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February 22, 2017

Paul M. Rezendes
Assistant General Counsel
Board of Bar Overseers
99 High Street
Boston, MA 02110

**Re: Comments on Proposed Amendments to Board of Bar
Overseers Rule 3.18 and Related Rules**

Dear Attorney Rezendes,

On behalf of the Boston Bar Association (BBA), I thank you for the opportunity to comment on the proposed amendments to the Board of Bar Overseers (BBO) Rules Sections 3.18, 2.8(b), 2.13, 3.7(b), 3.16, 3.22(d), 3.32, and 4.9(a)(1) and (2). The BBA appreciates and recognizes the efforts put forth by the BBO in recommending the proposed new rules.

The proposed rules were reviewed and discussed by all BBA Sections and the comments were drafted by the BBA's Business and Commercial Litigation Law Section and Ethics Committee. The comments were reviewed by all BBA Sections and the BBA Council, which approved their submission to the BBO.

Please note that the enclosed comments do not constitute or reflect a position of the BBA as a whole, but rather summarize the comments received from the aforementioned Sections and Committee. We offer these comments with the hope that they may be useful to the BBO as it considers the proposed amended rules.

Thank you for providing members of the bar with an opportunity to weigh in on this important issue, and please feel free to contact me should you have any questions or concerns.

Very truly yours,

Carol Starkey
President

**Comments of the Boston Bar Association's Business and Commercial Litigation Section
Steering Committee and Ethics Committee on Proposed Board of Bar Overseers Rule Changes
(2/22/17)**

In response to an invitation for comments from the Board of Bar Overseers, the Boston Bar Association's Business and Commercial Litigation Section Steering Committee and Ethics Committee reviewed the proposed Board of Bar Overseers Rule Changes.

Members of the Business and Commercial Litigation Section Steering Committee and Ethics Committee unanimously agreed that the proposed rule changes are welcome and necessary. Because hearing committee members have far less experience than the Board Chair or members of the Board, they agreed that they should not be deciding motions for protective orders or for discovery. Motions for protective orders, in particular, are often brought to protect members of the public and witnesses. Due regard for the public is essential and best served by having Board members, appointees of the SJC, with sufficient experience in bar discipline matters, decide the issues. Those motions are too important as a matter of due process to be left to the hearing committee members who may only hear one or two matters in their entire tenure.

Members of the Business and Commercial Litigation Section discussed ways the rule language might be simplified to increase clarity and reduce repetition, perhaps by listing which motions are decided by the hearing panel and which may be delegated by the Board to the hearing panel at its discretion.