November 8, 2022

Welcome to Catalyst Publications Dictum.Live, a podcast series that focuses on legal related events and innovations.

I am your host, Chris Fox.

Today our topic is the Washington State Code of Judicial Conduct, specifically recent amendments to the Comments sections of Canon 2.2, titled *Impartiality and Fairness* and Canon 2.6 (4), titled *Ensuring the Right To Be Heard*.

RULE 2.2
Impartiality and Fairness

A judge shall uphold and apply the law, and shall perform all duties of judicial office fairly and impartially.

Comment

2. To ensure impartiality and fairness to all parties, a judge must be objective and open-minded.

3. Although each judge comes to the bench with a unique background and personal philosophy, a judge must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question.

4. When applying and interpreting the law, a judge sometimes may make good-faith errors of fact or law. Errors of this kind do not violate this Rule.

5. At times, judges have before them unrepresented litigants whose lack of knowledge about the law and about judicial procedures and requirements may inhibit their ability to be heard effectively. A judge's obligation under Rule 2.2 to remain fair and impartial and to uphold and apply the law does not preclude the judge from making reasonable accommodations to ensure an unrepresented litigant's right to be heard, so long as those accommodations do not give the unrepresented litigant an unfair advantage. This rule does not require a judge to make any particular accommodation.

RULE 2.6
Ensuring the Right to Be Heard

Comment 4

Judges should endeavor to ensure unrepresented litigants have a fair opportunity to participate in proceedings. While not required, judges may find the following nonexhaustive list of steps consistent with these principles and helpful in facilitating the right of unrepresented litigants to be heard:

1. Identifying and providing resource information to assist unrepresented litigants. Judges should endeavor to identify resources early in the case so as to reduce the potential for delay.
2. Informing litigants with limited-English-proficiency of available interpreter services.
3. Providing brief information about the proceeding and evidentiary and foundational requirements.
4. Using available courtroom technology to assist unrepresented individuals to access and understand the proceedings (e.g., remote appearances, use of video displays to share court rules, statutes, and exhibits).
5. Asking neutral questions to elicit or clarify information.
6. Attempting to make legal concepts understandable by minimizing use of legal jargon.
7. Starting the hearing with a quick summary of the case history of the issues that will be addressed
8. Explaining at the beginning of the hearing that you may be asking questions and that this will not indicate any view on your part. It will merely mean that you need to get the information to decide the case.
9. Working through issues one by one and moving clearly back and forth between the two sides during the exploration of each issue.
10. Inviting questions about what has occurred or is to occur.
11. Permitting narrative testimony.
12. Allowing parties to adopt their written statements and pleadings as their sworn testimony. This provision would not limit opportunities for cross-examination or be permitted in a manner that would prejudice the other party in the presentation of their case.
13. Asking questions to establish the foundation of evidence, when uncertain.
14. Clarifying with the parties whether they have presented all of their evidence and explaining that no additional testimony or evidence will be permitted once the evidentiary portion of the case is completed.
15. Prior to announcing the decision of the court, reminding the parties that they have presented all of their evidence, that they will be given an opportunity to ask questions once the court has issued its ruling, and that they should not interrupt the court.
16. If unable to do what a litigant asks because of neutrality concerns, explaining the reasons in those terms.
17. Announcing the decision, if possible, from the bench, taking the opportunity to encourage litigants to explain any problems they might have complying.
18. Explaining the decision and acknowledging the positions and strengths of both sides.
19. Making sure, by questioning, that the litigants understand the decision and what is expected of them, while making sure that they know you expect compliance with the ultimate decision.
20. Where relevant, informing the litigants of what will be happening next in the case and what is expected of them.
21. Making sure, if practicable, that the decision is given in written or printed form to the litigants.
22. Informing the parties of resources that are available to assist with drafting documents, as well as compliance or enforcement of the order. Examples include but are not limited to courthouse facilitator programs, advocates, lists of treatment providers, and child support enforcement.
23. Thanking the parties for their participation and acknowledging their efforts.

Joining me to discuss this topic is

Honorable Judge Jennifer Forbes of the
Kitsap County Washington Superior Court

and

Honorable Judge Michael Evans of the
Cowlitz County Washington Superior Court

Judge Jennifer Forbes is a graduate of the Seattle University School of Law. She is currently the Assistant Presiding Judge for Kitsap County Superior Court and the President of the Superior Court Judges' Association (SCJA). As SCJA Board President, Judge Forbes served on the Board for Judicial Administration and on the Strategic Oversight Committee for the Washington State Center for Court Research. Since 2019, Judge Forbes has chaired the SCJA Unrepresented Litigant Ad Hoc Workgroup and in 2020-2021 was co-chair of the SCJA Legislative Committee.

Judge Michael Evans is also a graduate of the Seattle University School of Law. Prior to his 2010 appointment to the Superior Court, Judge Evans served as a deputy prosecuting attorney for Cowlitz County in both criminal and civil matters. He created and ran Cowlitz County's first mental health court. Outside of court, Judge Evans is a member of the Ethics Committee of the Superior Court Judges Association, a member of the Ethics Advisory Committee, a member of the Commission on Judicial Conduct, and former ethics faculty for the Judicial College.

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Welcome Judge Forbes and Judge Evans and thank you for participating in this podcast.

I will begin with some statistics and trends.

Justin Snyder, US Court of Appeals for 11th Circuit, in an article published earlier this year titled *Robo Court: How Artificial Intelligence Can Help Pro Se Litigants and Create a "Fairer" Judiciary* cited a 2008 study that found 97% of tenants in court in disputes with landlords are unrepresented, 98% of domestic violence litigants are unrepresented, and 98% of parents in paternity and child support cases are unrepresented. Also, a 2020 study reported there is one attorney for every 6,415 poor people.

The GR 9 Cover Sheet suggesting amendments to the Code of Judicial Conduct Canon 2 Comments, Rules 2.2 and 2.6 echoed this "national phenomenon" noting a decline in defendant/respondent representation in civil litigation in general jurisdiction state courts from 97% in 1992 to only 46% in 2015.

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With that brief introduction I turn the microphone to either Judge Forbes or Judge Evans to talk about the Code of Judicial Conduct and the balance that is necessary and implicit between Canon 2.2 "perform all duties of judicial office impartially, competently, and diligently" and Canon 2.6 "ensuring the right to be heard."

Judge Forbes

Thank you, Chris. I don't know if you want to talk about the interplay of the rules and how they relate to Comments or if we should just talk about the substance of the proposed changes adopted in September. I will defer to you.

Judge Evans

Yes, that might be a good place to start. You know under the Canon of Judicial Conduct you can only be found to have violated an actual rule. So, if you violate a Comment, you are not necessarily violating the Rule. The Comments are there

as a source of guidance to the judiciary. If you follow the guidance within the Comments your likelihood of being found in violation of one of the Canon's rules is diminished.

Judge Forbes

Thank you, Judge Evans. I will just back up a little bit. The genesis of the proposed Comment changes came from the Superior Court Judges Association Unrepresented Litigant Workgroup. Our primary focus is to figure out ways that our system of justice could better serve folks who are not represented by counsel. There are multiple ways that we are looking at addressing this. One of them is judicial education. If you look at Rule 2.2 which addresses *impartiality and fairness* and a judge is supposed to uphold the law and Rule 2.6 which is geared at ensuring that everyone who appears before a court has the right to be heard, those rules basically already set up a court to not give legal advice but to make sure that when somebody doesn't have a lawyer when they come to court they are treated appropriately and that they get the guidance that they need so that you can actually have *access to justice.* The concern is that there are times judges do not really know what they can and cannot do. Judges are trying to be careful not to appear to be favoring one side or another. For example, it is hard when you have a person who does not understand the basics of how to file a motion. It is things like that when they appear in front of the court and are told they did not do it right and are turned away. They never can get in front of the court and have the substance or merit of their claim heard. So, the goal of drafting the proposed Comment changes, which have now been adopted by the Supreme Court, was to provide clearer guidance to courts so that they knew that there were things they could do without breaching their obligation to be partial and fair while also ensuring that everyone who comes before the court really does have access to justice. The courts have to make a little more effort when it comes to people who don't have the benefit of counsel because the court system is not set up for people without lawyers. It is difficult for a non-lawyer to understand even the basics. If I tell a non-lawyer to note up a motion, they will look at me blankly and not understand what I just said. We are trying to make it a little easier so that decisions are based on the substance of claims and not on procedural difficulties with people just navigating our system. That is the purpose of drafting the Comments that have since been approved.

Judge Evans

Could I jump in and share something? I thought it was interesting because you know the SCJA Unrepresented Litigants Work Group did send out to all the other committees within the SCJA for some comments. At the time I was the Chair of the SCJA or Superior Court Judges Association Ethics Committee. When we first saw the draft, we were like, oh my goodness! It appeared at first that impartiality and the appearance of fairness was out the window. That was our initial reaction. But when we dug into it a little bit those concerns were slightly lessened. We saw these proposed Comments to Rule 2.6 provide a step-by-step guide to the judge. Kind of a sequential guide beginning at the pre-trial stage, sharing as many resources as you can with the unrepresented litigants. When you are in trial, which encompasses Comments 2 through 8, check with them to see if they need an interpreter to help them understand and explain the foundational requirements for evidence, summarize the issues at hand and let them know that they can ask questions as they go through this process. The next phase the Comments encompass in the trial is the evidence phase. Those are Comments 9 through 14. This is really important because it tells the judge this is a nice way to approach these issues that will help our unrepresented litigants that you're going to address the issues just one by one and that you'll go back and forth from each litigant on a single issue so nothing's lost in the mix which, as you know when you're in the heat of battle, is really easy to do. And then you get to the decision phase, which are Comments 15 through 23 of Rule 2 6. That gives good guidance to the judge to say you are going to have a chance to ask some questions but do not interrupt me, let me finish and then we can clarify anything that you might have troubles at complying with the court's order and then telling them what's going to happen next. On the human side, the last Comment is it is okay to tell people thanks for participating, acknowledging their efforts and expressing gratitude.

Massachusetts adopted a similar rule to their canon, but it only gave seven examples. In Washington state we have listed 23 different ways that judges can assist ethically within the canons to help our unrepresented litigants.

Chris Fox

Thank you both for the explanation. I looked at other states and found that Minnesota has only seven criteria within the Comment section and Louisiana has only five. I could not find any state that mirrored Washington's format and listing. That prompts a question how that extensive list was generated if there was not a predicate to be found elsewhere in the United States?

Judge Forbes

That is a great question, Chris. The Unrepresented Litigant Workgroup took this project on in late 2019, early 2020. We started working on what kind of efforts we can take to educate judges. There are a lot of resources actually on the nationwide basis for working with self-represented litigants and one of the things we found was a Model Code Of Judicial Conduct and there were some proposed Comments for this type of provision that suggested things that courts could include in their Judicial Code Of Conduct to explain to courts how they can manage this very difficult process. This is a hard thing for judges to try to balance and to really feel confident that they are doing the right thing to balance both that neutrality and access to justice. It is a difficult rope to walk sometimes. So, we looked at the model draft language that came out of this organization and a good portion of these suggestions came from them. We modified it to ourselves. We shopped it around. We sent it up to the Supreme Court formally to look and we had conversations with various groups. So, this actual product is a combination of a lot of work and a lot of shopping around the community. The genesis of many of the suggested changes came from a model code.

Chris Fox

Judge Forbes, I am looking at the GR 9 Cover Sheet and I see a reference to The National Center for State Courts. Would that be the group?

Judge Forbes

It may be, yes. There is also the self-represented litigant network that is a national organization separate from that group and it was one of those two groups that had a model code and it had lots of examples from across the country of different states. I took pride in the fact that Washington was going to be a leader and not a follower on this issue and so I was happy to push forward with “let's do it all” because you could pick and choose from the different examples but in the end, they weren't necessarily moving the needle in terms of informing judges really on what this meant. So, giving practical basic explanations for what that really means instead of generalities I thought would be more useful for judges who want to stay within their ethical bounds. We as a group determined that this was the best approach. So, yes, the cover sheet may reference the source for some of this. The National Center for State Courts is certainly a resource we tapped into.

Chris Fox

The GR 9 Cover Sheet indicates that the proposed rule or proposed canon was to receive public comments through April 30, 2022. Can you briefly discuss what type of comments you received and from whom? Were there comments from attorneys, lay people, judges?

Judge Forbes

I do not remember getting any comments other than supportive comments that were general, such as we have reviewed the rule and we think that this would be appropriate kind of comments. I do not remember any negative comments coming In. I can look at the proposed rule history and see if there were any comments, but my recollection is that there were no negative comments.

Chris Fox

Judge Evans, you have already identified the categories regarding these Comments. I first note that these are permissive not mandatory. Can you discuss what impact and what influence the Comments will have upon the judiciary when the Comments are characterized and identified as permissive and not required?

Judge Evans

Yes. Traditionally judges have been very hesitant to stick their necks out in a way that may appear that they are assisting one party or helping one party more than the other. So there has been reticence by many judges to engage in this. When you have a list of suggestions that is in black and white and says you can do these things and when they say it is non-exhaustive that means that there is a suggestion there that the judge can actually do more to assist a person to have their case properly heard. That is the challenge with this rule; if you're on the opposing side and you see a judge doing something that appears to be leveling the playing field the natural reaction is you're going to be looking at that a bit askance and thinking, gosh, the judge has really bent over backwards to help this other party who doesn't have an attorney and here I've paid my $15,000 retainer and, well, they should have to pay that too. There are those issues that are at play there. I think for most judges this is an opportunity to move in a positive direction because I think judges have recognized that unrepresented litigants are at somewhat of a disadvantage and the playing field is not level. And sometimes we have seen litigants who have tried to get a piece of evidence before the court but are not able to meet the foundational requirements or other procedural hurdles that they have been unable to surmount overcome. So, with these suggestions or these Comments I think there's freedom for judges to act in a way that preserves impartiality and independence while at the same time assisting everybody so we have a full picture so we can hear it more on the merits. I think at times past unrepresented litigants did not have the opportunity to fully have their cases laid out in a clear manner.

Chris Fox

These amendments became effective in September 2022. Has there been any substantive response or feedback from stakeholders: judges, attorneys, or litigants?

Judge Forbes

I have not received any Comments other than people who are happy to have some guidance but that is mostly anecdotal nothing official. I think the litigants may not realize this rule is out there. I am not sure how many lawyers are paying attention to this rule. I know sometimes lawyers are unhappy with me when I do these things in court. They feel like they have a one-up on a self-represented litigant and so I've definitely had that experience of a litigant or a lawyer being unhappy with my accommodations.

Judge Evans

Nor have I. I think most unrepresented litigants don't go to court very often and so they won't know unless they're really tuned in or somebody tips them off. Judges have a great opportunity to put into practice some of these efforts so that

litigants can feel that they've been heard. I think that's crucial because part of our job as judges is to enhance the confidence of the public in the judiciary. I know many times pro-se litigants or unrepresented litigants come to court and they feel like they got the shaft, to be frank and it's because they didn't understand the process and nobody took the time to explain what resources were - and the like - so when a judge is given opportunity explicit through the rule to point out this is what we're going to be looking for. These are the 11 factors in a relocation trial, and I'll expect to be hearing information from each of you about those particular factors. When a person hears that they think, okay great, I know how to play the game and they can act accordingly. That builds confidence in the judiciary; like this system gave me a fair shake, it's not the good old boys club or it's not the playing field of people that go to graduate schools but a playing field where everybody can have their matters heard. I agree with Judge Forbes. Oftentimes the attorneys that are on the other side of the equation will look at me and either roll their eyes or object. I think many judges have been doing this before the rule came out. I have been active in trying to make sure that everybody's information is before the court and so it has been an ongoing process. I think as this rule comes into play and is used more often people will become more accommodated to it and it will be easier for everybody to kind of digest it and we will have a better product. When we make decisions with good information you get, hopefully, a good decision coming out.

Chris Fox

I know the amendments are available and accessible on the Internet, but are there plans to further disseminate them to the legal community and litigants?

Judge Evans

Judge Forbes and I have participated in two training sessions, and we are participating in another one this week with different judicial officers. We presented to the District and Municipal Court Judges Association Conference and to the Superior Court Judges Conference. We went over this new rule with the Comments, and we will be presenting to administrative law judges later this week on the same topic.

Judge Forbes

The rule was publicized to judges through both the regular court process for publishing rules and through the training that we have done. I am not aware of plans to publicize it outside of that to the lawyers or to unrepresented litigants. Certainly, the Bar Association has folks that monitor proposed rules and adopted rules and, as you know, we did shop this around with the family law bar because it really is oftentimes a family law issue. We work with a lot of folks who work with unrepresented litigants such as Northwest Justice Project Office of Civil Legal Aid. The State Law Library is involved as well.

Chris Fox

Thank you for participating in today's podcast and so generously giving your time. We are going to disseminate it to the family law community throughout the state through our publications and our website. We will try to do our part to let the practitioners in the family law professional community know about this.

The first item on the enumerated list references “identifying and providing resource information.” Is there a contemplation of what that resource information is or should be?

Judge Forbes

We did give some examples in our training of what it might look like. It really is a local issue. We can do things that apply across the state, but a lot of the resources are local as well. Do you have a local legal aid provider? Do you have one for

domestic violence victims? For example, do you have a victims advocate program? Things like that. A lot of it has to come from leadership at the local level, from each court. We have a number of resources that are available statewide. And, of course, we encourage the judges to include that type of information such as in a handout that you give to people at court or on your website that goes through places to look for forms or places to look for guidance as to how to do certain things. It is also something that the local courts have to tailor to the needs of their own community and what it is that they have available in their community. Not everybody has a legal aid office in their community or has the type of resources King County has. King County has a lot more resources than Kitsap County and probably more than Cowlitz County, although I know Cowlitz County has a fantastic page on their website for its superior court. There are certain things that we can share that are statewide but generally each court needs to take on that responsibility.

Judge Evans

Yes, and I was going to mention that our Cowlitz County Superior Court website lists a couple of different documents that we found have been helpful to those that have accessed them. Some of the things we have on our self-help guide page include a document with ten steps for presenting your evidence in your case. Another is ten ways to find help with your case. One that has been really helpful is the family law trial readiness checklist. We found that a lot of people were not bringing the right information or just were not prepared with the things that we wanted them to have so we created that checklist which I think helped judges receive better information. We even have a document on the website that informs people how to present their audio and visual evidence on the protection order docket because a lot of times people come in with audio recordings or say, “it's right here on my phone or it's right here in this text message,” and the like. So that has been helpful, and it is a good resource. Sometimes people do not have access to Microsoft Word because of the cost so we provide three different free word processing programs that can help people. They can print out the forms so that's more legible if they want to make a better-looking case or presentation.

Chris Fox

Do you anticipate that there will be mechanisms to measure the success of this list and this amendment?

Judge Forbes

I don't know if there'll be a way to really measure it. I will say the Unrepresented Litigant Work Group has a lot of other things they are working on. One is what we call self-help centers. We are also trying to get funding for self-help centers, and we have some money from the legislature. It is not enough to get a robust program going but enough to get started. We have two pilot projects right now in the court and the state, one in Spokane and I believe one in Grays Harbor. Of course, they are going to be different for each one. The reason I mentioned this is that we have sought funding with the legislature to continue those and expand them potentially with more financial support, and to study them and to see what works and what does not work to create model programs that can be used across the state. In terms of research, we don't have independent funding to study how this works. We could do surveys, but without knowing that a judge is using and doing it routinely it is hard to study. I do not anticipate any studies on that at the national level. You might find resources available to do that and they might study it and have other states have expanded roles and how it has helped help folk. But we do not have anything like that available to us.

Chris Fox

Looking through this list, one that particularly catches my attention is number 11 with regard to permitting narrative testimony. Do you anticipate this will prompt objections on the record and create appellate issues?

Judge Forbes

I have dealt with it firsthand in court where the issue of narrative testimony has come up. I don't know it's an appellate issue per se. An attorney can still object and the court can deal with it. I think the real issue is, are you in front of a jury or are you in front of a judge? If you're in front of a jury, it becomes more problematic to allow narrative testimony because you can't un-ring the bell as much. You can tell a jury to disregard, and you hope they do, but it's always better to not have to go through that exercise. Whereas with a judge in a bench trial if I have an unrepresented litigant who's going to give me hearsay and I have an attorney that jumps in the narrative and says objection, hearsay, I'm in a better position where I'm confident that I can disregard inappropriate evidence. I will say and I'm sure Judge Evans would probably agree that when it comes to a pro se trial where you have unrepresented folks on both sides it is always narrative. It is very unusual to have them answer a question, ask questions and have answers and to go through that whole process particularly with their own testimony. It is almost always narrative. I feel comfortable the record that you make at a domestic type of trial or a bench trial is going to be fine on an appeal. If you're in front of a jury with an unrepresented person then I would be more proactive about making sure they understand that they may need to do questions and answers particularly with their own testimony, which is sometimes awkward for them but is probably more important in that context. But these rules again are suggestions and are not mandatory and every judge is going to have to use their discretion to determine when it is appropriate and when it's not and there might be times even on a bench trial where you're not necessarily going to allow it. But the idea is to be open minded to it because there are occasions that's going to help this person give their side of their case and to feel like they were heard and to feel like even if they don't always get everything that they've asked for that they have had an opportunity to present their case before the court.

Judge Evans

Early in my judicial career I required the “ask a question-provide an answer” format when a person was representing themselves and I found that just completely unworkable. Number one, it is so difficult to frame a question that you know what you want to say but then you must come up with an additional question that's going to prompt a particular response. So since early on I have permitted narrative testimony as a general rule, and I find that it’s less of an impediment and a much freer flow of information that is helpful. A trial is hard enough with all the nerves and the pressure to be able to alter the way you function on a normal day-to-day basis and that is just one extra barrier and hurdle that I think is presented when we require formal question and answer responses. So, for me that is helpful. I agree with judge Forbes there may be times where it would be appropriate to require that kind of question/answer format. But narrative testimony generally gives you more of the information we're needing.

Chris Fox

In a previous Dictum.Live podcast we focused on the integration of AI and the implementation of AI in the legal system. That is some linkage here, bearing on the question of and the issue of providing resource information. I believe in our email exchange Judge Evans you had said that you might have thoughts on that and potentially how there may be an interplay with this list and this amendment

Judge Evans

Yes, I think it is a really interesting and actually kind of an exciting concept to apply AI in its various forms to judicial decision making. I thought the weeding out of less complicated issues was interesting. Through AI those decisions could be made and then only more complicated or novel issues or where both sides disagree with the algorithm's decision would be brought to the attention of a judge. So, there may definitely be some cost savings. One of the downsides I see

to AI, at least in my perception, is that humans are inherently social creatures. And there is a certain emotion that goes with judicial processes. Often prosecutors are described as the White Knight riding in on their horse and saving the day. On the opposite side, the defense attorneys are protecting the weak soul against the crushing power of the government. I think as humans there is this desire. It is just very unsatisfying when we have a computer who has learned some things instead of a flesh and blood fellow human telling us what the answer is to this conflict that we have.

I am concerned about disengagement from the system if we were to do a wholesale adoption AI and judicial proceedings. It is important you feel like you are heard by a fellow human and heard what a judge said back to you. I have considered these things and I guess AI could do that also but there's something about that human element that is a bit off-putting when it's not present. In the present day and age there's lots of concerns about the secret cabal or these organizations that are taking over the world. Not to poo-poo those ideas or give them too much credence, those are issues that people think about. So, yes, I think there's definitely a place procedurally, like how to file a motion. Also, I have thought about the concern of AI giving a profile to a particular judge. I think some judges may have some concerns related to that. An artificial intelligence may come to the conclusion that Judge W is hard on crime or is easy on child support or always sentence sex offenders to the low end of the range or the like and that may impact the way a judge thinks because in Washington, as we know, judges are elected and that may have an unintended consequence of changing - for the better or the worse - the way a judge rules. It is also concerning that could be used in publications for elections.

Chris Fox

Judge Forbes, do you want to provide a follow up or supplement?

Judge Forbes

A priority of the Unrepresented Litigant Workgroup is to find ways to use technology to aid unpresented litigants. There are examples of kiosks across the country. California, for example, has amazing programs that help folks navigate the court system using technology. It is difficult to speak concretely about AI in the absence of having particular programs to look at. Plus, funding is always an issue for us.

Chris Fox

I would like to offer each of you an opportunity to provide any concluding remarks.

Judge Forbes

I understand the audience of this podcast is going to be mostly lawyers. I think lawyers should consider this rule not as something that to be leery of or afraid of, but something designed to get to the substance of cases. Lawyers should focus on that rather than the idea that this is going to put them at a disadvantage or take away an advantage that they have. Unrepresented litigants are still going to be terrified of the process. They are oftentimes dealing with something that is a really horrible event in their life and we are layering on top of that the complexity of our legal system and we're really truly making it an unbalanced system. This rule is intended to try to offset a little bit, to make sure that what a judge makes a decision on is based on what the facts show or the evidence shows and not on the fact that a person who hasn't been to law school doesn't know how to navigate the court system in a way to present their case. I know change is hard sometimes, but this rule is going to improve the outcomes in court. It is going to give courts the ability to make decisions about children and families and property in a way truly about justice. I am really very proud of the work that my group has done and all the efforts we put in. I am very proud of this rule and if people have questions about it, they are absolutely welcome to email me and I'm happy to talk to them about it.

Chris Fox

Judge Evans, do you have any concluding comments or remarks?

Judge Evans

I think as a society we want a system that fairly and carefully resolves disagreements and that really preserves a peaceful resolution to our disagreements as we know. Many people represent themselves in court and anything that we can do to allow the full story to come out and be presented to the court I think is in the best interest of those goals. In particular, resolving disagreements in a peaceful fashion and I've always been a proponent that when two sides are coming at each other full speed like a jousting contest if one side overpowers the other you don't necessarily have the clearest picture. I have always envisioned you know two sides coming at each other hard. They hit each other on equal terms and then the truth splats out onto the wall, and it is easy to read and you're able to see it. That is the hope behind the hope and the intent behind these new Comments to Rule 2.6 is that through engaging people that are unrepresented and affording them a means and a way to have a clear level playing field that we will have better outcomes and that the lofty goal of a peaceful resolution of disputes is preserved.

Chris Fox

Thank you both for participating in this important discussion.