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WASHINGTON STATE ASSOCIATION

for
J U S T I C E

TRIAL LAWYERS. FIGHTING FOR YOU.

Received
Washington State Supreme Court

NOV 26 2014

Ronald R. Carpenter
Clerk

November 24, 2014

Clerk of the Supreme Court
Washington Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

RE: Washington State Association for Justice Continuing Legal
Education Committee
PUBLIC COMMENT ON PROPOSED REVISIONS TO APR 11

Dear Clerk:

On behalf of the WSAJ CLE Committee ("WSAJCLE"), I would like to present comments in response to proposed revisions to APR 11. WSAJCLE continues to be concerned by the elimination of the "live" credit requirement, as well as imposition of late fees for CLE applications. Each will be discussed in turn.

1. Elimination of the "Live" Credit Requirement (Current APR 11.2(a)(1))

WSAJCLE firmly believes that a portion of CLE credits should be earned through live attendance, for several reasons.

First, elimination of the live requirement would essentially guarantee that attorneys would be earning most, if not all, of their CLE credits in the least effective educational environment—pure lecture. Because it is extremely difficult to offer seminars that provide effective "guided practice" opportunities via the web or pre-recorded video, it is unlikely that CLE providers would offer such seminars in the absence of a live credit requirement. There would simply be no financial incentive to do so. In the view of WSAJCLE, this would be a step backward in legal education, not forward.

Second, there is absolutely no guarantee that the cost of CLEs would be lower if attorneys did not have to attend them in person. Elimination of the live requirement would probably only decrease the chance that "guided practice" seminars would be offered. Rather than starting a race to the bottom in terms of program quality, the Court should retain the live credit requirement so that CLE providers have a market incentive to offer the best programs possible as efficiently as possible.

Third, it has been noted that most seminars are currently presented in lecture format already. WSAJCLE would point out that this is due in part to the advent of webinars and other technology-based presentation modes that do not require physical attendance. Again, to avoid a race to the bottom, the live credit requirement should be retained.

Fourth, it has been recognized that networking and a proper learning environment are both good reasons to continue to offer live courses. If the live credit requirement is eliminated from APR 11, there will be no incentive for CLE providers to offer live courses. Elimination of the live credit requirement will be the death knell for networking and an optimal learning environment at CLEs.

Fifth, it has been speculated that with elimination of the live attendance requirement, CLE providers “may improve their ‘live’ offerings to capture lawyers who are looking for courses that are more than a lecture.” Unfortunately, without a live requirement, CLE providers would have no incentive to develop such courses. WSAJCLE believes that the quality of CLE programs is too important to be left to speculation. Only retention of the live attendance requirement will ensure that CLE providers will offer live programs.

Finally, with respect to geographical barriers, APR 11 could be amended to provide exemptions from the live requirement for attorneys who could establish that they reside outside the State of Washington. The fact that some attorneys live far away is no reason to reduce the quality of legal education for the attorneys still present within the State.

2. Imposition of Late Fees (Proposed APR 11(g)(1)(i))

A late fee has been proposed for CLE sponsors who do not apply for approval within the proposed 15-day time limit. This demonstrates a fundamental lack of understanding of how CLEs are advertised.

In order for sponsors to obtain sufficient enrollment in a CLE, programs must be marketed well in advance of the actual date of the CLE. This includes information about the subject matter of the CLE and the availability of CLE credit. To have that information available for publication, sponsors must apply for CLE credit far beyond the proposed 15-day application cutoff—sometimes months in advance of a program. The proposed fee bears no relationship to this process and it is unlikely that the fee will provide any incentive to sponsors to change their marketing. It is also not clear what, if any, costs would accrue to WSBA if a sponsor applied less than 15 days prior to a CLE. Since this late fee is being proposed at the same time that annual sponsorship fees are being increased, the late fee is an unnecessary burden on sponsors.

We appreciate your consideration of these comments. The Court is welcome to contact me if it needs further information.

Sincerely,

A handwritten signature in black ink that reads "Shelly K. Speir". The signature is fluid and cursive, with the first name "Shelly" and last name "Speir" clearly legible.

SHELLY K. SPEIR

Washington State Association for Justice

Vice President of Continuing Legal Education

cc: Virginia DeCosta
Gerhard Letzing
Clare Vellek