

1 SUPREME COURT OF THE STATE OF WASHINGTON

2
3 In the Matter of
4 the Disciplinary Proceeding Against
5 DOUGLAS A. SCHAFER,
6 an Attorney at Law.

Bar No. 8652

MOTION TO ACCEPT
OVERLENGTH BRIEF

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8 **1. Identity of Moving Party:** Douglas A. Schafer, the Respondent Attorney.

9 **2. Statement of Relief Sought:** I request that the Court accept an overlength brief.

10 **3. Facts Relevant to Motion:** With this Motion, I am filing a 70-page Opening Brief (the
11 “Brief”) in this disciplinary matter. RLD 7.6(f) directs that briefs to this Court in the appeal of
12 disciplinary board rulings shall conform as nearly as possible to RAP 10.3 and 10.4. RAP 10.4(b) sets
13 a maximum length of 50 pages for opening brief in appellate matters. RAP 1.2(c) indicates that this
14 Court may waive the provisions of any of the RAP’s “in order to serve the ends of justice.” The
15 disciplinary ruling being appealed from recommends that this Court suspend Schafer’s license to
16 practice law for 12 months.

17 **4. Grounds for Relief, and Argument:** The facts giving rise to this disciplinary case, and the
18 issues raised by them, are central to the integrity of our legal system and its administration of justice.
19 The facts documented in the record, and summarized in the Brief, clearly establish rampant corruption
20 by a group lawyers exploiting a probate estate, the ringleader of which—Grant L. Anderson—became
21 a superior court judge. The facts clearly illustrate an ineffective, if not corruptly influenced, response by
22 this Court’s lawyer disciplinary system, administered by the State Bar. The Ruling by the disciplinary
23 board illustrates its inability to understand the distinction between client statements that are privileged
24 under laws of evidence and other unprivileged but still confidential client “secrets” (a much broader
25 concept). The record summarized in the Brief illustrates the corrupt manner in which “power players”
26 influence the State Bar’s disciplinary process.

27 The chief issue addressed in the brief goes to the question of whether an informed public should

1 have confidence in the integrity of this state’s judicial system, for unless this Court declares that the
2 maintenance of integrity in its judicial system is the highest priority of lawyers and judges, the public
3 cannot be expected to have confidence in it.

4 Another issue conspicuously raised by the facts of this case (independent of the fact that the
5 central corrupt figure was a sitting superior court judge) is whether lawyers must be passive **enablers**
6 of crime and fraud when they discover that their clients have used their services to further such
7 lawlessness. The issue goes to the question of what is the role of lawyers in our society—are they
8 “guardians of the law” with a public-interest duty to support the “rule of law,” or are they simply
9 “mercenaries” that clients may use to thwart the “rule of law.” Accurate analysis of this issue required a
10 detailed presentation of the 117-history of the crime-fraud exception to the confidentiality principle, and
11 an explanation of the self-interested forces within the legal fraternity that have sought to reject lawyers’
12 traditional duties to society.

13 Also, the facts of this case raise important Constitutional issues on the extent to which a
14 profession’s rules of conduct may constrain its members, as responsible citizens, from exercising their
15 rights fundamental in a democracy to expose clear evidence, for the eyes of enforcement officials and of
16 the general public, of the corruption of an elected public official—a superior court judge.

17 An adequate treatment of these issues by the Respondent required an overlength brief. Because
18 of the extraordinary importance of these issues to this Court and to the greater society that the members
19 of this Court (and other “officers of the court”—namely, all of its licensed lawyers) are sworn to serve,
20 this Court should accept the Brief notwithstanding that it exceeds by 20 pages the normal length limit for
21 such briefs.

22 September 6, 2001

Respectfully submitted,

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Douglas A. Schafer, WSBA No. 8652