



Washington Office
400 108th Ave. NE, Ste 500
Bellevue, WA 98004
Ph. 425.786.5725
Fax. 425.455.9017

Colorado Mailing Address
P.O. Box 630678
Highlands Ranch, CO
80163-0678

April 25, 2019

The Honorable Chief Justice Mary Fairhurst
Washington State Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed Amendment to RPC 7.3

Dear Chief Justice,

Thank you for the opportunity to comment on the proposed changes to Rule of Professional Conduct (RPC) 7.3. I oppose the changes and I hope my reasoning may be helpful in the Court's consideration of the proposal. I would like to first clarify what I understand to be the scope of the rule prohibiting direct contact with a prospective client, as one of the comments indicated the practice is common. The examples given indicate that attorneys, in informal social settings, inform potential clients of their general interest in representing them. This is not, as I read it, a violation of the rule. The comments to the rule, specifically comment 2, indicate concern that a potential client "may already feel overwhelmed by the circumstances giving rise to the need for legal services." A lawyer who meets someone at the gym, or dinner party, or any event independent of a solicitation effort, and indicates a general interest in representing that person is different from a lawyer who identifies a person with a specific legal need and contacts that person with the intent of soliciting professional employment for a specific case. A general expression of interest, offered during a coincidental meeting, is not the same as a targeted solicitation by a stranger. The rule is, however, appropriate for the former circumstances as such encounters can turn abusive, may cross the line into direct solicitation, and can be evaluated on a case by case basis.

The targeted calls to potential clients that are of concern exist almost entirely in the field of personal injury. I practice in this field and can relate an example that articulates my first concern: emotional abuse of injury victims. I represented a family whose husband and father had

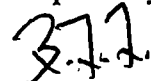
been killed and whose death was covered by the media. National law firms sent letters seeking representation within a week of the death, and the family was deeply hurt. They felt violated that, somehow, a firm obtained their home address and solicited them. If I had it my way, those written solicitations would be barred as well. But, telephone calls would have been profoundly worse. I can only imagine how hurt and offended my clients would have been to field calls from people wanting to make money from their tragedy, and so soon after their loss.

The second concern I have is the public perception of personal injury attorneys which has twofold effect. The first effect is to undermine public perception of the law, broadly, and the plaintiff's bar specifically. It is an unfair perception for the vast majority of us who help only those who ask for help, only bring valid claims, and are motivated more by a desire to help people whose lives have been battered by careless misconduct than the payment we receive for doing so. There are other ways to make money, and often more money. The proposed rule changes would benefit the worst of the profession. And, it affects the entirety of the legal profession by association. The second effect is biased juries. A jury should, and is instructed to, weigh evidence impartially. The perception of unethical and avaricious plaintiff's lawyers has an inevitable effect of biasing juries against victims who deserve fair consideration. The concern is not "smaller verdicts," but biased verdicts.

My third and final reason for opposing the rule is the commentary from the Washington State Association for Justice. The WSAJ represents the interests and concerns of the overwhelming majority of personal injury plaintiff's attorneys in Washington. These lawyers comprise perhaps the only, and certainly the strong majority, of the attorneys directly impacted by the proposed rule change. This subset of the bar is owed deference, given the specific impact this proposed change will have. The plaintiff's bar has articulated adverse consequences to the rule change, and there is no counterweight. There is no evidence that injury victims are unaware of their legal rights, and need a phone call from a lawyer or other service to be made aware that they can receive legal aid. The rule does harm and negligible, if any, good.

Thank you again for your consideration of my opinions regarding the proposed changes to RPC 7.3.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B.D. Doran", written over the typed name.

Bryan D. Doran

Tracy, Mary

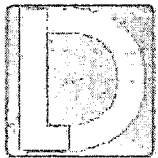
From: OFFICE RECEPTIONIST, CLERK
Sent: Thursday, April 25, 2019 2:15 PM
To: Tracy, Mary
Subject: FW: Public Comments Re: Proposed Amendment of RPC 7.3
Attachments: Commentary re RPC 7.3.pdf

From: Bryan Doran [mailto:bryan@doran-law.com]
Sent: Thursday, April 25, 2019 2:13 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Public Comments Re: Proposed Amendment of RPC 7.3

Please see, attached, my submission of public comments regarding the proposed amendment of RPC 7.3.

Respectfully,

Bryan Doran



DORAN LAW
400 108th Avenue NE Suite 500
Bellevue, WA 98004
<http://www.bryandoran-law.com>

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