

#2018-004

MEMORANDUM

TO: Carolyn Koegler

FROM: Eileen Fox

DATE: April 13, 2018

RE: Supreme Court Rule 36

Attached is a letter from Attorney Kirk Simoneau to Justice Gary Hicks requesting that the Supreme Court consider amending or clarifying Supreme Court Rule 36. Attorney Simoneau requests that a 9 hour training program for the DOVE project, which is offered for second year Daniel Webster scholars, be considered a "law school clinical course with a classroom component" for purposes of Rule 36(3)(a)(2) or that the rule be amended in such a way as to allow students completing the training to appear in court pursuant to the rule.

The court reviewed Attorney Simoneau's request and asked that it be referred to the Advisory Committee on Rules to consider whether the eligibility requirements of Rule 36 should be amended or clarified.

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March 21, 2018

Justice Gary E. Hicks
New Hampshire Supreme Court
One Charles Doe Drive
Concord, NH 03301

Dear Justice Hicks,

I write to follow up on the conversation we began the other night at the Daniel Webster Scholar reception, at the Devine Millimet firm, about the DOVE project and the need to increase the number of volunteer attorneys. First, I want to take a moment to thank you, again, for the example you set as one of our most active Supreme Court Justices. You do it in our Inn of Court and you did it the other night. Just the simple act of showing up let's, in this case, the students know that our judiciary is involved and cares. It also sets a good example of the congeniality for which our Bar is famed.

Well, enough with the glad handing; though you should feel free to be as effusive when you respond, I won't mind. After all, I'm trying to get out of Dave Nixon's, rather looming, shadow and I'm pretty terrific. As you know, I do a great deal of work with the Bar's DOVE project. In fact, the first time I appeared before you was on a DOVE appeal which I won only 9 months after being admitted to practice. This is very important work and too many victims of domestic violence appear in court without counsel. I just learned today that only about 35% of petitioners actually get permanent restraining orders. I think the Webster scholar program might offer an opportunity to get more volunteers and protect more victims.

I, along with many other volunteers, have just completed teaching a three-week, 9-hour, training program for the second year Webster Scholars which did include two courtroom simulations with Tom Cooper ably sitting as judge. I propose that this training be deemed sufficient under Rule 36 to qualify as "a law school clinical course with a classroom component geared to training the students for the work..." Rule 36(3)(a)(2) or that the Rule be changed to allow these, specially trained students, to do DOVE cases.

At this time, the conventional understanding of the Rule is that this three-week subsection of what is called a "mini-series," that is a fast few weeks covering a wide array of different subjects including this one,

Justice Gary E. Hicks

Page -2-

is not, itself, a "clinical course." So, students, as it states in the relevant part of Rule 36, must have completed 4 semesters of law school before they can do pro bono work. That means that the twenty, or so, very capable Webster Scholars who I, and many others including Pam Dodge, have just trained to handle DOVE cases must wait until after the Summer has begun to do DOVE work. By then they are in the midst of their summer associate jobs and the opportunity for volunteering has past; their time has ceased to be their own.

It is my hope that if we could assign students cases and supervising attorneys just as they are completing this training, required by the Daniel Webster Program, many more will take on pro bono cases and, in fact, for them, doing pro bono work will become part of their education and practice. Their interest is most piqued at this time as Pam does an excellent job explaining the importance of the project and pro-bono generally and their knowledge of RSA 173-B is at its peak. It is my further hope to convince Professor Garvey, and Dean Carpenter, assuming we get enough volunteers to act as supervisors, to make trying at least one DOVE case a requirement for graduating as a Webster Scholar. In order to make that work, the Rule must change or be clarified. Even if it does not become a requirement, the change would encourage many students. Several expressed such an interest in helping DOVE to me just today. Unfortunately, as the Rule currently reads, they cannot. They must wait.

So, I write asking for your guidance on how to either change the rule or to make certain that the training the Scholars receive is deemed sufficient under the rule. At this point, I truly don't know my next step.

I look forward to your assistance. Assistance which, I hope, will lead to an increased number of lawyers doing volunteer work throughout their careers.

Your Friend,



Kirk C. Simoneau

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KCS/tlb

Enc.

Cc: Prof. John B. Garvey,
Pam Dodge - DOVE
Dean Carpenter - UNH Law
Katie McDonough