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Date: July 28, 2021

Washington State Supreme Court

Re: Proposed Rules for Discipline and Incapacity

Dear Justices of the Washington State Supreme Court:

I am an attorney licensed to practice law in Washington state since 2010. My practice primarily consists of family law matters and personal injury cases. I write in response to the proposed rule changes to the Rules for Discipline and Incapacity ("RDI").


I respectfully request that the Court reject these proposed changes to the rules. My understanding is the process by which these proposed rules came to be did not represent a balanced group of diverse participants in the disciplinary process. The proposed rules, it seems, were the work of the Office of Disciplinary Counsel ("ODC") and some employees of the WSBA. Further, the proposed rules had little to no input from the larger membership of the Washington State Bar Association who will be mostly impacted by these proposed changes. Particularly impacted by these changes are solo and small firm attorneys and attorneys who practice in high conflict areas of law, such as family law, criminal law, and personal injury law.

Additionally, solo and small firm attorneys are the attorneys most often subject to disciplinary investigations and hearings by the ODC. Rarely, are attorneys from big firms investigated or disciplined. This may be due to added safeguards that larger firms have in place, or it may be due to solo and small firm attorneys practicing in high conflict areas of law. The activity of operating a law firm (the business) and practicing law can prove to be very challenging at times. It is for these reasons that it is of the utmost importance to include a broad section of the bar membership in the rulemaking process. The rulemaking process should include those attorneys in the trenches of practicing law, working hard to attain justice for injured and disadvantaged people, and simultaneously running a small business.

Some of the problems with the proposed rules are more severe sanctions; fewer opportunities to volunteer in the disciplinary hearing process; the allowance of interim suspensions by the Office of Disciplinary Counsel without a hearing or argument by the respondent; and the general insufficiency of due process of the hearings, which places a disproportionate burden on the respondents.

For the above reasons, I urge the Justices of the Court to reject the proposed rules, and in the alternative establish a fair, balanced, and open process for rulemaking, which is accessible to all members of the Washington State Bar Association.

Sincerely,


Troy C. Courage, WSBA #42587

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Dear Clerk to the Supreme Court of the State of Washington:

Attached is a letter with my comments to the proposed rule changes for discipline and incapacity.

Sincerely,

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