April 30, 2025

TO: Washington State Supreme Court
supreme@courts.wa.gov

FROM: Gabriel Hinman, WSBA #54950
Andrew Dugan, WSBA #57092
Susan Moss, WSBA #47045
Evangeline Stratton, WSBA #43038
Erika Rutter, WSBA #49046
Alexander Reaganson, WSBA #59365
Faith Foote, WSBA #59494
Paul Alig, WSBA #34937
Mark Von Weber, WSBA #171LLLT

SUBJECT: Comment on Proposed Change to RPC 6.1

Please accept the following comments on the proposed change to Rule of Professional Conduct ("RPC") 6.1 ("RPC 6.1" or the "Rule") to add an additional category of legal services to Washington's current definition of "pro bono publico service" (the "Proposal"). The undersigned include Washington attorneys and Limited License Legal Technicians of varied backgrounds and experience. We offer these comments as individuals with experience in the provision of pro bono services in Washington—experience gained through our work with underserved client populations, pro bono work, and current membership on the Washington State Bar Association ("WSBA") Pro Bono and Public Service Committee.

We respectfully suggest that the Court decline to amend RPC 6.1 as suggested in the current proposal because it would blur the line between "pro bono" legal work and "public service." We believe that this change would either distinguish one specific type of paid public service work above other similarly commendable work, or represent the first step towards redefining "pro bono" to include all categories of paid public service work.

RPC 6.1 currently states that "[e]very lawyer has a professional responsibility to assist in the provision of legal services to those unable to pay" and directs that "[a] lawyer should aspire to render at least thirty (30) hours of pro bono publico service per year." RPC 6.1. The Rule lists types of "pro bono publico service" a lawyer may perform that meet this professional obligation, including provision of "legal services without fee or expectation of fee" to "persons of limited means," "delivery of legal services at no fee or substantially reduced fee" to certain individuals, groups or organizations where "payment of standard legal fees would significantly deplete the organization's economic resources," or "participation in activities for improving the law, the legal system or the legal profession." RPC 6.1(a), (b).

The proposal as presented to the Court proposes to add the following option as an additional category of "pro bono publico service" under the Rule: "accept appointments by the court for

which a fee is expected and provide representation to individuals who are entitled to counsel at public expense."

We recognize the "critical importance of timely delivery of legal services through the provision of a court-appointed lawyer to individuals who are entitled to counsel at public expense" and agree with proposed new Comment 17 that a lack of lawyers to provide said services would cause harm to "the integrity of the legal system." However, we do not believe that all paid legal services that can be described as public service must or should be defined as "pro bono publico service" under RPC 6.1. Many Washington lawyers serve the public in paid roles for local, state, or federal government. Many other Washington lawyers serve the public by paid employment with non-profit organizations or Qualified Legal Service Providers ("QLSPs"). The "legal services" that may qualify as "public service" are as broad as they are difficult to define.

The Proposal, if approved, would blur this line between "public service," and "pro bono publico service," singling out one specific category of paid "public service" legal work as fitting within the definition of pro bono work, irrespective of compensation to the lawyer. If the Court adopts the proposed change and defines pro bono service to include appointed representation, some attorneys paid for public service roles would obtain pro bono service "credit" through their ordinary paid employment and others would not, reflecting a value judgment by the Court and the Washington legal system as to which particular paid attorneys are worthy of pro bono credit in their ordinary course of employment.

Any effort to remedy resulting inequities and more broadly credit public service lawyers as providing "pro bono" service would necessitate crafting a careful definition of which legal services do or do not represent "public service," requiring further value judgments by the Court and/or the WSBA about which lawyers' paid legal services are or are not deserving of the "commendation" suggested by the Proposal.

We believe taking this step would represent a slippery slope, folding the currently separate spheres of "public service" and "pro bono" service into one. While we believe that both pro bono service and public service are commendable and important, the touchstone for the difference between these categories is the payment for the work provided.

Instead of blurring this line, we propose that the line for what constitutes "pro bono publico service" continue to depend on the lawyer's payment for legal services and/or expectation of receipt of a fee. We are unaware of any jurisdiction that has defined "pro bono" service to include paid legal work. For the reasons stated above, we do not believe Washington should be the first to adopt such a change.

/s/ Gabriel Hinman */s/ Andrew Dugan* */s/ Susan Moss*

/s/ Evangeline Stratton */s/ Erika Rutter* */s/ Alexander Reaganson*

/s/ Faith Foote */s/ Paul Alig* */s/ Mark Von Weber*

From: OFFICE RECEPTIONIST, CLERK
To: Farino, Amber
Cc: Ward, David
Subject: FW: Comment on Proposed Amendments to RPC 6.1
Date: Thursday, May 1, 2025 8:09:48 AM
Attachments: RPC 6.1 Comment 4.30.25.pdf

From: Gabe Hinman <Gabe@smithalling.com>
Sent: Wednesday, April 30, 2025 8:45 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Amendments to RPC 6.1

Hello,

Please accept the attached as a formal comment on the proposed amendments to RPC 6.1 pending before the Supreme Court.

Thank you,
Gabriel Hinman
Attorney at Law

Smith Alling, P.S.
1501 Dock Street
Tacoma, WA 98402
Tel: (253) 627-1091
Fax: (253) 627-0123