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SUPREME COURT  
STATE OF WASHINGTON  
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IN THE SUPREME COURT OF THE STATE OF WASHINGTON

In Re:

JOHN R. SCANNELL,

Lawyer

Bar No. 31035

Supreme Court No. 200,744

REPLY TO ANSWER TO MOTION  
TO ALLOW SUBMISSION OF  
SUPPLEMENTAL AUTHORITY

Disciplinary Counsel attempts to pigeonhole this motion as a motion improperly brought under RAP 10.8. It is not. The accused attorney never cited to RAP 10.8 as the reason for his motion. It is a motion brought under RAP 17.1, which seeks relief other than a decision on the merits. It seeks a remedy for the tactics of Disciplinary Counsel, who waited until oral argument to bring in any defenses to the issues raised by this appeal to give the impression that the accused attorney's arguments were not worthy of debate in an actual brief. As stated in the motion, it should have effect only if the court does not decide that Disciplinary Counsel has defaulted the case by not addressing the issues in his brief.

Whether one wants to call it a submission of supplemental authority or additional briefing or something else, the statement should be allowed. This motion being referred to as something it is not promotes form over substance.

ORIGINAL

Disciplinary Counsel does not address and therefore does not deny that he raised issues in oral argument for the first time. He does not address and therefore does he deny that he misled the court with his reference to some authorities he claimed were relevant. Finally, he does not address and therefore does not deny that State v. Miles requires a decision declaring that the subpoena process used by Disciplinary Counsel is unconstitutional. This has resulted in a disbarment recommendation for attempting to protect attorney client privilege and otherwise standing up for a client who could be harassed with this deposition.

The relevant rule here is RAP 1.2:

(a) Interpretation. These rules will be liberally interpreted to promote justice and facilitate the decision of cases on the merits. Cases and issues will not be determined on the basis of compliance or noncompliance with these rules except in compelling circumstances where justice demands, subject to the restrictions in rule 18.8(b).

...  
(c) Waiver. The appellate court may waive or alter the provisions of these rules in order to serve the ends of justice.

In this case, the issues should be decided on the merits of issues that the Disciplinary Counsel addressed for the first time in oral argument. Out of fairness, the accused attorney should be allowed a full opportunity to show why these arguments have no merit. A full opportunity would be an opportunity to analyze the argument in writing.

### CONCLUSION

The court should allow the lawyer's statement of supplemental authority into the record. The accused attorney has complained throughout these proceedings that Disciplinary Counsel has not addressed the major issues of this case. With respect to the ex-parte contacts of common counsel, and well as the obvious bias of the Disciplinary Board, he still has not. However, Disciplinary Counsel has raised a number of defenses in oral argument. If this is allowed, then the accused counsel must be allowed to refute the arguments he should have been allowed to

address in writing in a reply brief. To say otherwise would allow Disciplinary Counsel to steamroll these proceedings so that the most important issues are never thoroughly addressed.

Dated this 3rd day of June, 2010.

/S/  
John Scannell, WSBA #31035

I hereby certify that on June 3rd, 2010, I caused to be served a copy of this document by the method indicated below and addressed to the following:

Scott Busby  
1325 Fourth Ave., Ste. 600  
Seattle, WA, 98101-2539

- Hand Delivered
- U.S. Mail first class postage prepaid
- Overnight Mail fees prepaid
- Email
- Facsimile

By: John Scannell

time of completion : \_\_\_\_\_

/S/  
John Scannell, WSBA #31035

## OFFICE RECEPTIONIST, CLERK

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**From:** John Scannell [Zamboni\_John@actionlaw.net]  
**Sent:** Thursday, June 03, 2010 4:38 PM  
**To:** Scott Busby; OFFICE RECEPTIONIST, CLERK  
**Cc:** Chandler, Desiree R.  
**Subject:** RE: In re Scannell, Case Number 200,744-9  
**Attachments:** Reply to Answer to Motion to Allow Submission of Supplementary Authority.pdf

Attached for filing is the Reply to Answer to Motion to Allow Submission of Supplemental Authority.

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**From:** Scott Busby [mailto:ScottB@wsba.org]  
**Sent:** Wednesday, June 02, 2010 10:49 AM  
**To:** supreme@courts.wa.gov  
**Cc:** John Scannell; Desiree.Chandler@courts.wa.gov  
**Subject:** In re Scannell, Case Number 200,744-9

Attached for filing is the Association's Answer to Respondent's "Motion to Allow Submission of Supplemental Authority." I would appreciate receiving confirmation that this document has been received.

Thank you,  
Scott G. Busby

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