

April 2, 2013

Justice Charles Johnson, Chair
Supreme Court Rules Committee
Temple of Justice
P.O. Box 40929
Olympia, WA 98504-0929

Re: Proposed Comment (4) to RPC 4.4

Dear Justice Johnson:

On behalf of OneAmerica, I am writing to express strong support for Proposed Comment (4) to Rule of Professional Conduct 4.4. The proposed Comment is necessary to provide guidance to Washington attorneys with respect to the serious problem of misconduct based on immigration status.

OneAmerica was formed directly after September 11, 2001 in response to the hate crimes and discrimination targeting Arabs, Muslims and South Asians. Called Hate Free Zone at the time, we have expanded to organize and advocate with many diverse communities of color. OneAmerica has now grown into a leading force for immigrant, civil and human rights.

Our mission is to advance the fundamental principles of democracy and justice at the local, state and national levels by building power within immigrant communities in collaboration with key allies. OneAmerica envisions a peaceful world where every person's human rights and dignity are respected, where communities appreciate differences and stand together for justice and equality, and where each person contributes to the common good. A cornerstone of our work includes ensuring that immigrants have equal access to opportunity thereby eliminating discrimination and oppression.

In our experience, many of our immigrant community members are fearful of appearing in front of courts because of the significant level of scrutiny and harassment they face by enforcement agencies. This is also true when immigrants face excess pressure and intimidation in court when they are questioned about their immigration status. This obstructs our civil justice system.

In related examples, we have found several reports of cases where many immigrants are afraid to go to court because they may be asked for papers when they enter the courthouse. Even when individuals are fulfilling their civic duty such as serving as a juror or paying a ticket, they are fearful that they may be detained then deported. Subsequently, given the many times this has occurred community leaders advise community members not to go to court. For example, Pastor Gustavo reported to us the following: "I've seen three times where people were taken away... So I suggest [to] people [that] if they are getting stopped, to pay whatever amount it is and not go to court." The presence of enforcement outside courthouses diminishes the inherent right of access to justice. Although these cases are not direct examples of the situation in the comment, it

indirectly shows that immigration status clearly should not be in the way of due process before the law.

RPC 4.4(a) provides, “[i]n representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay or burden a third person . . .” Proposed Comment (4) is needed to clarify that intentional intimidation, coercion, and obstruction of persons based on immigration status is unethical.

Coercion based on immigration status deters immigrants from exercising their rights and from serving as a witness to help fairly resolve legal matters. An attorney should not undermine or dispense with a case by threatening to call immigration authorities. Ethical guidance on attorneys’ use of immigration status in civil matters is necessary to allow immigrant parties and witnesses to participate in the legal system without fear of reprisal.

Thank you for your consideration of these comments.

In solidarity,

A handwritten signature in black ink, appearing to read "R. Stolz", with a long horizontal flourish extending to the right.

Richard Stolz
Executive Director