



**ILLINOIS STATE  
BAR ASSOCIATION™**

March 22, 2023

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Committee Secretary

Supreme Court Rules Committee

222 N. LaSalle Street, 13<sup>th</sup> Floor

Chicago, IL. 60601

**Re: Proposal 22-04 (P.R. 0307)  
Proposal 22-07 (P.R. 0310 )  
Proposal 22-10 (P.R. 0313)**

Dear Committee Secretary:

On behalf of its more than 27,000 members, the Illinois State Bar Association ("ISBA") is pleased to provide comments on the above referenced proposals.

**1. Proposal 22-04 (New Rule 909)**

As you know, Proposal 22-04 is offered by the ISBA. As such, the ISBA fully supports it. In addition, the ISBA requests that Nancy Chausow-Shafer, a member of the ISBA's Family Law Section Council who was involved in the drafting of the proposal, be permitted to address the Committee on the Proposal at the March 29, 2023 public hearing.

Proposal 22-04 would authorize courts to establish uniform rules for the conduct of parenting coordination including the appointment of a qualified parenting coordinator to help resolve minor family disputes that may arise under a court entered parenting plan. The goal of this child focused alternative dispute resolution process is to more quickly and efficiently resolve minor disputes where coparents are unable or unwilling to resolve them. It may also have the benefit of shielding a child from parental conflict. This type of process has been used successfully in several courts in Illinois.

2. **Proposal 22-07** (Rule306)

The ISBA **opposes** Proposal 22-07. The ISBA's concern with the amendments is twofold. First, as a general matter, the ISBA is concerned about relying too heavily on "forum selection clauses," especially since they are often the result of unequal bargaining power between litigants. In this regard, it is the trial court that is in the best position to evaluate the effectiveness of such a clause, unencumbered by the potential for an interlocutory appeal. Second, the ISBA is concerned about the potential for litigation delay and gamesmanship should such clauses serve as a routine basis for interlocutory appeal.

3. **Proposal 22-10** (Rules 761, 763, 759, 753, and IRPC 8.3)

With respect to the proposed amendment to Rule 761, the ISBA **opposes** it. Although not specifically directed at the proposed amendment, the ISBA believes that the scope of Rule 761 should be clarified and narrowed. The ISBA believes that the Rule's reference to "misdemeanors" encompasses far too broad a class of offenses that may trigger a lawyer's duty to notify the Attorney Registration and Disciplinary Commission. Under the current Rule, minor offenses such as speeding tickets or ordinance type violations not related to the practice of law (or otherwise touching on a lawyer's fitness to practice law) but defined as "misdemeanors," likely trigger the notification duty. Because the proposed amendment does not address this fundamental scope issue, the ISBA does not support the amendment.

With respect to the proposed amendments to Rule 763, the ISBA **supports** them.

With respect to the proposed amendment to Rule 759, the ISBA **supports** it.

With respect to the amendments to Rule 753, the ISBA **opposes** them. The proposed amendments to S. Ct. Rule 753 would treat other jurisdiction's discipline as *conclusively establishing* attorney misconduct in an Illinois reciprocal disciplinary proceeding. Foundationally, the establishment of, in effect, an irrebuttable presumption of misconduct based upon the findings of other jurisdictions – proposed now to include federal courts and certain agencies - offends concepts of due process. More specifically, concerns were expressed by ISBA members about the inconsistency between federal disciplinary proceedings at various courts and agencies; whether, for example, a ruling of misconduct by a bankruptcy judge in another state should be given conclusive effect in an Illinois disciplinary proceeding; the lack of due process protections in many federal court disciplinary proceedings; and the limited nature of federal court discipline which may only bar a lawyer from practicing before a single court – which may lead a targeted lawyer to not mounting a serious defense.

With respect to the amendments to IRPC 8.3(d), the ISBA **supports** them.

The ISBA appreciates the opportunity to provide its comments on the above proposals.

Very truly yours,



Charles J. Northrup  
General Counsel

Cc: Amy Bowne (via email)