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## **DISTRICT OF COLUMBIA BAR URGED TO OPEN ATTORNEY DISCIPLINARY PROCESS**

The Washington Legal Foundation (WLF), along with WLF's Economic Freedom Law Clinic at George Mason University School of Law (Clinic), today petitioned the Board of Governors of the District of Columbia Bar and the Board on Professional Responsibility to amend the District's disciplinary rules to allow the public greater access to and participation in all aspects of the attorney disciplinary process. This petition is the thirty-fourth filed to date by WLF in Phase Four of its SCALES ("Stop the Collapse of America's Legal Ethics") Project. WLF plans to file similar petitions over the next several months in other states where a significant portion of the attorney discipline process is conducted in secret.

WLF believes that secrecy in the attorney disciplinary process is arguably the greatest threat to the public's confidence in the legal profession. As the authors of an American Bar Association (ABA) report on the subject stated, "we are convinced that secrecy in discipline proceedings continues to be the greatest single source of public distrust of lawyer disciplinary systems." The report concluded that "secrecy does great harm to the reputation of the profession." WLF believes that the public's suspicion that discipline meted out under the cloak of confidentiality can be neither fair nor vigorous is wholly understandable, especially where complaints are dismissed without explanation as they currently are in the District.

To ensure the public greater access to the disciplinary process, both as a practical and theoretical matter, WLF's petition urged the D.C. Bar to open up the disciplinary process from the time the complaint is lodged with Bar authorities. Currently, disciplinary matters are kept confidential unless the Bar Counsel issues an informal admonition, or petitions the Hearing Committee to institute formal proceedings. Most complaints are dismissed without the public or other members of the Bar being apprised of the reasons for the dismissal. According to Bar Counsel, there were 1,458 complaints filed last year against D.C. attorneys, most of which were dismissed. The petition supports that aspect of the District's disciplinary system which makes public the formal hearings and informal admonitions. However, the publication of those proceedings and dispositions are sporadic, without any comprehensive or readily available source of information. Accordingly, the petition also requests that all public information be placed on an appropriate Website on the Internet, including notices of upcoming hearings so that the public and media may attend these hearings which currently are public in name only.

WLF's proposal is modeled after the procedures followed in Oregon which grant the public access to all complaints filed against attorneys; both those that are dismissed as without merit or with an admonition to the attorney, and those that proceed to a formal hearing on the charges. Officials in Oregon where the open process has been in place for as long as twenty years, emphatically support the program and do not know of any attorney whose reputation has been unfairly damaged.

WLF's SCALES project is a nationwide movement designed to eliminate abuse in America's civil justice system and improve the professional standards of America's lawyers. WLF petitions seeking public access to the attorney disciplinary process mark the fourth phase of the SCALES project. Earlier phases (which involved filing petitions in all 50 states) addressed attorney advertising, contingency fee agreements, and limitations on campaign contributions to judges by attorneys who practice before the judges. Numerous states have adopted recommended reforms outlined in the WLF petitions.

"The organized bar's reliance on secrecy is unnecessary and damages the public's perception of lawyers," said Paul Kamenar, WLF Senior Executive Counsel and Clinic Director after filing the petition with D.C. Bar officials. "The public is perfectly capable of distinguishing between meritorious and frivolous complaints, and all states should open the disciplinary process to public scrutiny," Kamenar added.

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