From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: Proposed Amendment to CR 71 -- objection
Date: Thursday, April 22, 2021 10:15:26 AM

From: Saphronia Young [mailto:Saphronia.Young@rm-law.com]
Sent: Thursday, April 22, 2021 10:02 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Suspicious URL: Proposed Amendment to CR 71 -- objection

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Dear Clerk of the Supreme Court:

I am a litigator practicing for 29 years, the last 20 of those in Washington State. I object strongly to a requirement that permission of the court would be required for counsel to withdraw under an amendment to CR 71, if within ninety days of trial.

First, I represent many elderly, incapacitated, or less abled / disabled clients. Clients may die, become represented by guardians (who have their own counsel), or make other arrangements for representation. If the court has permitted my appointment for a client opposing or under guardianship, then we already seek permission of the court to withdraw.

Second, for other clients, withdrawal is frequently due to the client's refusal to pay our honest and reasonable fees. Clients who have capacity and wish to fight over estate or trust assets sometimes do not want to have "skin in the game," although they knowingly, intelligently and voluntarily sign our engagement agreements. We strive to stay within the ethical boundaries of engagement, and our firm values our ethical commitment to fair and reasonable fees. However, clients are fairly sophisticated, and sometimes only engage us after they have consulted with other counsel. Many clients are very aware that our firm will be requesting an award of fees from the estate or trust, pursuant to RCW 11.96A.150. That award is entirely discretionary with the court, however, and we do not agree to represent clients in TEDRA cases on a contingent fee basis. We agree to payment plans, we agree to seek recovery of fees under TEDRA, we try very hard to utilize the lowest rate possible for the work required.

The amendment will necessarily require that we increase the amount of retainers that we obtain from clients before agreeing to represent them. Currently, we ask for a $5,000 retainer that we bill against and the client replenishes by paying our monthly invoices. This change, in not allowing us to

withdraw without court permission within 90 days of trial, will have the following impacts: (a) the trial deposit will be required up front, and will match the full price that we anticipate for trial. In TEDRA cases, trial is set on a 90-day calendar, so this means that in order to engage us, clients would have to deposit a minimum of 7 days x $300 / hour (this is a blended rate spanning the current rates in our firm) x 10 hrs / day (trial days are actually frequently longer than that), so $21,000 to accept a case.

This, as you should understand, presents an Access to Justice issue. Most of our clients could not afford that. We pride ourselves on representing the moderate income, modest means families. While this may not impact the downtown law firms at all, it would be a severe hardship to many of the people we represent. Elderly people, especially, are on fixed incomes and reduced budges. Disabled and less abled people almost never have this kind of money, and frequently borrow or enter into payment plans to meet our current $5,000 requirement.

Please think hard about the impacts of this new rule. While it may help the judicial administrators keep better control over dockets, it will have a severe negative impact to people of modest means within our state.

Saphronia Young

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