
From: Mr. Kevin R. Hansbro <hansbrolaw@gmail.com>
Sent: Wednesday, October 24, 2012 9:43 PM
To: Ethics Rules Comments
Subject: Proposed USPTO Rules of Professional Conduct

Dear Office of Enrollment and Discipline,

A review of Proposed USPTO Rules of Professional Conduct §11.108 (e) and (i) indicates that the Office plans to delete a significant portion of current Rule 10.64 "Avoiding Acquisition of Interest in Litigation or Proceeding Before the Office". Notably, Paragraph (b) of 10.64 reads as follows:

(b) While representing a client in connection with a contemplated or pending proceeding before the Office, a practitioner shall not advance or guarantee financial assistance to a client, except that a practitioner may advance or guarantee the expenses of going forward in a proceeding before the Office including fees required by law to be paid to the Office, expenses of investigation, expenses of medical examination, and costs of obtaining and presenting evidence, provided the client remains ultimately liable for such expenses. A practitioner may, however, advance any fee required to prevent or remedy an abandonment of a client's application by reason of an act or omission attributable to the practitioner and not to the client, whether or not the client is ultimately liable for such fee.

Proposed Rule 11.108(e) seemingly focuses on pending or contemplated litigation but is silent regarding proceedings before the Office. The proposed rules do not indicate that the Office intends to treat all matters before the Office as akin to pending or contemplated litigation. Proposed Rule 11.108(i) only addresses the accrual of an interest for fees but does not address costs or expenses.

None of the proposed rules addresses the essence of the last sentence of 10.64(b). In particular regard to the last sentence, the Office's attention is drawn to 29 PTCJ 398, pp. 400, 405 whereat the Office found sufficient reason to incorporate the last sentence in the then proposed rules. I am aware of no reason that the essence of the last sentence should be excluded from the presently proposed rules.

Please indicate whether these modifications are intentional and provide the supporting rationale. Otherwise, please modify the proposed rules to remedy the omissions.

Respectfully submitted,

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