

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Thursday, March 10, 2016 1:48 PM
To: Tracy, Mary
Subject: FW: Amendments to LLLT proposed APR 28(F)(8)

Mary, Was told by Susan to forward this to you as a rules comment.

Supreme Court Clerk's Office

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From: Virginia Clifford [mailto:vacliffordattorney@comcast.net]
Sent: Thursday, March 10, 2016 11:40 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Amendments to LLLT proposed APR 28(F)(8)

Dear Justices,

I have done divorces for poor women since I volunteered as an intern at Legal Services in Queens, NYC in 1975. I absolutely believe that there is an unmet need for LLLT services for simple dissolutions. I am also aware of the ongoing need for protection of women vulnerable to Domestic Violence, including the economic control and coercion of women seeking to end a marriage without causing harm to themselves or their children. This leverage leads to women waiving interests in their spouse's pensions (an issue which still a very "hot button" to men who think of it as "mine" only). What I see in this proposed regulation is a well-intentioned process to assist in the coercion of women (or the more vulnerable party) to a dissolution.

Lawyers routinely review pro se Final Decrees of Dissolution after the fact. I have frequently seen Decrees which award a pension to one dominant party without any compensation to the other party, who has no such retirement awarded to him/her. Similarly, I have seen houses awarded 100% to the economically powerful spouse because the other (woman) says "well, I couldn't afford to stay in it" and there was no discussion of maintenance. The dynamics of power in relationships remains the same as they break up as it was during the marriage, plus there is the added factor of one party's desire to shield the kids from further conflict between the parents. This is exploited by the powerful spouse suggesting a quick pro se settlement waiving the weaker party's economic rights (some of which she may not know actually exist). This occurs as to property rights waived, pensions awarded, maintenance waived, child support under calculated and Parenting Plans based on a promise that one parent with a limiting factor will behave better in future. I have also seen this in military spouses induced to waive their survivor beneficiary designation to their husband's pensions. This is the world of reality for many poorer, working families.

My point is that the proposed regulation and all pro se Dissolutions need to be evaluated in light of DV power issues, to avoid enabling the manipulation of a vulnerable spouse. This discussion seems to be missing entirely! The existing scope of practice rules provide opportunities for the LLLT to "stop the music" when there are assets, rights being waived (real estate, pensions) and should remain as they currently exist. If the LLLT knows that the instructions from a pro se party are contrary to their understanding of the law, they should decline to proceed and the worst case scenarios are that a judicial officer will review the faulty pro se document and raise the issue, or that the party will seek a consult with a lawyer (which can be had for \$100, or less at a volunteer clinic) and learn about his/her rights. "Filling out the forms" is

the tip of the iceberg here- what deals those forms are recording is an issue that is ignored too often, to the detriment of the economically disadvantaged party, or the one who wants to "keep the peace" in the family at her own expense.

These power dynamics remain unchanged despite all the progress in the law over recent decades. Unequal power is part of many pro se cases. Rules allowing the LLLT to just "go ahead" with filling out the forms beyond their scope or contrary to their understanding of the law regarding awarding/dividing real property and pensions is the single best way to make sure that no one sees the harm done until well after the Decree is final.

Please reconsider the proposed change. Thank you.

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