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## THE IMPORTANCE OF THE RULE OF LAW

There is nothing more essential to society than the rule of law. If there is no rule of law, then people do what they please. This inevitably results in rule of the strong over the weak, without regard to fairness or justice. I am an ardent and firm believer in the necessity for the rule of law. The State Bars similarly stress continuously, (for purposes of “wise publicity”) the importance of the rule of law.

The place where the State Bars and myself depart, is that I believe the rule of law applies equally to those in charge of regulating the legal profession. The State Bars prefer to irrationally claim exemptions from constitutional principles of law, through a manipulative use of logic and interpretation. This I have determined to be wholly unacceptable and in fact, a violation of the rule of law itself, which reflects adversely upon the moral character of the Bar.

It will be demonstrated herein, that the Bars interpret rules hyper-strictly against Applicants, since to do so fosters State Bar economic interests. This would not be entirely objectionable if the State Bars were also subjected to hyper-strict application of the rules. What they do however, is when the issue of applying rules to their organization is presented, they assert the need for a liberality in construction of rules, since such is also to their economic advantage. Ultimately, what society is left with, are rules applied strictly to everyone except the State Bar.

It has been an unfortunate predicate throughout history that when rules are broken, they tend to be broken in favor of the strong, rather than the weak. The entire concept of enacting rules in any society, in any sports game, or market, is to equalize the playing field. By having rules, everyone is supposed to know the manner in which a given event or controversy will be played or handled. By having rules within the context of litigation, the goal is to equalize the rich with the poor, the strong with the weak, those who know powerful people with those who don't know powerful people. The intended concept is that by having rules no one should be able to gain an unfair advantage by doing things in an informal manner.

The dichotomy between liberal and strict interpretation of rules to fit self-interested goals has its basis in the related dichotomies of procedure versus substance, and rules versus standards. I present a hypothetical example for analysis. Let us presume a requirement exists to "file" a certain document within five days. That would be a rule. The rule is designed to foster the provision of "Notice" to another party in a timely manner. “Notice” therefore, would be a standard. Rules are designed to promote standards. The difficulties arise when a particular rule, due to the circumstances of a case, functions in an unjust manner. In the hope of solving such dilemmas, rules are therefore subject to interpretation.

In our foregoing example, a common interpretation might be as follows. A document must be "filed" within five days, unless a party demonstrates "reasonable cause" for missing the deadline. One problem is solved and another is created. The dilemma created is determining what constitutes “reasonable cause.” Whether “reasonable cause” exists has now become the determinative factor as to whether the five day deadline should be applied. This now brings our hypothetical to the dichotomy of procedure versus substance. Procedure takes precedence over substance when a particular rule is applied in a given case, even though application of the rule may cause an unjust result. Substance takes precedence over procedure when a rule is not applied, because the result of applying the rule would be unjust. So perhaps the answer is easy, you think? Simply apply the rule when to do so is "just." That

however, creates a brand new problem. The "rule" has ceased to be a rule and has instead become a "conditional rule."

What if the rule is always applied to the weak, but the decision-makers consistently determine that "reasonable cause" exists when those who are strong do not comply with the rule? Essentially, the weak are then always subjected to the rule, but the strong are always exempted from it. In such an instance, there is no doubt that procedure takes precedence over substance with respect to the weak. Procedure does not take precedence over substance with respect to the strong. Nor for that matter, does substance take precedence over procedure with respect to the strong since the rule is being applied inequitably. The most basic standard of all, "Justice" has been violated. The strong are simply benefiting from a blanket exemption to the rule.

When this occurs, the rule that was originally designed to implement "justice," has instead become the exact tool used to cause "injustice." Originally intended to equalize the playing field, the rule has become the implement used to rig the playing field. By allowing State Bars to apply rules hyper-strictly to people other than themselves, but leniently when their own interests are at stake, the rule of law is broken. It is irrefutably a significant step towards condoning the detestable principle that the strong should rule the weak.