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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ALAN F. HALL,**

Lawyer (Bar No. 1505)

Public No. 14#00037

ODC File Nos. 13-00935, 14-00514

RESIGNATION FORM OF ALAN F. HALL  
(ELC 9.3(b))

Alan F. Hall, being duly sworn, hereby attests to the following:

1. I am over the age of eighteen years and am competent. I make the statements in this affidavit from personal knowledge.
2. I was admitted to practice law in the State of Washington on May 3, 1974.
3. My counsel acknowledged service of the Formal Complaint on February 3, 2015.
4. After consultation with my counsel, I have voluntarily decided to resign from the Washington State Bar Association (the Association) in Lieu of Discipline under Rule 9.3 of the Rules for Enforcement of Lawyer Conduct (ELC).
5. Attached hereto as Exhibit A is Disciplinary Counsel's statement of alleged misconduct for purposes of ELC 9.3(b). I am aware of the alleged misconduct stated in disciplinary counsel's statement but, rather than defend against the allegations, I wish to permanently resign from membership in the Association. My answer to the WSBA complaint is attached as Exhibit B. My brief related to the *Sui Generis* nature of the WSBA disciplinary process is attached as Exhibit C.

034

1           6.       I agree to pay any restitution that may be ordered by a Review Committee under ELC  
2 9.3(g) for the amounts paid to me as set forth in paragraphs 14 (\$1,500), 41 (\$150), and 47 (\$150) of  
3 the Formal Complaint, plus interest as may be determined by the Review Committee.

4           7.       Based on representations of the WSBA disciplinary counsel, I understand that while  
5 ELC 13.9 permits ODC to seek reimbursement for the fees, costs, and expenses of appointed counsel,  
6 ODC will not do so in this case.

7           8.       I understand that my resignation is permanent and that any future application by me  
8 for reinstatement as a member of the Association is currently barred. If the Supreme Court changes  
9 this rule or an application is otherwise permitted in the future, it will be treated as an application by  
10 one who has been disbarred for ethical misconduct, and that, if I file an application, I will not be  
11 entitled to a reconsideration or reexamination of the facts, complaints, allegations, or instances of  
12 alleged misconduct on which this resignation was based.

13           9.       I agree to (a) notify all other jurisdictions in which I am admitted of this resignation in  
14 lieu of discipline; (b) seek to resign permanently from the practice of law in all other jurisdictions in  
15 which I am admitted; and (c) provide disciplinary counsel with copies of this notification and any  
16 response(s). I acknowledge that this resignation could be treated as a disbarment by all other  
17 jurisdictions.

18           10.      I agree to (a) notify all other professional licensing agencies in any jurisdiction from  
19 which I have a professional license that is predicated on my admission to practice law of this  
20 resignation in lieu of discipline; (b) seek to resign permanently from any such license; and (c) provide  
21 disciplinary counsel with copies of any of these notifications and any responses.

22           11.      I agree that when applying for any employment, I will disclose the resignation in lieu  
23 of discipline in response to any question regarding disciplinary action or the status of my license to  
24 practice law.

25           12.      I am submitting with this affidavit a confession of judgment in the amount of \$1,000  
26 in favor of the Washington State Bar Association.

27           13.      I understand that my resignation becomes effective on disciplinary counsel's  
28

1 endorsement and filing of this document with the Clerk, and that under ELC 9.3(c) disciplinary  
2 counsel must do so promptly following receipt of this document and the executed confession of  
3 judgment.

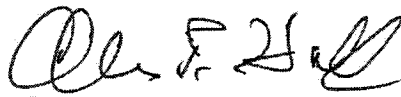
4 14. When my resignation becomes effective, I agree to be subject to all restrictions that  
5 apply to a disbarred lawyer.

6 15. Upon filing of my resignation, I agree to comply with the same duties as a disbarred  
7 lawyer under ELC 14.1 through ELC 14.4.

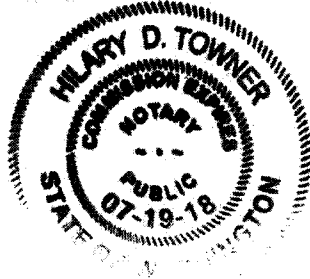
8 16. I understand that, after my resignation becomes effective, it is permanent. I will never  
9 be eligible to apply and will not be considered for admission or reinstatement to the practice of law  
10 nor will I be eligible for admission for any limited practice of law.

11 17. I certify under penalty of perjury under the laws of the State of Washington that the  
12 foregoing is true and correct.

13 1/10/16 at Seattle, WA  
14 Date and Place

  
Alan F. Hall, Bar No. 1505


15 SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of January, 2016.



Hilary D. Towner  
NOTARY PUBLIC for the state of  
Washington, residing at Seattle

21 My commission expires: 7/19/18


22 ENDORSED BY:

23   
24 Scott G. Busby,  
25 Senior Disciplinary Counsel  
26 Bar No. 17522  
27  
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AGREED AS TO FORM:

HAWLEY TROXELL ENNIS & HAWLEY LLP

By:   
\_\_\_\_\_  
Stephen C. Smith  
Attorneys for Alan F. Hall

# EXHIBIT A

EXHIBIT A

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

**ALAN F. HALL,**  
Lawyer (Bar No. 1505).


Proceeding No. 14#00037

ODC File Nos. 13-00935, 14-00514

STATEMENT OF ALLEGED  
MISCONDUCT UNDER ELC 9.3(b)(1)

The attached formal complaint, filed on January 28, 2015 in Proceeding No. 14#00037, constitutes Disciplinary Counsel's statement of alleged misconduct under Rule 9.3(b)(1) of the Rules for Enforcement of Lawyer Conduct (ELC).

DATED this 7th day of January, 2016.

  
\_\_\_\_\_  
Scott G. Busby, Bar No. 17522  
Senior Disciplinary Counsel

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**FILED**  
JAN 28 2015  
DISCIPLINARY  
BOARD

BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re  
**ALAN F. HALL,**  
Lawyer (Bar No. 1505).

Proceeding No. 14#00037  
FORMAL COMPLAINT

Under Rule 10.3 of the Rules for Enforcement of Lawyer Conduct (ELC), the Office of Disciplinary Counsel (ODC) of the Washington State Bar Association charges the above-named lawyer with acts of misconduct under the Rules of Professional Conduct (RPC) as set forth below.

**ADMISSION TO PRACTICE**

1. Respondent Alan F. Hall was admitted to the practice of law in the State of Washington on May 3, 1974.
2. Respondent was suspended from the practice of law on August 18, 2011.
3. Respondent has remained in a suspended status since August 18, 2011.

DOS

1   **FACTS REGARDING COUNTS 1-7 (Hudson Grievance)**

2             4.    In late 2011, Hollie Hudson's mother died.

3             5.    Ms. Hudson's mother had executed a will that Respondent drafted for her.

4             6.    In that will, Ms. Hudson and her sister were named as personal representatives.

5             7.    Ms. Hudson met with Respondent on December 28, 2011.

6             8.    Ms. Hudson informed Mr. Hall that she and her sister disagreed about the  
7 distribution of their mother's estate.

8             9.    Ms. Hudson informed Respondent that she needed a lawyer to represent her  
9 interests concerning the distribution of her mother's estate.

10            10.   Respondent did not inform Ms. Hudson that he was suspended from the practice of  
11 law.

12            11.   Respondent represented himself as a lawyer authorized to practice law.

13            12.   Respondent told Ms. Hudson that, for a fee, he would handle the probate of Ms.  
14 Hudson's mother's estate.

15            13.   Ms. Hudson reasonably relied on Respondent as a lawyer authorized to practice  
16 law.

17            14.   On December 28, 2011, Ms. Hudson gave Respondent a cashier's check in the  
18 amount of \$1,500 as payment in advance for legal services to be performed.

19            15.   Respondent did not deposit the check in a trust account.

20            16.   Respondent cashed the check on December 28, 2011, the same day he received it,  
21 and converted the funds for his own use.

22            17.   A few days after her December 28, 2011, meeting with Respondent, Ms. Hudson  
23 told Respondent that she and her sister had come to an agreement, and that she no longer needed



1 Respondent's services.

2 18. Respondent persuaded Ms. Hudson to allow him to retain the \$1,500 advance  
3 payment in case Ms. Hudson and her sister had a disagreement and Ms. Hudson needed her own  
4 legal counsel.

5 19. A different lawyer handled the probate of Ms. Hudson's mother's estate.

6 20. Respondent did not earn the \$1,500 that Ms. Hudson paid him.

7 21. In March 2014, Ms. Hudson asked Respondent to return the money she had paid  
8 him.

9 22. Respondent refused to return any of the money that Ms. Hudson had paid him.

10 23. On March 25, 2014, Ms. Hudson filed a grievance against Respondent.

11 24. On July 25, 2014, Disciplinary Counsel sent Respondent's counsel a Request for  
12 Response to Grievance that included requests for (1) a written response to six questions, and (2)  
13 a copy of Respondent's client file and financial records for Ms. Hudson.

14 25. On December 2, 2014, Disciplinary Counsel sent Respondent's counsel a second  
15 request for the same records and information.

16 26. Respondent has not provided any of the records or information requested.

17 **COUNT 1**

18 27. By failing to take the steps necessary to avoid any reasonable likelihood that Ms.  
19 Hudson would rely on him as a lawyer authorized to practice law, Respondent violated RPC  
20 8.4(f) (by violating RLC 14.2(u)).

21 **COUNT 2**

22 28. By representing himself as a lawyer authorized to practice law, Respondent  
23 violated RPC 8.4(c).

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COUNT 3

29. By failing to deposit the funds Ms. Hudson paid him in a trust account, and/or by converting those funds for his own use. Respondent violated RCP 1.5(f), RPC 1.15A(b), and/or RPC 1.15A(e).

COUNT 4

30. By charging and collecting a \$1,500 fee for services he did not provide. Respondent violated RPC 1.5(a) and/or RPC 8.4(e).

COUNT 5

31. Alternatively, if Respondent provided legal services in exchange for the \$1,500 fee that he charged and collected, then by engaging in the practice of law while suspended. Respondent violated RPC 5.5(a), RPC 5.8(a), RPC 8.4(b) (by violating RCW 2.48.180), RPC 8.4(j), RPC 8.4(k), and/or RPC 8.4(f) (by violating ELC 14.2(a)).

COUNT 6

32. By failing to refund fees paid that were not earned, Respondent violated RPC 1.15A(f), RPC 1.16(d), and/or RPC 8.4(c).

COUNT 7

33. By failing to promptly provide requested records and information relevant to a grievance under investigation, Respondent violated RPC 8.4(f) (by violating ELC 5.3(f) and/or ELC 5.3(g)).

FACTS REGARDING COUNTS 8-12 (Leen Grievance)

34. On May 10, 2013, Hassan Khurbet contacted Respondent on behalf of Maria Berglund to ask whether Respondent could represent Ms. Berglund's legal interests in a foreclosure matter.

1           35. Respondent met with Ms. Berglund and Mr. Khurbet on May 11, 2013.

2           36. Respondent did not inform Ms. Berglund or Mr. Khurbet that he was suspended  
3 from the practice of law.

4           37. Respondent represented himself as a "retired" lawyer authorized to practice law.

5           38. Ms. Berglund reasonably relied on Respondent as a lawyer authorized to practice  
6 law.

7           39. Respondent told Ms. Berglund that, for a fee, he would advise her as to her legal  
8 rights, review and prepare legal documents for her, and negotiate legal rights or responsibilities  
9 on her behalf.

10           40. Respondent asked Ms. Berglund to sign a form stating that she wished to "hire Mr.  
11 Hall to give us advice and prepare documents" concerning the foreclosure matter at "an hourly  
12 rate of \$150.00 per hour or a flat rate as agreed upon."

13           41. Ms. Berglund signed the document and paid Respondent \$150 for their  
14 consultation.

15           42. In exchange for the initial \$150 fee, Respondent advised Ms. Berglund as to her  
16 legal rights and/or the legal rights or responsibilities of others.

17           43. In addition, Respondent agreed to review some legal documents for Ms. Berglund  
18 and advise her concerning them at a later date.

19           44. Respondent also advised Ms. Berglund to set up a meeting with the buyer of the  
20 property that was the subject of the foreclosure.

21           45. On May 13, 2013, Respondent attended the meeting that Ms. Berglund set up with  
22 the buyer on Respondent's advice.

23           46. After the meeting, Respondent told Ms. Berglund that he needed an additional

1 \$150 to review her legal documents and advise her concerning them.

2 47. Ms. Berglund paid Respondent an additional \$150 to review her legal documents  
3 and advise her concerning them.

4 48. After Ms. Berglund paid Respondent an additional \$150, Respondent failed to  
5 return her telephone calls.

6 49. On May 17, 2013, Ms. Berglund retrieved her legal documents from Respondent  
7 and terminated the representation.

8 50. Respondent never advised Ms. Berglund concerning the legal documents he agreed  
9 to review for her.

10 51. Respondent never returned any the \$150 that Ms. Berglund paid him to review her  
11 legal documents and advise her concerning them.

12 **COUNT 8**

13 52. By failing to take the steps necessary to avoid any reasonable likelihood that Ms.  
14 Berglund would rely on him as a lawyer authorized to practice law, Respondent violated RPC  
15 8.4(f) (by violating ELC 14.2(a)).

16 **COUNT 9**

17 53. By representing himself as a lawyer authorized to practice law, Respondent  
18 violated RPC 8.4(e).

19 **COUNT 10**

20 54. By engaging in the practice of law while suspended, Respondent violated RPC  
21 5.5(a), RPC 5.8(a), RPC 8.4(b) (by violating RCW 2.48.180), RPC 8.4(j), RPC 8.4(k), and/or  
22 RPC 8.4(f) (by violating ELC 14.2(a)).

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COUNT 11

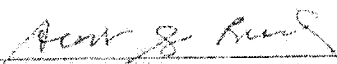
55. By charging and collecting an additional \$150 fee for services he did not provide, Respondent violated RPC 1.5(a) and/or RPC 8.4(e).

COUNT 12

56. By failing to refund fees paid that were not earned, Respondent violated RPC 1.15A(f), RPC 1.16(d), and/or RPC 8.4(e).

THEREFORE, Disciplinary Counsel requests that a hearing be held under the Rules for Enforcement of Lawyer Conduct. Possible dispositions include disciplinary action, probation, restitution, and assessment of the costs and expenses of these proceedings.

Dated this 25<sup>th</sup> day of January, 2015.

  
\_\_\_\_\_  
Scott G. Busby, Bar No. 17522  
Senior Disciplinary Counsel

# EXHIBIT B

EXHIBIT B

**FILED**

FEB 27 2015

DISCIPLINARY  
BOARD

1 Stephen C. Smith, WA State Bar No. 15414  
2 HAWLEY TROXELL ENNIS & HAWLEY LLP  
3 877 Main Street, Suite 1000  
4 P.O. Box 1617  
5 Boise, ID 83701-1617  
6 Telephone: 208.344.6000  
7 Facsimile: 208.954.5268  
8 E-mail: ssmith@hawleytroxeil.com

9 Attorneys for Alan F. Hall

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BEFORE THE  
DISCIPLINARY BOARD  
OF THE  
WASHINGTON STATE BAR ASSOCIATION

In re

Alan F. Hall  
Lawyer  
Lawyer (Bar No. 1505).

Public No. 14#00037

ANSWER TO FORMAL COMPLAINT

Respondent Alan F. Hall; admits, denies and alleges as follows:

**ADMISSION TO PRACTICE**

1. Respondent admits paragraph 1.
2. Respondent admits paragraph 2.
3. Respondent admits paragraph 3.

**FACTS REGARDING COUNTS 1-7 (Hudson Grievance)**

4. Answering paragraph 4, Respondent lacks sufficient knowledge to admit or deny the allegation contained therein, and therefore denies the same.
5. Answering paragraph 5, Respondent lacks sufficient knowledge to admit or deny the allegation contained therein, and therefore denies the same.
6. Answering paragraph 6, Respondent lacks sufficient knowledge to admit or deny the allegation contained therein, and therefore denies the same.
7. Answering paragraph 7, Respondent lacks sufficient knowledge to admit or deny the

ANSWER TO FORMAL COMPLAINT- 1  
Case No.: 14#00037

Hawley Troxell Ennis & Hawley LLP  
877 Main Street, Suite 1000 - P.O. Box 1617  
Boise, Idaho 83701-1617  
208.344.6000

DAD

1 allegation contained therein, and therefore denies the same.

2 8. Answering paragraph 8, Respondent lacks sufficient knowledge to admit or deny the  
3 allegation contained therein, and therefore denies the same.

4 9. Answering paragraph 9, Respondent lacks sufficient knowledge to admit or deny the  
5 allegation contained therein, and therefore denies the same.

6 10. Respondent denies paragraph 10.

7 11. Respondent denies paragraph 11.

8 12. Respondent denies paragraph 12.

9 13. Respondent denies paragraph 13.

10 14. Respondent denies paragraph 14.

11 15. Respondent denies paragraph 15.

12 16. Respondent denies paragraph 16.

13 17. Answering paragraph 17, Respondent lacks sufficient knowledge to admit or deny the  
14 allegation contained therein, and therefore denies the same.

15 18. Respondent denies paragraph 18.

16 19. Answering paragraph 19, Respondent lacks sufficient knowledge to admit or deny the  
17 allegation contained therein, and therefore denies the same.

18 20. Respondent denies paragraph 20.

19 21. Respondent denies paragraph 21.

20 22. Respondent denies paragraph 22.

21 23. Respondent admits paragraph 23.

22 24. Respondent admits paragraph 24.

23 25. Respondent admits paragraph 25.

24 26. Respondent denies paragraph 26.

25 **COUNT 1**

26 27. Respondent denies paragraph 27.

27 **COUNT 2**

28 **ANSWER TO FORMAL COMPLAINT - 2**  
Case No.: 14#00037

Hawley Troxell Ennis & Hawley LLP  
877 Main Street, Suite 1000 - P.O. Box 1617  
Boise, Idaho 83701-1617  
208.344.6000



1 28. Respondent denies paragraph 28.

2 **COUNT 3**

3 29. Respondent denies paragraph 29.

4 **COUNT 4**

5 30. Respondent denies paragraph 30.

6 **COUNT 5**

7 31. Respondent denies paragraph 31.

8 **COUNT 6**

9 32. Respondent denies paragraph 32.

10 **COUNT 7**

11 33. Respondent denies paragraph 33.

12 **FACTS REGARDING COUNTS 8-12 (Leen Grievance)**

13 34. Respondent admits paragraph 34.

14 35. Respondent admits paragraph 35.

15 36. Respondent denies paragraph 36.

16 37. Respondent denies paragraph 37.

17 38. Respondent denies paragraph 38.

18 39. Respondent denies paragraph 39.

19 40. Answering paragraph 40, Respondent lacks sufficient knowledge to admit or deny the  
20 allegation contained therein, and therefore denies the same.

21 41. Answering paragraph 41, Respondent lacks sufficient knowledge to admit or deny the  
22 allegation contained therein, and therefore denies the same.

23 42. Respondent denies paragraph 42.

24 43. Respondent denies paragraph 43.

25 44. Respondent admits paragraph 44.

26 45. Respondent admits paragraph 45.

27 46. Respondent denies paragraph 46.

28 **ANSWER TO FORMAL COMPLAINT- 3**  
Case No.: 14#00037

Hawley Troxell Ennis & Hawley LLP  
877 Main Street, Suite 1000 - P.O. Box 1617  
Boise, Idaho 83701-1617  
208.344.6000



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RELIEF REQUESTED

WHEREFORE, having fully answered Plaintiff's Complaint, Respondent requests relief as follows:

1. For an order dismissing the Complaint with prejudice and without costs;
2. For judgment for such other and further relief as the hearing officer may deem just and equitable.

DATED THIS 27<sup>th</sup> day of February, 2015.

HAWLEY TROXELL ENNIS & HAWLEY LLP

By: 

Stephen C. Smith, WSBA #15414  
877 Main Street, Suite 1000  
P.O. Box 1617  
Boise, ID 83701-1617  
Telephone: 208.388.4990  
Facsimile: 208.954.5268  
E mail: scsmith@hawleytroxell.com  
Attorneys for Alan F. Hall

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21 day of February, 2015, I caused to be served a true copy of the foregoing ANSWER TO FORMAL COMPLAINT by the method indicated below, and addressed to each of the following:

Scott G. Busby  
Senior Disciplinary Counsel  
Washington State Bar Association  
1325 Fourth Avenue - Suite 600  
Seattle, WA 98101-2539

U.S. Mail, Postage Prepaid  
 Hand Delivered  
 Overnight Mail  
 E-mail  
 Telecopy



\_\_\_\_\_  
Stephen C. Smith

ANSWER TO FORMAL COMPLAINT - 6  
Case No.: 14#00037

Hawley Troxell Ennis & Hawley LLP  
877 Main Street, Suite 1000 - P.O. Box 1617  
Boise, Idaho 83701-1617  
208.344.6000

# EXHIBIT C

1 Stephen C. Smith, WA State Bar No. 15414  
2 HAWLEY TROXELL ENNIS & HAWLEY LLP  
3 877 Main Street, Suite 1000  
4 P.O. Box 1617  
5 Boise, ID 83701-1617  
6 Telephone: 208.344.6000  
7 Facsimile: 208.954.5268  
8 E-mail: ssmith@hawleytroxell.com

9 Attorneys for Alan F. Hall

10 BEFORE THE  
11 DISCIPLINARY BOARD  
12 OF THE  
13 WASHINGTON STATE BAR ASSOCIATION

14 In re

15 **ALAN F. HALL,**  
16 Lawyer (Bar No. 1505)

Public No. 14#00037

ODC File Nos. 13-00935, 14-00514

SUPPLEMENTAL DECLARATION  
RESIGNATION FORM OF ALAN F. HALL  
(ELC 9.3(b))

17 Alan F. Hall, being duly sworn, hereby attests to the following:

18 1. I am over the age of eighteen years and am competent. I make the statements in this  
19 affidavit from personal knowledge.

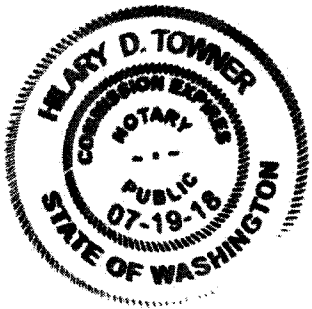
20 2. I believe that even if I prevailed at the hearing level I would lose at the Washington  
21 State Supreme Court because of my political resistance to the Sui Generis system of justice  
22 administered by the Court. My political and legal views on the system are explained in the brief  
23 attached to this Declaration.

24 Seattle, Wa. 1/10/2016  
Date and Place

  
Alan F. Hall, Bar No. 1505

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SUBSCRIBED AND SWORN to before me this 10<sup>th</sup> day of January, 2016.



Hilary D. Towner

NOTARY PUBLIC for the state of

Washington, residing at Seattle, WA

My commission expires: 7/19/18

Alan F. Hall JD, WSBA No. 1505  
Alan F. Hall JD PS  
7813 218<sup>th</sup> St. SW #50  
Edmonds, Washington 98026  
Telephone (425) 774-9566  
Facsimile: (206) 582-8733  
Email: AlanFHall@hotmail.com  
Petitioner Pro Se for Appellant

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE:	)	Court No. 201,255-8
	)	Proceeding No. 10#00084
ALAN F. HALL,	)	
Lawyer (Bar No. 1505).	)	PETITIONER'S PRO SE
	)	BRIEF

COMES NOW Appellant ALAN F. HALL, by and through ALAN F. HALL, Pro Se and submits this Pro Se brief pursuant to the Supreme Court's Sui Generis Jurisdiction.

My name is Alan F. Hall. I am the Petitioner in the captioned matter. I am also a lawyer who has been practicing law in Washington State since 1974. I am 70 years old.

The first 25 years of my practice centered in litigation. As a litigator I have approximately 40 trials to my credit. Most of those trials occurred in King County Superior Court and Snohomish County Superior



Court. The cases in those courts of general jurisdiction were before juries. I also have four reported cases at the appellate level the most notable of which established the current ruling on landlord/tenant law in Washington State. (Muci v. Graoch)

As a litigator in Washington State's Superior Courts I experienced the importance of court rules, how they apply to both sides of a case and the consequences of when a participant does not follow those rules. A litigator can do damage to himself, his client and our system of jurisprudence without strict compliance.

I respected this system very much and found I could successfully operate within it.

Then, around 2002, I was confronted with a grievance against me and I became intimate with the Washington Rules of Professional Conduct and the rules relating to lawyer discipline. That is not to say I was not familiar with them before this event. It is that a grievance makes you want to reexamine them. I also reviewed the oath I took upon being admitted to the practice of law.

I did a little more digging on these issues and found that the Washington State Supreme Court is the branch of our State government that is responsible for enforcing the Rules of Professional Conduct, Rules of Enforcement of Lawyer Conduct and indirectly our oath as attorneys.

Those rules were created by the Supreme Court pursuant to legislative authority from another branch of our government, the Washington State Legislature.

I also learned that the scheme of jurisdictional procedure that the Supreme Court imposes on the discipline of lawyers is called *Sui Generis*. Black's Law Dictionary (1968 edition) defines *Sui Generis*: "Of its own kind or class, i.e., the only one of its own kind, peculiar."

At this stage of my quest to learn more about the process of disciplining lawyers in Washington state, I felt comfortable with the system. After all, doctors are regulated; dentists are regulated, as are the police.

But then an interesting thing happened. I learned how the Office of Disciplinary Counsel (ODC), the enforcement arm of the Supreme Court, defines *sui generis* and I did not like it. In fact I found it frightening as a threat to our democracy, disingenuous, unfair and likely to promote a cadre of minions capable of staffing potential governmental enforcement agencies capable of doing great harm to our democracy.

Respectfully, the history of enforcement agencies is replete with similar phenomenon of *Sui Generis* at various stages of development that compare with the stage of development that our *Sui Generis* system is now in. One has to look no further than pre WW II Germany. If you want to

see how a fifth stage *Sui Generis* system operates watch the Movie Sophie Scholl one of the most famous members of the German World War II anti Nazi resistance movement, The White Rose. Pay close attention to how the lawyers behave in that movie.

Very harsh words, but they are carefully chosen particularly after my substantial observations stemming from two Washington State Bar Association ODC hearings on grievances filed against me. In fact I would say the referenced post 1933 Weimar Republic Germany model only differs from the Washington State's Supreme Court's *Sui Generis* system in that the Washington State's *Sui Generis* system does not allow for torture and execution. Yet.

I make these bold statements on observed verifiable and well documented facts.

The first hearing in which I was involved the Grievant was represented by her personal attorney Elizabeth Turner Smith. The problem was that Ms. Smith was either applying for employment with the ODC or working for the ODC at the same time she was representing the Grievant. I learned about this half way through the hearing and did not know what to make of it at the time. Then I thought about it after the fact and believed it to be a clear violation of the appearance of fairness doctrine and the RPCs relating to conflict of interest and candor to the

Court. If Ms. Smith was applying for a job with the ODC, then how could she possibly make impartial decisions relating to her client?

It occurred to me she was using her representation of the grievant as part of her job application with the ODC. And the ODC was condoning her violation of rules relating to conflict of interest. She should have told the hearing officer of her status with the ODC.

I also learned that my insurance company would mediate the claim the grievant had but that if I pled guilty to the grievance I would lose coverage. So the Bar Association offered to mediate this case but Ms. Smith refused. Was she acting in the best interest of her client or was she continuing her job application?

I was found to have violated the rule relating to diligence. And in fact my diligence had cost my client \$10,000. An honest mistake that I would have admitted to if I would not lose coverage. I was paying approximately \$500 per month for coverage. I maintained coverage for my entire career. So, instead of settling this case, Ms. Smith choose to go thru three days of hearing with her client, use the resources of the Bar Association and waste my time.

My response to this was to file a complaint against Ms. Smith. She replied on Bar Association letter head. You can guess how that turned out.

I claimed she had violated the RPC rule requiring ODC lawyers to act in good faith. At one time there was a rule that stated ODC lawyers had to act in good faith. I learned that the ODC had that language removed from the rule without any hearing.

That event caused me great stress to think that a State Supreme Court authorized agency could violate their own rules like that and get away with it. Further it appears they can modify the RPC rules to suit their own behavior without a hearing.

One positive was that I began to learn what the Office of Defense Counsel's definition of *Sui Generis* was.

But there was more.

A grievance was filed against me in 2010. The ODC sat on the issues for about 5 months. I called and asked for my files back. They had asked for the original documents when the grievance was filed and, in writing, promised to return them upon request.

I called up and asked for the files back and was told by Francesca D'Angelo, an attorney with the ODC, that I would be lucky if I got a copy of them back. At this point I had been paying dues into this organization for approximately 38 years. I expected more professionalism.

And so the definition of *Sui Generis* starts to flesh out.

The grievance that was filed against me is the subject of the captioned petition. By that point both of my clients had passed away and, interestingly, the ODC never statementized them.

During the first hearing I began to get an in depth observation of the ODC Sui Generis.

1. The ODC has access to volunteer lawyers. I did not.
2. The ODC has access to volunteer experts. I did not.
3. I requested the hearing officer to allow me access to the volunteer experts so that I could find an expert. Denied.
4. The Hearing Officer on oral spontaneous motion granted ODC's motion to prevent any of my testimony of my relationship with the grievant based on the dead man's statute. This was overturned in the second hearing.
5. I tried to hire counsel. They all wanted \$350 per hour. I could not afford that.
6. Randolph Petgrave was the Hearing Officer. He should have recused himself because his father and I were friends from college. I asked him to do this in the first trial. He refused.

In fact, Mr. Petgrave the elder coincidentally was nominated to be the hearing officer in my first grievance. He recused himself.

Whatever Petgrave the younger is, he is not a jurist.

7. The ODC has institutional knowledge as to the proclivity of the hearing officers. Are they plaintiff oriented or defense oriented? This is vitally important information. Lawyers do not have access to that information.

The whole *sui generis* thing was turning into a farce.

I learned that I could have a lawyer appointed for me if I could not represent myself. As that point what choice did I have?

Even then *Sui Generis* gets more farcical.

At the second hearing I had counsel. He was intimately tied to the Bar Association. In fact as far as I know the Bar Association is his only source of income

1. My lawyer tells me that the volunteer expert for the state is lawyer Barbara Isenhower. He further tells me that her husband is John Strait an ethics professor at one of the local law schools. I also learn that Barbara and her ethics professor husband want to use my case, assuming I am found guilty, in Mr. Strait's ethics class.

2. The Will and the Trust agreement admitted into evidence name Nancy Caputo, the grievant's niece as contingent beneficiary of an estate worth about \$400,000. It also comes out that the client's ex-wife, Linda Orf, the one who files the grievance, through the help of Jamie Clausen ends up with every penny of the estate pursuant to Jamie Clausen's legal

work. Ms. Clausen names herself as Trust Protector which is exactly what she claims I did in my documents.

4. Jamie Clausen testifies. But there is no testimony from Lind Orf, or any affidavits from the clients. In fact the grievance is not even entered into evidence. That is because it was filed by Linda Orf.

5. The Hearing Officer finds that my testimony is not credible even though the ODC never put my credibility in issue.

6. ER Rule 608 governs the procedure for attacking credibility. It was not followed by the ODC or the Hearing Officer. In fact the highly respected research tool BING responds vary favorably to the query: "How to impeach witness's credibility before an administrative agency?" The internet tome on impeaching credibility is found in

E-How and the article is "How to Challenge Witness Credibility before MSPB." Therein lies the step by step process for impeaching credibility before any agency including the ODC. Again Mr. Petgrave's reasoning is unsupported by any legally recognized rule relating to this issue.

In a word what I observed was a genetic mutation in the fabric of our democracy, our judicial system and our constitution. The Washington State Supreme Court's *Sui Generis* system has the potential to spread into a very destructive cancer and apoptosis is in order.



Conclusion:

There is a very compelling saying: "Injustice anywhere is injustice everywhere." *Sui Generis* as it is practiced by the Washington State Bar Association should be removed. But that is not enough.

Lawyers must organize. The police have a guild, why can't lawyers? Right now they have the highest rate of suicides amongst any profession. They are easy targets for any malcontent client and of course sole practitioners are the low hanging fruit of choice for the ODC.

Further, lawyers are losing ground in the fields that they can practice in.

As I mentioned I am 70 years old. I do not want to get suspended or disbarred. Yet at my age what the hell difference does it make?

What I am most concerned about is our democracy. I am equally concerned about the younger lawyers. In fact I think they have a good cause of action against their so called ethics professors for not teaching *Sui Generis* in law schools. I suspect if potential law students were told about *Sui Generis* they would not want to even go to law school.

I wouldn't.

I request that you think about it. Imagine yourself as a beginning lawyer, you are married and maybe have a child or two. Then you are confronted by *Sui Generis*. If you are reprimanded your reputation is

ruined forever. It is just too easy for the ODC to win and bully you into submission.

Finally, it is noted I am on non-disciplinary suspension and have been for approximately three years even though the ODC stipulated I could continue to practice during the course of this *Sui Generis* process.

As soon as I went on non-disciplinary suspension the Bar Association stripped me of my Bar membership without any hearing. I no longer had access to the Bar News or research facilities that I had paid dues for 38 years to support. This greatly hindered my effort to do research and keep up on lawyer news that might have been helpful to my case.

Because of all this I believe that there should be an innocence project. I suggest that any lawyer either living or dead who as ever been admonished, reprimanded or disbarred have their case reviewed. If they were not afforded adequate representation or were subject to abuses spelled out herein, then the decision should be reversed.

One final observation: The ODC lawyer handling the opposition to my appeal, Scott Busby, continues to mislead the tribunal. He claims I was being paid to \$2,000 per quarter to administer a Trust with only \$49.00 dollars in it. This is totally false and misleading. All one has to do is read the Trust to find out what my very substantial duties were.

RESPECTFULLY SUBMITTED THIS \_\_\_\_ day of \_\_\_\_\_ 2014.

By \_\_\_\_\_  
Alan F. Hall JD

cc. Individual Members of the Board of Governors,

WSBA