
From: McDonald, Andrew <Andrew.McDonald@connapp.jud.ct.gov>
Sent: Thursday, October 1, 2020 4:58 PM
To: Abery-Wetstone, Holly; Bellis, Barbara; Cobb, Susan; Farley, John; Hernandez, Alex; Nguyen-O'Dowd, Tammy; Prats, Sheila; Truglia, Anthony D., Jr.
Cc: Del Ciampo, Joseph; Carroll, Patrick; Bozzuto, Elizabeth; Farley, Melissa; Petruzzelli, Lori; O'Donnell, Shanna
Subject: FW: CBA Survey in connection with proposed changes to Rule 8.4
Attachments: CBA HOD Presentation 8.4(7) 10.1.20 [DRAFT].pdf

Dear Members of the Rules Committee:

After our last meeting I asked Melissa Farley to work with representatives of the CBA to summarize/collate the results of the survey that was mentioned at the meeting. Melissa received the information today and forwarded it on to me. After briefly reviewing the attached presentation, I decided I should forward it immediately to you rather than wait for the regular distribution of materials in advance of our next meeting.

Because some of the selected narrative responses report alleged harassing conduct by judges, I'm copying Judge Carroll and Judge Bozzuto on this email as well.

The survey yielded a large response, in my opinion, and some of the statistics are concerning, if not alarming.

I look forward to seeing you all at our next meeting.

Andrew

Andrew J. McDonald
Justice
Connecticut Supreme Court
231 Capitol Avenue
Hartford, CT 06106
(860) 757-2112

From: Farley, Melissa <Melissa.Farley@jud.ct.gov>
Sent: Thursday, October 1, 2020 3:04 PM
To: McDonald, Andrew <Andrew.McDonald@connapp.jud.ct.gov>
Subject: FW: CBA Survey in connection with proposed changes to Rule 8.4

Dear Justice McDonald,

Please find below and attached the information that I received from Cecil Thomas, President of the CBA, regarding Rule 8.4.

If you would like any additional information, please let me know.

I hope that you are doing well.

Take care,
Melissa

Melissa A. Farley
Executive Director
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231 Capitol Avenue
Hartford, CT 06106

melissa.farley@jud.ct.gov

860-757-2270 (phone)

860-757-2215 (fax)

From: Cecil Thomas <CThomas@ghla.org>

Sent: Thursday, October 1, 2020 2:23 PM

To: Farley, Melissa <Melissa.Farley@jud.ct.gov>

Subject: RE: CBA Survey in connection with proposed changes to Rule 8.4

Dear Melissa,

I hope this e-mail finds you well.

Per your request, attached please find an updated draft of the presentation I gave to the CBA House of Delegates on September 10, 2020, which includes a summary of the survey responses.

The last several slides include selected narrative responses to the open-ended questions in the survey about experiencing and witnessing harassment, discrimination and sexual harassment in professional contexts.

If you or Justice McDonald have any questions about this or require further information, please feel free to contact me to discuss further.

Best,

Cecil

From: Farley, Melissa <Melissa.Farley@jud.ct.gov>

Sent: Monday, September 21, 2020 10:32 AM

To: Amy Lin Meyerson <amy@almesq.com>

Cc: Cecil Thomas <CThomas@ghla.org>; Keith Soressi <ksoressi@ctbar.org>; Amani Edwards <aedwards@ctbar.org>; Bill Chapman <bchapman@ctbar.org>

Subject: RE: CBA Survey in connection with proposed changes to Rule 8.4

[CAUTION] External Sender:

Dear Amy,

Thanks for getting back to me. I hope that you are all doing well.

Take care,
Melissa

Melissa A. Farley

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From: Amy Lin Meyerson <amy@almesq.com>
Sent: Monday, September 21, 2020 10:05 AM
To: Farley, Melissa <Melissa.Farley@jud.ct.gov>
Cc: Cecil Thomas <cthomas@ghla.org>; Keith Soressi <ksoressi@ctbar.org>; Amani Edwards <aedwards@ctbar.org>; Bill Chapman <bchapman@ctbar.org>
Subject: CBA Survey in connection with proposed changes to Rule 8.4

Good morning, Melissa,

Bill passed along Justice McDonald's inquiry about the recent CBA survey mentioned in the CT Law Tribune op-ed piece last week. Cecil Thomas chairs the working group on this issue and can provide information gathered from our survey later this week. In the interim, please do not hesitate to contact us with any further questions or comments you may have.

Stay safe and be well,
Amy

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Proposed Amended Rules of Professional Conduct 8.4(7)

CONNECTICUT BAR ASSOCIATION
HOUSE OF DELEGATES MEETING

CECIL J. THOMAS

CBA 2020-21 PRESIDENT-ELECT

ORIGINALLY PRESENTED SEPTEMBER 10, 2020

AMENDED OCTOBER 1, 2020

CBA 8.4(7) Working Group Members

Cindy Cieslak
Chair, Young Lawyers Section

Ndidi Moses
Immediate Past President

Neeta Vatti
Co-Chair, Diversity and Inclusion
Committee

Karen DeMeola
Past President

Amanda Schreiber
Asst. Secretary-Treasurer

Megan Wade
Co-Chair, YLS Appellate Advocacy
Section

Monte Frank
Past President

Daniel Schwartz
ABA Delegate

Kean Zimmerman
Co-Chair, Diversity and Inclusion
Committee

Aigné Goldsby
YLS Diversity Director

Jonathan Shapiro
Past President

Daniel Horgan
Vice President

Marcy Stovall
Standing Committee on Professional
Ethics

Staff Liaisons:

Amy Lin Meyerson
President

Cecil J. Thomas
President-elect

Amani Edwards, Director of Diversity
and Human Resources

Keith Soressi, Executive Director

CBA RPC 8.4(7) Timeline

June 5, 2020: ABA Model Rule 8.4(g) Presented to the Rules Committee. June 5, 2020 Rules Committee Minutes: “After discussion, the Committee decided to table this proposal to the September meeting to allow Attorney Wade to coordinate with the Connecticut Bar Association and to submit additional materials to the Committee for review.”

June 15: Attorneys Aigné Goldsby, Megan Wade and Marcy Stovall address the House of Delegates regarding ABA 8.4(g). CBA 8.4(7) working group announced.

June – Present: CBA 8.4(7) working group and subcommittees thereof meet at least 12 times to discuss and develop Proposed Amended RPC 8.4(7)

CBA RPC 8.4(7) Timeline

- July 7, 2020: **Diversity and Inclusion Committee (unanimous approval)**
- July 15: **Standing Committee on Professional Ethics (unanimous approval)**
- July 16: **Young Lawyers Section (unanimous approval, two abstentions)**
- July 17: **Human Rights and Responsibilities (approval)**
- July 29-31: **LGBT Section (unanimous approval)**
- July 31-Aug. 4: **Women in the Law Section (unanimous approval)**
- August 12-13: **Veterans and Military Affairs Section (approval)**
- August 17: **Professionalism Committee (approval)**

CBA RPC 8.4(7) Timeline

- August 21: **Legislative and Policy Review Committee (LPRC) Position Request**
- August 25: **Professional Discipline Section (approval)**
- August 27: **Litigation Section (approval)**
- August 31: **Disability Law (opposed)**
- August 31: **Labor and Employment Section (approval)**
- Sept. 1: **Real Property (no position)**
- Sept. 2: **LPRC Committee (unanimous, one abstention)**
- Sept. 4: **Executive Committee (unanimous approval)**

CBA RPC 8.4(7) Timeline

Sept. 10: **CBA House of Delegates: 39 in favor, 11 opposed, 1 abstention**

Sept. 14: **Rules Committee Meeting**
Agenda Item No. 14:

“Proposal from Attorney Megan Wade to adopt the American Bar Association's Rule of Professional Conduct 8.4, subsection g, regarding harassing or discriminatory conduct. This proposal was made at the June 5, 2020 public hearing and was discussed at the meeting after the public hearing.”

Maintaining the Integrity of the Profession: Survey Responses

Dates: September 4, 2020 to September 9, 2020.

Survey Release: Survey circulated to the Connecticut Bar Association membership, as well as other Connecticut bar associations.

Response: 578 total respondents, of which 564 identified as an attorney licensed to practice law in Connecticut. (97.6%)

293 respondents reported that they had experienced discrimination, harassment or sexual harassment, based on membership in a protected class, in conduct related to the practice of law.

252 respondents reported that they had witnessed discrimination, harassment or sexual harassment, based on membership in a protected class, in conduct related to the practice of law.

Maintaining the Integrity of the Profession: Survey Responses

Of the 293 respondents who reported experiencing discrimination, harassment or sexual harassment:

78.5% reported experiencing discrimination (230 respondents)

31.4% harassment (92 respondents)

41.3% sexual harassment (121 respondents).

Maintaining the Integrity of the Profession: Survey Responses

Experiences with discrimination, harassment or sexual harassment, directed at membership in a protected class, in conduct related to the practice of law (highest numerical categories):

243 responses identified sex and/or pregnancy as the protected class(es) to which discrimination or harassment were directed.

183 responses identified race, color, ancestry, national origin, and/or ethnicity as the protected class(es) to which discrimination or harassment were directed.

93 respondents identified age as the protected class to which discrimination or harassment were directed.

30 respondents identified sexual orientation, gender identity or gender expression as the protected class(es) to which discrimination or harassment were directed.

Maintaining the Integrity of the Profession: Survey Responses

I have experienced discrimination, harassment, and/or sexual harassment in the following contexts:

| ANSWER CHOICES | RESPONSES | |
|---|-----------|-----|
| Workplace | 63.49% | 193 |
| Client representation | 41.12% | 125 |
| Bar association meetings, activities or events | 12.83% | 39 |
| Virtual/online (e.g., professional social media, online forums or e-mail lists) | 3.62% | 11 |
| Personnel (e.g. hiring, promotion, discipline or discharge) | 35.53% | 108 |
| Other professional meetings, activities or events | 24.34% | 74 |
| Other | 16.12% | 49 |
| Total Respondents: 304 | | |

Maintaining the Integrity of the Profession: Survey Responses

I have experienced discrimination, harassment, and/or sexual harassment by the following:

| ANSWER CHOICES | RESPONSES | |
|--|-----------|-----|
| Co-worker | 28.48% | 86 |
| Client | 32.12% | 97 |
| Opposing counsel | 41.72% | 126 |
| Manager/Supervisor/Senior Colleague/Higher-Ranking Individual | 47.35% | 143 |
| Judge or Other Decision-Maker | 26.49% | 80 |
| Another lawyer (not a co-worker) | 37.09% | 112 |
| Business professional (not a lawyer, e.g., vendor, court personnel, other legal staff) | 22.85% | 69 |
| Other | 7.95% | 24 |
| Total Respondents: 302 | | |

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses:

I graduated from [Law School], cum laude, with honors in I then earned my LLM ... the next year. I was 56. I interviewed at several law firms, including large firms [and a corporate legal department]. Every interview asked if I got along with "younger" lawyers, and a few asked my age. I was qualified for [the] position. I was interviewed by partners who asked my age.

During a lengthy trial, a ... judge told me my facial expressions and hand gestures were "off putting". I am Black and everyone else in the court was white. The trial was horrendously hard because of comments such as these. 2. I am often mistaken for the court reporter or witness. 3. At a law firm I was constantly micromanaged by the managing partner. My white counterparts were not subjected to such treatment. 4. At that same law firm another partner complained that my then infant daughter was "always sick".

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

I was supposed to have a change of assignment, but, after I said that I was pregnant and would be taking maternity leave, the assignment was revoked. I also was told that, for me to receive a reduced schedule upon my return from maternity leave, they would have to add time to other people's schedules. They also said that I could work from home for a certain amount of hours per week but that I would not be paid for that time and that my caseload would not be decreased.

My client made inappropriate sex-based and ethnicity/race-based comments to me. When I notified my partners, I did not feel like they responded appropriately. I also experienced race/ethnicity-based inappropriate comments by a partner and by staff. While these wouldn't rise to a viable HWE or discrimination claim, they do not make me feel comfortable at work. I did speak with the partner, and my feedback was well received and these particular microaggressions from the partner haven't happened again. In general, I do not feel supported as a minority race in the firm.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

I was let go wrongfully from a job when I told my supervisor I had to have a medical procedure that would require 3-5 days of hospitalization. On the advice of the paralegal, who knew about my diagnosis, I waited to tell my boss. I gave him four weeks' notice (I could have given him two months' but she expressed concern he would let me go upon learning this information [she'd worked with him for many years]). He did in fact let me go, without cause, a few days after I informed him I would need one week of medical leave.

My compensation has not been commensurate with male colleagues similarly situated.

Opposing Counsel and other attorneys have called me bitch, dike, cunt, and other offensive names ... in courthouses and professional meetings....

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

... shortly after being hired at a firm, the managing partner (who hired me), "turned" on me out of the blue ... He would literally scream at/about me on a daily basis in the hallways (so the entire firm heard) saying things like "banging my head against the wall is less painful than dealing with [your] stupidity" and similarly debasing, harassing, insulting comments and degrading slurs ... Other attorneys became so uncomfortable they began closing their doors during when there was an "eruption" from this attorney, and would later stop by my office to "check" on me after he'd left for the day, and kindly offered advice and encouraging words. What this person screamed about/to me was heard daily by over 30 attorneys and about 15 staff members. It was a nightmare I have pretty much blocked from my memory... It was traumatizing and I was, and still am, simply flummoxed at the experience.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

As a second year associate had a senior equity partner stop me in a hallway, late at night, and insist on a one sided "hug" while telling me his wife was away and he was struggling with being "good". I pushed him away from me hard and told him not to ever touch me again quite loudly. Other people in the vicinity were working late too. I reported him to a trusted equity member and it ultimately turned out he had been "handsy" with support staff and was known for his blatant self manipulation when speaking one on one with support staff. I was told he was told to knock it off and he left me alone and, reportedly, support staff. No other consequences to behavior.

I have had male co-workers comment on my clothes being tight or discussing how I looked in clothes right in front of me.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

I was paid less than other male colleagues with the same amount of years barred and less trial experience, paid less than white female attorneys with much less time practicing law and no trial experience, [and] paid less than a paralegal with no specialty /practice area... I have also received emails sent to me in error from opposing counsel thinking it was going to their male colleagues calling me a ditz / other derogatory words for females etc.

I had a pretrial conference with Judge _____. Present were opposing counsel: male partner, female associate and me (female). The judge took both sides individually into chambers then convened both of us. He said he wanted us to return the next day. He instructed the male attorney to bring the female associate: "Be sure you bring that pretty associate of yours." The male partner, said he had other plans for her. The judge: "I bet you do!" I was mortified, paralyzed.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

My supervising attorney was well known for many years to make intensely personal remarks about most of the female staff members of the firm. I was an associate in his department. He was intensely interested in who I talked to during the day, and which other attorneys assigned me work projects. One day, after a firm holiday lunch, he came to my office and complained that I had not "paid him enough attention" at the lunch, and that I "did not make enough eye contact with him." That was the last straw for me when, for the previous two years, I had been subjected to personal comments, and berated for not answering his emails fast enough. I complained to the firm "human resources" partners. That was a waste of time. They sent my supervisor and me to a psychologist to "work out our differences." Absurd response. This was extremely damaging for my career at the firm, and within a year I left because my supervisor retaliated against me and did not assign me any work after the complaint. The other partners did absolutely nothing to help me. I was not the first female associate to leave this firm after complaints of sexual harassment. Absolutely nothing was ever addressed and my supervisor remained unscathed. Very very difficult times.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

I have had multiple occasions where I have had white male opposing counsel attempt to bully or intimidate me, including occasions where male opposing counsel raised their voices and yelled, pounded tables, or literally got physically close to me in an attempt to intimidate. There are certain male attorneys in this state who if I am in a deposition with them I always request a video deposition because this helps to prevent them from engaging of intimidation and harassment of me and my witnesses (especially female witnesses). This leads to costs for my clients that absolutely should not be necessary.

I was sexually harassed by an employer who noticed a tattoo I have on my chest. The only way to see this is if he was looking down my shirt. And when he found out I was gay asked if I wanted to have sex with a man. I did not and quit thereafter.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

At a previous law firm, the firm refused to honor their written paid leave policy when I was pregnant and instead violated their own policies and treated the leave as unpaid because they felt my taking leave didn't show dedication to the firm. They also told me that if I requested any sort of reduced hours, I would be taken off the partnership track completely.

When I was a young junior associate (at a former firm), I once had a male partner (at least 30 years older than me) ask me to sleep in his hotel room with him and comment repeatedly on my outfits and how I looked. On a smaller, but still harmful, scale, over the years, in various contexts, I've been called rude, mean, bitchy and comparable insults by opposing counsel on multiple occasions when they would never treat my male colleagues that way. I've frequently been asked to get coffee for the group, take notes, or serve food in meetings when none of the males present were asked to do the same. Law firm salaries are still on average significantly lower for women than for men.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

At a prior firm, I witnessed harassment based on gender, race and sexual orientation. The incidents were reported and/or witnessed by management and no action was taken.

I'm genuinely worried about disclosing this information. I have been reprimanded for the smallest "mistakes" and I can't risk my job.

I saw black attorneys held to higher standards of practice than white attorneys

[I have witnessed] My attorney colleagues of color routinely being directed to move out of the 'attorney' bench while in court (within the last 4 years).

This was in a large firm and happened to a Black female colleague. Blatant discrimination against a brilliant lawyer, leaving her out of meetings, not giving her good assignments. Nothing was done, and she left the firm. Heartbreaking.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

I'm in my late 50s and can't find a job as an attorney. I'm a recent graduate. Can't even get a court clerk role.

I had an medical issue which required several surgeries. Prior to this my billable hours were fine. After this, I was bullied and threatened about my low billable hours, and ultimately I am losing my job at year end. I am in my 60's.

... a job offer with [a law firm] was withdrawn when I came out as a lesbian.

Women are routinely discriminated against in terms of assignments, client contact and recognition for work. Pregnancy leave is actually work full time from home. Alcohol is a large part of mandatory "social" events and this results in more bad behavior. The rules do not apply to lawyers or law firms.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

While in court, I had opposing counsel tell me he was disappointed that we settled our matter because he was looking forward to seeing my legs wearing heels during a trial. On another occasion, I had a Magistrate tell me to "sit down and only speak when spoken to" while representing my client.

opposing counsel making overt sexual comments regarding my body.... more than one interviewer for a job commenting that as a married female with children I should be at home ... [and] I did not need health benefits as my spouse should provide those.

I have had an employer make inappropriate comments such as, "if you wear pants like that again you will definitely get a raise." It is not uncommon for client's to assume I'm the paralegal and not the lawyer. I had an employer allude to the fact that because my husband has a good job, I don't need a raise...

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

It's happened so many times over the course of my career and life that there's no single answer. There have been times where I have taken personal action through admonishment or similar action and I'm sorry to say that there are times when I have not done anything but bite my tongue.

no one is going to do anything about male attorneys getting so close to me that when they yell I can feel the spit on my face. No one is going to do anything about male attorneys belittling female attorneys and laughing and swearing at them in front of the clients to diminish their authority. It is not zealous it is abusive. If these male attorneys behaves that way in a corporation they would be fired in a second. Female attorneys are open season and have no protection anywhere.

No actions were ever taken [regarding sexual harassment/discrimination on the basis of sex and pregnancy]. Men always get away with it and the few women in power are willing to help them.... I don't think this is ever going to get better.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

A partner with authority to review associates' performances crudely came on to me (made suggestive comments and facial expressions) at firm events, in plain view of colleagues; came into my office uninvited and discussed personal issues (example: when I became engaged, he encouraged me not to get married). He attempted to flirt with many, if not all, female associates. When I rebuffed him he was aggressive and rude towards me in front of colleagues.

Former colleagues were told to accept sexual harassment for the sake of good client relations, and were sexually harassed by superiors.

Over the many years of my career, I have never seen any actions taken against people (typically older male partners) who treat women or minorities poorly or illegally. Instead, I've seen many associates leave law firms or the practice of law entirely after being treated unfairly.

Maintaining the Integrity of the Profession: Survey Responses

Selected Narrative Responses (cont'd):

The legal world has made tremendous strides, but anyone that thinks we've solved issues related to inequality and discrimination isn't paying attention or is missing the perspective of a large segment of the legal world.

I have routinely received derogatory comments related to [organizational leadership by a diverse individual] or comments that presume that our work product is not good.

In a medium to small law firm setting where the partners are focused on their own productivity it is almost impossible to expect they will respond to sexual harassment complaints in a way that will upset the partners' own bottom line.

We cannot continue to expect those being "victimized" to be able to fix the problems. Those in power have to get on board and carry the load.