

Testimony of Charles M. Zennaché

SB 799

Mr. Chairman, Senators:

Thank you once again for allowing me to address you. Thank you also to Senator Prozanski for sponsoring this bill at my request.

I am a Circuit Court Judge in Lane County. I want to make clear that the views I am expressing here are my own and I do not speak on behalf of the Oregon Judicial Department

SB 799 is primarily a housekeeping matter that simply makes it clear that a lawyer may withdraw from a case without the permission of a court only when he or she is being replaced by another lawyer. Currently, ORS 9.380 allows lawyers to withdraw from a case under two circumstances, either with the permission of the court or “upon the consent of the attorney ....” The second option was, I believe, intended to allow counsel to withdraw when a new lawyer is taking over the case. Unfortunately, some lawyers have taken the position that the language of ORS 9.380(1)(a) as currently written allows them to withdraw if they wish to, thus giving counsel complete discretion to withdraw at any time. Lawyers have never had an unbridled ability to withdraw, and such an ability could cause problems for the courts and parties. Examples of these problems are attorneys withdrawing from representing corporate entities which can only appear in court through counsel or attorneys withdrawing on the eve of trial. This bill simply makes the language of ORS 9.380(1)(a) clearer by adding the words “written” and “a new” thereby making the operative language read “upon written consent of a new attorney ....”

Thank you again for your time and consideration. I am happy to answer any questions you may have.