

Foster, Denise

From: Donald Horowitz [don.horowitz@gmail.com]
Sent: Monday, April 29, 2013 8:14 PM
To: Foster, Denise
Subject: Proposed Comment to RPC 4.4

Dear Members of the Supreme Court and its Rules Committee,

I write in support of the Supreme Court's adoption of the proposed Comment to RPC 4.4 submitted to the Court by the Washington State Bar Association.

I have been involved with drafting or commenting on various rules and types of rules of the Supreme Court for a substantial part of my career. I believe that rules should not be changed unless there is a real need to do so. On the other hand, if circumstances develop which raise a meaningful question on a substantive subject as to the applicability or coverage of or other similar issue related to existing rule language which has otherwise worked well for some time, I do believe that a Comment to an existing Rule and its intent, applicability or coverage without changing the Rule's language can be warranted and helpful.

That is the case here. I have studied the need for a rule change or a comment in this situation. The affected substantive subject is meaningful and significant, and there may be an ambiguity relative to its applicability to certain relevant and undesirable conduct. There does not appear to be a need for a Rule language change (with all that may unintentionally bring), but a comment clarifying the Rule's applicability and coverage is appropriate here.

The subject matter is important, there appears to be no disagreement as to the intent of the Rule and its desirability, and no real, potential or apparent harm from adding and publishing a carefully drafted appropriate comment to the Rule.

I therefore support, and urge the adoption of the Washington State Bar Association's submitted comment to RPC 4.4.

Should you wish any clarification or further information, please contact me.

Thank you for your consideration.

Donald J Horowitz