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SUPREME COURT
STATE OF WASHINGTON

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BY RONALD R. CARPENTER


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STEPHEN K. EUGSTER,

Lawyer (Bar No. 2003).

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

Supreme Court No. 200,568-3

ASSOCIATION'S STATEMENT
OF ADDITIONAL
AUTHORITIES

Respondent Washington State Bar Association (Association) submits this statement of additional authorities in the above-entitled matter pursuant to Rule 10.8 of the Rules of Appellate Procedure.

AUTHORITY RELATING TO APPLICABILITY OF THE FIVE FACTORS LISTED IN RESPONDENT'S REPLY BRIEF

1. In re Disciplinary Proceeding Against Kuvara, 149 Wn.2d 237, 256-259, 66 P.3d 1057 (2003) (retaining the Noble factors of proportionality and Board unanimity and discarding as redundant three Noble factors: (1) purposes of lawyer discipline, (2) the effect of the sanction on the attorney, and (3) whether the Board's recommendation is supported by the record).

AUTHORITY RELATED TO PROPORTIONALITY

1. In re Disciplinary Proceeding Against Miller, 149 Wn.2d 262, 66 P.3d 1069 (2003) (lawyer who had no prior discipline during his 28 years of practice disbarred for borrowing money from client and preparing a will naming himself as beneficiary).

**AUTHORITIES REGARDING CONFLICT BETWEEN RULES
OF PROFESSIONAL CONDUCT AND GUARDIANSHIP
STATUTE**

1. Graham v. State Bar Ass'n, 86 Wn.2d 624, 633, 548 P.2d 310 (1976) (the power to make the necessary rules and regulations governing the practice of law was intended to be vested exclusively in the supreme court, free from the dangers of encroachment either by the legislative or executive branches).
2. State Bar Ass'n v. State, 125 Wn.2d 901, 909-910, 890 P.2d 1047 (1995) (a legislative enactment that encroaches on the Court's power to regulate Bar Association is unconstitutional under the separation of powers doctrine).

**AUTHORITIES REGARDING WHETHER A LAWYER
VIOLATES RPC 3.4(c) BY VIOLATING CIVIL RULE 11**

1. In re Zohdy, 892 So.2d 1277, 1286 (2005) (respondent violated, *inter alia*, RPC 3.4(c) by filing unwarranted and unsupportable petitions, motions and appeals).
2. Lonnie Brown, Jr., Ending Illegitimate Advocacy: Reinvigorating Rule 11 Through Enhancement of the Ethical Duty to Report, 62 Ohio St. L.J. 1555, 1588 – 92 (2001) (In addition to Rule 3.1 of the Model Rules of Professional Conduct (Model Rules), the same misconduct contemplated

by Rule 11 would be subject to discipline under, *inter alia*, Model Rule 3.4(c) (prohibition against knowingly disobeying the rules of a tribunal).

3. ABA/BNA Lawyers' Manual on Prof'l Conduct, 61:723 (1997) ("On its face the broad language 'rules of a tribunal' extends to any court rules. In keeping with this expansive language, lawyers have been disciplined under RPC 3.4(c) for intentionally disobeying a wide range of different rules.").

**AUTHORITIES REGARDING WHICH TRIBUNAL
DETERMINES WHETHER RESPONDENT VIOLATED CIVIL
RULE FOR PURPOSES OF ANALYZING VIOLATIONS UNDER
RPC 3.4(c)**

1. Attorney Grievance Comm'n of Maryland v. Hermina, 379 Md. 503, 842 A.2d 762, 770-771 (2004) (for purposes of analyzing RPC 3.4(c), trier in disciplinary proceeding determined that respondent violated civil rule).
2. Feld's Case, 149 N.H. 19, 815 A.2d 383, 384-387, 390 (2003) (for purposes of analyzing RPC 3.4(c), trier in disciplinary proceeding determined that respondent violated civil rule).
3. Ligon v. Dunklin, 368 Ark. 443, 247 S.2d.3d 498, 504-506 (2007) (for purposes of analyzing RPC 3.4(c), trier in disciplinary proceeding

determined that respondent violated civil rule).

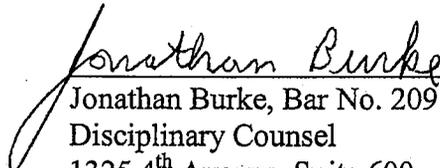
**AUTHORITY REGARDING CHALLENGES TO HEARING
OFFICER'S FINDINGS OF FACT**

1. In re Disciplinary Proceeding Against Bonet, 144 Wn.2d 502, 512, 29 P.3d 1242 (2001) ("The credibility afforded each witness is a determination that properly resides in the hearing officer. . . . Even if the Court were of the opinion that the hearing officer should have resolved the factual finding otherwise, it would be inappropriate for it to substitute its judgment for that of the hearing officer or the Board.").

DATED THIS 18th day of June, 2008.

Respectfully submitted,

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