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Subject: FW: Comment on proposed discipline rule changes
Date: Thursday, July 22, 2021 3:54:16 PM

From: Stephen Teller [mailto:Steve@stellerlaw.com]
Sent: Thursday, July 22, 2021 3:30 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on proposed discipline rule changes

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Your honors, with deep respect I submit the following comments:

It is a bad idea to have a Chief Adjudicator chosen by WSBA (which may defer to ODC) who picks the hearing officers. This is especially true if there is no recourse for removal without cause. The “affidavit of prejudice” and its successor process is an important element of fairness and due process in our county courts which should be retained in the bar discipline process.

Limitations on the authority of review committees to challenge ODC’s go/no go choice on grievances to proceed to hearing will concentrate authority too much in the ODC itself. Checks and balances are important. This applies to a series of changes. Concentration of power is bad for democracy. If there is not a broader consensus that a violation has occurred, ODC’s decisions may be outliers. An overzealous prosecutor may destroy careers and livelihoods with too little oversight. False positives do occur, and the existing checks and balances matter greatly. A more diverse set of perspectives matters here, and we get those by allowing review committees. Limits on prosecutorial power matter greatly in a democracy. Removing them now is a bad idea.

An oversight committee would help but is not alone enough. These

changes go too far.

I feel strongly that mental health and addiction issues should lead to diversion and non-public discipline, particularly for first offenses.

Protection against harm and potential harm to clients and the process of our courts (e.g., candor towards the tribunal and truthfulness in statements to others) should be the primary issues when considering discipline that could cost a person their career and/or reputation.

Opportunities for bar members to volunteer pro bono time as adjudicators should be retained. Lawyers practicing in the field have important perspective on disciplinary decisions which should not be eliminated in favor of a cadre of adjudicators who could become insulated from the realities of practice and particularly if that group is chosen directly or indirectly by the Office of Disciplinary Counsel.

Thank you for considering my opinions.

Stephen A. Teller

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