

Jury Selection, AI and Bias

Live Webinar

June 5, 2025

Event Sponsor: New Jersey Institute for Continuing Legal Education

Greenbaum partner **Robert B. Hille** will moderate a panel discussion on “Jury Selection, AI and Bias,” which will be presented as a live webinar on Thursday, June 5, 2025 from 9:00am – 12:00pm by the New Jersey Institute for Continuing Legal Education.

This cutting-edge program will analyze the potential tug of war between *State v. Andujar*, jury selection, artificial intelligence programs, and any inherent biases built into in those programs.

In 1986, the U.S. Supreme Court decided *Batson v. Kentucky*, hoping to end the practice of racially biased peremptory challenges in the jury selection process. *Batson* and its progeny, however, did not address implicit bias.

In *Andujar*, the state Supreme Court recognized implicit bias as one of *Batson*’s shortcomings and acknowledged the general harms of implicit bias in jury selection. Even in 2021, however, the Court could not have anticipated the use of AI algorithms in jury selection.

While AI is efficient and can be a valuable tool in jury selection, it also is fraught with inherent bias in its algorithms. Litigators must be mindful of these biases and how they complicate jury selection. Lawyers sometimes face a difficult and competing position, as the best jury for a client’s case may not be one that is free of implicit bias. The lawyer’s duty to their client may conflict with the Rules of Professional Conduct. In creating an unbiased jury, lawyers may make decisions that expose them to legal malpractice.

The agenda for this program examines the following issues:

- How do you police peremptory challenges and do these new anti-bias considerations expose lawyers to claims based on the ultimate jury selected and those excused in the process?
- What policing role does the court play?

Attorneys

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- What presumptions might there be?
- Should there be a difference between the criminal and the civil context?
- Does due process (Fifth and Fourteenth Amendments and NJ Article I) require a fair and impartial jury?
- What is the interplay between the Fifth, Sixth and Seventh Amendments (and Fourteenth) and the New Jersey Constitution?
- What are the implications of the failure to object in the case and any later cause of action?
- What are the potential ethical and legal malpractice implications?

Bob Hille focuses his practice in litigation, with a particular emphasis on trial advocacy. His areas of concentration include insurance, healthcare law, professional liability and ethics, and white-collar criminal matters, including those related to professional ethics. He has extensive trial expertise that encompasses insurance defense and coverage cases, healthcare disputes, professional liability defense, fraud and abuse, and regulatory issues. He is certified by the Supreme Court of New Jersey as a Civil Trial Attorney and lectures frequently on issues related to attorney ethics and professional liability.

Registration and additional details on the NJICLE website.