

Faulk, Camilla

From: Michael Kaiser [kais1269@gmail.com]
Sent: Saturday, December 31, 2011 6:22 PM
To: Faulk, Camilla
Subject: Re: GR 12.4

I would like to add to my earlier comments regarding proposed GR 12.4.

It is proposed that the Chief Justice of the Washington State Supreme Court would have the final say in disputes over the release of certain records. Beside the fact that a Chief Justice with half a brain should see that ultimately this will cost a Chief Justice his or her job in the next respective election when the right challenge to the release of a set of records arises, what makes the Washington state legal establishment think that it is above the law?

If the challenge to the release of records involves bar functions that implicate its regulatory function, then it clearly is a Public Records Act matter. The public does not have to say "pretty please" to the Chief Justice of the Washington State Supreme Court to get at records that implicate the regulatory process of the WSBA, as long as the rules surrounding the release of such records are observed. These records are clearly as "public" as it gets, and if there is a dispute it will lie within the contours of the Public Records Act, and the Chief Justice may in fact have a vote at some point on a contentious release of records--one vote in nine.

The world is changing dramatically, and in many respects it is amusing to watch bar associations desperately try to cling to power. One can see this in this own state's attempts now to regulate legal assistants and the like. It will be more amusing to watch over time what bar associations attempt to do as the Internet simply wipes out in many respects the relevancy of licensed attorneys. Whether bar associations like it or not, the public is gaining more and more choices as to whom they wish to go to for many legal services. Furthermore, at some point, by ballot, the first bar association will, in many respects, fall from a position resembling anything like it occupies now. This will soon be followed by many more. The closed doors will end and the public will have a much greater say in the regulatory process surrounding the legal profession. It will not be shrouded behind this door and that layer and this characterization of exactly what a bar association is, etc.

Perhaps at that point the public will allow bar associations a minority voice. It would seem to make sense, as bar associations do bring experience and knowledge to the process.

I also was struck recently by several instances in which the public had an opportunity to comment on the legal establishment. One involves a young man in California who has had a contentious path to becoming licensed as an attorney. He is a former reporter who was caught years ago making up stories for the New Republic. His story appeared on 60-Minutes. The California Bar turned him down and a subsequent California "Bar Admissions" court overturned that. Now the California Bar is appealing to the state supreme court. Rachel Grunberg, a spokesperson for the bar, in trying to justify the bar' position, said, "Law and journalism share common core values--trust, candor, veracity, honor, respect for others. . . [the applicant] violated every one of them."

The public's response on various boards was so overwhelming it caused me to realize for the first time how low in esteem the public really holds the legal establishment. Almost without exception, and by the many, many thousands, people across the country just mocked Ms. Grunberg. In fact, they were not even that interested in the applicant's story. They found Ms. Grunberg's statement laughable regarding her opinion of what values the legal establishment possesses. It was so

overwhelming that I do not recall one comment across the country that supported her. I guess the closest thing was comments that said, "99% of the lawyers make the 1% look bad."

Now the Washington State Bar Association wants to continue the practice of the legal establishment feeling it is above the law or is somehow above it all in general. The same sort of thing you see when appellate judges never name prosecutors in decisions in which it is determined that the prosecutor has violated legal cannons, while the same appellate court will say anything about a defendant it wishes--including the defendant in a case where it was the unnamed prosecutor who was the only party that transgressed. It will be interesting to see if Washington adjusts this proposed rule and takes its first step toward moving away from the incest that marks the methodology of the legal establishment.

Yours Very Truly,

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