider including the proposed questions or lines of inquiry in an Appendix to the Maryland Rules.