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MEMORANDUM

TO: Hon. Glenn A. Grant, J.A.D., Acting Administrator Director
Steven D. Bonville, Esq., Chief of Staff

FROM: Edwin H. Stern

RE: Rule 1:20-6

DATE: January 23, 2017

I appreciate the opportunity to comment on the proposed amendments to Rule 1:20-6.

I believe that the recommendation is warranted. Substantial time is taken by Special Ethics Masters in writing a proper opinion with findings of fact and conclusions of law which help focus *de novo* review by the Disciplinary Review Board. Moreover, while I don't believe the additional compensation will have that much impact on the willingness of eligible persons to serve as Special Ethics Masters, it might encourage enough to make the rule change worthwhile; a few more persons eligible to serve might do so if the compensation is somewhat more reasonable or competitive.

However, the reality is that some people take longer than others to write opinions, and while I doubt that any Special Ethics Master would prolong the process for purposes of compensation at or near the present per diem rate, I have some reservations about providing additional compensation for the time it takes to write an opinion. I also oppose a per diem for a very limited amount of writing on a given date. Some people might write only an hour or so a day. As a result, I support the limitation on the compensation for writing of the opinion.

Assuming that the Rule is adopted, I would provide a brief official comment or accompanying implementing order to address retroactivity with respect to matters not completed as of the effective date, and I would expressly address whether the amended Rule regarding opinions applies only to findings and conclusions or also to formal opinions on motions such as motions to dismiss (where there is jurisdiction) or which involve claims of privilege.

Thank you for your consideration.

EHS

/rvw