

>>> Paula Sweeney <pfs@waymark.net> 06/10/02 12:57PM >>>
> Dear Debra and Committee members
>
> If time permitted, I would write a "real" letter and send it to Chip
and
> Bobby Meadows for addition to the materials for discussion this week.
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> Time does not permit. I note that Ralph's letter, dated the 30th,
was
> only made available to us today, and with our meeting coming up in
just
> a few days, there is little time for the usual formalities, much less
> the vagaries of the U.S. postal service, hence this e-mail.
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> I do not know what the Rule 202 agenda item is about. All I know is
> that our only Governor (to paraphrase Molly Ivins) thinks there is a
> problem with the Rule. As he is a non-lawyer, elected, partisan
member
> of the executive branch, I wonder about the depth, breadth and extent
of
> his exposure to the issue, as well as about whether or not this
> committee should be tackling a 'problem' which is utterly undefined,
at
> least in the committee materials available to me.
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> In any event, if the 'problem' is what Ralph described, then based
only
> on the facts he described, I must disagree with him. To boil down
his
> complaint, it is that NO lawsuit was filed - in fact the Rule 202
> depositions were not even taken. So no frivolous suit occurred (this
> should please the Governor), and no exorbitantly costly discovery
took
> place. The school fired the headmaster and had to pay him a
settlement
> - and without knowing more, we are to take this as evidence of a
problem
> with Rule 202. I accept neither the premise, that requesting
> depositions in the situation described by Ralph was improper, nor the
> conclusion, that somehow taxing the cost of the hearing after the
fact
> because the depositions did not occur, would in any way change the
> situation. The complaint, if any, should be that the trial judge
acted
> improperly in granting the discovery, if that is so, not that the
rule
> exists.
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> Rule 202 is a valuable and necessary tool. It allows parties to do
> discovery, in a very circumscribed, limited way, to determine the
merit
> of a potential suit. In other words, it SAVES money, litigation cost
> and time, and cuts down on non-meritorious suits. Its use should be
> encouraged, not discouraged. Time and again, we have seen suits NOT
> filed after Rule 202 discovery, or suits filed against fewer parties
> than would otherwise have occurred. This is an enormous benefit to
the

> system.
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> The same political forces that want to impose an offer of judgment
rule,
> effectively fining citizens for using the courts, now want to
> circumscribe those same citizens' ability to do Rule 202
investigation
> to winnow down their cases, or else fine them for using that rule as
> well. This committee should insist on two things: a definition of
the
> "problem", whatever it may be, with Rule 202, and empiric evidence
that
> there is a problem before it hops on its horse and rides off in all
> directions (apologies this time to Cervantes) in search of a
solution.
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> Thanks for your consideration
> Paula Sweeney