From: OFFICE RECEPTIONIST, CLERK
To: Linford, Tera
Subject: FW: proposed changes
Date: Monday, April 26, 2021 2:38:22 PM

From: Virginia Clifford [mailto:virginia@vcliffordlaw.net]
Sent: Monday, April 26, 2021 2:34 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: proposed changes

Your Honors,

Forgive my bluntness, but the proposed changes to the rules regarding banning withdrawing as counsel from a case after ninety(90) days before trial are rather tone-deaf. There sometimes is a lack of real-world experience in rule-makers about the realities of small-firm practice, the nuts and bolts of actual client representation. It is evident in this proposed rule. I also believe the same problem shows in the proposed changes to procedure for investigation of ethics complaints against attorneys.

First, regarding a ban on withdrawal of counsel after 90 days before trial: this will compel attorneys to quit a case which still might be settled. Most trials get settled close to the date of trial, and the key to representing women is to settle it before there is no money to prep for a trial. Even paying clients run out of money and many attorneys stay in the case to get it completed. The clients pay me $100/month for years after. There is a lot of brinksmanship involved in family law cases, and the underdog loses if counsel has to leave early in the process. It will not come as a surprise (I hope) to say that women and primary caregivers of children lose out in this battle of nerves when their counsel has to quit prematurely. We cannot run a firm (pay staff and overhead) for pro-bono trials. There is already a war of attrition- the deep pocket party's attorney runs the clock and waits for the under-resourced party's attorney to quit for lack of funds. Then the "settlement" is imposed on the despairing pro se. I have seen it many times. I'm already fighting it- are you aware of any of this?

Local courts here already are loathe to let counsel withdraw close to a trial date; you can leave discretion in the local courts' hands without leaving litigants defenseless. The laws of unintended consequences exist below the surface in so many of your decisions. Please take time to hear from the small practitioners, who are close to the ground. Most of the practitioners in this state are in solo and very small firms. We can speak of the lived experience of working people. We should be able to remain in there fighting for as long as we can.

As for the procedure/decisions of ethics complaints being placed in the hands of employees of the Bar instead of actual practitioners, please don't do this either. Most administrative attorneys have no experience in actual practice of representing actual people. I had a bar complaint filed against me once by the DV perpetrator after I represented his wife and successfully protected her and their small daughter. He filed a grievance and I had to defend against it. I knew that it was baseless, but it was my livelihood, my license on the line. So I spend a week preparing a defense of all my actions in the whole case (DV PO and divorce), because I couldn't take a chance of the complaint not being dismissed outright (as it should be). The perpetrator cost me a week's earnings- his revenge, imposed by the state Bar investigation. Thankfully, I could count on actual practitioners to review the case. But what if an attorney without any experience of the volume of cases lawyers of moderate-means clients juggle had decided that I took too long to file the final Decree (as he alleged) without seeing that he was really looking for revenge? What if he/she mistook the forest for the trees? Are we going to be prosecuted for unintentional fouls?

Thank you for your time in reading this.

Sincerely,

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