

From: Ryan Henry <rhenry@allinghamlaw.com>
Sent: Friday, December 4, 2020 3:08 PM
To: Rules Committee
Cc: Litchfield County Bar Association
Subject: Amendment to Rule 8.4
Attachments: Rule 8.4 Correspondence.pdf

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Re: Amendment to Rule 8.4

Dear Committee Members:

Attached in PDF Format, please find correspondence on behalf of the Litchfield County Bar Association. Specifically, this is in regard to the proposed Amendment to Rule 8.4. Thank you for the opportunity to participate in this matter.

Very truly yours

Ryan M. Henry, Esq.
-President of the Litchfield County Bar Association



This message is intended for the use of the individual or entity to whom it is addressed, or for whom it is intended, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately so that we can make arrangements to have the materials returned to us at no cost to you. Thank you.

WARNING: FRAUD ALERT. If you receive an e-mail purporting to be from this office requesting that you wire or otherwise transfer funds, you must confirm the request and any corresponding instructions via telephone before you initiate any transfer. Hackers are targeting e-mails of attorneys and other businesses in attempts to initiate fraudulent wire requests.



Please consider the environment before printing this email.

LITCHFIELD COUNTY BAR ASSOCIATION

RYAN M. HENRY, PRESIDENT
54 BRIDGE STREET
NEW MILFORD, CT 06776
RHENRY@ALLINGHAMLAW.COM
(860) 350-5454

December 4, 2020

Rules Committee of the Connecticut Superior Court
VIA EMAIL: RulesCommittee@jud.ct.gov

Re: Amendment to Rule 8.4

Dear Committee Members:

The Litchfield County Bar Association (“LCBA”) Executive Committee recently reviewed the proposed amendment to Rule of Professional Conduct 8.4(7) addressing harassment and discrimination in the practice of law. It is the consensus of the LCBA membership and Executive Committee board that the intention expressed in the Rule is commendable and seeks to unequivocally express a standard of conduct which we unanimously endorse. The sentiment contained in the proposed amendment certainly reflects the core values and principles of the LCBA. Our support, however, is tempered by our concerns in the unintended but foreseeable adverse consequences which may result from the implementation and enforcement of this Rule, and the possible chilling effect on our ability to fulfill our obligation to advocate zealously on behalf of our clients. In other words, we all know too well – this Rule could be used as a sword as opposed to a shield. In addition, as behavior specifically prohibited by the proposed Rule is already addressed in existing sections of the Rules of Professional Conduct, this proposed Rule may be considered redundant.

Page 2 of 2

December 4, 2020

Re: Amendment to Rule 8.4

The LCBA shares similar concerns raised by the Hartford County Bar Association as set forth in its letter dated November 2, 2020, which has been submitted to the Rules Committee of the Superior Court. Furthermore, members of the LCBA have brought to our attention a concern this amendment would adversely impact our ability to competently conduct jury selection, specifically, regarding the use of peremptory challenges. Misgivings have also been raised by members of the local Family Bar, as this Section is already often targeted by meritless grievances, the defense of which is costly both monetarily and in terms of time and effort.

While the LCBA has serious concerns regarding this amendment, the LCBA would consider support for the amendment contingent upon, at a minimum, the proposed Rule be further amended to specifically except the use of peremptory challenges from being a violation of Rule 8.4(7). In addition, streamlined, efficient screening within the grievance process should be considered, perhaps by adding additional members and subcommittees within the local grievance panels, in order to quickly evaluate and dismiss meritless claims without overburdening the accused attorneys, while efficiently elevating those claims with merit to the next level. Care must also be given to potential exceptions and/or increases to malpractice policies which may result from this newly defined exposure.

Very truly yours,



Ryan M. Henry
President of the Litchfield County Bar Association

cc: Litchfield County Bar Association Membership