

National Office  
99 Hudson Street, Suite 1600  
New York, NY 10013

T 212.965.2200  
F 212.226.7592

www.naacpldf.org



Washington, D.C. Office  
1444 Eye Street, NW, 10th Floor  
Washington, DC 20005

T 202.682.1300  
F 202.682.1312

April 28, 2009

Assemblyman Rory Lancman  
25<sup>th</sup> Assembly District  
LOB 549  
Albany, NY 12248

Re: LDF Support for the Jury Pool Fair Representation Act (A2374)

Dear Assemblyman Lancman,

I am writing on behalf of the NAACP Legal Defense and Educational Fund, Inc. (LDF) in support of the Jury Pool Fair Representation Act, A2374, amending several provisions of New York's Judiciary Law to ensure that the State's jury pools properly reflect the diversity of the communities from which they are drawn. LDF has long opposed the racially discriminatory selection of jurors and barriers to jury service which lead to unrepresentative juries. We believe that this Act represents an important step toward the critical goal of ensuring that jury pools more fairly reflect the population of New York State.

LDF is a non-profit civil rights law firm founded in 1940 by the late United States Supreme Court Justice, Thurgood Marshall. Since its inception, LDF has engaged in litigation, advocacy, public education and other outreach in an effort to ensure that the United States Constitution's promise of equality under the law is a concrete reality for African American and other minority citizens. As the nation's first civil rights and public interest law firm, LDF has a long-standing concern with the influence of racial discrimination on the criminal justice system in general and on jury selection and jury service in particular.

Juries "occup[y] a central position in our system of justice by safeguarding a person accused of a crime against the arbitrary exercise of power by prosecutor or judge."<sup>1</sup> The United States Constitution's Sixth Amendment and New York Judiciary Law § 500 guarantees a jury

---

<sup>1</sup> *Batson v. Kentucky*, 476 U.S. 79, 86 (1986) (citing *Duncan v. Louisiana*, 391 U.S. 145, 156 (1968)).

pool drawn from a “fair cross section of the community.”<sup>2</sup> Representative juries are essential to the proper functioning of the American justice system. A jury that accurately reflects the experiences, sentiments and values of the community as a whole<sup>3</sup> inspires confidence in the legal system and protects the interests of individual jurors, the State and the defendant on trial. Diverse juries lend legitimacy to the verdicts they reach by speaking for a range of community members rather than a homogeneous segment of the population.<sup>4</sup> Representative juries also “suppress[ ] the expression of [racial] prejudice” and stereotyping that inhibits fair, honest and accurate deliberations.<sup>5</sup> Finally, members of diverse juries bring to bear a broad range of life experiences and perspectives that allow for an effective evaluation of the facts and testimony presented at trial.<sup>6</sup> For these reasons, representative jury pools are consistent with the core principle of fairness that is central to the proper administration of justice.<sup>7</sup>

Unfortunately, experience and observation demonstrate that New York’s jury pools fail to reflect the State’s diverse population. A 2007 study conducted by Citizen Action of New York confirmed what many attorneys, judges and employees of the New York court system already know: that jury pools vastly under-represent African Americans, Hispanics and other citizens of color, while simultaneously over-representing whites.<sup>8</sup> Thus, for example, Citizen Action’s study of Manhattan jury pools revealed that African Americans were under-represented by 42%, Hispanics were under-represented by 77% and whites were over-represented by 43% relative to their respective proportions in the county population.<sup>9</sup>

---

<sup>2</sup> *Taylor v. Louisiana*, 419 U.S. 522, 530-31 (1975).

<sup>3</sup> *Spaziano v. Florida*, 468 U.S. 447, 487 (1984)(Stevens, J., concurring in part and dissenting in part).

<sup>4</sup> Deborah Ramirez, *Affirmative Jury Selection*, 1998 U. CHI. LEGAL F. 161, 163 (1998).

<sup>5</sup> *Id.* at 164.

<sup>6</sup> *Id.* at 165.

<sup>7</sup> *Taylor*, 419 U.S. at 530.

<sup>8</sup> Citizen Action of New York, *Racial and Ethnic Disparity in Manhattan Jury Pools: Results of a Survey and Suggestions for Reform*, June 2007, 5.

<sup>9</sup> *Id.*

The goals and methods of the Jury Pool Fair Representation Act will help reverse the trend of under-representation of African Americans and other people of color in jury pools. By expanding jury source lists, improving demographic data collection and enhancing efforts to solicit potential jurors, the Act will cast a wider net by reaching a larger number of potential jurors with greater frequency, accuracy and effectiveness. Increased efforts to summon jurors will improve the jury notice response rates of prospective jury pool members and promote jury service and participation. Consistent and more frequent updates to the jury source lists will ensure a more accurate, diverse and expanded pool of potential jurors. Finally, demographic data collection will prove invaluable in allowing the Jury Commissioner and other judicial actors to assess and properly address racial and ethnic disparities that arise or persist in jury pool representation.

This legislation, which takes practical steps to move our criminal and civil justice systems closer to embodying the representative features embodied by the United States Constitution and the authors of Judiciary Law § 500, has the full support of LDF.

Sincerely,



John Payton  
*President and Director-Counsel*