

Faulk, Camilla

From: OFFICE RECEPTIONIST, CLERK
Sent: Thursday, March 29, 2012 8:10 AM
To: Faulk, Camilla
Subject: FW: Comment on Proposed Rule GR12.4

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From: John Jay [mailto:jayjohn125@gmail.com]
Sent: Thursday, March 29, 2012 1:26 AM
To: OFFICE RECEPTIONIST, CLERK
Subject: Comment on Proposed Rule GR12.4

Dear Supreme Court:

I have these comments concerning proposed GR 12.4.

1. The proposed rule exempts from disclosure :

Personnel records of Bar employees, whether regular, temporary, or contract, except for information relating to compensation for job classifications, verifying periods of employment or, when specifically requested, the Executive Director's current annual compensation;

This exemption shields information on the use of WSBA employee time in an overly-restrictive manner. For example, it has recently been reported that WSBA employees traveled to Cuba, Vietnam, and Australia. Under this exemption, WSBA members would not have a right to know whether these trips involved the use of WSBA-paid time. But members should have a right to this information since it is directly pertinent to the efficient use of license fees collected from members.

The exemption also cloaks information about bonuses and perquisites. For example, WSBA members have a right to know if the Executive Director is provided with a paid automobile, a bonus, special pensions, etc. Application of the exemption to "contractor" employees is problematic. For example, is outside counsel a "contractor" employee?

2. The proposed rule would have the Executive Director decide what exemptions apply, and would limit appeal "exclusively" to the Chief Justice of the Supreme Court.

First, the Executive Director has an obvious conflict of interest in making these decisions. See #1 above. Modern public records acts provide for a neutral public records officer to make disclosure decisions. Allowing someone with an obvious conflict of interest to make decisions violates due process of law.

Second, the Chief Justice is not a Court and is not authorized by the Constitution to be one. So, does this mean that the Chief Justice is acting in an administrative capacity? If so, will there be a right to judicial review?

Does the word "exclusively" imply that the Chief Justice will be the only administrator in the United States whose actions are not subject to judicial review?

Third, it is not clear how the Chief Justice will make decisions. Will this be a de novo appeal? Will the requestor be allowed discovery? Will the appeal be confined to the record? Will there be oral argument? What rules will apply concerning the time limits and manner of the appeal? Will the Chief Justice issue a written opinion? Within 90 days?

Thank you for your kind consideration of these comments.

Respectfully submitted,

A concerned WSBA member.