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December 12, 2008

Washington State Supreme Court
Temple of Justice
PO Box 41174
Olympia, WA 98504-1174

Re: Legal Technician Rule

Dear Justices,

It is my understanding that the court is taking comment on the proposed Legal Technician Rule.

I am a member of the WSBA Family Law Section and a majority of my practice is in the area of family law. I am routinely required to deal with the problems associated with clients who have engaged the services of paralegals to draft their court documents. I do not see how this proposed program is going to alleviate those kinds of problems.

Prior to practicing in Washington, I worked in Portland as a J.D. paralegal while I was recovering from breast cancer. The small family law firm in which I worked also employed a paralegal with a two year diploma. She was dangerous because she thought she "knew" what to do, but in fact, had no clue regarding the basis for the legal language in court orders. She could "fill in the blanks" but didn't know why the particular paragraph had been included in an order. I caught her one day trying to get a guardianship for a person the attorney for whom I worked represented by using an affidavit, motion, and order. She was adamant that all that she needed was this one combination form. When I tried to explain to her that if a person is incompetent to represent themselves in a legal matter, the person is also incompetent to sign a legal document attesting to their own incompetence. This was beyond her ability to grasp.

Here in Washington, I was in court just this week addressing whether dissolution orders entered in Lincoln County in 2004 were legally valid because the paralegal service who drafted the documents for my pro se client and his pro se spouse had stated in the Findings of Fact and Conclusions of Law that the court had jurisdiction over the marriage in paragraph 2.3 but did not have jurisdiction over the children in paragraph 2.18, yet the same court entered a final parenting plan and final child support order. My client recently petitioned the court, after registering the orders in our county, for modification of the parenting plan.

In another case, a client retained me because when the other party went to sell the real property that had been the marital residence during their marriage, three years after their dissolution was entered using ABC Divorce here in Vancouver, another paralegal service, the Decree ordered that the real property as legally described would be transferred to the husband,

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but no quit claim deed had been prepared or recorded. Not only that, but neither party recalled the paralegal service ever telling either of them that a quit claim deed was needed to actually transfer the real property from the wife to the husband. That snafu was easier to fix than the situation for which I was in court this past week. My client in this week's case will now have to bring an action in British Columbia, where the wife made permanent residence three months before the parties filed their joint Petition for Dissolution in Lincoln County, to have the Canadian court determine whether the Washington dissolution is even valid, let alone whether the parties can modify their parenting plan. Both parties are now remarried to other people.

I can appreciate the intent of the Legal Technician program, that is, to provide legal services to low income people. I volunteered at Utah Legal Services throughout law school. I have served on the board of the Cowlitz-Wahkiakum Legal Aid Program, and I regularly volunteer through the Clark County Volunteer Lawyers Program. However, I do not believe that the new legal technicians will focus their efforts on low income clients. Why would they when they can target the people attorneys are seeking as clients? Moreover, this program will further erode confidence in the bar, by promoting non-attorneys to do work now performed by attorneys. Why hire an attorney at his or her hourly rate when one can hire a paralegal at a much lower rate? The public does not understand or appreciate the education and continued training that attorneys receive to stay current in their areas of law. It is only after a person has experienced negative consequences, as my client this past week, from the work of a paralegal, does the client understand and appreciate the value of the attorney's expertise.

Rather than expose the public to more non-attorneys practicing law without license, knowledge or legal skills, why not do more through Northwest Justice Project, Columbia Legal Services, and other legal services programs to expand the reach and the breadth of these programs? When I volunteered back in Utah in law school, I was surprised to learn that it was a Republican president who started the legal services program nationally. Yet, every time our federal legislators meet, Legal Services is cut back further and further. This is where we could really make a difference.

I urge you to not authorize the Legal Technician program into implementation.

Kindest regards,
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