

Appendix B

Definitions

Introduction to Appendix B

Appendix B is a set of definitions (both cited and asserted), important terms and phrases to ponder (such as terms listed after each item in the RPC's), some disambiguations, some questions about meaning, and some thought provoking commentary designed to be helpful in the present investigation. Is our intention to remain relevant.

There's an old legal saw to the effect that if you have a good case, you should clarify things for the judge; if you have a bad case, the best you can hope to do is confuse the judge.

Definitions, synonyms, disambiguations:

- Spin/Lies/Deceit/Fraud
- Confusion/Clarification
- Responsibility/Accountability/Supervision/Hierarchy
- Supremacy Clause/Constitutions/Oaths/Administrative Law/Bar Ethics
- Complaint/Inquiry/Request for Investigation
- Conflicts of Interest/ Fairness/ Standards/ Equal Proof Criteria
- Das ding an Sich
- Sua sponte
- Sine qua non
- Due Process of Law
- Due
- Process
- Of Law
- Boards
- Error
- Knowledge & "Should have known"
- Description of the "complainants" and their plurality
- Obfuscate
- Plausible/ Colorable/ Preponderance/ Prima facie
- Moral Turpitude

Prima facie - (as in all Wolff had to do, in whatever form, is to provide adequate *prima facie* evidence [such as was the Bice OCA finding] to support his request for appropriate action from OSB. Apparently, the appropriate action, as OSB considered it was to

provide a non-exclusive codified interpretation of the citizen complainant and forward it to the implicated persons for answer.

“The Board”: Disambiguation

Board

Board - ALL voting members of the Board plus ALL Board staff to include Board Board Counsel, Board Investigator, Board Executive Director, ALL support staff, and ALL additional DOJ employees active in a given matter

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Board - ALL voting members of the Board plus ALL Board staff to include Board Board Counsel, Board Investigator, Board Executive Director, ALL support staff and certain additional DOJ employees active in a given matter

Board - ALL voting members of the Board plus ALL Board staff to include Board Board Counsel, Board Investigator, Board Executive Director, and ALL support staff

Board - ALL voting members of the Board plus ALL Board staff to include Board Board Counsel, Board Investigator, Board Executive Director, and certain support staff

Board - ALL voting members of the Board plus ALL Board staff to include Board Board Counsel, Board Investigator, Board Executive Director

Board - ALL voting members of the Board

Board - A majority of the all the voting members of the Board

Board - A certain majority of all the voting members following a recorded vote

Board - A majority of a quorum of voting board members (less than full board) with recorded attendance

Board - A certain majority of a quorum of voting board members (less than full board) with recorded attendance and recorded vote

Board - A Committee Chair only

Board - All voting members of the Board on a certain committee

Board - A majority of all voting members of the Board on a certain committee

Board - A majority of all voting members of the Board on a certain committee with a recorded vote

Board - A certain majority of a quorum (less than full committee) of voting members of the Board on a certain committee with recorded attendance and recorded vote

Board - Board Chair only

Board - Board Executive Director only

Board - Other Board Designee(s) only (e.g. Operations Manager)

Board - Board Investigator only

Board - Board Legal Counsel only

Board - Any definition of the Board - WITH advisement of the Board Counsel

Board - Any definition of the Board - WITHOUT advisement of the Board Counsel

Board - Any definition of the Board which involved NO voting members

Board - Voting Board members voting in reliance on indirect information only

Error

Error - An honest mistake

Error - Subjective assessment of incorrectness stemming from a difference in opinion

Error - An unintentional mistake due to inexcusable neglect

Error - Lies

Error - Bold-faced lies in the presence of evidence to the contrary

Plausible

Every definition of “plausible” contains ideas of deceit, disingenuousness, and false appearance.

Can a person simply enter a counter plausibility and assert document wide and case wide “plausibility profiles.” Can debate be allowed to regress into arbitrary and capricious “plausibility wars”?

Obviously, in most disputes, there is **something** plausible or a complaint would not get past the front door. We *have* gotten past the front door, and despite any plausibility of the arguments of the names 5 (plus Thompson), the **plausibility** of the complaint means that the matter cannot be dismissed out of hand. On a scale from “barely plausible” (absurdly “possible”) to “highly probable” based on evidence, Wolff clearly shows preponderance.

Due Process of Law

From Black’s Law Dictionary

Black's Law Dictionary, Sixth Edition, page 500 - Due process of law <http://foundationfortruthinlaw.org/Files/Black's-Law-Dictionary-Due-Process-Definition.pdf>:

Aside from all else, "due process" means fundamental fairness and substantial justice. Vaughn v. State, 3 Tenn.Crim.App. 54, 456 S.W.2d 879, 883.

Due process protects one’s rights to life, liberty, and property

Life: The result of deprivation of due process is an often an UNFAIR drive into poverty, and in this poverty, the reduction in health which could lead to a shorter life and an earlier death. Many contemplate suicide. Many commit suicide.

Liberty: The right to practice one’s passions, honor one’s conscience, practice Right Livelihood, profit from investment choices (such as advanced education)

Property: Earned and paid for, one's professional license is one's property and cannot be legally taken without due (fair) process of law. In the case of a licensed professional, a license is a required permit to earn one's livelihood. Therefore, deprived of this property (one's license) it is natural that deprivation of other property will follow (home, car, etc.)

Due process demands that accused persons get to appear **in person** before the respective judiciaries. If the board reverses the decision of the ALJ, then the **board** becomes the judiciary. If, before reversal, the accused has not been given the opportunity to appear before the full voting board prior to the writing of the final order, the accused has been denied the opportunity to appear in person before the respective judiciary.

Q. If the Board issues the Final Order, and no voting Board members were present at the accused's hearing, on what or on *whom* do they place complete reliance for their judgement and for the information provided to be based on the truth, the **whole** truth, and nothing but the truth? **Is it Foote?** A **recording** that is listened to by all voting members in its entirety? The ALJ's report? Even if it is all of these in combination and the accused did not get to appear **in person** to present their case, then a Board passing judgement is in violation of principles of due process *designed to parallel* protections provide to citizens in criminal proceedings under the 6th Amendment.

On constitutional violations:

Just because Oregon Administrative Law states that a Board and it's DOJ **may** do something does not mean it **must**, and thus, it is easier than ever to see - via the Supremacy Clause, that the Administrative laws are **all subordinate** to these two Constitutions. Even if the administrative laws were prescriptive ("must" laws) they would still be subordinate to these constitutions. Throw in prohibition by the OSB and ABA's Rules of Professional Conduct (RPC's), and we have a clear argument that Administrative Law as it has been applied (in board actions) is illegal - a "**must not**" under the Supremacy Clause.

Although this is a rule which applies to **all**, it is the named five attorneys we have before us now. No matter how ubiquitous a crime, only some offenders get caught and tried. "Not knowing" (by virtue of "everybody's doing it") is no excuse for these high-ranking attorneys of State government.

They should be found guilty for violating their oaths to the State, the US, and to the BAR. Equal Protection Under the Law

When brought up on disciplinary charges, attorneys go before the Oregon Supreme Court - not an Administrative Law Judge whose “recommendations” can be overruled by the Boards as is the case with Doctors, Psychologists, and other “occupationally licensed professionals. Is there some reason lawyers are regarded better than other professionals and deserving of BETTER PROTECTION UNDER THE LAW?

Inasmuch as the attorneys of the DOJ prosecute healthcare **licensees** under “preponderance” evidentiary standards, is it not congruent with the equal protection clauses that the named 5, *under these circumstances* should have disciplinary hearings before their own tribunals under the same standards.

Inasmuch as their involvement with **the Bice matter** entailed the application of the preponderance standard, is it not congruent with the equal protection clauses that they appear before tribunals under application of the same evidentiary standards?

ADMISSIONS (or, INTERROGATORIES)

1. Who drafts Notices of Proposed Discipline for OBPE?
2. Who drafted the Notices of Proposed Discipline in the Bice matter?
3. Who drafts Final Orders for OBPE?
4. Who drafted the Final Order in the Bice Case?
5. Who drafts Notices of Proposed Civil Penalties for OBPE?

Answer: **Warren Foote**

OPINION: ADMINISTRATIVE LAW IS INHERENTLY UNFAIR & PREJUDICIAL TO THE ADMINISTRATION OF JUSTICE. IT NEGATES THE VERY PRINCIPLE OF “RULE OF LAW.”

Quote from - Sir Edward Coke

No man can be the judge in his own cause.

The Court: Especially as in OSB Regulation and Policies docs: **Which** Court? Often it is not states plainly.

Extrajudicial: In this case, meaning “unnecessary” or “simply to cause harm or inconvenience to the Administrative Hearing defendant.

Quasi-: In all dictionaries consulted, including Black's, the prefix "quasi" means: seemingly; apparently, but not really

Procedural obfuscation: "The Board" & the DOJ go to great lengths to obscure the IDENTITY of responsible (addressable) individuals in relation to actions which, when *without concern*, would seem simply "collaborative." Reference to "the board" broadly, stating that *someone* "filed" a brief (as opposed to "drafting" it), and having non-author parties serve as sole signers on documents are examples of actions which serve this "procedural obfuscation."

A pattern or thoroughness of procedural obfuscation, especially when it is apparent in many forms and when clarity of statements both actual and implied are viable alternatives, procedural obfuscation on the part of high ranking attorneys can be assumed to be intentional.

Intentional procedural obfuscation violates numerous RPC's but mostly the several associated with "prejudice to the administration of justice."

It is a dishonorable practice and contributes with great weight to public distrust in government and the just administration of law.

(It facilitates the "I did not know" excuse)

Consider: The Jean Val Jean "Le Miserables" Illustration

Opinion

- Holding "justice" and "hope" out like a carrot which respondents work & work hard to actually get, due to natural unfamiliarity which is the aberration of Administrative Law.
 - Knowing perpetuation of a heinous ruse rises to the level of moral turpitude.
 - Willful, knowing and repeated/incorrigibility/a danger to the public/a danger to the rightful administration of justice.
 - **THIS WARRANTS LICENSE REVOCATION/DISBARMENT**