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Subject: FW: APR 26 Comment
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From: Matthew Hardin [mailto:matthewdhardin@gmail.com]
Sent: Friday, September 4, 2020 5:23 PM
To: AOC DL - Rules Comments <RulesComments@courts.wa.gov>
Cc: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: APR 26 Comment

To the Justices:

I write in opposition to the proposed amendments to APR 26.

I note that the Supreme Court has received voluminous comments, mostly from attorneys asking it to reject the proposed amendment. A few attorneys wrote in asking for additional exceptions or noting how the rule would affect those of us in unique practice areas. The overwhelming consensus is that the rule as written would worsen access to justice in poor and rural communities and drive good lawyers out of the profession. Rather than offering suggestions to mitigate the horrible effects the proposed rule would have if implemented as written, I ask instead that you finally put the horrible idea of forced insurance to bed.

The Mandatory Malpractice Insurance Task Force previously ignored comments from members of the bar about the harms its proposal would cause, and steamed ahead with a one-size fits all “solution” to a nonexistent problem. Luckily, the Board of Governors of the WSBA stood up to the insurance industry and its lobbyists, listened to the near-unanimous opposition from practicing lawyers, and voted down the proposal. I am disheartened to see the Supreme Court breathing life back into a proposal so many of us fought for so many months to defeat through the democratic processes of a self-regulating profession.

Like many commenting lawyers, I have a unique practice area that makes malpractice insurance difficult to obtain. Like many of the commenters, I could propose exemptions which would make the proposed rule less painful for me and less damaging to my clients. Rather than do so, however, I ask that you take a note from the medical profession and its Hippocratic Oath: “First, do no harm.” Don’t harm lawyers who are struggling to make ends meet, or who are semi-retired, or who juggle legal and non-legal employment, or who took a temporary leave from practice to focus on family, by imposing costs on them which they cannot bear. Don’t harm clients by forcing them to pay higher prices for big-city and big-firm lawyers, or risk going without representation altogether, because their local solo practitioner has been run out of business by onerous mandates. Don’t harm the WSBA by overruling its democratic decision making process. Don’t harm the reputation of the Supreme Court for doing impartial justice regardless of attempts to drag it into the political fray.

Just say no to amending APR 26.

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