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Subject: FW: Registered: Comment on rule changes for RPCs
Date: Friday, July 30, 2021 8:07:59 AM

From: michael@auburnlawyer.com [mailto:michael@auburnlawyer.com]
Sent: Thursday, July 29, 2021 5:02 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Registered: Comment on rule changes for RPCs

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This is a Registered Email^{???} message from **Michael Pratum**.

Hello:

My comments below are just my opinion and worth just two cents. But I hope you will read them.

I want to concur with comments made by Seth Rosenberg and other of my colleagues about the proposed RPC rule changes. I apologize for not being too specific (but see, below for some specific comments) but I am on partial medical leave and have had work that needs to get done. This slipped by until today. Thankfully I belong to a couple of groups with the King County Bar Association where colleagues have posted messages to encourage us to provide you all comments.

Let me start by saying I have probably a more expansive fund of experience to comment on the RPCs. I have been disciplined. My license was suspended for two years back in I think 2003. I got through it fine and resumed practicing law. I am more careful than I was prior to that discipline. I have comments that are from the perspective of someone who has had to respond and litigate the grievance and had a very awful experience with the Disciplinary attorney who handled the grievance as well as with the volunteer attorney who acted as the hearing prosecutor. Then there are the problems with the hearing officer. My wife felt humiliated by how the hearing officer conducted himself during the hearing.

All these are related to what your goal should be in any revisions of the RPCs. You want to provide legal services, including the courts, to the public that are the very best with no compromises. And the profession should gain its members through attraction, not promotion. I don't mean attraction to the money, I mean attraction for enjoying what you do for a living and for feeling satisfied that you are helping others, often for free if you are like me and you volunteer your time to the public. And we should be trying harder to provide more services to people who can't afford to hire an attorney for things like family law.

Do you want the lawyers in private practice to feel fearful when they work? Do you want to be responsible for creating more anxiety among the members in private practice of law? Do you want a higher rate of depression and suicide? How will the proposed changes impact how the person out there working with the clients feels about making professional decisions with their client? I make this point to suggest that some of the proposed changes may cause "more efficiency" in the discipline process but at what cost to the delivery of legal services? If lawyers do not have a level playing field for defending themselves in a disciplinary proceeding then they are now thinking about day to day decisions in terms of whether they will get in trouble, not in terms of how to best serve their client's needs and goals.

My personal experience leads me to believe strongly that you should not be enacting rule changes that give ODC more power to do things unchecked. Let me tell you my experience. When I was in my disciplinary hearing, the disciplinary attorney took every opportunity she could find to embarrass me and try to make a record of it. This is not how these proceedings should be conducted. The hearing officer, a volunteer who had absolutely no experience in the areas of law being discussed in the proceeding, at one point stopped the hearing to tell one of my witnesses he was going to contact the King County Prosecutor to have her investigated for the crime of perjury because he felt she was a liar. How can someone who is supposed to be neutral and fair do this in a hearing? Well, this guy did it (by the way, this witness was never investigated for anything related to her testifying at my hearing).

The Disciplinary Board overruled the Hearing Officer's recommendation for discipline. ODC filed an appeal to the Court Of Appeals. But they were careless and missed the 30 day deadline for filing the Notice Of Appeal. When we objected to their appeal on that basis, their response was: "Well, we are the Office of Disciplinary Counsel. We don't have to follow Court Rules.". This is why I feel concerned about the proposed changes that will remove checks and balances or not strengthen what are in place to make sure ODC is acting in good faith and are actually serving the public interest and also serving the lawyers of the State Of Washington. Are you sure the proposed changes will allow the profession to self- police in a way that is both dignified and fair to the professionals licensed to practice law? Are you sure the changes will not scare away potential attorneys?

Unfortunately I am out of time. But please consider the comments by Mr. Rosenberg and many other colleagues who have already objected to the proposed rule changes for the RPC and please do not at this time make those changes. Thank you all for your time in considering these comments.

Yours truly,

Michael J. Pratum

Auburn Lawyer, LLC

A great week starts and ends with a smile and a positive attitude

www.auburnlawyer.com

206-718-7679

facsimile: 206-666-4392

30510 122nd PL SE

Auburn, WA 98092

michael@auburnlawyer.com

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