

Faulk, Camilla

From: Terry Dievendorf [terrydievendorf@yahoo.com]
Sent: Thursday, June 21, 2007 11:07 AM
To: Faulk, Camilla
Subject: Proposed Change to RPC 1.15A

I am writing to oppose the proposed change to RPC 1.15A (preserving client property). I do not believe there is any proven need to change this rule. This change has been proposed without any input from nonlawyers and without following the Court's usual rulemaking process. If this change is made, lawyers will continue to keep vast numbers of client wills and other valuable documents for years and years and the associated problems will not be addressed. I am worried that there is no rule that says lawyers need to have any plan for all these documents if they die or resign from the practice of law or become too sick to work. They do not have to stay in touch with the people for whom they are holding documents or find out if the wills they are holding have been replaced.

I had my will written by a lawyer while I was with my former partner. After we broke up, I was worried that if I died, all my assets would go to my former partner. I had never used that law firm before and it took me some time to be able to locate my documents to find the law firm's name to request return of my original will. If I had been told to file my will under seal at the Superior Court, as I now understand is possible, I would have been able to cancel my will a lot sooner. I think the Court should encourage lawyers to have their clients file their wills under seal rather than have the law firm hold on to them. I don't feel the Court has adequately considered that the lawyers requesting this change have a strong economic incentive to hold on to these wills because they'll make a lot of money in probate. This means the lawyers don't tell their clients about filing the wills under seal, or if they do, they discourage it. The Court's proposed rule change does nothing to change that.

I also do not like that under your proposal, a lawyer can take valuable property like jewelry from a client but have no duty to periodically inform the client that he's holding the jewelry. I think that encourages lawyers to lose client's valuable belongings.

Thank you for considering my comment.

Very truly yours,

Terry Dievendorf