

From: John Windsor <jwindsor@w-klaw.com>
To: [REDACTED]
CC: [REDACTED]
Date: 2/22/2013 2:33 PM
Subject: Board of Professional Responsibility, proposed amendment to Rule 8.4

m2013-379

I am completely and vehemently opposed to this proposed amendment.

Lawyers have a right to their opinion regardless of the cowardly, mean or politically correct positions of others. Making it a violation of ethical rules will not charge that person's heart, and will do nothing to protect the community at large.

It is an infringement of our rights under the Federal Constitution/Bill of Rights, and an unnecessary imposition on those who practice in small firms especially (given a grievance to be sought by clients who are unhappy when no other grounds exist - much like the cowardly politicians who inject race in to every discussion. It is nothing more than "do gooders" seeking to impose their will on others, and control those they disagree with, regardless of their rights, and an attempt to elevate a problem they obsess over to the level of some sanctionable offense.

I do not discriminate in any of these areas, and it is not economically in my best interest to do so, anyway. But, I am sick of this type of elevation of special classes to special status, and protection. It divides us and creates discontent where none is justified and mistreats those not in these appointed special classes. I am sick of it, and I am very disappointed this could have even risen to the level of an actual proposal by the BPR, it tells me we need to watch what they are doing very closely in the future.

John R. Windsor, Jr.
Windsor Law Firm
Admitted: TN, MS, LA
LLM - Taxation
Practice Areas: Business Succession/Exit, Trusts,

QDROs, Retirement Plans, Estates, Tax and Probate

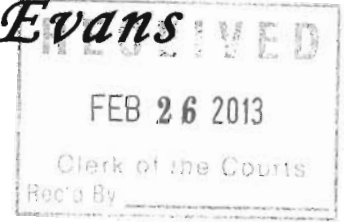
6800 Poplar Avenue
Atrium I, Suite 120
Memphis, TN 38138
901.680.0101
901.432.5492 fax

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Bullock, Fly, Hornsby and Evans

Attorneys at Law
302 North Spring Street
P. O. Box 398
Murfreesboro, TN 37133-0398
(615) 896-4154 (615) 896-4152 – Fax
bradhornsbylaw@gmail.com



Frank M. Fly
William B. Bullock
Brad W. Hornsby
Luke A. Evans
Donald M. Bulloch, Jr.
Barry R. Tidwell
Caleb B. McCain
Heather G. Parker

OF COUNSEL
John W. Price
John H. Baker, III

106 Farrier Lane
Franklin, TN 37064
(615) 896-4154 (615) 896-4152

Middle Tennessee Elder Law Center
307 Hickerson Drive
Murfreesboro, TN 37129
(615) 896-5621 (615) 413-5165 – Fax

February 25, 2013

Mike Catalano
Clerk, Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219-1407

**Re: Docket # M2013-00379-SC-RL1-RL
Amendment to RPC8.4**

Dear Mr. Catalano:

Please treat this letter as a written comment opposing the amendment of RPC8.4 to add a new paragraph (H) making it professional misconduct for a lawyer to engage in a professional capacity in certain discriminatory manners. My concerns with this amendment are as follows:

1. This proposal makes bias profession misconduct. Bias unfortunately goes both ways. If I hire an older, more experienced attorney would I not be biased towards that person because of his age. This would seem to be prohibited by the proposed rule, yet very reasonable and supported by the law. Furthermore, if I was able to find a young attorney that came from a wealthy background whose father was an influential businessman, I would be prohibited from hiring that person based on his high socio-economic standing. Law firms in many cases hire individuals because of the capacity for these associates to obtain potential clients. This behavior would now be improper, although clearly legal under the laws of the state of Tennessee.
2. This rule now adds sexual orientation as a protected class. Neither the courts nor the legislature have deemed this a protected class. I do not believe it is appropriate for the Board of Professional Responsibility to enact rules giving protections to groups that have not been granted said protections by the courts or legislature.

3. This rule also adds socio-economic status as a protected class. Neither the courts nor the legislature have deemed this a protected class. I do not believe it is appropriate for the Board of Professional Responsibility to enact rules giving protections to groups that have not been granted said protections by the courts or legislature.

4. By enacting sexual orientation and socio-economic status as a protected class by the Supreme Court, the Supreme Court will probably have to recuse itself from any future court proceedings wherein a litigant may seek extension of the law. I would expect litigation in the forthcoming years. By already deciding this issue before it is properly before the court should result in any Justices supporting this proposal from hearing the case.

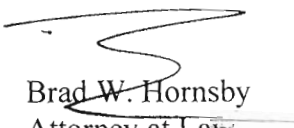
5. This rule will be virtually impossible to enforce. I currently have the right to decline representation. I may deem the client's case flawed. I might believe the likelihood of getting paid is slim. However, if I decline a case, I may now be forced to answer constant disciplinary complaints. The Board will not be able to realistically determine my intent.

6. There are no exceptions to the rule. If my firm wanted to specialize in a certain area of practice i.e. representing males in divorce matters, said behavior might likewise be considered a bias towards males. A firm that specializes in elder law, may be deemed to be biased against younger clients. There are many attorneys who have specializations where they represent primarily certain genders, ages, races, etc. These law firms which serve an important role, should be permitted to continue their specialization. Furthermore, I believe certain organizations should be permitted to discriminate based on religion. As an example, if I work for a specific denominations central office, I would generally want individuals of said religious persuasion in the office. Requiring the Southern Baptist Association to hire Muslims or the Middle Tennessee Islamic Center to hire Protestants would seem to be clearly inappropriate. The problem is that the rule by not having reasonable exceptions is fatally flawed.

Based upon the foregoing I oppose in this matter.

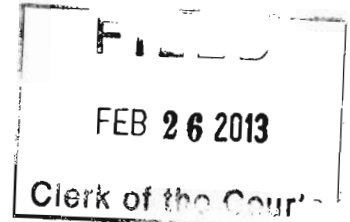
Sincerely,

BULLOCK, FLY, HORNSBY & EVANS



Brad W. Hornsby
Attorney at Law

LOCKARD, BINGHAM & KAPLAN
ATTORNEYS AT LAW
707 ADAMS AVENUE
MEMPHIS, TENNESSEE 38105
PHONE: (901) 525-8601 FAX: (901) 525-3084



JAMES O. LOCKARD, P.C.**†
JAMES E. BINGHAM †
TODD A. KAPLAN

February 25, 2013

** ALSO LICENSED IN ARIZONA
† TENNESSEE SUPREME COURT
APPROVED MEDIATOR
NOT A PARTNERSHIP

Mike Catalano
Clerk, Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

RE: #M2013-00379-SC-RL1-RL

Dear Mr. Catalano,

I would like to strongly discourage adoption of the above amendment to RPC 8.4.

This is unnecessary. I have not noticed a lot of lawyers engaging in the described activity. If this were a real problem, surely we would have heard a cry for help. Looks like someone without a lot to do thought of this. Or perhaps someone with a grudge.

Secondly, these terms are so vague as to be unenforceable. What, for example, is "socio-economic status" and who is going to interpret that?

This seems to be addressed to a small section of the legal community. As with so many government solutions, a broad blanket is thrown out and covers the vast majority of innocents along with the few offenders.

This would create an opportunity for a disgruntled client or opposing party to file a baseless board claim when faced with a bad decision by the court.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to be "JEB".

James E. Bingham

JEB/tlm

DUNN, MacDONALD & REYNOLDS PC

6204 Baum Drive
Knoxville, Tennessee 37919

Telephone (865) 525-0505
Facsimile (865) 525-6001

Arnold G. Cohen

E-Mail
agc@dmrplaw.com

February 27, 2013

Mr. Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



Re: Proposed Amendment to Tennessee Rule of Professional Conduct 8.4
filed February 13, 2013

Dear Mr. Catalano:

As permitted by the Order entered February 13, 2013 in No. M2013-00379-SC-RL1-RL, I have the following comments:

1. As I have long advocated generally, it is appropriate for lawyers to refrain from words and conduct carrying the bias and prejudice referenced in the proposed rule. It will speak better of our profession to the community at large if we, as lawyers, refrain from exhibiting such bias and prejudice. Adhering to such a rule will promote civility and tend to reduce inappropriate divisiveness. Notwithstanding the above and as the language of the proposed Order seems to anticipate, there are times when actions or decisions based on the various conditions or statuses referenced may be appropriate in a lawyer's determination of whether to accept a case and the strategy or strategies to be used in prosecuting a case. Those determinations by the lawyer should be based not on bias and prejudice of the lawyer but, instead, upon that lawyer's reasonable perception and understanding of factors significant to the outcome to be achieved for the benefit of the client. For example, it is reasonable for a lawyer to determine that the client's financial resources are insufficient to support the prosecution of his case. It is reasonable for a lawyer to consider the possible or likely prejudices of a jury or of a decision maker in whether to accept the case and, if accepted, how to pursue resolution of the case. Such decisions should not be based upon the bias or prejudice of the lawyer but may be based upon that lawyer's reasonable beliefs about the biases and prejudices of others.

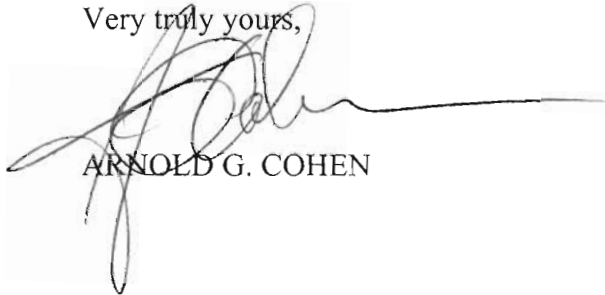
2. In the event this proposed rule is adopted, it would be highly appropriate, if not necessary, for BPR to also write comments that will guide lawyers in applying the rule. In making such comments I hope that the Board will state that it is never appropriate under this rule for a lawyer to exacerbate or excite the Rule 8.4 prejudices of others for the sake of zealous advocacy. Such a position should be applicable regardless of whether the bias and prejudice is aimed at undermining another party or supporting the lawyer's own client.

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Mr. Mike Catalano, Clerk
February 27, 2013

3. However, there may be cases in which the particular Rule 8.4 status of the client or other party is material to the merits of the case. That circumstance may come up most frequently in cases in which the particular values of a person are at issue or at which the character of the individual is material so as to bring into evidence the individual's religious beliefs. Those kinds of situations need particularly careful treatment because they are probably more subject to abuse than any other status factor. In addition, there are Tennessee and federal constitutional restrictions on what a court may impose upon individuals in the religious arena.

Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Arnold G. Cohen", with a long horizontal flourish extending to the right.

ARNOLD G. COHEN

AGC:grv

THE LAW OFFICE OF BRYAN STEPHENSON

Bank of America Plaza, Suite 905
414 Union Street
Nashville, Tennessee 37219

Phone: 615.515.5110
Fax: 615.620.6438
bryanstephenson@middletnlaw.com



February 27, 2013

Via U.S. Mail

Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: M2013-00379-SC-RL1-RL

Dear Mr. Catalano:

Please consider this letter as a comment in opposition to the proposed addition of a new paragraph "H" to Rule of Professional Conduct 8.4.

First, I question why the Board believes such an amendment to Rule 8.4 is necessary. Has there been a pattern of protected classes of individuals unable to have lawyers represent them, or otherwise prejudiced by members of the bar? Has there been a pattern of attorneys displaying bias and prejudice towards non-clients, such as witnesses, vendors, professionals, employees, etc.? Is there empirical evidence that such a rule is needed? Has the Board studied the ethics rules in other jurisdictions and found that the same or similar rules have proven helpful or problematic? Has the Board spoken with attorneys (particularly self-employed attorneys) about their input on this proposed rule? Have the drafters of this proposed rule spent significant time dealing with individual people as clients or potential clients (as opposed to corporate or business clients, wherein individual class characteristics would not come into play)?

Whenever there is a new Rule regarding misconduct, there is of course a new vehicle by which an attorney's credibility, career, law license (and thus livelihood) may be attacked. Therefore, proposed rule drafters should be careful to articulate language that ensures a fair and clear understanding of what is prohibited. Rules should be written so as to avoid placing lawyers in situations where they may be subjected to having to answer unfounded complaints.

At the outset of reading the proposed rule, the basic non-discrimination language appears to be a laudable goal for any professional. However, it is simply not needed in the Rules. This proposed rule appears to be a solution without a problem. It sounds like a proposal that the drafters believed would look and sound good in theory (especially to the public at large), but in practicality is unnecessary and poorly drafted, opening the door for myriad disciplinary problems against unwitting, innocent attorneys. Additionally, the drafters of this rule have naively adopted language (without adequately defining certain terms), which fails to establish (a) guidelines for acceptable conduct or (b) parameters within which the rule will be investigated and/or enforced.

This proposed rule appears to create a unique type of misconduct that focuses on conduct arising from an attorney's inner thoughts or beliefs. This proposal appears to traverse into new areas along the lines of reading the minds of attorneys. Compare this proposal with other types of misconduct, where there is a specific prohibited action or result (i.e., conduct involving deceit, comingling of client monies, disobeying a court order, missing a filing deadline, neglecting a case, doing or neglecting to do something that is "prejudicial to the administration of justice"). How is this proposed rule to be interpreted and enforced? How would this nebulous rule not subject attorneys to an increased potential for unfounded complaints?

To illustrate potential problems with this overly simplistic rule proposal, consider the following scenarios in which an unwitting attorney could be subjected to discipline for misconduct:

1. Attorney declines to handle juvenile cases. The attorney's reasons could include: (a) unfamiliarity with juvenile court; (b) although familiar with juvenile court, he/she simply prefers not to practice in juvenile court; (c) attorney does not have the patience to deal with youthful minds, or (d) any number of different reasons. This attorney would have committed misconduct (discrimination on the basis of age) under the proposed rule.
2. Attorney declines to represent clients in criminal cases, when the clients are undocumented immigrants. Attorney is not proficient in immigration law, and decides to safeguard himself from exposure to deficient representation under *Padilla v. Kentucky*. This attorney would have committed misconduct (discrimination on the basis of national origin) under the proposed rule.
3. Attorney declines to represent an individual with a severe agoraphobia condition, which may properly be considered a disability. The client's condition is so severe, that the client refuses to leave his or her home. The attorney decides that it is not appropriate, efficient, or otherwise befitting the attorney's practice to have to visit clients in their homes.¹ This attorney would have committed misconduct (discrimination on the basis of disability) under the proposed rule.

¹ Replacing "agoraphobia" with any number of other mental or physical illnesses or conditions, which may similarly affect a home-bound person, would yield the same result.

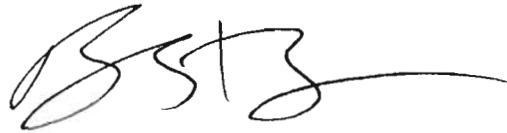
4. Attorney, who speaks only English, declines to represent clients who do not speak English. Attorney's business is not conducive to hiring an interpreter for such cases, and thus politely declines representing non-English speakers. It could be construed that this attorney has committed misconduct (discrimination on the basis of national origin) under the proposed rule.
5. Attorney focuses his or her domestic law practice in representing fathers in child custody disputes. If the attorney has found a niche practice in this area and this proposed rule is adopted, then that attorney must change his or her entire business model to comply with the new rule so as not to discriminate based on sex.
6. Attorney has carved out a niche practice in representing private religious schools of similar beliefs or denomination(s). The attorney has committed misconduct by not representing other schools, which may have no religious affiliation at all, or which may be religiously affiliated but with a different denomination.
7. Attorney is a sole practitioner who works from a small office. The office is not conducive for individuals with certain disabilities (such as a client in a wheelchair) to enter or navigate. Under this proposed rule, the attorney could be committing misconduct.
8. It is unclear under the rule proposal whether an attorney's conduct, "manifesting bias or prejudice", applies only to disparate treatment towards these protected classes, or whether it also includes disparate impact towards these protected classes. If the rule is interpreted to cover disparate impact cases, then there would be many scenarios in which an unwitting attorney could have to answer a complaint for misconduct. Consider an attorney who has found a niche practice of high level estate planning for wealthy estates. Additionally the attorney's office is located in an affluent part of town. The attorney has no ill intent to focus solely on a particular race or class of individuals, but looking at the attorney's clientele perhaps a certain race or class comprises the majority of the clientele. Thus, a reasonable argument could be made that the attorney's practice has had a disparate impact on other protected classes. Some attorneys market solely to specific immigrant groups. Are these attorneys going to be found guilty of misconduct if the Board requests to review their client lists and notices that only certain national origins are represented?
9. With respect to disparate impact on individuals, consider an Assistant District Attorney prosecuting cases on a domestic violence docket. He or she offers plea agreements wherein some of the male defendants agree to sentences that involve more onerous penalties or conditions than those of some of the female defendants. The prosecutor is then subject to a complaint of misconduct for viewing the male and female defendants differently, even if the prosecutor did not display or employ an actual intent to treat them differently. Imagine the District Attorney's Office having to pour through thousands of past cases to present to the Board for examination, and calling upon the individual prosecutors to explain their decisions made in each and every case.

10. Public Defender Offices and Legal Aid entities, which only represent the indigent, would be in violation of the plain language of this proposed rule because they would be discriminating based on economic status. While the rule proposes an exception for “A lawyer who declines to represent a client based on his or her inability to pay the lawyer’s fee...”, there is not an exception for the lawyers who *only* represent indigent individuals. Surely this is not the intended result of this proposed rule, but this example further illustrates the construction problems that could result from such naively simplistic language.
11. Another problem with the language of this rule is that it does not clarify whether a client’s conduct can be imputed to the attorney’s conduct. Consider an attorney who is assisting a couple in adopting a child. The couple only wishes to adopt a child of a certain race, national origin, and age. Additionally, the couple does not wish to adopt a child with any disabilities. If the attorney assists the couple, under the plain language of this proposed rule, the attorney could have violated four of the rule’s provisions.
12. If a client’s conduct or intended course of action can be imputed to the attorney’s conduct, then there are numerous situations in which the attorney would violate the proposed rule. For example, consider a private country club that only allows male members (or members of a certain race, religion, or who have attained a certain age) to sit on the board of directors. An attorney who represents that county club in its day to day affairs would be in danger of a complaint of misconduct.
13. An additional complication is that the requisite “bias or prejudice”, which is not defined or limited, does not apply solely with respect to the attorney’s client (or prospective client). Thus, it could be misconduct for such “bias or prejudice” to be employed against a third party, such as a witness or victim in a case, so long as it was in the attorney’s “professional capacity.” Additionally, the misconduct analysis would apply to other third parties. It could then be misconduct for an attorney to choose, for example, an accountant based on a prohibited factor. Substitute for “accountant” any type of service professional or vendor (i.e., court reporter, marketing firm, phone service provider, maintenance person, IT consultant, private investigator, interpreter, office decorator, expert witness). For example, if an attorney decides that he or she wishes to hire an accountant who shares similar religious beliefs or values, then that attorney has committed misconduct. The ramifications of this proposed rule, as written, are extensive and absurd.
14. A final complication in this non-exhaustive list includes employment situations. Consider a law office that decides it is in their best interest for their receptionist to be female. Or perhaps the office decides that it wishes to hire a more experienced attorney and thus looks only to older candidates. Would the lawyers within that office be guilty of misconduct?

In sum, there is no evidence that this proposed rule is necessary or even helpful. In fact, its naively simplistic language would have the opposite effect---it would create problems. Specifically, it would allow a barrage of scenarios to place attorneys in positions of having to defend innocent behavior.

Respectfully, I must speak against the Court's adopting of this proposed rule.

With best regards,

A handwritten signature in black ink, appearing to read 'BSTJ', with a long horizontal flourish extending to the right.

Bryan Stephenson

Gregory Management Co., LLC

Located in the Old Custom House of Bristol

MICHAEL S. MCKINNEY
Direct Dial: (423) 793-0135
Direct Fax: (423) 793-0129
E-Mail Address: mmckinney@jrgregory.com

February 26, 2013

Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

RE: Docket #M2013-00379-SC-RL1-RL

Dear Mr. Catalano,

I am writing this letter as part of the comment process on the Board of Professional Responsibility's ("BPR") proposed amendment to Rule 8, RPC 8.4, of the Rules of the Tennessee Supreme Court to add a new paragraph (h), making it professional misconduct for a lawyer to engage, in a professional capacity, in certain discriminatory conduct. It is my opinion that this proposed revision is overbroad, vague, and unnecessary. It creates a substantial risk of creating undue burdens on attorneys and the Board of Professional Responsibility. Moreover, there is little evidence that this rule change addresses an issue that is a current problem among the bar. **Accordingly, I am opposed to the proposed rule change.**

First, there is a wide gulf between "actions prejudicial to justice" under the current rule and "in a professional capacity" under the proposed rule. This could be so broad as to enable a prospective employee to make an ethics complaint or use the ethics complaint as leverage in settlement discussions, regardless of whether the attorney actually did anything wrong. It gives frivolous complaints much greater bargaining power in any settlement discussion.

Second, neither sexual orientation nor socio-economic status have historically been considered "protected classes" under federal or state law. While it is admirable to not discriminate in a matter that is "prejudicial to justice" as is done under the current rule, modifying the rule to basically force attorneys to place their license on the line with every employment decision or other professional decision is an unnecessary burden and will lead to unintended consequences. For example, suppose an attorney's practice is dealing with high net worth estate planning clients. A male prospective job candidate comes into his office in a tattered drag outfit and reeking of body odor and alcohol. The attorney, realizing that his clients would not appreciate the new employee, refuses to hire him. The proposed rule would allow this individual to lodge an ethics complaint against the attorney based on both his sexual orientation and his socio-economic status. While this is a somewhat ridiculous example, this should not be an area worthy of an ethics complaint.



620 Shelby Street • Bristol, TN 37620
Phone: 423-793-0135 • Fax: 423-793-0129

February 26, 2013


Page 2

“Socio-economic status” is a particularly problematic term. Under some definitions of the term, this vague term includes work experience and education. Every single employment decision is affected by an applicant’s work experience and education and therefore every single employment decision is an opportunity for someone to lodge an ethics complaint. This expansion of the rule is overbroad, vague and unworkable. Trying to address these issues in the comments is likewise unworkable. For example, while I recognize that the proposed comment to the rule creates an exception for professional decisions based on not accepting the engagement of someone who is unable to pay, does anyone really think someone lodging this kind of complaint is going to read the comments? Meanwhile the board’s time and the attorney’s time is wasted responding to frivolous complaints.

The phrases “in a professional capacity” and “legitimate advocacy” are both vague and open to interpretation. Who is to say what constitutes legitimate advocacy? If an attorney has a blog where he rails against homosexual advocates, is he doing so in a professional capacity? Is it legitimate advocacy? What if he is doing it because he wants to be a resource and attract clients that lobby against homosexual causes? Does it matter if the attorney represents an organization like the Family Research Council (a group that lobbies against homosexuals that has been labeled as a “hate group” by the Southern Poverty Law Center)? Should a group like Family Research Council be denied legal assistance because another group deems them to be “illegitimate”? This rule can have a chilling effect on the free speech of attorneys and could make it more difficult for some politically unpopular individuals, organizations or groups to obtain counsel or other assistance.

Beyond the comments above, I personally find the proposed rule change to be insulting to attorneys. The ethics rules should focus on obtaining justice, not legislating social issues. If an attorney breaks a legitimate discrimination law, other ethics rules are already in place to address those issues. This proposed expansion opens the door for all kinds of abuse.

Very truly yours,



Michael S. McKinney
General Counsel
BPR 020206

LAW OFFICES OF
WILSON & BRADLEY
AN ASSOCIATION OF ATTORNEYS

6 PUBLIC SQUARE NORTH
MURFREESBORO, TENNESSEE 37130
(615) 895-0030 FAX (615) 895-9818



HOWARD W. WILSON, ATTY.
MICHELLE BLAYLOCK-HOWSER, ATTY.
KRIS OLIVER, ATTY.

SUSAN K. BRADLEY, ATTY.
Rule 31 Listed Family Mediator

March 1, 2013

Mike Catalano
Clerk Tennessee Appellate Courts
100 Supreme Court Building
401 Seventh Avenue North
Nashville, Tennessee 37219-1407

Re: Proposed amendment to Rule 8 RPC 8.4

Dear Mr. Catalano:

I recently read on TBA Today, the Tennessee Board of Professional Responsibility and Supreme Court is considering amending R.P.C. 8.4 to include a rule prohibiting an attorney from conduct that manifests racial and other types of bias or prejudice. While I certainly do not believe in prejudices or biases of any kind, I certainly do subscribe to the idea that we as attorneys should be able to represent individuals who hold those particular values without recourse. Each individual is has a right to seek counsel to support their position regardless of how abhorrent it may seem to those of the general public. I am concerned such amendment to the rule would cause an attorney to turn away an individual who wished to pursue an agenda based upon a bias or prejudice listed in the proposed amendment. While such conduct and behavior is distasteful, I am concerned there will be individuals who are not represented by counsel due to counsel's fear of having that individual's thoughts and actions be implicated to counsel. Furthermore, counsel would not be able to defend his or herself with regard to such representation due to our rules regarding confidentiality. There have been many individuals I have represented over the years with whom I did not agree with our share their opinions; however, I valued the constitutional provision that an individual make seek representation in matters before a tribunal.

While I believe the Court's proposed amendment to the Rule is certainly a thoughtful and considerate provision, I believe it would be very difficult to enforce same as it could not be known if the conduct was that of the attorney or the position of the client. It seems the governing boards have lost faith in us as professionals to act in a decent and civil manner. However, I believe a majority of my colleagues hold those values in high regard and therefore, the proposed amendment is unnecessary and could certainly create some very difficult and confusing positions for attorneys with regard to maintaining confidentiality.

LAW OFFICES OF
WILSON & BRADLEY
AN ASSOCIATION OF ATTORNEYS

6 PUBLIC SQUARE NORTH
MURFREESBORO, TENNESSEE 37130
(615) 895-0030 FAX (615) 895-9818



HOWARD W. WILSON, ATTY.
MICHELLE BLAYLOCK-HOWSER, ATTY
KRIS OLIVER, ATTY.

SUSAN K. BRADLEY, ATTY.
Rule 31 Listed Family Mediator

March 1, 2013

Mike Catalano
Clerk Tennessee Appellate Courts
100 Supreme Court Building
401 Seventh Avenue North
Nashville, Tennessee 37219-1407

Re: Proposed amendment to Rule 8 RPC 8.4

Dear Mr. Catalano:

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I respectfully request the amendment not be adopted as written.

With kindest regards,

A handwritten signature in black ink, appearing to read 'Michelle Blaylock-Howser', written in a cursive style.

Michelle Blaylock-Howser

MBH/lab

From: "Edward T. Brading" <etbrading@bradinglaw.com>
To: .
Date: 03/06/2013 9:25 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 6, 2013 - 9:24am
Submitted by anonymous user: [75.137.40.174]
Submitted values are:

Your Name: Edward T. Brading
Your Address: 208 Sunset Drive, Suite 409, Johnson City, Tennessee 37604
Your email address: etbrading@bradinglaw.com
Your Position or Organization: Edward T. Brading, Attorney at Law
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:
The Supreme Court should refuse the BPR's petition and decline to amend RPC 8.4 in accordance with it. A few thoughts:

1. Under proposed RPC 8.4(h), may a lawyer, when speaking or writing in his professional capacity, manifest all the bias and prejudice he wishes on any basis he chooses, even when not engaged in "legitimate advocacy"? Unlike current Comment 3, proposed RPC 8.4(h) prohibits only conduct, not words.

2. Under proposed RPC 8.4(h), may a lawyer refuse to hire a pedophilic process server? The refusal would constitute "conduct, in a professional capacity, manifesting bias or prejudice based on ... sexual orientation."

3. What is "legitimate" advocacy? Does legitimacy hinge on compliance with Rule 11, T.R.Civ.P.? Or does it depend on RPC 3.1? Is "legitimate" synonymous with "meritorious"?

4. Under proposed RPC 8.4(h), may a lawyer join the Napier-Looby Bar Association, the Tennessee Lawyers' Association for Women, or the Christian Legal Society? In his Martindale-Hubbell listing may a lawyer tout that he speaks Spanish or that he focuses his practice on estate planning for high net worth persons? May he obtain certification in this state as an Elder Law Specialist? May he donate to the Legal Aid Society of Middle Tennessee and the Cumberland? In each of these scenarios the lawyer is engaging, respectively, in "conduct, in a professional capacity, manifesting bias or prejudice based on race, sex, religion, national origin, ... age, ... [and] socio-economic status."

5. Proposed RPC 8.4(h), unlike current Comment 3, is not limited to the course of representation. Moreover, proposed Comment 3 says that a lawyer who declines to represent a person based on the person's inability to pay a fee would not violate proposed RPC 8.4(h), but proposed Comment 3 excludes the factors set forth in proposed RPC 8.4(h). By implication, is a lawyer who declines to represent persons based on those persons' race, sex, etc. committing professional misconduct in every instance? If not, then in which instances is he committing misconduct? Is a lawyer who refuses to prepare a will for a person he suspects of being incompetent engaging in "conduct, in a professional capacity, manifesting bias or prejudice based on ... disability"? Throughout the RPC, lawyers face discipline for taking on cases they should not. Does the BPR now intend to discipline lawyers for the cases they do not take on?

6. Unlike current Comment 3, proposed RPC 8.4(h) prohibits all manifestation of bias or prejudice, not merely knowing manifestation. Would all unintentional, accidental manifestations of bias or prejudice be misconduct? If not, then which ones would be?

At best, the BPR's proposal would turn RPC 8.4 from gauzy to opaque. At worst, the BPR's proposal would be an object lesson in unintended consequences.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5002>

MAR 20 2013

Yvonne K. Chapman
Attorney at Law

Post Office Box 38512
Germantown, TN 38183



Phone: 901-494-4420

March 18, 2013

Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

RE: Proposed Amendment to Tennessee RPC 8.4, Docket M2013-00379-SC-RLI

Dear Mr. Catalano,

Please register my opposition to the proposed amendment to RPC 8.4.

The proposed rule elevates language currently contained in Comment [3]¹ to the level of "professional misconduct" and broadens the scope of the language that was the comment.

The proposed change reads:

"It is professional misconduct for a lawyer to:...

(h) engage in conduct, in a professional capacity, manifesting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status. Legitimate advocacy respecting the foregoing factors does not violate this provision."

The proposed rule removes the phrase found in current Comment [3] "in the course of representing a client," and substitutes the phrase "in a professional capacity." Lawyers attend meetings, join boards, and become involved in politics and a wide variety of community activities because they are lawyers. Thus, conduct the Board could regulate is unlimited.

The proposed rule changes the phrase in current Comment [3], "knowingly manifests, by words or conduct," by removing "words" from the phrase "words or conduct" and by removing the requirement of intent represented by the word, "knowingly." Thus, inadvertent or misunderstood "conduct" would be subject to disciplinary action.

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In addition, please note these specific concerns:

1. the proposed change is unconstitutional:
 - violates the right of free speech under the First Amendment²
 - violates the rights of conscience under Tennessee Constitution Article I §3³
2. language defining “professional misconduct” is vague and overbroad (also discussed above):
 - “engage in conduct”
 - “in a professional capacity”
 - “legitimate advocacy”
3. the rule interferes with professional judgment and autonomy of a lawyer:
 - see responsibilities of a lawyer in the Preamble to the Rules of Professional Conduct⁴

Here are three simple examples of situations a lawyer could face in a law office setting:

- Client is a faith-based privately owned residential retirement community who wants lawyer to prepare bylaws so the community members can screen applicants who want to buy-in to assure that they have same values as the others who live there.
- Potential client is a member of the KKK who wants lawyer to appeal the denial of a parade permit. You are a small lawfirm; your paralegal is Jewish. Lawyer declines matter due to biases of the law firm’s employee.
- Potential clients come in and ask lawyer to file petition to force their underage daughter to have an abortion. However, due to own faith, lawyer opposes abortion so lawyer declines the matter.

We can easily identify other scenarios in our offices, in meetings, politics, and community functions, or in conversation with friends or potential clients. As mentioned above, the rule change does not limit the scope or setting of the “conduct.”⁵

The rule, as stated, will interfere with a lawyer’s autonomy over client selection and retention. First, an attorney’s decision whether to represent someone or not is conduct of the attorney “in a professional capacity;” second, the proposed *new* Comment [3], which states that “A lawyer who declines to represent a person based on his or her ability to pay the lawyer’s fee does not violate paragraph h” implies that a lawyer who declines representation for reasons of religious conscience would violate paragraph h.


There are concerns that the proposed change was not widely publicized and there is a short comment period. The Petition was filed February 13, 2013 with a comment ending period of April 1st. I am a member of the Memphis Bar Association Professionalism Committee, which met March 8th; the majority of those in attendance were unaware of this proposed rule prior to the meeting. There is not time to reschedule a meeting to fully discuss and consider the proposed change in order to make a recommendation to the association and for the association to meet and act on the recommendation.

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Finally, since adequate discrimination laws already exist, the petition fails to explain the actual purpose for this rule change at this time. This lack of transparency raises legitimate concerns from the community of lawyers regarding the intent, scope, and application of such a rule.

Sincerely,



Yvonne K. Chapman

¹ Comment [3] A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d).

² U.S. Constitution, First Amendment: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; **or abridging the freedom of speech**, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."
Tennessee Constitution, Article I § 19. Freedom of speech and press; defamation: "That the printing presses shall be free to every person to examine the proceedings of the Legislature; or of any branch or officer of the government, and no law shall ever be made to restrain the right thereof. **The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject**, being responsible for the abuse of that liberty. But in prosecutions for the publication of papers investigating the official conduct of officers, or men in public capacity, the truth thereof may be given in evidence; and in all indictments for libel, the jury shall have a right to determine the law and the facts, under the direction of the court, as in other criminal cases."

³ Tennessee Constitution, Article I § 3. Freedom of worship: "That all men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience; that no man can of right be compelled to attend, erect, or support any place of worship, or to maintain any minister against his consent; **that no human authority can, in any case whatever, control or interfere with the rights of conscience**; and that no preference shall ever be given, by law, to any religious establishment or mode of worship."

⁴ <http://www.tsc.state.tn.us/rules/supreme-court/8>

⁵ As noted in part (4) of the Preamble to the Rules of Professional Conduct, "In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity... See RPC 8.4."

IN RE:

PROPOSED AMENDMENT TO THE
TENNESSEE RULE OF
PROFESSIONAL CONDUCT 8.4

Case/Docket: M2013-00379-SC-RL1-RL

**RESPONSE TO THE BOARD OF PROFESSIONAL RESPONSIBILITY'S
PETITION TO AMEND RULE 8.4**

Comes now Attorney Zale Dowlen and gives response to this Petition pursuant the ORDER FILED February 13th, 2013 soliciting responses to the TENNESSEE BOARD OF PROFESSIONAL RESPONSIBILITY'S PETITION TO AMEND RULE 8.4. Counsel avers the following.

In short, this provision will infringe upon the U.S. and Tennessee Constitutionally protected rights of FREEDOM OF SPEECH and FREEDOM OF RELIGION regarding all practicing Tennessee attorneys.

I am a practicing, Christian attorney. Scripture has made it quite clear that homosexuality is a sin. Scripture has also made it quite clear that Christianity is the only path to salvation. The proposed revision states:

It is professional misconduct for a lawyer to:

*(h) **engage in conduct**, in a professional capacity, manifesting **bias** or prejudice based on race, sex, **religion**, national origin, disability, age, **sexual orientation**, or socio-economic status. Legitimate advocacy respecting the foregoing does not violate this provision.*

Based on this provision, sharing the tenants of my faith with a client could bring about discipline from the Board of Professional Responsibility. I have represented several homosexuals during my career. I have also represented many individuals of different faiths or of no faith at all. If my personal, Biblically oriented, beliefs were to

come up during the course of my representation, I am scripturally bound to share them. Matthew 28:18-20 (CEV) states:

*Jesus came to them and said: I have been given all authority in heaven and on earth! Go to the people of all nations and **make them my disciples**. Baptize them in the name of the Father, the Son, and the Holy Spirit, and **teach them to do everything I have told you**. I will be with you always, even until the end of the world.*

Furthermore, with regard to sharing my faith, John 14:6 (CEV) states: *"I am the way, the truth, and the life!" Jesus answered. "Without me, no one can go to the Father."* I do not find any compromise for other world religions in that statement. Therefore, when the topic comes up regarding this life, the hereafter, or why a client can't seem to stay out of legal trouble, that is a ripe time and opportunity for me to share my beliefs with those clients. Based on the proposed rule, I would be in jeopardy of a valid bar complaint, even though I would have done nothing wrong.

With regard to homosexuality, scripture has labeled the act and the lifestyle sinful. There are a multitude of scriptural stories and laws which condemn this lifestyle. These start in the book of Genesis and go through the book of Revelation. Additionally, Christianity is not the only world religion that holds this view. It is my understanding that it is also held by Jews, Hindus and Muslims. Therefore, this rule affects all those attorneys who hold ANY major world religious belief.

The above rights have been discussed by this Honorable Court in the past. The discussion that I believe is most notable by this court is:

Tennessee's guarantees of free speech and free press are similarly more descriptive than the federal grant. The verbal expression of these basic freedoms in our constitution is infused with a strong sense of individuality and personal liberty: "The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that

liberty." *Tenn. Const. art. I, § 19.*

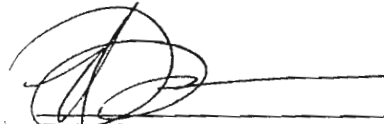
*While these differences in language and expression have yet to give rise to recognition of a substantial difference in protection of speech, **this Court has not foreclosed the possibility that our constitution might offer greater protection to speech in certain contexts.** See, e.g., *Davis-Kidd Booksellers*, 866 S.W.2d at 525 (noting finding coextensive protection in obscenity context does not mean provisions are "identical" for all purposes); *Leech v. American Booksellers Ass'n, Inc.*, 582 S.W.2d 738, 745 (Tenn. 1979) (holding Art. I, § 19 "should be construed to have a scope at least as broad as that afforded those freedoms by the first amendment of the United States Constitution" (emphasis added)). **That this Court has seen fit to leave this door open speaks of our recognition of a potentially greater state protection.***

Planned Parenthood v. Sundquist, 38 SW 3d 1,13 (Tenn 2000) (emphasis added)

Therefore, it appears that this Honorable Court has already alluded to its view of the Constitutionally protected rights of all the citizen of Tennessee. These protections should logically also include attorneys, who, by the very nature of their oaths, have sworn to uphold the Constitution. Hence, it stands to reason that those sworn to uphold the Constitutional rights of others, should also be afforded those same rights.

Based on the above, it appears that this rule change infringes on both an attorney's individual FREEDOM OF SPEECH as well as their FREEDOM OF RELIGION. This Honorable Court has shown a high regard for those freedoms in the past. Hence, counsel urges this Honorable Court to respectfully DENY the Board's Petition.

Respectfully Submitted,



Zale Dowlen, # 026816
2400 Crestmoor Road
Nashville, Tennessee 37215
Phone: (615) 200-8450
Fax: (888) 840-4269
zale@dowlenlaw.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served on:


Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219-1407

Lela M. Hollabaugh, #014894
Chairman of the Board of Professional Responsibility
1600 Division Street, Suite 700
Nashville, Tennessee 37203

Sandy Garrett, #013863
Chief Disciplinary Counsel
10 Cadillac Drive, Suite 220
Brentwood, Tennessee 37027

Allan F. Ramsaur, #005764
Executive Director, Tennessee Bar Association
221 4th Avenue North, Suite 400
Nashville, Tennessee 37219

by US. mail / facsimile and / or hand delivery, on this, the 18th day of March 2013.



Zale Dowlen



WOOLF, McCLANE, BRIGHT, ALLEN & CARPENTER, PLLC

A T T O R N E Y S

900 Riverview Tower | 900 S. Gay Street | Knoxville, TN 37902-1810

Mailing Address: Post Office Box 900 | Knoxville, TN 37901-0900

Phone: (865) 215-1000 | Fax: (865) 215-1001

www.wmbac.com

MAR 20 2013

DENNIS R. McCLANE
DMCCLANE@WMBAC.COM

March 19, 2013

Michael W. Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

Re: Proposed Amendment to Tennessee Rule of Professional Conduct 8.4
Docket No. M2013-00379-SC-RL1-RL

Dear Mr. Catalano:

I am writing to comment on the Petition filed by the Board of Professional Responsibility asking the Supreme Court to amend Rule 8, Rules of Professional Conduct 8.4, of the Rules of the Tennessee Supreme Court. I am writing on my behalf only, and not on behalf of my firm or any of my partners or any of our clients.

I urge the Supreme Court to decline to amend Rule of Professional Conduct 8.4 as requested by the Board of Professional Responsibility. The Board's Petition says that the "Board is of the opinion that Rule 8.4 should be broadened to prohibit an attorney's manifestation of bias or prejudice in a professional capacity." I respectfully disagree. The proposed amendment reflects a departure from the Model Rules of Professional Conduct of the American Bar Association, and not a commendable departure.

The proposed amendment purports to remove language from Comment [3] to Rule 8.4 to become part of Rule 8.4, in essence, changing a Comment to a Rule. However, the language of the proposed rule is different in a material respect from the Comment. The proposed rule does not include the qualifier or limitation "when such actions are prejudicial to the administration of justice" that is included in the Comment. Without that language, the proposed rule is vague and ambiguous. It appears to be an effort to control thoughts or feelings of lawyers, without regard to whether such thoughts or feelings have any impact on anything, much less any impact on the administration of justice. The proposed rule would, in my judgment, be extremely difficult to enforce, without infringing upon basic human nature and, indeed, human rights, including freedom of expression. Is a lawyer to be sanctioned because he or she expresses to a client or another lawyer or even his or her own partners or staff a sincerely held disagreement with tenets

Mr. Michael W. Catalano

March 19, 2013

Page 2

or activities of a particular religion, or disapproval of homosexual conduct, or even the view that everyone over 85 years of age should be tested periodically for driving privileges? Surely not. Ill will toward, or disregard for, the characteristics or classes or conduct identified in the proposed rule may be a bad thing in the view of some, but in my judgment that should not be defined as actionable professional misconduct.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dennis R. McClane", with a long horizontal flourish extending to the right.

Dennis R. McClane

DRM:db

Case Style: In Re: Proposed Amendment to Tennessee Rule of Professional Conduct 8.4

Case Number: M2013-00379-SC-RL1-RL

Comes now the Chattanooga Chapter of the Christian Legal Society (CLSC) to state its opposition to the proposed addition of Rule 8.4(h) to the Rules of Professional Conduct of the Rules of the Tennessee Supreme Court (RPC).

I. Proposed Rule 8.4(h) is unnecessary.

The unsupported statement that “[t]he Board is of the opinion that Rule 8.4 should be broadened to prohibit an attorney’s manifestation of bias or prejudice in a professional capacity” is wholly inadequate to justify this dramatic change in the rules governing our profession. The CLSC is not aware of any statistical or even anecdotal research which indicates that any of the groups referenced in proposed Rule 8.4(h) are currently having difficulty finding representation or otherwise being discriminated against based on their membership in any of the groups listed in the proposed Rule. The one exception to this is those without the ability to pay for such services (i.e., socioeconomic status). However, ironically, the proposed Rule includes a proposed comment, which states that declining to represent someone based on their inability to pay a lawyer’s fee does not violate the proposed Rule, such that equalizing access to legal representation on this basis does not appear to be the intent of the same. Moreover, because there is an exception for declining to represent a person based on socioeconomic status, the lack of exceptions for declining to take a client for any of the other reasons listed in the proposed Rule supports the inference that declining to take a client in any such circumstance would constitute a violation of the same.

Our present Bar includes those of many different interests and backgrounds, such that finding a lawyer to represent those of various races, gender, national origin, disabilities, age,

sexual orientation and socio-economic status is not believed to be a problem. Without the proposed Rule, all Tennessee attorneys are free to accept or decline professional engagements as they wish and as their conscience allows. As explained in the following sections, this freedom would actually be narrowed rather than broadened by the proposed Rule, so as to limit rather than expand the ability to obtain professional advice and other assistance from attorneys in our State.

II. Proposed Rule 8.4(h) violates lawyers' First Amendment right of free speech and expression under the United States Constitution.

The current Comment [3] to Rule 8.4 is problematic in and of itself, but the proposed elevation of the Comment to a Rule, coupled with the elimination of the three limitations in the Comment (“in the course of representing a client,” “knowingly,” and “when such actions are prejudicial to the administration of justice”) demonstrate that the proposed Rule is unconstitutionally content-based, viewpoint-discriminatory, and overbroad in violation of the First Amendment and the corresponding free speech guarantees in the Tennessee Constitution.

Accordingly, the CLSC respectfully requests that the Court avoid the need for some individual or group of attorneys to have to assert this constitutional violation in the future by simply rejecting this unconstitutional proposed Rule on the front end.

By expanding a comment which currently precludes lawyers only from “**knowingly manifesting**, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status” “in the course of **representing** a client” **when** such actions are “**prejudicial to the administration of justice**” into a proposed Rule which broadly precludes “**any conduct engaged in in their professional capacity,**” the Board is crossing over into violating lawyers' First Amendment right of free speech and expression.

Moreover, the proposed Rule represents the worst form of First Amendment violation, as it is a content-based, viewpoint-discriminatory Rule.

As an initial matter, the use of the term “conduct” in the proposed Rule does not alter the fact that the Rule directly targets attorney speech. Texas v. Johnson, 491 U.S. 397, 406 (1989). (invalidating a statute prohibiting the conduct of flag-burning as a content-based restriction on speech). Almost all actions an attorney takes “in a professional capacity,” including declining to represent a potential client, are accomplished through his/her spoken and/or written words.

The proposed Rule is plainly content-based because it covers the attorney’s speech relative to certain topics: race, sex, religion, sexual orientation, etc. The proposed Rule is also viewpoint-discriminatory because it targets “bias or prejudice” based on these topics. Thus, an attorney can say something positive about a particular religion, for example, but the attorney’s speech is prohibited if he/she were to say something negative about it. This is the only sensible reading of the proposed Rule, for otherwise it would serve no purpose.

The proposed Rule is not going to be able to meet the strict scrutiny standard applicable to content-based, viewpoint-discriminatory restrictions on speech. R.A.V. v. City of St. Paul, 505 U.S. 377 (1992) (striking down, as content-based and violative of the First Amendment, the city’s “bias-motivated crime” ordinance).

Content-based regulations are presumptively invalid. Simon & Schuster, Inc. v. Members of N.Y. State Crime Victims Bd., 502 U.S. 105, 115 (1991). In order to survive a strict scrutiny analysis, the regulation must be necessary to serve a compelling governmental interest and must do so by the least restrictive means available. The proposed Rule 8.4(h) cannot meet either one of these high standards.

There is no evidence that the proposed Rule serves a compelling governmental interest. As noted above, the mere “opinion of the Board” is the only alleged justification for this infringement on attorney speech. Again, there is no evidence that “bias or prejudice” on the grounds of the Board’s selected topics is so pervasive that a person of a certain race, sex, sexual orientation, religion, etc. is unable to obtain legal representation by the attorneys in our State. Real-life experience and common sense in fact leads inexorably to the opposite conclusion.

Moreover, even if such evidence existed, the proposed Rule is not necessary to serve this interest, nor is it the least restrictive means of doing so. Rather, it is a tool to punish lawyers for their speech that, in the view of the Board, expresses “disfavored” opinions on certain topics which have been chosen by the Board.

The lack of narrow tailoring in the proposed Rule is evidenced by its broad expanse: it covers speech and expressive conduct when done “in a professional capacity,” not only in the course of representing a client. Further, it covers that conduct even when the conduct is divorced from any impact on “the administration of justice.” Finally, the scienter requirement (“knowingly”) in the current Comment [3] to Rule 8.4 is eliminated in the proposed Rule, making the sweep of the regulation of First Amendment-protected activity even broader.

Nor does the last sentence of the proposed Rule in any way cure the defects in the remainder of it. The use of the term “legitimate” as a modifier of “advocacy” begs the question of what lawyer speech is permissible (“legitimate”), as opposed to what lawyer speech is prohibited (i.e., “illegitimate”). This obvious question only highlights the viewpoint-discriminatory nature of the proposed Rule, as it is plain that speech demonstrating “bias or prejudice” toward a particular subject matter (e.g., race, religion, sexual orientation, etc.) will be deemed “illegitimate” under the Rule. In other words, lawyers are subject to

punishment/discipline under the Rules if they express disfavored opinions on the topics described in proposed Rule 8.4(h). **Such an unconstitutional rule should be rejected outright.**

Lawyers are called upon to serve in all forms of civic and other capacities – on the boards of religious and non-religious non-profit organizations, as elders or deacons in their church, etc. Many times in these roles we are asked to play a dual role of assisting the organization or church by providing legal advice. Proposed Rule 8.4(h) would impermissibly inhibit our ability to do so. Many religious organizations engage in conduct that others may characterize as “discrimination,” but which is, in reality, the exercise of the organizations’ sincerely-held religious beliefs. For example, in Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC, 132 S. Ct. 694 (2012), the United States Supreme Court unanimously rejected the government’s attempt to apply federal nondiscrimination laws to override religious associations’ leadership decisions, despite a former employee’s claim that she was fired in retaliation for asserting the right not to be discriminated against on the basis of disability. The Supreme Court acknowledged that nondiscrimination laws are “undoubtedly important. But so too is the interest of religious groups in choosing who will preach their beliefs, teach their faith, and carry out their mission.” Id. at 710. Constitutional scholars have explained the importance of not affixing the label of “discrimination” to the actions of religious organizations that are merely exercising their basic religious liberty.¹ Similarly, other civic organizations sometimes engage in conduct that some characterize as discrimination, but which is, in reality, the exercise of the organizations’ right of expressive association. See e.g., Boy Scouts v. Dale, 540 U.S. 630 (2000).

¹ See e.g., Richard W. Garnett, *Religious Freedom and the Nondiscrimination Norm*, ch. 4 in Austin Surat, ed., *Legal Responses to Religious Practices in the United States* 194, 198 (Cambridge University Press, 2012). A summary of Professor Garnett’s article is found at Richard W. Garnett, *Confusion about Discrimination*, *The Public Discourse*, Apr. 5, 2012, available at <http://www.thepublicdiscourse.com/2012/04/5151/> (last visited March 8, 2013). See also, Douglas Laycock, *Sex, Atheism, and the Free Exercise of Religion*, 88 U. Det. Mercy L. Rev. 407, 428-29 (2011).

The fact that the proposed Rule would prohibit lawyers from assisting a church or other non-profit organization in protecting its constitutional rights to hold its religious or expressive association beliefs and conduct -- as well as from expressing our own positions for or against the same in a dual personal and professional capacity -- would actually *deprive* certain groups and individuals of legal representation by prohibiting “illegitimate” advocacy on behalf of those viewpoints which the Board has characterized as “disfavored.” The CLCS again assumes that the purpose of the proposed Rule is just the opposite – to ensure that no one is denied such representation on the basis of their race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status. Yet, as proposed, it would actually have the reverse effect.

Lawyers also are often called upon to address churches, civic and other professional organizations regarding their rights to subscribe to certain beliefs under the First Amendment, even if not formally representing the same. Again, the breadth of the currently proposed Rule would impermissibly inhibit us – in First Amendment terms, “chill” our speech -- in performing these civic functions as well.

III. Proposed Rule 8.4(h) contradicts current state and federal law.

Neither our current state nor federal law protects individuals from discrimination based on “sexual orientation.” Accordingly, when merely educating the public regarding the present state of the law, lawyers would be violating proposed Rule 8.4(h). Tennessee employers and landlords are not, for instance, required to prohibit discrimination on the basis of sexual orientation under either state or federal law.

Our State constitution also prohibits gay marriage. Accordingly, by advising pastors or others regarding their ability or requirement to officiate upon request a same-sex marriage ceremony, or advising same-sex couples regarding their eligibility under Tennessee law for

employment, adoption, tax, estate or other benefits, lawyers would again be violating proposed Rule 8.4(h).

The issue of same-sex marriage is admittedly a volatile and emotion-filled one in our and many other States. Because of the fact that lawyers are often called upon to assist in articulating various organizations' – as well as our own – views on such salient issues, which have both legal and moral implications in our communities, even while not formally representing the same, doing so would put us at risk of violating the proposed Rule, as we would still be speaking in our “professional capacity” as lawyers. There are, for example, several attorneys who currently serve in the State legislature or on our city and county commissions, as mayors, etc. In these positions, they are also serving in their “professional capacity” as attorneys, such that advocating either for or against adding protection against discrimination on the basis of “sexual orientation” or other benefits based on the same to our state laws or city or county ordinances would violate the proposed Rule.

IV. If Proposed Rule 8.4(h) is somehow deemed to be necessary and not in violation of both our federal and state constitutions and contradictory to state and federal law, the CLSC would at least request that express language protecting attorneys' sincerely-held religious beliefs also be added to the Rules of Professional Conduct.

The Court may recall that the CLSC filed a similar request regarding the current Comment [3] to Rule 8.4(d). This Comment provides that “A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation or socio-economic status violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy regarding the foregoing factors does not violate paragraph (d).”

In connection with the proposed addition of this Comment in 2010, the Court heard oral argument on our request for specific language to be included as a new additional Rule or part of

an existing Rule, which would expressly state that the Rules were not intended to infringe upon any attorney's sincerely-held religious beliefs. No such language was included in the final version of the Rules, which included the above-quoted Comment to Rule 8.4(d).

During the 2010 oral argument, those presenting CLSC's position got the impression that the Court may have perceived that our requested language was unnecessary because none of the examples described in the previous Sections would (1) constitute "representing a client" (i.e., speaking in public, advocating a certain position in our local newspaper, as members of our state or local governing bodies, before a local civic group, etc.) and (2) anything that did fall within this prohibited "representation" realm would then be excluded by the "legitimate advocacy" exemption to the Comment.

Based on the broad wording of the current proposed Rule 8.4(h), which seeks on its face to regulate **all conduct engaged in by attorneys in their professional capacity, these past exclusions to the present Comment to Rule 8.4(d) would no longer exist.**

Have there been complaints filed with the Board since the above-referenced Comment was approved regarding attorneys' failure to comply with it which would indicate that we now need to convert it into a Rule **which seeks to control this critical aspect of our professional lives?**

Because many of the roles lawyers are asked to perform in our communities do not involve formal "representation," the present exception provided in the proposed Rule regarding "legitimate advocacy" provides no remedy at all to the above-referenced concerns expressed in Sections II. and III. Who will define what is "legitimate?" Or what is "advocacy?" for that matter versus regular free speech – which, as we understand it, is still protected by the First Amendment for lawyers, just as for all others in our country.

The CLCS finds it hard to believe that the Court desires to begin patrolling the line between attorneys' free expression as private citizens and "any conduct engaged in in their professional capacity" by approving and then trying to uphold this proposed Rule.

We would very much like to avoid the inevitable conflicts which are going to arise between each lawyer's personal right to practice law within the dictates of his/her own sincerely-held religious beliefs, first, by advocating against the need for the proposed Rule 8.4(h), and then, in the alternative, if this proposed Rule is somehow deemed to pass constitutional and statutory muster under the strict scrutiny standard referenced above, by requesting that the following language be added as part of the Preamble, section 7; or as part of the Scope, section 16; or as a new rule 1.20., to read substantively as follows:

Nothing in these Rules of Professional Conduct shall infringe upon, limit, or otherwise deny an attorney's freedom to decline or withdraw from representation in any matter in which such representation would violate the attorney's sincerely-held religious beliefs or in any matter where such beliefs could conflict with the zealous and effectual representation of the client. Nor shall these Rules infringe upon, limit, or otherwise deny an attorney's freedom to otherwise act in his or her professional capacity in any way which is consistent with his/her sincerely-held religious beliefs.

The CLSC believes the addition of the new Rule proposed in this Section IV. into the RPC will expressly acknowledge the constitutional rights of our attorneys state-wide, safeguard the consciences of all members of the Tennessee Bar, and be in the best interest of our clients and the public at large. **This new Rule will only be necessary, however, if our primary position that the proposed Rule 8.4(h) should be rejected outright as a violation of these rights is not accepted by the Court.**

Under the First Amendment to the Constitution of the United States, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." Furthermore, under the Constitution of the State of Tennessee, "all men have a natural and infeasible right to worship Almighty God according to the dictates of their own conscience"

and “no human authority can, in any case whatever, control or interfere with the rights of conscience.”

Furthermore, it is common practice -- and best practice -- for nondiscrimination laws to include protections for religiously motivated conduct. For example, Tennessee nondiscrimination law provides exemptions for religious employers, see *T.C.A.* § 4-21-405, and even non-religious employers when religion is a bona fide occupational qualification, see *T.C.A.* § 4-21-406. See also *T.C.A.* § 4-21-806. The leading federal nondiscrimination law, Title VII, also explicitly provides that religious associations’ use of religious criteria in their employment decisions does not violate Title VII’s prohibition on religious discrimination in employment. In three separate provisions, Title VII exempts religious associations from its general prohibition on religious discrimination in employment. Pursuant to 42 *U.S.C.* § 2000e-1(a), Title VII does not apply to religious associations “with respect to the employment of individuals of a particular religion to perform work connected with the carrying on” of the associations’ activities. Pursuant to 42 *U.S.C.* § 2000e-2(e)(2), an educational institution may “employ employees of a particular religion” if it is controlled by a religious association or if its curriculum “is directed toward the propagation of a particular religion.” Pursuant to 42 *U.S.C.* § 2000e-2(e)(1), any employer may hire on the basis of religion “in those certain instances where religion . . . is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise.”

The rationale of the CLSC thus is to state within the four corners of the RPC that the constitutional protections reserved by all citizens of the United States and of the State of Tennessee remain with licensed attorneys in their practice of law, so that attorneys will not find it necessary to consult or refer to these constitutions, or other external sources, while defending

themselves against a grievance. Inclusion of the new Rule proposed in this Section IV. would make clear that the RPC are not intended in any way to limit or supplant the constitutional rights of attorneys in their lawful legal practice, regardless of whether particular parties or tribunals agree or disagree with a particular attorney's sincerely-held religious beliefs and regardless of whether those in disagreement constitute a political majority.

It is the intent of the CLSC not only to protect the rights of all Tennessee attorneys to the free exercise of their religious conscience, but also to provide for the highest level of advocacy for our clients. An attorney who finds him/herself in a situation where the zealous and legal advocacy on behalf of a client causes him/her to be at odds with his/her conscience, as dictated by his/her sincerely-held religious beliefs, will find him/herself in a situation that is utterly untenable. Either the conscience of the attorney will be violated or the cause of the client will suffer.

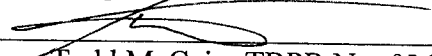
For this reason, all attorneys in our State also must continue to have the express right to decline representation where they perceive a situation in which the representation of the potential client would cause him/her to have to violate his/her conscience – just as they currently are free to – and in fact must decline – representation which poses an external conflict of interest or other issue which is precluded by the RPC. Forcing our attorneys to accept such representation is not in the best interest of the client any more than forcing them to accept a known external conflict of interest would be. A conflict of conscience would be as, if not more, prejudicial to a client than the external conflicts the RPC currently precludes. All of these outcomes would be detrimental to the legal system as a whole. All efforts thus should be undertaken to prevent this type of internal conflict from arising in the first place – just as the RPC currently prohibits attorneys from accepting work which involves unwaivable external conflicts.

For all of these reasons, we would respectfully request that the Court reject proposed Rule 8.4(h), or, in the alternative, add the above language to the Rules of Professional Conduct as well, in light of the concerns relating to this proposed Rule which have been addressed herein.

CLSC also would respectfully request to be heard concerning this matter through oral argument before the Court. A separate motion requesting the same is also being filed herewith.

Thank you for your attention to and consideration of each of these requests.

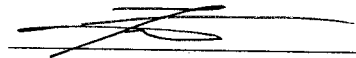
Respectfully submitted,

By: 
Todd McCain, TBPR No. 026993
1300 Broad Street, Suite 200
Chattanooga, TN 37402
Telephone: (423) 643-4001, ext. 103
Facsimile: (423) 643-4002

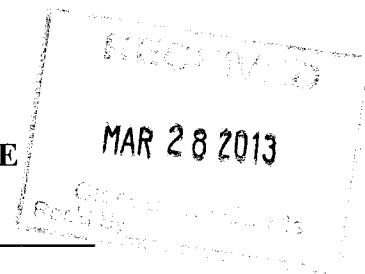
President of the Chattanooga Chapter of the
Christian Legal Society

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been mailed to Allan F. Ramsaur, Esq., Executive Director, Tennessee Bar Association, 221 4th Avenue, N., Suite 400, Nashville, Tennessee; Lela M. Hollabaugh, Bradley Arant Boult Cummings LLP, 1600 Division Street, Suite 700, Nashville, Tennessee 37203; and Sandy Garrett, 10 Cadillac Drive, Suite 220, Brentwood, Tennessee 37027 by regular U.S. Mail on this 27th day of March, 2013.



IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



IN RE: PROPOSED AMENDMENT TO TENNESSEE RULE OF
PROFESSIONAL CONDUCT 8.4

No. M2013-00379-SC-RL1-RL

COMMENT OF THE TENNESSEE BAR ASSOCIATION

The Tennessee Bar Association ("TBA"), by and through its President, Jacqueline B. Dixon; Chair, TBA Standing Committee on Ethics and Professional Responsibility, Brian S. Faughnan; General Counsel, Paul C. Ney; and Executive Director, Allan F. Ramsaur, in response to this Court's Order entered February 13, 2013, submits the following comment in opposition to the Petition filed by the Board of Professional Responsibility ("BPR") seeking to have the Court amend Tenn. Sup. Ct. R. 8, RPC 8.4:

The TBA is a membership organization comprised of, and representing, lawyers from varied, diverse backgrounds who hold a varied and diverse range of opinion and viewpoints on many politically-charged topics. As such, the TBA respectfully submits that there is likely no better voice than the TBA to explain how it is possible to be staunchly opposed to invidious discriminatory conduct of any sort and yet steadfastly opposed to the BPR's proposal to add RPC 8.4(h) to the Tennessee Rules of Professional Conduct.

Tennessee's current version of RPC 8.4(d) and Comment [3] thereto is nearly identical to the approach contained in the ABA Model Rules.¹ Specifically, under that approach, the black

¹ The only difference between the two is that Comment [3] to ABA Model Rule 8.4 has an additional sentence stating that "[a] trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this Rule." ABA Model Rules of Professional Conduct 8.4 cmt. [3].

letter of the ethics rules prohibit lawyers from “engag[ing] in conduct that is prejudicial to the administration of justice.” Tenn. Sup. Ct. R. 8, RPC 8.4(d). One type (but not the only type) of conduct by a lawyer that can violate RPC 8.4(d) is elaborated upon in a comment, stating that:

A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d).

Tenn. Sup. Ct. R. 8, RPC 8.4 cmt. [3]. The TBA believes that when this Court originally adopted Comment [3] more than a decade ago it made the right decision. Further, nowhere in the BPR petition is any explanation offered as to why the BPR believes there is a need to to change the way the ethics rules address this topic.

Although the TBA has no doubt that the Petition is motivated by good intentions, the adoption of the BPR’s proposal would still pave a road to a highly undesirable ultimate destination. The BPR’s proposal uses the existing language of Comment [3] to current RPC 8.4 as its starting point for its new RPC 8.4(h) but also makes two changes to that language that result in the TBA’s opposition. The first problematic change is to replace the language “in the course of representing a client” with the more expansive “in a professional capacity.” The second problematic change, and one that serves to exacerbate the first, is the deletion of the word “knowingly” that modifies the verb “manifests” in the existing comment to RPC 8.4. Thus, under the plain language of the BPR’s proposed RPC 8.4(h), even conduct that, unknown to the lawyer, manifests bias or prejudice based on someone’s race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status would create a risk of disciplinary action.

The proposal does not seek to define what conduct by a lawyer would qualify as being undertaken “in a professional capacity,” but it seems likely that a wide array of activities that can be undertaken by people who are lawyers would qualify. A few activities engaged in by lawyers that readily spring to mind as examples include: (1) service in the General Assembly; (2) speaking in public, including at CLEs; (3) advertising their legal services; and (4) authoring and publishing books/treatises, articles, or opinion columns. The BPR’s proposal would appear to subject a lawyer to potential disciplinary liability for conduct involved in any of those four spheres of activity if someone perceived them to be “manifesting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status.”

Adoption of the proposed RPC 8.4(h) could result, for example, in any number of constitutional challenges regarding the First Amendment rights of lawyers. Could a lawyer-legislator be subjected to discipline under RPC 8.4(h) for introducing a bill to prohibit (or permit) the display of religious symbols on public property? Could a divorce lawyer be subjected to discipline for broadcasting advertisements indicating that they only represent one gender in divorce proceedings?

In addition, a lawyer who makes a decision whether to hire (or not hire) someone also would likely qualify as engaging in conduct in their professional capacity. The BPR’s proposal could subject a lawyer to potential disciplinary liability for a decision not to hire a job applicant and could do so even in instances where federal laws addressing bias or prejudice in making employment decisions would not otherwise apply.

Perhaps most troubling of all, the decision by a lawyer whether to agree to represent a prospective client inherently amounts to an act undertaken in the lawyer’s professional capacity. As such, the BPR’s proposal would subject a lawyer to potential disciplinary liability with

respect to decisions about whether or not to ever agree to take on a person or entity as a client. This fact seems beyond dispute given that the BPR thought it necessary to add a proposed new Comment [3] that essentially provides a “safe harbor” for attorneys who decline to represent a prospective client on the basis that they cannot afford to pay the lawyer. Ostensibly, the BPR recognized that without such a protection, lawyers who decline to represent someone who cannot afford their services could be subject to disciplinary complaints for being biased or prejudiced against the prospective client based on their “socio-economic status.”

Yet, as a result of the expansive BPR proposal, decisions by lawyers to turn down representation of prospective clients not based on a lack of resources would not be afforded protection. Thus, a lawyer who turned down a prospective client, for example, because they did not agree with their cause on a politically-charged issue – imagine a client who, for example, wanted to pay a particular lawyer to oppose or defend a challenge to the constitutionality of Tennessee’s ban on same-sex marriage but the lawyer is unwilling because they strongly disagree with whichever side of that issue the prospective client wishes to advance – could now be subject to potential disciplinary liability for that decision.²

CONCLUSION

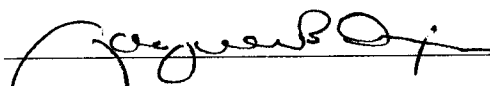
The TBA believes that Tennessee’s ethics rules presently take the correct approach to the topic of bias and prejudice by recognizing the problem as one in which lawyers, as officers of the court, engaged in conduct that damages the administration of justice. RPC 8.4(d) and comment [3] together, patterned as they are after the ABA Model Rules, appropriately highlight for the Bar and the public alike that intentional discrimination by words or conduct on the part of a

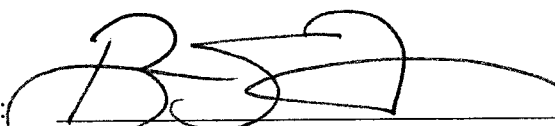
² To the extent the BPRs proposal could be argued to encourage lawyers to take on causes they do not agree with, the TBA submits that existing RPC 1.2(b) takes a much better and more measured approach by making clear that “[a] lawyer’s representation of a client, including representation by appointment, does not constitute an endorsement of the client’s political, economic, social, or moral views or activities.” Tenn. Sup. Ct. R. 8, RPC 1.2(b).

lawyer when representing a client can be prejudicial to the administration of justice in violation of RPC 8.4(d). The TBA submits that the guidance provided in Comment [3] of the current ethics rules does not foreclose the imposition of discipline, for example, against a lawyer who knowingly manifests racial prejudice, other than in the representation of a client, when the lawyer's conduct is still prejudicial to the administration of justice.

Nevertheless, if the Court is inclined to think that some clarification is needed as to the scope of what kind of discriminatory conduct by lawyers is a breach of the ethics rules, the TBA strongly believes that the BPR's proposed RPC 8.4(h) is not the right path for any clarification to take as it would create far more problems that it would ever solve and should not be adopted by this Court.

RESPECTFULLY SUBMITTED,

By: 
JACQUELINE B. DIXON (012054)
President, Tennessee Bar Association
Weatherly, McNally & Dixon PLC
424 Church Street, Suite 2260
Nashville, TN 37219
(615) 986-3377

By: 
BRIAN S. FAUGHNAN (019379)
Chair, Tennessee Bar Association
Standing Committee on Ethics &
Professional Responsibility
Thomason, Hendrix, Harvey, Johnson
& Mitchell PLLC
40 S. Main Street, Suite 2900
Memphis, TN 38103
(901) 577-6139

By: by permission *APN*

PAUL C. NEY (007012)
General Counsel,
Tennessee Bar Association
Waddey & Patterson
3504 Richland Avenue
Nashville, Tennessee 37205
(615) 242-2400

By: *AM-F-R*

ALLAN F. RAMSAUR (5764)
Executive Director,
Tennessee Bar Association
Tennessee Bar Center
221 Fourth Avenue North, Suite 400
Nashville, Tennessee 37219-2198
(615) 383-7421

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit "A" by regular U.S. Mail, postage prepaid within seven (7) days of filing with the Court.

AM-F-R
Allan F. Ramsaur

Imad Al-Deen Abdullah
Baker Donelson Bearman Caldwell &
Berkowitz
165 Madison Ave #2000
Memphis, TN 38103

Heidi Barcus
London & Amburn, P.C.
607 Market Street, Suite 900
Knoxville, TN 37902

Elaine Beeler
Clerk & Master Williamson Co,
Chancery Ct
437 Battle Ave Po Box 1552
Franklin, TN 37065--1552

Mark Blakley
Stansberry, Petroff, Marcum & Blakley
PC
P O Box 240
Huntsville, TN 37756

Suanne Bone
Tennessee Association of Criminal
Defense Lawyers
530 Church St # 300
Nashville, TN 37219

Jack Burgin
Kramer Rayson LLP
PO Box 629
Knoxville, TN 37901

Bryan Capps
Adams Law Firm
7410 Broken Creek Lane
Knoxville, TN 37920

Erik Cole
Tennessee Alliance for Legal Services
50 Vantage Way Suite 250
Nashville, TN 37228

Bratten Cook
Bratten Hale Cook Ii
104 N 3rd St
Smithville, TN 37166

Creed Daniel
Daniel & Daniel
P O Box 6
Rutledge, TN 37861

Ursula Bailey
Law Office of Ursula Bailey
422 S Gay St Ste 301
Knoxville, TN 37902--1167

John Barringer
Manier & Herod PC
150 4th Ave N, Ste 2200
Nashville, TN 37219

Barri Bernstein
Tennessee Bar Foundation
618 Church St Suite 120
Nashville, TN 37219

Trace Blankenship
Bone McAllester Norton PLLC
511 Union St Ste 1600
Nashville, TN 37219

Ben Boston
Boston, Holt, Sockwell & Durham
PLLC
P O Box 357
Lawrenceburg, TN 38464

Diana Burns
Child Support Magistrate
20 N Public Sq Ste 202
Murfreesboro, TN 37130--3667

Kirk Caraway
Allen, Summers, Simpson, Lillie &
Gresham, Pllc
Brinkley Plaza 80 Monroe Ave Ste 650
Memphis, TN 38103--2466

Bill Coley
Hodges, Doughty & Carson PLLC
P O Box 869
Knoxville, TN 37901

Terri Crider
Flippin, Atkins & Crider PC
P.O. Box 160
Humboldt, TN 38343

Wade Davies
Ritchie, Dillard, Davies & Johnson PC
PO Box 1126
Knoxville, TN 37901

Jeremy Ball
Dist Atty OFC
P.O. Box 690
Dandridge, TN 37725

Syd Beckman Beckman
Lincoln Memorial University Duncan
School of Law
601 West Summit Hill Dr.
Knoxville, TN 37902

Russell Blair
Blair And Parker
Po Box 804
Etowah, TN 37331--0804

Doug Blaze
UT College Of Law
1505 W. Cumberland Ave Rm 278
Knoxville, TN 37996

Bill Brown
William J. Brown & Associates
PO Box 1001
Cleveland, TN 37364

Emily Campbell Taube
Adams and Reese LLP
80 Monroe Avenue, Ste 700
Memphis, TN 38103

William Cockett
Smith & Cockett Attorneys
247 West Main Street Po Box 108
Mountain City, TN 37683--0108

Daryl Colson
Colson & Maxwell
808 North Church St
Livingston, TN 38570

Robert Curtis
Robert W. Curtis Iii
209 W Madison St
Pulaski, TN 38478--3222

Jason Davis
Bussart Law Firm
520 North Ellington Parkway
Lewisburg, TN 37091

Michael Davis
364 Cumberland Mountain Cir Po Box
756
Wartburg, TN 37887--0756

Mark Dessauer
Hunter, Smith & Davis, LLP
PO Box 3740
Kingsport, TN 37664

Jackie Dixon
Weatherly McNally & Dixon PLC
424 Church St Suite 2260
Nashville, TN 37219

William Douglas
William Dan Douglas, Jr
109 N Main St Po Box 489
Ripley, TN 38063--0489

Hilary Duke
Reynolds, Potter, Ragan & Vandivort,
PLC
210 East College Street
Dickson, TN 37055

Amanda Dunn
Luther Anderson, PLLP
P.O. Box 151
Chattanooga, TN 37401

Vinh Duong
Waller Lansden Dortch & Davis LLP
511 Union St #2700
Nashville, TN 37210

Matthew Edwards
Law Office of Matthew Edwards
69 E First St Ste 203
Crossville, TN 38555--4575

Lesley Foglia
Office of The District Attorney General
P.O. Box 526
Blountville, TN 37617

Joseph Ford
McBee & Ford
17 S College St
Winchester, TN 37398

Rebecca Franklin
4612 Woodbridge Lane
Knoxville, TN 37921

Andrew Frazier
Whitworth Law Firm
P O Box 208
Camden, TN 38320

Anne Fritz
Memphis Bar Association
80 Monroe Suite 220
Memphis, TN 38103

Katharine Gardner
103 Stratford Way
Signal Mountain, TN 37377-2520

Sandy Garrett
The Board of Professional
Responsibility
10 Cadillac Dr Ste 220
Brentwood, TN 37027--5078

James Gass
Ogle, Gass & Richardson PC
PO Box 5365
Sevierville, TN 37864

Melanie Gober
Lawyers Assn for Women
P O Box 190583
Nashville, TN 37219

Charles Grant
Baker, Donelson, Bearman, Caldwell &
Berkowitz PC
211 Commerce St Suite 800
Nashville, TN 37201-1817

Chris Guthrie
Vanderbilt University
131 21st Ave. South, Room 108
Nashville, TN 37203-1181

Mary Helms
Wimberly Lawson Wright Daves &
Jones, PLLC
P. O. Box 1066
Morristown, TN 37816

Tish Holder
Harvill & Assoc PC
820 Hwy 100
Centerville, TN 37033

Lela Hollabaugh
Bradley Arant
1600 Division St. Suite 700
Nashville, TN 37203

Chuck Holliday
Law Offices of Jeffrey A. Garrety
65 Stonebridge Blvd.
Jackson, TN 38305

Jason Holly
Holly & Holly Pllc
415 Hudson Dr
Elizabethton, TN 37643--2881

Martin Holmes
Dickinson Wright, PLLC
424 Church Street, Suite 1401
Nashville, TN 37219

Lynda Hood
Chattanooga Bar Association
801 Broad St Suite 420 Pioneer Bldg
Chattanooga, TN 37402

Carmon Hooper
C. Thomas Hooper Iii
P O Box 55
Brownsville, TN 38012

Eric Hudson
Butler, Snow, O'Mara, Stevens &
Cannada, PLLC
6075 Poplar Ave Ste 500
Memphis, TN 38119

Jay Ingram
Phillips & Ingram
117 E Main St
Gallatin, TN 37066

Stephen Johnson
Ritchie, Dillard, Davies & Johnson PC
606 W Main Ave Ste 300
Knoxville, TN 37902

Christopher Keeton
Keeton & Perry Pllc
401 Murfreesboro Hwy
Manchester, TN 37355--1580

Laura Keeton
Keeton Law Offices
PO Box 647
Huntingdon, TN 38344

Suzanne Keith
Tennessee Assn for Justice
1903 Division St
Nashville, TN 37203

Randy Kennedy
20th Judicial District
One Public Sq. #608 Rm 410
Nashville, TN 37201

Jeff Kinsler
Belmont University
1900 Belmont Blvd
Nashville, TN 37212

John Kitch
Attorney
2300 21st Ave S Ste 305
Nashville, TN 37212

William Kratzke
University of Memphis Cecil C.
Humphreys School of Law
1 North Front Street
Memphis, TN 38103

Karol Lahrman
Tennessee Lawyers Association for
Women
PO Box 331214
Nashville, TN 37203

Lindsey Lane
Leonard, Kershaw & Hensley, Llp
131 S Main St Ste 102
Greeneville, TN 37743

Gerald Largen
PO Box 266
Kingston, TN 37763

William Lawson
William B. Lawson, Attorney At Law
112 Gay St, Suite A Po Box 16
Erwin, TN 37650--0016

William Locke
General Sessions Judge
Warren County Cthse PO Box 7142
Mcminnville, TN 37111--7142

Charles London
Herndon, Coleman, Brading, & McKee
P.O. Box 1160
Johnson City, TN 37605

Ira Long
Weill & Long, PLLC
1205 Tallan Building Two Union
Square
Chattanooga, TN 37402

Joe Loser
Nashville School of Law
4013 Armory Oaks Drive
Nashville, TN 37204

Matt Maddox
Attorney at Law
P O Box 827
Huntingdon, TN 38344

John Manson
Special Master 8th Circuit Ct, Davidson
Co
1 Public Square
Nashville, TN 37201

Scott McGinness
Miller & Martin PLLC
832 Georgia Ave Ste 1000
Chattanooga, TN 37402

Judy McKissack
Tennessee Commission on Continuing
Legal Education
221 Fourth Avenue North SUite 300
Nashville, TN 37219

Timothy Mickel
Evans Harrison Hackett PLLC
One Central Plaza. Suite 800, 835
Georgia Avenue
Chattanooga, TN 37402

John Miles
John Miles, Atty.
P O Box 8
Union City, TN 38281

Robin Miller
Spears Moore Rebman & Williams PC
PO Box 1749
Chattanooga, TN 37401

William Mitchell
Mitchell Law Office
112 South Main Street
Sparta, TN 38583

Tracy Moore
Moore & Peden PC
PO Box 981
Columbia, TN 38402--0981

Mary Morris
Burch, Porter & Johnson, PLLC
130 North Court Avenue
Memphis, TN 38103

Rachel Moses
Legal Aid Society
9 S Jefferson Ave., Ste 102
Cookeville, TN 38501

David Myers
105 Monroe St Po Box 13
Maynardville, TN 37807--0013

Timothy Naifeh
227 Church St
Tiptonville, TN 38079

Lynn Newcomb
Balthrop, Perry, Noe, Newcomb &
Morgan
102 Frey St., PO Box 82
Ashland City, TN 37015

Tommy Parker
Baker, Donelson, Bearman, Caldwell &
Berkowitz PC
165 Madison Ave Ste 2000
Memphis, TN 38103

Beau Pemberton
Law Ofc Of James H Bradberry
109 North Poplar Street Po Box 789
Dresden, TN 38225--0789

Sherry Percival
Percival Law Office, P.C.
219 N Parkway Ste 1
Jackson, TN 38305--2717

Lisa Perlen
TN Board of Law Examiners
66 Wyn Oak
Nashville, TN 37205

Andrea Perry
Bone McAllester Norton PLLC
511 Union Street, Suite 1600
Nashville, TN 37219

William Phillips
Phillips & Hale
210 E Main St
Rogersville, TN 37857

Jennifer Porth
J Stephen Brown Pc
224 W Gay St Po Box 792
Lebanon, TN 37088--0792

Mario Ramos
Mario Ramos PLLC
611 Commerce St Suite 3119
Nashville, TN 37203

Allan Ramsaur
Tennessee Bar Association
221 4th Ave N Suite 400
Nashville, TN 37219

Kristi Rezabek
Court Of Appeals Western Div
231 Algie Neely Rd
Jackson, TN 38301

Frances Riley
Us Bankruptcy Court
327 Central Cv
Memphis, TN 38111--6008

Chantelle Roberson
BlueCross BlueShield
1 Cameron Hill Circle
Chattanooga, TN 37402

Stanley Ross
Harvill Ross Hogan Ragland
PO Box 925
Clarksville, TN 37041-0925

Linda Seely
Memphis Area Legal Services, Inc.
116 Tuckahoe Rd
Jackson, TN 38305

Randall Self
Randall E Self, Attorney At Law
131 A Market St E Po Box 501
Fayetteville, TN 37334--0501

Amber Shaw
Law Office of J. Houston Gordon
114 W. Liberty Avenue, Suite 300
Covington, TN 38019

Tom Sherrard
Sherrard & Roe PLC
150 3rd Ave S #1100
Nashville, TN 37201-2011

Ashley Shudan
Ford & Nichols
PO Box 905
Loudon, TN 37774

Craig Smith
Miller & Martin PLLC
832 Georgia Ave Ste 1000
Chattanooga, TN 37402

Mary Smith
Constangy Brooks & Smith
401 Commerce St., Ste. 700
Nashville, TN 37219-2484

James Snyder
Law Office of James H. Snyder, Jr.
345 S Hall Rd
Alcoa, TN 37701--2643

Mike Spitzer
The Spitzer Firm
19 Cedar Street
Hohenwald, TN 38462

David Stanifer
Stanifer & Stanifer
PO Box 217
Tazewell, TN 37879

William Stover
W. Stover, Attorney at Law
500 Church St Ste 450
Nashville, TN 37219

Libby Sykes
Nashville City Ctr
511 Union St Ste 600
Nashville, TN 37219--1768

John Tarpley
Lewis, King, Krieg & Waldrop PC
P.O. Box 198615
Nashville, TN 37219

James Taylor
1374 Railroad St Ste 400
Dayton, TN 37321--2211

Harriet Thompson
P O Box 600
Bolivar, TN 38008

Chris Varner
Evans Harrison Hackett PLLC
835 Georgia Ave, Suite 800
Chattanooga, TN 37402

Albert Wade
Greer & Wade, PLLC
70 Dowdy Lane
Paris, TN 38242

Tyler Weiss
Worthington & Weiss, P.C.
409 College St N Ste 1
Madisonville, TN 37354--3103

John White
Bobo, Hunt & White & Nance
P O Box 169
Shelbyville, TN 37162

Derreck Whitson
Law OFC of J Derreck Whitson
P.O. Box 1230
Newport, TN 37822

John Lee Williams
Porch Peeler WilliamsThomason
102 S Court Square
Waverly, TN 37185

John Willis
Fox & Farley
310 N. Main St.
Clinton, TN 37716-3752

Matthew Willis
Ashley Ashley & Arnold
PO Box H
Dyersburg, TN 38025

Marsha Wilson
Knoxville Bar Association
P O Box 2027
Knoxville, TN 37901

Gigi Woodruff
Nashville Bar Association
150 4th Avenue N; Suite 1050
Nashville, TN 37219

From: "Ray Weddington" <whitetiger@blomand.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:36 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:35pm
Submitted by anonymous user: [192.131.62.202]
Submitted values are:

Your Name: Ray Weddington
Your Address: 855 Indian Mound Drive
Your email address: whitetiger@blomand.net
Your Position or Organization: citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5177>

From: "susan allen" <susancallen@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:39pm
Submitted by anonymous user: [99.125.72.101]
Submitted values are:

Your Name: susan allen
Your Address: 208 peachtree street
Your email address: susancallen@bellsouth.net
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5178>

From: "susan allen" <susancallen@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:39pm
Submitted by anonymous user: [99.125.72.101]
Submitted values are:

Your Name: susan allen
Your Address: 208 peachtree street
Your email address: susancallen@bellsouth.net
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5179>

From: "Teresa Tipton" <tdtipton4vols@embarqmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:44 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:43pm
Submitted by anonymous user: [199.190.10.26]
Submitted values are:

Your Name: Teresa Tipton
Your Address: 426 Oak Forest Place, Kingsport, TN 37664
Your email address: tdtipton4vols@embarqmail.com
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-0379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5180>

From: "Carolyn Gish" <cgish@earthlink.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:44 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:43pm
Submitted by anonymous user: [209.91.9.12]
Submitted values are:

Your Name: Carolyn Gish
Your Address: 6829 Briarfield Lane, Bartlett, TN 38135
Your email address: cgish@earthlink.net
Your Position or Organization: Citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate." This rule change is against freedom in our state for lawyers to state what they want to say or defend anyone who takes an unpopular stance.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5181>

From: "Dr. William K. Henry" <bhenrytn@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:48 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:48pm
Submitted by anonymous user: [68.169.132.50]
Submitted values are:

Your Name: Dr. William K. Henry
Your Address: 5652 Old Hunter Road, Ooltewah, TN 37363
Your email address: bhenrytn@aol.com
Your Position or Organization: Pastor
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. The rule is too vague and puts too much power in the hands of a judge as all people, including judges, have their biases. Defining the concept of legitimacy should be a matter of law not judicial fiat. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. I ask you not to adopt the change to this rule. The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5182>

From: "Larry Murphy" <Larry@mccbaptists.org>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:50 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:49pm
Submitted by anonymous user: [205.185.227.10]
Submitted values are:

Your Name: Larry Murphy
Your Address: 22Country oak Dr. Humboldt,Tn.38343
Your email address: Larry@mccbaptists.org
Your Position or Organization: Pastor
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose this action. Lawyers must be offered the chance to defend everyone and have their own convictions. Please help our legal system protect us all.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5183>

From: "ed malone" <edngale@frontiernet.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:51pm
Submitted by anonymous user: [173.85.124.154]
Submitted values are:

Your Name: ed malone
Your Address: 2812 dyer long rd
Your email address: edngale@frontiernet.net
Your Position or Organization: Christ community church
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: m2013-00379-sc-ru-rl
Your public comments: I oppose rule 8.4. The openness to define 'legitimate' in any manner the court wishes infringes upon free speech and yields freedom to the court not defined within the limits of the constitution

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5184>

From: "Jewell Winsett" <jwinsett@itt-tech.edu>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:51pm
Submitted by anonymous user: [12.18.245.220]
Submitted values are:

Your Name: Jewell Winsett
Your Address: 729 Richards Rd. - Antioch, TN 37013
Your email address: jwinsett@itt-tech.edu
Your Position or Organization: Records Coordinator in Education
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to this rule. I feel it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. Lawyers should not fear reprisal for saying things that are not "legitimate". Who decides what is "legitimate", anyway?

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5185>

From: "TERRY TEMPLETON MD" <TERRYTEMPLETON@GMAIL.COM>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:52 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:51pm
Submitted by anonymous user: [75.66.41.160]
Submitted values are:

Your Name: TERRY TEMPLETON MD
Your Address: 2120 EXETER ROAD
Your email address: TERRYTEMPLETON@GMAIL.COM
Your Position or Organization: TERRY P TEMPLETON MD
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5186>

From: "Thomas W. Singleton" <tsingleton1@msn.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:53 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:53pm
Submitted by anonymous user: [74.181.113.120]
Submitted values are:

Your Name: Thomas W. Singleton
Your Address: 4564 Peytonsville Rd., Franklin Tn. 37064
Your email address: tsingleton1@msn.com
Your Position or Organization: retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5187>

From: "Aaron Martin" <johnaaronmartin@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:55 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:55pm
Submitted by anonymous user: [98.249.94.249]
Submitted values are:

Your Name: Aaron Martin
Your Address: 5755 Sarah Drive, Ooltewah, TN 37363
Your email address: johnaaronmartin@gmail.com
Your Position or Organization: Pastor
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: Supreme Court Rule 8 Section 8.4
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5188>

From: "Philip Schofield" <prschofield@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:56 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:56pm
Submitted by anonymous user: [205.232.102.242]
Submitted values are:

Your Name: Philip Schofield
Your Address: 6509 Shallow Mar Lane
Your email address: prschofield@gmail.com
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5189>

From: "John Bond" <johnbond@decosimo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 3:56 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 3:56pm
Submitted by anonymous user: [216.52.207.121]
Submitted values are:

Your Name: John Bond
Your Address: 608 Carolina Avenue
Your email address: johnbond@decosimo.com
Your Position or Organization: accountant
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5190>

From: "Brian Hobbs" <bhobbs@hwas.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:02 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:02pm
Submitted by anonymous user: [75.148.111.117]
Submitted values are:

Your Name: Brian Hobbs
Your Address: 8282 Double Eagle Court, Ooltewah, Tenn
Your email address: bhobbs@hwas.com
Your Position or Organization: On premise street manager
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5191>

From: "Jackie & Diana Merriman" <jwm46@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:02 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:02pm
Submitted by anonymous user: [166.181.3.222]
Submitted values are:

Your Name: Jackie & Diana Merriman
Your Address: 350 Comb Ridge Road, Maynardville, TN 37807
Your email address: jwm46@hotmail.com
Your Position or Organization: husband & wife, father & mother, citizens
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: We ask you NOT to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5192>

From: "Linda Rieg" <lrieg@Reagan.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:03 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:03pm
Submitted by anonymous user: [70.193.202.211]
Submitted values are:

Your Name: Linda Rieg
Your Address: 4567 Russell Bros. Rd
Your email address: lrieg@Reagan.com
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5193>

From: "Bill Langham" <Bill.Langham00@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:04 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:04pm
Submitted by anonymous user: [146.18.173.102]
Submitted values are:

Your Name: Bill Langham
Your Address: 6793 Fossil Creek Rd Memphis, TN 38120
Your email address: Bill.Langham00@gmail.com
Your Position or Organization: Citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Please do not adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception to free speech and public debate.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5195>

From: "Larry D. Proffer" <zookeeper@profferzoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:06 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:05pm
Submitted by anonymous user: [174.47.42.99]
Submitted values are:

Your Name: Larry D. Proffer
Your Address: 5666 Heartwood Dr. Memphis, TN 38135
Your email address: zookeeper@profferzoo.com
Your Position or Organization: TN resident and VOTER
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5196>

From: "Catherine Shelton" <cathygshelton@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:08pm
Submitted by anonymous user: [98.87.75.245]
Submitted values are:

Your Name: Catherine Shelton
Your Address: 5045 Meta Drive Nashville, TN 37211
Your email address: cathygshelton@gmail.com
Your Position or Organization: wife and mother
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: Please do not adopt the proposed change to this rule. Who gets to choose what advocacy by an attorney is "legitimate?" There will always be Americans who hold views that are unpopular. (Of course what those are changes over time.) If politically correct trends control what is viewed as legitimate, lawyers may fear to represent honest, principled people who hold views other than what is currently popular. Lawyers' speech too is protected by the First Amendment.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5197>

From: "Sylvia Singleton" <ssingle661@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:09 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:08pm
Submitted by anonymous user: [74.181.113.120]
Submitted values are:

Your Name: Sylvia Singleton
Your Address: 4564 Peytonsville Road, Franklin, Tennessee 37064
Your email address: ssingle661@aol.com
Your Position or Organization: retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL-1-RL

Your public comments:

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5198>

From: "kim" <chkimt@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:14 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:13pm
Submitted by anonymous user: [76.18.132.174]
Submitted values are:

Your Name: kim
Your Address: 110 timber hills
Your email address: chkimt@hotmail.com
Your Position or Organization: threet's academy
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5199>

From: "Jeannie Williams" <jeanniebeannie@citlink.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:18 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:18pm
Submitted by anonymous user: [184.8.67.87]
Submitted values are:

Your Name: Jeannie Williams
Your Address: jeanniebeannie@citlink.net
Your email address: jeanniebeannie@citlink.net
Your Position, or Organization: Proponent of the Constitution and the First Amendment protection of Free Speech
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5200>

From: "Richard Schwartz" <rtschwartz@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:18 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:18pm
Submitted by anonymous user: [99.44.184.157]
Submitted values are:

Your Name: Richard Schwartz
Your Address: 3483 Brookfield Drive; Clarksville, TN 37043
Your email address: rtschwartz@bellsouth.net
Your Position or Organization: Pastor
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5202>

From: "Stephen Stiner" <sas@utk.edu>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:20 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:20pm
Submitted by anonymous user: [160.36.30.246]
Submitted values are:

Your Name: Stephen Stiner

Your Address: Knoxville, TN 37918

Your email address: sas@utk.edu

Your Position or Organization: Technical Supervisor

Rule Change: Supreme Court Rule 8, Section 8.4

Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception. I ask that you not adopt the change to this rule.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5203>

From: "Tara C. Goodman" <tara.goodman06@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:23 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:22pm
Submitted by anonymous user: [98.240.105.74]
Submitted values are:

Your Name: Tara C. Goodman
Your Address: 1705 Greenhart Court Antioch, TN 37013
Your email address: tara.goodman06@gmail.com
Your Position or Organization: FACR
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5204>

From: "Pastor Channing Kilgore" <hckilgore@netzero.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:23 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:23pm
Submitted by anonymous user: [24.107.250.7]
Submitted values are:

Your Name: Pastor Channing Kilgore
Your Address: 191 Pickett Drive
Your email address: hckilgore@netzero.net
Your Position or Organization: South Whitwell Baptist
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Free speech is guaranteed as an inalienable right given by our Creator God. To silence speech that some authority deems as 'legitimate' puts man as the final arbiter over other men and their God given right to speak. Not liking someone's speech is no right to forcefully make a law against it. I oppose the the rule change to 8.4. Lawyers are not exception in having the full right to free speech. Thank you for your time, HC Kilgore

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5205>

From: "David M Heitman" <michaelheitman@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:29 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:28pm
Submitted by anonymous user: [198.105.48.251]
Submitted values are:

Your Name: David M Heitman

Your Address: 120 Stratton Blvd, Ashland City, TN 37015

Your email address: michaelheitman@gmail.com

Your Position or Organization: concerned citizen

Rule Change: Supreme Court Rule 8, Section 8.4

Docket number: M2013-00379-SC-RL1-RL

Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception. lawyers are advocates for their clients, even if their viewpoint is unpopular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5206>

From: "Robert" <rjkwasnik@dunlapworld.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:34 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:33pm
Submitted by anonymous user: [68.169.172.190]
Submitted values are:

Your Name: Robert
Your Address: Kwasnik
Your email address: rjkwasnik@dunlapworld.com
Your Position or Organization: concerned citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means given the definition is vague and could be very broad.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Please continue to let the First Amendment protect speech even if it is unpopular or offensive.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5207>

From: "Cheryl Fulton" <blessedmom@msn.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:35 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:35pm
Submitted by anonymous user: [68.114.142.90]
Submitted values are:

Your Name: Cheryl Fulton
Your Address: 1379 Porter Morris Rd.
Your email address: blessedmom@msn.com
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL,
Your public comments:

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5208>

From: "Gail Graves" <mtownmilling@musfiber.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:40pm
Submitted by anonymous user: [63.246.254.106]
Submitted values are:

Your Name: Gail Graves

Your Address: 886 McBride Road, Morristown, Tn

Your email address: mtownmilling@musfiber.com

Your Position or Organization: concerned citizen

Rule Change: Supreme Court Rule 8, Section 8.4

Docket number: M2013-00379-SC-RL1-RL

Your public comments: I am against the purposed change of Supreme Court Rule 8, Section 8.4. It goes against lawyers right of free speech and a person's right to fair representation. If that the evidense introduced is unpopular or offensive to certain groups then "legitimate" would be left to interuption by people whomever and what's "legitimate" today may not be so tomorrow. Don't make a mockery out of our constitution and judicial systems.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5209>

From: "David L. Moss" <dross@fieldsmosslaw.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:47 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:46pm
Submitted by anonymous user: [68.169.129.237]
Submitted values are:

Your Name: David L. Moss
Your Address: 1200 Mountain Creek Rd., Chattanooga, TN 37405
Your email address: dross@fieldsmosslaw.com
Your Position or Organization: Attorney
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5210>

From: "Chris Kuhlman" <chrs.kuhlman@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 4:53 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:53pm
Submitted by anonymous user: [74.226.68.117]
Submitted values are:

Your Name: Chris Kuhlman
Your Address: 4345 Iberville Ct
Your email address: chrs.kuhlman@gmail.com
Your Position or Organization: Resident of TN
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am asking you not to adopt the change to this rule. Though it sounds plausible on the surface, the problem arises about WHO decides what advocacy by a lawyer is "legitimate". The first Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5211>

From: "Bob Schultz" <bobrschultz@charter.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:00 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 4:59pm
Submitted by anonymous user: [24.183.238.214]
Submitted values are:

Your Name: Bob Schultz
Your Address: 2417 Gibson Circle, Sevierville, TN 37876
Your email address: bobrschultz@charter.net
Your Position or Organization: Concerned Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. When a lawyer stands as an advocate for his client, who is to say whether or not his presentation is "legitimate" or "politically correct". The First Amendment protects speech even if it is unpopular or offensive to some segment of the culture. The practicing lawyer should not be an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5212>

From: "James Mark Naftel" <naftel@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:02 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:02pm
Submitted by anonymous user: [174.46.125.167]
Submitted values are:

Your Name: James Mark Naftel
Your Address: 3502 Ruland PL
Your email address: naftel@gmail.com
Your Position or Organization: Attorney at Law
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

As a licensed Tennessee attorney, I was troubled to recently learn of the proposed rule change declaring that it would be misconduct to "engage in conduct, in a professional capacity, manifesting bias or prejudice based on [a number of categories]." If the purpose of the proposed rule change is to promote civility in legal practice, that is commendable. However, it is much more likely that the purpose is to deprive potential clients, holding unpopular views, from obtaining legal representation. This is shameful and I am frankly surprised that the Supreme Court is even contemplating such an action.

The proposed rule change is extremely vague and gives no guidance as to what might constitute "conduct, in a professional capacity" so as to fall under the proposed rule. Would it be name calling? For example would it be prohibited to point out in a public hearing that a land owner is rich and therefore can afford to clean up a toxic condition? Or would it be prohibited to merely take a case that one of the favored groups takes offense to? It is a basic principle of our legal system that everyone, regardless of who they are or what views they advocate, is entitled to legal representation. This is especially true for those holding unpopular or even distasteful views.

The proposed rule change is is a very bad idea and I urge the Court to do the right thing and turn this down.

Sincerely,

James Mark Naftel
BPR#9590

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5213>

From: "Cindy Callaway" <Callawayc1@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:07 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:07pm
Submitted by anonymous user: [70.196.197.198]
Submitted values are:

Your Name: Cindy Callaway
Your Address: 889 Carter Rd.
Your email address: Callawayc1@gmail.com
Your Position or Organization: Teacher
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5214>

From: "Joseph and Elisabeth King" <bettinak1@epbf.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:11 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:10pm
Submitted by anonymous user: [98.77.34.74]
Submitted values are:

Your Name: Joseph and Elisabeth King
Your Address: 401 Hampton Road, Signal Mountain, TN 37377
Your email address: bettinak1@epbf.com
Your Position or Organization: Writer
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: We oppose changes to Rule 8.4. Lawyers, like everyone else, should be free to express themselves, even if their statements are unpopular, without fear of being punished because someone decides that what they said was not "legitimate." The First Amendment protects free speech.
Joseph and Bettina King

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5215>

From: "Jack Spencer" <jack31961@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:16 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:15pm
Submitted by anonymous user: [24.183.208.165]
Submitted values are:

Your Name: Jack Spencer
Your Address: 303 S. poplar St
Your email address: jack31961@yahoo.com
Your Position or Organization: Family Action Council Of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL,
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5216>

From: "Gene Williams" <gwilliams@tnbaptist.org>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:19 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:19pm
Submitted by anonymous user: [69.180.247.196]
Submitted values are:

Your Name: Gene Williams
Your Address: 808 Petrie Court, Nashville, TN 37211
Your email address: gwilliams@tnbaptist.org
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5217>

From: "Mike" <mlee@hubbell-premise.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:22 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:22pm
Submitted by anonymous user: [76.18.163.248]
Submitted values are:

Your Name: Mike
Your Address: Lee
Your email address: mlee@hubbell-premise.com
Your Position or Organization: none
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5218>

From: "Linda Thomas" <lindaannthomas@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:26 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:25pm
Submitted by anonymous user: [74.244.242.155]
Submitted values are:

Your Name: Linda Thomas

Your Address: 1080 Deer Run, Culleoka, TN 38451

Your email address: lindaannthomas@bellsouth.net

Your Position or Organization: Concerned citizen

Rule Change: Supreme Court Rule 8, Section 8.4

Docket number: M2013-00379-SC-RL1-RL

Your public comments: I ask you not to adopt the change to this rule. The term "legitimate" is not clearly defined and who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5219>

From: "Aaron Roy" <aroy@yarbroughsmusic.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:26 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:26pm
Submitted by anonymous user: [173.12.244.181]
Submitted values are:

Your Name: Aaron Roy
Your Address: 9909 Calderdale Drive, Cordova TN 38016
Your email address: aroy@yarbroughsmusic.com
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose changing Rule 8.4, as a change in wording may discourage lawyers from advocating freely on unpopular causes. Lawyers should be a mouth-piece and helper for their clients, and they should not be personally held liable for this advocating in a first amendment protected court system. The court system is in place to hear, then determine legality of arguments/positions, but not free to legislate from the bench or pre-judge based on the popularity of a topic.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5220>

From: "Deborah Lock" <deborino@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:30 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:30pm
Submitted by anonymous user: [68.52.81.189]
Submitted values are:

Your Name: Deborah Lock
Your Address: 1246 Cason Trail
Your email address: deborino@comcast.net
Your Position or Organization: Educator
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5221>

From: "Douglas Walker" <dougw@churchillmortgage.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:39pm
Submitted by anonymous user: [107.1.242.130]
Submitted values are:

Your Name: Douglas Walker
Your Address: 7151 Big Oak Rd Nolensville, Tn 37135
Your email address: dougw@churchillmortgage.com
Your Position or Organization: Churchill
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5222>

From: "Sam Stone" <boo@hoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:41 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:40pm
Submitted by anonymous user: [76.22.240.163]
Submitted values are:

Your Name: Sam Stone
Your Address: Nashville, TN
Your email address: boo@hoo.com
Your Position or Organization: Self-employed
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate." Thank you.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5223>

From: "Lynnette Hetzler" <lhetzler@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:44 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:44pm
Submitted by anonymous user: [71.226.188.163]
Submitted values are:

Your Name: Lynnette Hetzler
Your Address: 1131 Norfolk Green Circle Chattanooga, TN 37421
Your email address: lhetzler@comcast.net
Your Position or Organization: Citizen of TN
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5224>

From: "Juanita Pinzur" <tennpinz@pinzur.org>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:46 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:46pm
Submitted by anonymous user: [208.76.166.154]
Submitted values are:

Your Name: Juanita Pinzur
Your Address: 920 Honey Prong Road
Your email address: tennpinz@pinzur.org
Your Position or Organization: Tennessee citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5225>

From: "jeffrey burrows" <jbb01@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:47 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:46pm
Submitted by anonymous user: [98.87.3.135]
Submitted values are:

Your Name: jeffrey burrows
Your Address: 364 sandcastle rd
Your email address: jbb01@aol.com
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am against the proposed change to this rule. It is reminiscent of Canadian anti-free speech laws, which I find repugnant.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5226>

From: "Michael J. Mollenhour" <mike@mollenhour.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:53 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:53pm
Submitted by anonymous user: [50.142.3.162]
Submitted values are:

Your Name: Michael J. Mollenhour
Your Address: 106 Mayflower Dr.
Your email address: mike@mollenhour.com
Your Position or Organization: Attorney at Law
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:
Re: The Board of Professional Responsibility's proposal to expand Rule 8 RPC 8.4

Dear Mr. Catalano:

Please record my opposition to the Petition filed by members of the Board of Professional Responsibility, seeking to expand the definition of professional misconduct as stated in the amendment's part (h).

The state and federal constitutional arguments pointing out this rule's infringement on protected free speech have already been well-stated by others commenting. I add to the reasons to decline this Petition the following.

The Board performs the high responsibility of self-policing--by lawyers.

However, the Board undermines its own authority and credibility with this effort to expand disciplinary authority over a lawyer's beliefs, subjectively perceived to have been manifested in speech and actions. The authority to police the profession is profound. The Board should carefully confine its dominion to enforcing rules of ethical professional conduct, not expanding the Board's power to punish a wide variety of perceived offenses in a manner specially favoring an expanding set of classes.

Besides, every expansion of authority creates unforeseen consequences. For example, if a legal aid lawyer defending a tenant against eviction calls opposing counsel to arrange a trial continuance and says, "Your client is the rich slumlord! Has she no heart? What does it matter to her if my client stays a few more weeks?" then, has that legal aid lawyer just knowingly manifested bias based on socio-economic status in the course of representing a client in a way prejudicial to the administration of justice? The landlord trying to make mortgage payments might think so of such a prejudiced plea to delay justice.

Secondly, the rule change purports to serve as a basis for disciplining lawyers only when they say and do things the Board objects to "in the course of representing a client...." However, we may all easily envision the evidence that might be marshaled against such a lawyer: everything the lawyer ever wrote, blogged or spoke outside of practicing law would be relevant to prove the lawyer's knowing bias or prejudice. For example, if the lawyer were to write an editorial to a newspaper raising the alarm about increasing Social Security disability claims, and expressing concern about related fraud and prescription narcotic abuse, then, is this relevant evidence of the lawyer's bias against people with disabilities? The rule imposes a chilling effect on lawyers' freedom to express rational and true argument--to join into the educated public discourse over a wide variety of important topics.

Finally, it is plain that the rule change cleverly advocates the

morality of homosexual behavior. Board members should argue their moral positions in the public forum, and refrain from using the Board to impose their views on the entire Tennessee bar.

Sincerely,
Michael J. Mollenhour

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5227>

From: "Dana Templeton" <d_temp1@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 5:58 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 5:58pm
Submitted by anonymous user: [141.129.1.59]
Submitted values are:

Your Name: Dana Templeton
Your Address: 4158 Green View Dr
Your email address: d_temp1@yahoo.com
Your Position or Organization: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing pos
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5228>

From: "Steve Hardwick" <steve.hardwick@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:15 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:15pm
Submitted by anonymous user: [12.144.146.87]
Submitted values are:

Your Name: Steve Hardwick
Your Address: 708 Heather Springs Ct.
Your email address: steve.hardwick@comcast.net
Your Position or Organization: Citizen of Davidson County
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5229>

From: "Janice Foster" <twofosters@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:17 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:17pm
Submitted by anonymous user: [98.66.50.157]
Submitted values are:

Your Name: Janice Foster
Your Address: 6926 Silver Maple Cove Memphis, TN
Your email address: twofosters@bellsouth.net
Your Position or Organization: private citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5230>

From: "Charlie Moore" <gatormor@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:20 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:20pm
Submitted by anonymous user: [99.118.78.26]
Submitted values are:

Your Name: Charlie Moore
Your Address: 8429 Bridge Creek Dr
Your email address: gatormor@bellsouth.net
Your Position or Organization: PDQ Couriers
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5231>

From: "Laurence Bascom" <lbascom@epbfi.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:23 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:22pm
Submitted by anonymous user: [173.247.0.154]
Submitted values are:

Your Name: Laurence Bascom
Your Address: 2429 Boston Branch Circle
Your email address: lbascom@epbfi.com
Your Position or Organization: Retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose adoption of this rule. This rule will be used by homosexuals, racial or religious activists to intimidate a lawyer representing a plaintiff in a case against them resulting in a nonaggressive representation, or termination of or denial of legal counsel. This is a terrible rule. Please consider the ramifications and drop it.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5232>

From: "Lewis Lampley" <lewis@lampleyfamily.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:25 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:25pm
Submitted by anonymous user: [99.186.93.164]
Submitted values are:

Your Name: Lewis Lampley
Your Address: 7412 Stacy Drive
Your email address: lewis@lampleyfamily.com
Your Position or Organization: Retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: The change to Rule 8.4 would be counterproductive as it could very well discourage lawyers from advancing unpopular causes or representing positions that are not popular. I oppose the change to Rule 8.4.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5233>

From: "JOHN E FOWLER" <JOHNFOWLER05@COMCAST.NET>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:28 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:28pm
Submitted by anonymous user: [69.246.155.189]
Submitted values are:

Your Name: JOHN E FOWLER
Your Address: 1172 CUMBERLAND ROAD
Your email address: JOHNFOWLER05@COMCAST.NET
Your Position or Organization: CPA
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-0039-SC-RL1-RL

Your public comments:

SEEMS TO ME YOU WILL OPEN PANDORA'S BOX. WHAT HAPPENED TO OUR COMSTITUTIONAL RIGHT OF FREE SPEECH? ARE LAWYERS EXEMPT? ARE LEGISLATORS OR JUDGES OR PREACHERS WHO MIGHT VISIT CERTAIN PLACES IN PRINTERS ALLEY NOT GOING TO BE ABLE TO FIND A LAWYER IF NEEDED? WHAT IF I AM A HOMOSEXUAL AND CAN'T FIND THE LAWYER I WANT? FOR GOD'S SAKE AND OUR SAKE LET'S LEAVE OUR GOOD OLD CONSTITUTION ALONE. WHAT IF I WERE TO SAY THE THE MAN IN THE WHITE HOUSE WAS A FOREIGN EXCHANGE STUDENT,, COULD I FIND A LAWYER TO REPRESENT ME? THIS RULE MAKES ME AFRAID TO EXERCISE MY RIGHT OF FREE SPEECH BECAUSE I MIGHT NOT COULD FIND A LAWYER TO REPRESENT ME FOR EXERCISING MY RIGHT OF FREE SPEECH. I OPPOSE THIS THIS RULE CHANGE!

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5234>

From: "Edward L. Cattau, Jr. MD" <ecattau@memphisgastro.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:36 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:36pm
Submitted by anonymous user: [64.134.190.94]
Submitted values are:

Your Name: Edward L. Cattau, Jr. MD
Your Address: 2232 Lake Page Dr., Collierville, TN 38017
Your email address: ecattau@memphisgastro.com
Your Position or Organization: physician
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL-1-Sirs:RL
Your public comments:
Sirs:

I am opposed to Rule 8.4. I have grave concern it could discourage lawyers from advocating certain causes for fear of being punished because someone decides the cause was not "legitimate" based on arbitrary cultural trends. Attorneys need to have their First Amendment rights protected that they might defend others.
Please do not pass this rule.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5235>

From: "Kerry Reeder" <klreederpc@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:40pm
Submitted by anonymous user: [108.83.199.30]
Submitted values are:

Your Name: Kerry Reeder
Your Address: 5475 Quince Road
Your email address: klreederpc@aol.com
Your Position or Organization: n/a
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular and, in so doing, could deny citizens of their right to representation by the best counsel for their particular cause.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5237>

From: "BRUCE Martin" <Bmart55@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:40pm
Submitted by anonymous user: [99.125.72.21]
Submitted values are:

Your Name: BRUCE Martin
Your Address: 1889 N Dickerson Ch Rd
Your email address: Bmart55@hotmail.com
Your Position or Organization: Local government
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: m2013-00379-scr11-rl
Your public comments: oppose the proposed rule change. Lawyers, like everyone else, should be able to say what they want , even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5238>

From: "D. Joy Riley" <joyriley@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:40pm
Submitted by anonymous user: [174.50.247.127]
Submitted values are:

Your Name: D. Joy Riley
Your Address: 2413 Deerbourn Drive
Your email address: joyriley@comcast.net
Your Position or Organization: M.D.
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to this rule. "Legitimate" is a squishy term when applied as proposed. Lawyers often advocate for unpopular causes, but that is insufficient reason to abolish their First Amendment rights.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5239>

From: "Sally Mazzone" <charles.mazzone@att.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:51pm
Submitted by anonymous user: [99.113.123.170]
Submitted values are:

Your Name: Sally Mazzone
Your Address: 297 Crestmont Cove
Your email address: charles.mazzone@att.net
Your Position or Organization: TN citizen against the rule change
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5240>

From: "Sally Mazzone" <charles.mazzone@att.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:51pm
Submitted by anonymous user: [99.113.123.170]
Submitted values are:

Your Name: Sally Mazzone
Your Address: 297 Crestmont Cove
Your email address: charles.mazzone@att.net
Your Position or Organization: TN citizen against the rule change
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5241>

From: "Kent R Anderson" <anderson.k@charter.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 6:59 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 6:58pm
Submitted by anonymous user: [68.118.108.188]
Submitted values are:

Your Name: Kent R Anderson
Your Address: 605 Green Meadow Drive, Kingsport, TN 37663
Your email address: anderson.k@charter.net
Your Position or Organization: USA citizen and Tennessee resident
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose this rule change. Our legal system is the last line of defense for someone. To bridle our lawyers with a fear to speak freely of their opinion reminds me of Nazi Germany under Adolph Hitler.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5242>

From: "thomas l. roy" <tom_roy@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:05 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:05pm
Submitted by anonymous user: [74.177.45.197]
Submitted values are:

Your Name: thomas l. roy
Your Address: 1466 lacewing trace cove
Your email address: tom_roy@hotmail.com
Your Position or Organization: head of household
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5243>

From: "Karen Robinson" <kprobinson57@catt.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:22 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:22pm
Submitted by anonymous user: [64.18.115.85]
Submitted values are:

Your Name: Karen Robinson
Your Address: 155 Hullander Hollow Rd, Ringgold GA 30736
Your email address: kprobinson57@catt.com
Your Position or Organization: Office Manager
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5244>

From: "Guy Fain" <dr.fain@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:27 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:27pm
Submitted by anonymous user: [165.214.14.23]
Submitted values are:

Your Name: Guy Fain
Your Address: 10 Prentice Lane, Signal Mountain, TN 37377
Your email address: dr.fain@gmail.com
Your Position or Organization: Physician
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I respectfully request that you vote to uphold freedom of speech for lawyers.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5245>

From: "Kay M Jones" <rkjones82@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:28 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:28pm
Submitted by anonymous user: [76.5.134.215]
Submitted values are:

Your Name: Kay M Jones
Your Address: 3402 Whitehall Drive
Your email address: rkjones82@yahoo.com
Your Position or Organization: No organization; just a citizen of state
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

Thank you

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5246>

From: "Barbara H Braly" <bbraly@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:31 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:31pm
Submitted by anonymous user: [184.41.244.19]
Submitted values are:

Your Name: Barbara H Braly
Your Address: 9115 Anderton Springs Cove
Your email address: bbraly@bellsouth.net
Your Position or Organization: Oppose change to Court rule 8
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RLI-RL

Your public comments: I am very, very opposed to any rule change that might affect my First Amendment rights to counsel. Who should be able to decide what advocacy by a lawyer is "legitimate?" Lawyers should be able to take a stand that might be unpopular or "politically incorrect", without fear of retribution.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5247>

From: "Lucinda Sheth" <lucysheth@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:35 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:35pm
Submitted by anonymous user: [108.82.56.125]
Submitted values are:

Your Name: Lucinda Sheth
Your Address: 661 DeArmond Road, Kingston, TN 37763
Your email address: lucysheth@aol.com
Your Position or Organization: ROCKY TOP FREEDOM CAMPAIGN
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask that yo do NOT adopt the change to this rule. My concern is who decides wht advocacy by a lawyer is "legitimate"? The First Amendment provides protection to speech even is that speech is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5248>

From: "Betti Jane D'Armond" <bjdramamama@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:38 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:38pm
Submitted by anonymous user: [108.82.56.125]
Submitted values are:

Your Name: Betti Jane D'Armond
Your Address: 946 McKenzie Meadows Way, Knoxville, TN 37932
Your email address: bjdramamama@aol.com
Your Position or Organization: CONCERNED CITIZEN
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am against the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpoplular, without fear of being punished because someone decides it wasn't "legitimate". NO on this change.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5249>

From: "Gwen Warren" <gwenniebb78@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:39 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:38pm
Submitted by anonymous user: [174.50.251.232]
Submitted values are:

Your Name: Gwen Warren
Your Address: 3021 Frontier Lane, Goodlettsville, TN 37072
Your email address: gwenniebb78@gmail.com
Your Position or Organization: CPA
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I am opposed to the ruling. I think it was intended in good faith to prohibit lawyers from using the judicial system to harass others with whom they may disagree by bringing false lawsuits or allegations.

However, it would seem that the system already has in place mechanisms to deal with such improprieties. Frivolous lawsuits can be expelled by the Judge; false allegations can be impeached and remedied, etc. If an attorney merely wishes not to represent a client based upon his/her private, personal biases, then that is his right; and if he is in wanton disregard for the rights and freedoms of others, I would like to think his practice would not stand very long. Also, who defines "various" people or what is "biased or prejudiced" speech? This is an open door to truly impose another's will upon an entire group of people.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5250>

From: "Michael Cona" <michaeloceans11@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:41 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:41pm
Submitted by anonymous user: [108.82.56.125]
Submitted values are:

Your Name: Michael Cona
Your Address: 1530 Centervue Crossing Way (104), Knoxville, TN 37932
Your email address: michaeloceans11@yahoo.com
Your Position or Organization: Watchful Tennessean
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to rule 8.4. I can see that this rule change could discourage lawyers from advancing unpopular causes or representing positions that are not popular. I OPPOSE the rule change.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5251>

From: "Angie McClanahan" <artsygirl@dish.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:45 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:44pm
Submitted by anonymous user: [97.73.48.61]
Submitted values are:

Your Name: Angie McClanahan
Your Address: artsygirl@dish.net
Your email address: artsygirl@dish.net
Your Position or Organization: Middle School Teacher
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RLM2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5252>

From: "Ken Huckaba" <colkenintn@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 7:50 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 7:50pm
Submitted by anonymous user: [108.199.127.51]
Submitted values are:

Your Name: Ken Huckaba
Your Address: 7030 Dawnhill Bartlett, Tn. 38135
Your email address: colkenintn@yahoo.com
Your Position or Organization: Citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I urge you to oppose the change to Rule 8.4. The 1st amendment protects speech even if it is unpopular or offensive. Lawyers should be able to take on cases without worrying if someone might think their words are evidence of bias or prejudice that is not "legitimate". Who decides what advocacy is legitimate? I implore you not to adapt the change for this rule. Your consideration on this rule change is appreciated.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5253>

From: "Leslie Barkley" <lesliebarkley@me.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:02 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:02pm
Submitted by anonymous user: [70.193.32.41]
Submitted values are:

Your Name: Leslie Barkley
Your Address: 534 County Road 876 Englewood, Tn
Your email address: lesliebarkley@me.com
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5254>

From: "Angela Galyean" <keylime26@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:04 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:03pm
Submitted by anonymous user: [75.65.52.142]
Submitted values are:

Your Name: Angela Galyean
Your Address: 1052 Sandra St.
Your email address: keylime26@hotmail.com
Your Position or Organization: Concerned citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate." Our 1st Amendment right guarantees us to be able to say what we choose, even if others do not agree with it. This is the freedom of America and this should also apply to lawyers during representation of clients.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5255>

From: "richard jones" <richard@worldrealtytn.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:12 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:12pm
Submitted by anonymous user: [76.22.237.167]
Submitted values are:

Your Name: richard jones
Your Address: 1007 malvern road
Your email address: richard@worldrealtytn.com
Your Position or Organization: individual
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: m2013-00379-sc-r11-r1
Your public comments:
I am not in favor of this change.

Thank you!

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5256>

From: "Debbie Baldwin" <dbaldwin56@att.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:18 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:18pm
Submitted by anonymous user: [74.226.121.150]
Submitted values are:

Your Name: Debbie Baldwin
Your Address: 165 Westview
Your email address: dbaldwin56@att.net
Your Position or Organization: Benton County Right to Life chair, Benton Co
GOP chair
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2913-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5257>

From: "Jeffrey B. Sharpe" <jeff@sharpeclan.us>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:27 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:27pm
Submitted by anonymous user: [71.203.253.194]
Submitted values are:

Your Name: Jeffrey B. Sharpe
Your Address: 8672 Eagle Pointe Drive / Knoxville, TN 37931
Your email address: jeff@sharpeclan.us
Your Position or Organization: Engineer
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule, which undermines the First Amendment rights of attorneys and, by extension, those they represent. The First Amendment protects speech even if it is not popular or politically correct. Lawyers have the same rights as everyone else.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5258>

From: "Vincent DiCello" <stormriderseven@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:32 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:32pm
Submitted by anonymous user: [64.178.187.218]
Submitted values are:

Your Name: Vincent DiCello
Your Address: 1835 Girl Scout Road, Drummonds, TN 38023
Your email address: stormriderseven@aol.com
Your Position or Organization: Tipton County Tea Party
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I oppose the change to Rule 8.4. In my opinion, it would discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It will discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," which is not defined.

I oppose the proposed rule change. Lawyers, like everyone else, are protected by the First Amendment Right to Free Speech, and should be able to speak their mind, even if what they have to say is unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you NOT to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The correct answer is no one does. The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5259>

From: "Dale Willis" <cookdale@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:46 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:45pm
Submitted by anonymous user: [74.226.95.166]
Submitted values are:

Your Name: Dale Willis
Your Address: 3130 Altruria Rd
Your email address: cookdale@bellsouth.net
Your Position or Organization: I don't belong to an organization and am certainly not an officer in one.
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am opposed to the proposed rule change because it seems to me that it limits a lawyer's freedom of speech. I definitely don't want to be represented by a lawyer who might be afraid to say what needs to be said because he is concerned that he might be sued or stricken down because he might offend someone. Also, who would be the decision maker as to what is legitimate.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5260>

From: "Ethan" <ethanwatters85@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 8:51 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 8:50pm
Submitted by anonymous user: [50.76.147.253]
Submitted values are:

Your Name: Ethan
Your Address: Watters
Your email address: ethanwatters85@gmail.com
Your Position or Organization: Rpublican
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5261>

From: "Debbie Patton" <uspatton_3@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:00 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:00pm
Submitted by anonymous user: [74.38.235.174]
Submitted values are:

Your Name: Debbie Patton
Your Address: 211 Pete Dixon Rd
Your email address: uspatton_3@yahoo.com
Your Position or Organization: Voter
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose changing Rule 8.4

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5262>

From: "Kathy Perkins" <kperkins@fpunet.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:01 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:01pm
Submitted by anonymous user: [74.254.243.24]
Submitted values are:

Your Name: Kathy Perkins
Your Address: 68 Liberty Rd.
Your email address: kperkins@fpunet.com
Your Position or Organization: TN Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5263>

From: "Carl Temple" <templecs@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:08pm
Submitted by anonymous user: [69.137.86.198]
Submitted values are:

Your Name: Carl Temple
Your Address: 513 Green Apple Turn, Brentwood, TN 37027
Your email address: templecs@gmail.com
Your Position or Organization: Self employed
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: If an individual's behavior is morally in opposition to the conscience of another individual, how can the second party ever receive a fair hearing when the first party can fall back on a claim of bias on the part of the second individual's attorney? (e.g., I can't mount a proper defense or bring a proper allegation against the opposing party because he and his attorney are known to be biased against (free thinkers, boy lovers, 2nd amendment advocates, pro-choice, anti-abortionists, etc.)) Even if the matter at hand has nothing to do with the specific behavior, the second individual's attorney must defend himself and his client regarding the accusation before bringing action against the first individual or even mounting a defense against that individual in the real matter at hand. By its very nature, civil litigation depends on opposing viewpoints and not the existence of similar attitudes or philosophies. Imagine a Jew trying to defend against Nazis taking his property if he had to agree with the National Socialists who held majority opinion. What chance would he (did he) have? Bias held by the court and the police would always be seen as "normal" and provide the ability to accuse the other party of being biased.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5264>

From: "David Davis" <ddavis1456@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:10 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:10pm
Submitted by anonymous user: [172.11.141.209]
Submitted values are:

Your Name: David Davis
Your Address: 107 Surrey Lane, Johnson City, TN 37604
Your email address: ddavis1456@yahoo.com
Your Position or Organization: Support Lawyer Free Speech
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5265>

From: "Thomas Purifoy" <thomas@compasscinema.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:15 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:15pm
Submitted by anonymous user: [76.114.89.78]
Submitted values are:

Your Name: Thomas Purifoy
Your Address: 5120 Pritchett Dr
Your email address: thomas@compasscinema.com
Your Position or Organization: Citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: As a private citizen of Tennessee, I have reviewed the proposed amendment to Rule 8, Section 8.4 and absolutely oppose this amendment to the rules. Upon reading the Petition of the BPA, it seems clear that it could easily be used to violate the right of lawful representation based on a judge subjectively finding a lawyer in ethical violation depending on "words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status." The request to broaden the rule to include "manifestation" is a highly subjective broadening that is open to endless interpretation and should not be accepted.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5266>

From: "Glenda M. Darden" <gdarden@tds.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:15 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:15pm
Submitted by anonymous user: [75.100.77.182]
Submitted values are:

Your Name: Glenda M. Darden
Your Address: 7804 Julia Court
Your email address: gdarden@tds.net
Your Position or Organization: Concerned Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379_SC_RL1_rl

Your public comments: I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate", whatever that means.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5267>

From: "Christopher Davis" <davischristophert@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:18 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:18pm
Submitted by anonymous user: [96.19.189.122]
Submitted values are:

Your Name: Christopher Davis
Your Address: 286 Ducky Lane
Your email address: davischristophert@gmail.com
Your Position or Organization: Teacher
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception. I fear the rule change could open the door for judiciaries to censor lawyers and potentially deny individuals legal representation. Thank you for your consideration in this matter and for your service to the citizens of the state of Tennessee.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5268>

From: "Frank Limpus" <frank.limpus@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:21 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:20pm
Submitted by anonymous user: [69.138.48.202]
Submitted values are:

Your Name: Frank Limpus
Your Address: 614 Gleneagle Lane
Your email address: frank.limpus@comcast.net
Your Position or Organization: None
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

Please do not adopt the proposed change to Rule 8.4. I fear it will bar free speech among lawyers in their representation of clients because of fear of punishment if what they say or want to say isn't deemed "legitimate" by some authority.

In America no one should fear reprisals for what they say.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5269>

From: "Donna Viar" <donna@viar.org>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:23 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:22pm
Submitted by anonymous user: [97.89.84.155]
Submitted values are:

Your Name: Donna Viar
Your Address: 485 South Maple
Your email address: donna@viar.org
Your Position or Organization: Housewife
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5270>

From: "Jay Cornay" <jays737@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:29 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:29pm
Submitted by anonymous user: [68.58.6.94]
Submitted values are:

Your Name: Jay Cornay
Your Address: 1741 Masters Drive, Franklin, TN 37064
Your email address: jays737@bellsouth.net
Your Position or Organization: Ltc USAF Ret., Pilot, Father
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:
I oppose the change to Rule 8.4.

Regarding the proposed new rule governing the ethical conduct of lawyers, the term "legitimate" is nebulous.

The proposed rule will make it an ethical violation for an attorney to evidence any bias or prejudice against various people leading to subjective application of whether the case is "legitimate".

The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5271>

From: "Ronnie C Phillips" <ron54g@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:43 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:43pm
Submitted by anonymous user: [173.85.117.54]
Submitted values are:

Your Name: Ronnie C Phillips
Your Address: 2028 Grademere Dr, Cookeville, TN 38501
Your email address: ron54g@gmail.com
Your Position or Organization: Pastor, First United Pentecostal Church
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5272>

From: "Jean Rader" <drrader@juno.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 9:54 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 9:54pm
Submitted by anonymous user: [68.169.146.50]
Submitted values are:

Your Name: Jean Rader
Your Address: 704 Ashley Forest Dr., Hixson, TN 37343
Your email address: drrader@juno.com
Your Position or Organization: Family Action Council
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013 00379-SC-RL1-RL

Your public comments: I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't legitimate, what ever that means!

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5273>

From: "Diane J. Goins" <wdgoins@epbfi.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 10:05 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 10:05pm
Submitted by anonymous user: [66.85.231.241]
Submitted values are:

Your Name: Diane J. Goins
Your Address: 2506 Big Cedar Road
Your email address: wdgoins@epbfi.com
Your Position or Organization: Boy Scouts of America Troop 210, Cherokee Area Council, Committee Chair
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate." Who would decide what advocacy by a lawyer is "legitimate?" The First Amendment to the U.S. Constitution protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5274>

From: "Gilbert P. Knier" <gilbear1@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 10:16 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 10:16pm
Submitted by anonymous user: [68.53.218.161]
Submitted values are:

Your Name: Gilbert P. Knier
Your Address: 2918 County Line Rd., Signal Mountain, TN 37377
Your email address: gilbear1@comcast.net
Your Position or Organization: Citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-R
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate", especially in reference to an endless list of causes or beliefs that may be unpopular at the time? The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception. This proposed rule change is fraught with hidden dangers for our freedoms through its generality and lack of specificity.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5275>

From: "Eleanor Redmond" <cetclr@netzero.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 10:17 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 10:16pm
Submitted by anonymous user: [184.41.18.144]
Submitted values are:

Your Name: Eleanor Redmond
Your Address: 1018 Berclair Rd, 38122
Your email address: cetclr@netzero.com
Your Position or Organization: private citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I oppose the change to Rule 8.4 because it does not apply ethical limitations to attorneys but unreasonable parameters to anyone's position. In my opinion, this rule change is, itself, unethical and a violation of the rules, because it could discourage lawyers from the vigorous defense they are sworn to provide.

The change is written in arbitrary terms that can easily be twisted to suppress freedom of individual thought. If you want to regulate individual thought, regulate YOURs, not mine or anyone else's.

I ask you not to adopt this change to the rule. The First Amendment protects speech precisely because it is unpopular or offensive. If it were popular and attractive it would not need protection.

Lawyers are not an exception. They are the quintessential reason for the first amendment. They can not do their job without that protection. Unless...is that the real goal of the rule change?

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5276>

From: "Teresa R." <treff949@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 10:25 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 10:25pm
Submitted by anonymous user: [98.193.133.196]
Submitted values are:

Your Name: Teresa R.
Your Address: 2101 Masters Drive, Springfield, TN
Your email address: treff949@gmail.com
Your Position or Organization: tax payer
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5277>

From: "Dixie Lee McClellan" <dixiel@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 11:11 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 11:11pm
Submitted by anonymous user: [172.1.248.186]
Submitted values are:

Your Name: Dixie Lee McClellan
Your Address: 2936 Spanntown Road, Arrington, Tn 37014
Your email address: dixiel@bellsouth.net
Your Position or Organization: Retired teacher of American Federal Government
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

Has it really come to this? Hopefully, surely, I am misinformed on the content and the intent of the rule change referenced above. If I am correct in my interpretation, the rule change would have prevented John Adams from representing the British soldiers who had defended themselves from a stone throwing mob in Boston, Massachusetts. If I am correct, are you seriously considering trading jurisprudence for the law of the streets? Am I as a citizen of Tennessee to be denied justice under the law because my position is "unpopular"? Dear God in Heaven, please let me be wrong....
Dixie Lee McClellan

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5278>

From: "Brenda Bradley" <brendah96@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/27/2013 11:44 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Wednesday, March 27, 2013 - 11:43pm
Submitted by anonymous user: [66.222.84.38]
Submitted values are:

Your Name: Brenda Bradley
Your Address: 210 Sunny Acre Drive
Your email address: brendah96@aol.com
Your Position or Organization: Tennessee Tax Payer and Voter
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:
Dear Sir,

I am taken back by this proposed rule change. How can justice be served if what a person "thinks" another person is "thinking" set in judgement of the actual case to be heard?

Our mantra still echoes from the Halls of Justice....."Give Me Liberty or Give Me Death"

The very notion of this proposal undermines the rule of law on which our liberties and freedom of thought are based. What a death blow to the great state of Tennessee and her judicial system.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5279>

From: "M. Stedman" <shelstedman@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 2:49 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 2:49am
Submitted by anonymous user: [75.138.248.63]
Submitted values are:

Your Name: M. Stedman
Your Address: 1715 Carlyon Court, Spring Hill TN 37174
Your email address: shelstedman@gmail.com
Your Position or Organization: homemaker
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5280>

From: "Patricia A Kuboske" <patkuboske@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 5:34 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 5:34am
Submitted by anonymous user: [69.246.132.45]
Submitted values are:

Your Name: Patricia A Kuboske
Your Address: 1504 Ridgeway Circle
Your email address: patkuboske@gmail.com
Your Position or Organization: Homemaker
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5281>

From: "Marvin Coleman" <Marvincoleman@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 5:39 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 5:39am
Submitted by anonymous user: [172.11.33.154]
Submitted values are:

Your Name: Marvin Coleman
Your Address: 10270 Beaver Run Cove Collierville TN 38017
Your email address: Marvincoleman@bellsouth.net
Your Position or Organization: Investments
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5282>

From: "John L Hamilton" <jackman0654@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 6:22 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 6:22am
Submitted by anonymous user: [108.214.68.29]
Submitted values are:

Your Name: John L Hamilton
Your Address: 110 Thomas Dr. Maryville Tn 37804
Your email address: jackman0654@gmail.com
Your Position or Organization: retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5283>

From: "S Higgins" <Dhiginss@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 6:46 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 6:46am
Submitted by anonymous user: [97.66.105.201]
Submitted values are:

Your Name: S Higgins
Your Address: 207 Grayson Rd, Signal Mtn, TN
Your email address: Dhiginss@comcast.net
Your Position or Organization: Family Action Council
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5284>

From: "Laila Poole" <lailap@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 7:06 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 7:06am
Submitted by anonymous user: [69.138.52.18]
Submitted values are:

Your Name: Laila Poole
Your Address: 7663 Horn Tavern RD, Fairview, TN 37062
Your email address: lailap@bellsouth.net
Your Position or Organization: homemaker
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

Thank you for your consideration.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5285>

From: "Abe Goolsby" <goolsby_abe@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 7:28 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 7:27am
Submitted by anonymous user: [99.173.180.26]
Submitted values are:

Your Name: Abe Goolsby
Your Address: 544 Bluewater Drive
Your email address: goolsby_abe@bellsouth.net
Your Position or Organization: myself, as an individual citizen and native of Tennessee

Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I wish to voice my opposition to the proposed change to Rule 8.4, which change would make it an ethical violation for an attorney to evidence, "in a professional capacity", any bias or prejudice against various people. It seems obvious that this would greatly discourage lawyers from advancing or advocating for causes or positions that are unpopular, controversial, or which could potentially be deemed as failing to constitute "legitimate advocacy" (whatever that means and whoever gets to decide). Lawyers, just like everyone else, are guaranteed freedom of speech by both the Tennessee and U.S. Constitutions. How can we have a free society if lawyers have to practice under the threat of having to demonstrate before the Supreme Court, at their own expense and under the threat of disbarment, the "legitimacy" of their actions anytime someone feels that they have demonstrated any form of bias or prejudice?

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5286>

From: "David Baldwin" <d.baldovin@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 7:40 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 7:40am
Submitted by anonymous user: [70.197.177.178]
Submitted values are:

Your Name: David Baldwin
Your Address: 205 Lake Court Drive
Your email address: d.baldovin@yahoo.com
Your Position or Organization: concerned citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: Thanks for this opportunity. This proposed rule change is quite disturbing, like a lot going on in our civil society today. Who gets to decide what is "legitimate"? Members /advocates of certain ideologies are currently trying to undermine our 1st Amendment by making attempts to criminalize free speech, and could in effect allege that advocacy or arguments of a lawyer on behalf of a client is "hatespeech."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5287>

From: "Arden Oglesby" <arden8440@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 7:41 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 7:41am
Submitted by anonymous user: [68.169.166.177]
Submitted values are:

Your Name: Arden Oglesby
Your Address: 8440 Dunnhill Lane Hixson TN 37343
Your email address: arden8440@aol.com
Your Position or Organization: n/a
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5288>

From: "V. T. Vallas" <vallas.law7@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 7:55 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 7:55am
Submitted by anonymous user: [70.197.171.217]
Submitted values are:

Your Name: V. T. Vallas
Your Address: P O Box 2, Eagleville, TN 37060
Your email address: vallas.law7@yahoo.com
Your Position or Organization: Attorney / sole practitioner
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I am against the proposed rule change. Attorney's, like the general public, need to be free to express themselves, and to take the cases and represent the clients they choose. The implication and enforcement of something "Legitimate" opens the door to a subjectiveness that can at some point mean anything. I also believe it would deny attorneys their right of association and free speech.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5289>

From: "James Goodwin" <jzgoodwin@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 7:55 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 7:55am
Submitted by anonymous user: [74.179.243.224]
Submitted values are:

Your Name: James Goodwin
Your Address: 4009 Sussex Drive
Your email address: jzgoodwin@gmail.com
Your Position or Organization: Pastor, Beacon Baptist Church
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular which just might turn out to be mine. Who decides what advocacy by a lawyer is "legitimate?" Will we now say that if it is not the popular opinion and "God forbid" it offends someone, that we should punish a lawyer for representing someone with that opinion?

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5290>

From: "Eric Griesemer" <egriesemer@burnersystems.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:04 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:03am
Submitted by anonymous user: [184.174.191.131]
Submitted values are:

Your Name: Eric Griesemer
Your Address: 7602 Twisting Creek Lane, Ooltewah, TN 37363
Your email address: egriesemer@burnersystems.com
Your Position or Organization: Burner Systems International
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that is not "legitimate". Who gets to define "legitimate" which in this case possibly means socially popular vs unpopular? Legal representation is not about being popular and this proposed Rule change could have a profound effect resulting in one not receiving necessary legal representation just because society does not like you/your circumstances.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5291>

From: "Clifford G Ainscough" <cgainsco@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:11 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:10am
Submitted by anonymous user: [76.127.29.165]
Submitted values are:

Your Name: Clifford G Ainscough
Your Address: 6765 Hickory Brook Road
Your email address: cgainsco@comcast.net
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Do Not adopt the change to this rule. Who decides what advocacy by a lawyer is "LEGIMATE?" The First Admendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5292>

From: "Kelly Parkhurst" <gaebekfarm2@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:25 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:25am
Submitted by anonymous user: [165.166.71.165]
Submitted values are:

Your Name: Kelly Parkhurst
Your Address: Christiana, TN
Your email address: gaebekfarm2@gmail.com
Your Position or Organization: resident of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL,
Your public comments:

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5293>

From: "Connie Staggs" <Connie@ConnieStaggs.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:31 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:31am
Submitted by anonymous user: [70.43.156.75]
Submitted values are:

Your Name: Connie Staggs
Your Address: 7328 Campton Rd., Nashville, TN 37211
Your email address: Connie@ConnieStaggs.com
Your Position or Organization: Individual
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I adamantly oppose the change to Rule 8.4. I believe that this rule, if passed, will result in attorneys being reluctant or unwilling to take on cases with unpopular causes or positions.

I am also opposed to it on the basis that it will discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate."

I oppose the proposed rule change. Like everyone else, attorneys should have the right to say things, regardless of the popularity of their opinion, without fear of being punished because someone decides it wasn't "legitimate."

I beg you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers especially must not be denied this protection, because if they are, you will reduce access of many people to the judicial system.

I appreciate your time and attention on this crucial matter.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5294>

From: "Stan Schulz" <stanschulz@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:33 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:32am
Submitted by anonymous user: [75.66.67.7]
Submitted values are:

Your Name: Stan Schulz
Your Address: 7517 Willey Road, Germantown, 38138
Your email address: stanschulz@aol.com
Your Position or Organization: self
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Whenever a private judgment about who is "valid" or not is required, we run the risk of having special interest groups apply undue pressure to be sure THEIR person is in the judgment role. DO NOT carve out special treatment for ANY group; or special MISreatment for any group.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5295>

From: "George Hastings" <goodnewsfinancial@sbcglobal.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:50 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:50am
Submitted by anonymous user: [99.124.142.123]
Submitted values are:

Your Name: George Hastings
Your Address: 544 West Main Street #109 Gallatin, TN
Your email address: goodnewsfinancial@sbcglobal.net
Your Position or Organization: owner
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: We do not need to create a new defense tactic of attacking the legal representative of a client. It is the issue of the trial that deserves attention, not killing the messenger.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5296>

From: "Sharon Simmons" <tedsdtr@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:52 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:52am
Submitted by anonymous user: [173.162.27.233]
Submitted values are:

Your Name: Sharon Simmons
Your Address: 327 Cross Timbers
Your email address: tedsdtr@gmail.com
Your Position or Organization: citizen of USA
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: This change violates free speech and shouldn't be allowed.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5297>

From: "Claudia Puntini" <rpuntini@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:57 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:56am
Submitted by anonymous user: [70.197.160.22]
Submitted values are:

Your Name: Claudia Puntini
Your Address: 210 Rebecca Drive, Crossville, TN 38555
Your email address: rpuntini@hotmail.com
Your Position or Organization: Retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL-1-RL
Your public comments: I oppose changing this document. Who decides what advocacy by a lawyer is legitimate? Our First Amendment protects speech!

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5298>

From: "Molly Elrod" <molly_elrod@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 9:14 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 9:13am
Submitted by anonymous user: [74.185.121.29]
Submitted values are:

Your Name: Molly Elrod
Your Address: 11 Johnson Rd
Your email address: molly_elrod@bellsouth.net
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that is not "legitimate," whatever that means. Thank you for considering my view.

Sincerely,
Molly Elrod

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5300>

From: "Robert L & Judy A Baughman" <rbaug1038@msn.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 9:16 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 9:15am
Submitted by anonymous user: [184.174.133.14]
Submitted values are:

Your Name: Robert L & Judy A Baughman
Your Address: 4450 James Drive
Your email address: rbaug1038@msn.com
Your Position or Organization: Baughman and Associates LLC, President
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: 1112013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "lgitimate"? The first admendment protects free speech even if it is unpopular or offensive. Lawyers are not an exception!

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5301>

From: "Deborah Benford" <dob4christ@me.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 9:26 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 9:25am
Submitted by anonymous user: [98.249.113.80]
Submitted values are:

Your Name: Deborah Benford
Your Address: 215 Rolling Ridge Dr
Your email address: dob4christ@me.com
Your Position or Organization: Administrator
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5302>

From: "George A. Pope" <alexpope@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 9:26 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 9:26am
Submitted by anonymous user: [108.245.88.15]
Submitted values are:

Your Name: George A. Pope
Your Address: 9593 Blue Spruce Dr.
Your email address: alexpope@bellsouth.net
Your Position or Organization: Private Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I oppose the change to Rule 8.4. In my opinion, it will only encourage political correctness, and could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5303>

From: "Bill Loran" <bloran@crossstoneinsurance.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 9:27 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 9:27am
Submitted by anonymous user: [76.7.163.206]
Submitted values are:

Your Name: Bill Loran
Your Address: 105 Belle Avenue, Piney Flats, TN 37686
Your email address: bloran@crossstoneinsurance.com
Your Position or Organization: CrossStone Insurance
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means. I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate." I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5304>

From: "Patricia Abogado" <pabogado@mtsu.edu>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 9:56 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 9:56am
Submitted by anonymous user: [161.45.171.130]
Submitted values are:

Your Name: Patricia Abogado
Your Address: 723 Regal Dr.
Your email address: pabogado@mtsu.edu
Your Position or Organization: Private Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5305>

From: "Jon Palmer" <jpalmer516@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 9:57 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 9:57am
Submitted by anonymous user: [66.4.15.191]
Submitted values are:

Your Name: Jon Palmer
Your Address: 10077 lascassas pike
Your email address: jpalmer516@aol.com
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion it would discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5306>

From: "Susie Orr" <susieorr@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:02 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:02am
Submitted by anonymous user: [69.35.179.247]
Submitted values are:

Your Name: Susie Orr
Your Address: 1017 hwy 179 Whiteville Tn 38075
Your email address: susieorr@bellsouth.net
Your Position or Organization: United States Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5307>

From: "Holly Aven" <mandhaven@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:03 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:02am
Submitted by anonymous user: [74.226.99.241]
Submitted values are:

Your Name: Holly Aven
Your Address: 6620 Willow Break Drive, Bartlett, TN 38135
Your email address: mandhaven@gmail.com
Your Position or Organization: Family Action of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5309>

From: "Mareta Keener" <mareta@maretakeener.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:09 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:09am
Submitted by anonymous user: [70.197.182.22]
Submitted values are:

Your Name: Mareta Keener
Your Address: 474 Whippoorwill Way Dayton, Tn 37321
Your email address: mareta@maretakeener.com
Your Position or Organization: Retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I would like to record my opposition to the proposed change to rule 8, Section 8.4. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate", a vague term with an uncertain meaning. Thank you.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5310>

From: "Jeremy Mansfield" <bravearm@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:11 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:11am
Submitted by anonymous user: [76.18.152.66]
Submitted values are:

Your Name: Jeremy Mansfield
Your Address: 105 Copper Creek Dr. Goodlettsville TN 37072
Your email address: bravearm@yahoo.com
Your Position or Organization: Small Business Owner
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5311>

From: "James M. Guill" <jmguill@outdrs.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:21 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:20am
Submitted by anonymous user: [172.8.109.250]
Submitted values are:

Your Name: James M. Guill
Your Address: 1118 Frances Ave., Nashville, TN 37204
Your email address: jmguill@outdrs.net
Your Position or Organization: Rector, St. Andrew's Anglican Parish
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M 2013-00379-SC-RLI-RL

Your public comments:

To whom it may concern,

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. It also is vague and would be difficult, if not impossible, to enforce. Having read the public comments advanced thus far in opposition to this rule, I would join particularly with Ms. Yvonne K. Chapman and Mr. Zale Dowlen in their thoughtful analysis.

James M. Guill, inactive, BPR# 014549

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5312>

From: "The Reverend Phillip B. Wright" <leadwright8922@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:24 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:23am
Submitted by anonymous user: [107.194.84.18]
Submitted values are:

Your Name: The Reverend Phillip B. Wright
Your Address: 105 Heritage Drive
Your email address: leadwright8922@yahoo.com
Your Position or Organization: Clergy
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: The rule change proposed is absurd in my opinion. Given the controversial issues facing all Americans today including religion, gun ownership, abortion, and homosexuality, to name but a few, how can anyone determine by any objective standard whether a lawyer exhibits what in the court's opinion is a prejudiced or biased viewpoint, i.e., "not legitimate", concerning an individual or a group. Freedom of speech guaranteed by the First Amendment guarantees us our right to our opinions. This rule would be judicial activism run amok.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5313>

From: "Rodney V. Rutherford" <rodrutherford@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:26 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:25am
Submitted by anonymous user: [98.240.65.138]
Submitted values are:

Your Name: Rodney V. Rutherford
Your Address: 6477 Hugh Willis Road, Powell, TN 37849
Your email address: rodrutherford@comcast.net
Your Position or Organization: Concerned citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I strongly oppose the change to Rule 8.4. It will discourage free speech and hinder a lawyer's ability to defend his client. Bias is a subjective thing. A change in Rule 8.4 will give entirely too much power to judges. It must not be allowed to happen.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5314>

From: "Archie Harris" <scforjm@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 10:28 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 10:28am
Submitted by anonymous user: [173.247.14.218]
Submitted values are:

Your Name: Archie Harris
Your Address: 9309 Royal Mountain Drive Chattanooga, TN 37421
Your email address: scforjm@gmail.com
Your Position or Organization: None
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Bad, Bad, Bad rule. If adopted, the legislature will most certainly need to step into this arena.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5315>

From: "Ralph Roller" <ralph759@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 11:18 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 11:18am
Submitted by anonymous user: [71.9.219.234]
Submitted values are:

Your Name: Ralph Roller
Your Address: 508 Robinson Drive, Johnson City, TN. 37604
Your email address: ralph759@hotmail.com
Your Position or Organization: Private Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means. I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate." I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5316>

From: "Keith Feltz" <keithfeltz@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 11:21 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 11:21am
Submitted by anonymous user: [165.252.92.98]
Submitted values are:

Your Name: Keith Feltz
Your Address: 3019 Rambling Road, Maryville, TN 37801
Your email address: keithfeltz@hotmail.com
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am against changing the rule. Changing can lead to a lawyer being punished for speaking about what may not be "popular" at the time. Those who are part of the "unpopular" group will then find it difficult to have legal representation for fear of speaking against the "popular" and being punished.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5317>

From: "Jim Hodge" <hodgejim@realtracs.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 11:31 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 11:31am
Submitted by anonymous user: [65.16.14.72]
Submitted values are:

Your Name: Jim Hodge
Your Address: 313 Haywood Lane, Nashville, TN 37211
Your email address: hodgejim@realtracs.com
Your Position or Organization: Chair, Governmental Affairs, Nashville Chapter,
National Association Residential Property Managers
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Political Correctness should not be allowed to run a
muck in our court system. I ask you not to adopt the change to this rule.
Who decides what advocacy by a lawyer is "legitimate?" The First
Amendment protects speech even if it is unpopular or offensive. Lawyers are
not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5318>

From: "D Parker" <hdparkerparker@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 11:59 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 11:59am
Submitted by anonymous user: [98.87.54.183]
Submitted values are:

Your Name: D Parker
Your Address: Shelbyville, TN
Your email address: hdparkerparker@yahoo.com
Your Position or Organization: Interested Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5319>

From: "Darrell Loutner" <mr.loutner@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 12:03 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 12:02pm
Submitted by anonymous user: [70.197.164.243]
Submitted values are:

Your Name: Darrell Loutner
Your Address: 3568 New Chapel Road
Your email address: mr.loutner@yahoo.com
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change as it may be used to limit the rights of attorneys to represent all people freely, and speak unhindered on behalf of any client without prejudice, or fear being disciplined or disbarred because of who they represent.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5320>

From: "Laurie" <lcrow@sdblawnfirm.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 12:49 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 12:49pm
Submitted by anonymous user: [173.12.195.205]
Submitted values are:

Your Name: Laurie

Your Address: Crow

Your email address: lcrow@sdblawnfirm.com

Your Position or Organization: Law Office of Scott D. Bergthold, PLLC

Rule Change: Supreme Court Rule 8, Section 8.4

Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. It would greatly limit their ability to have free speech and free choices in who they represent. Thank you for your attention to this comment.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5321>

From: "Barret S. Albritton" <barret.albritton@leitnerfirm.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 12:57 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 12:57pm
Submitted by anonymous user: [64.203.99.159]
Submitted values are:

Your Name: Barret S. Albritton
Your Address: 801 Broad Street, Third Floor
Your email address: barret.albritton@leitnerfirm.com
Your Position or Organization: Attorney
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Please consider this comment in opposition to the proposed change to Rule 8, Sect. 8.4. The language of the proposed change is vague and overreaching. There is no data that would show such a change is necessary.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5322>

From: "Mary Bryson" <maryjbryson@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 1:00 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 1:00pm
Submitted by anonymous user: [98.66.23.219]
Submitted values are:

Your Name: Mary Bryson
Your Address: 7024 8th Rd
Your email address: maryjbryson@yahoo.com
Your Position or Organization: Oppose rule change
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose this rule change as it would prevent lawyers from using free speech in presenting they case, leaving someone else to determine their motives.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5323>

From: "Mike McCleery" <michaeljmccleery@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 1:17 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 1:16pm
Submitted by anonymous user: [198.51.179.254]
Submitted values are:

Your Name: Mike McCleery
Your Address: 226 Stratford Way, Signal Mountain, TN 37377
Your email address: michaeljmccleery@gmail.com
Your Position or Organization: VP, Global Hosting & Data Services
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5325>

From: "Craig Pearson" <mrmrcrc@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 1:20 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 1:20pm
Submitted by anonymous user: [173.18.168.143]
Submitted values are:

Your Name: Craig Pearson
Your Address: 170 Beech Street Dover, Tn 37058
Your email address: mrmrcrc@yahoo.com
Your Position or Organization: US citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5326>

From: "Jill Strawn" <2bluegates@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 2:01 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 2:00pm
Submitted by anonymous user: [216.41.249.182]
Submitted values are:

Your Name: Jill Strawn
Your Address: 242 Cross Community Rd. Bristol, TN 37620
Your email address: 2bluegates@gmail.com
Your Position or Organization: oppose rule change
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed rule change. Lawyers, like everyone else, should be able to speak freely, even with regard to unpopular or politically incorrect issues, whether others deem their views "legitimate" or not.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5327>

From: "CLYDE AND JAN ZUNKER" <tnhunter@frontiernet.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 2:05 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 2:04pm
Submitted by anonymous user: [184.8.74.81]
Submitted values are:

Your Name: CLYDE AND JAN ZUNKER
Your Address: CROSSVILLE, TN
Your email address: tnhunter@frontiernet.net
Your Position or Organization: Opposed party
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

WE ARE TOTALLY OPPOSED TO THIS PROPOSED RULE CHANGE.
LAWYERS, LIKE ALL U.S. CITIZENS, HAVE FIRST AMENDMENT RIGHTS!!!

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5328>

From: "Thomas A Williams" <tom.williams@leitnerfirm.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 2:05 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 2:05pm
Submitted by anonymous user: [64.203.99.159]
Submitted values are:

Your Name: Thomas A Williams
Your Address: 801 Broad St, Ste 300
Your email address: tom.williams@leitnerfirm.com
Your Position or Organization: Attorney
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379

Your public comments: I am opposed to the proposed Rule change for the reasons stated in the majority of the comments already submitted. I have practiced law since 1964 and find that the Bar does not stand for incivility and that the Judges have a way of dealing with any written or spoken words which are offensive. This proposed change opens up an area for abuse where based on my experience there is no need to have such a rule.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5329>

From: "Linda Christensen" <lfchriste@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 2:07 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 2:07pm
Submitted by anonymous user: [98.239.46.154]
Submitted values are:

Your Name: Linda Christensen
Your Address: Lakeland TN
Your email address: lfchriste@comcast.net
Your Position or Organization: citizen taxpayer
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. It could discourage lawyers from advancing unpopular causes or representing positions that are not popular. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means. Who decides what is "legitimate?"
The First Amendment protects speech even if it is unpopular or offensive.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5330>

From: "Kate Brown" <futurepearl@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 3:01 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 3:01pm
Submitted by anonymous user: [65.7.237.232]
Submitted values are:

Your Name: Kate Brown
Your Address: Oxford Ct, 37072
Your email address: futurepearl@yahoo.com
Your Position or Organization: N/A
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5331>

From: "W.Z. BAUMGARTNER, JR." <wzb1@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 3:02 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 3:02pm
Submitted by anonymous user: [216.107.127.194]
Submitted values are:

Your Name: W.Z. BAUMGARTNER, JR.
Your Address: 1052 BARREL SPRINGS HOLLOW RD.
Your email address: wzb1@aol.com
Your Position or Organization: President, W.Z. BAUMGARTNER & ASSOC., INC.
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change. It is too vague and could easily lead to misuse.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5332>

From: "paul houghland" <phoughland@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 3:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 3:07pm
Submitted by anonymous user: [68.218.132.159]
Submitted values are:

Your Name: paul houghland
Your Address: 4056 davies manor dr Bartlett, tn 38133
Your email address: phoughland@bellsouth.net
Your Position or Organization: Private citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am opposed to this change. The wording is ambiguous and would allow for personal interpretation which could hinder arguments in court. Attorneys would be reluctant to accept a case which is contrary to their personal religious, social or economic views. Decisions rendered could be easily appealed without grounds other than speculation.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5333>

From: "Brenda" <gingerbizcarroll@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 3:16 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 3:16pm
Submitted by anonymous user: [71.88.172.116]
Submitted values are:

Your Name: Brenda
Your Address: 4595 lee drive nw
Your email address: gingerbizcarroll@aol.com
Your Position or Organization: concerned citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5334>

From: "David McGinnis" <demcginn322@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 3:18 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 3:17pm
Submitted by anonymous user: [173.247.28.82]
Submitted values are:

Your Name: David McGinnis
Your Address: 1906 Light Tower Cr Hixson, TN 37343
Your email address: demcginn322@yahoo.com
Your Position or Organization: Retired
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5335>

From: "Judy Holton" <judyholton.ptl@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 4:23 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 4:23pm
Submitted by anonymous user: [66.169.65.248]
Submitted values are:

Your Name: Judy Holton
Your Address: 20 Sarah Court
Your email address: judyholton.ptl@gmail.com
Your Position or Organization: individual concerned about free speech
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I strongly oppose this matter as it sets bad precedent. All people (including lawyers) should not be bound as to freedom of speech. Attorneys should (as everyone else) should have the right to their freedom of speech and to decline to accept any position contrary to their conscience without fear of being subject to fines. I urge you to consider your own position should you be bound by such restriction and vote against this and all that might come after with the same intent. Thank you.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5337>

From: Antonie Voogd <avoogd@stanfordalumni.org>
To: <mike.catalano@tscmail.state.tn.us>
CC: <pundit@instapundit.com>
Date: 3/28/2013 4:28 PM
Subject: Proposed Amendment to RPC 8.4 - No. M2013-00379-SC-RL1-RI

Dear Clerk Catalano:

This written comment on the above proposed rule is submitted agreeably with the subject order.

The concluding sentence in the proposed subsection (h) is meaningless. "Advocacy" is included with "conduct, in a professional capacity" as those words appear in the preceding sentence. "The adjective "legitimate" means "conforming to the law or to rules." There is no rule to which the advocacy might conform. The preceding sentence condemns all advocacy therein described.

Antonie M. Voogd
A Member of the Public
918 Palomar Lane
Ojai CA 93023
(805) 646-1512

From: "Robert C. McGarvey, Ed.D." <mcgarveycj@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 5:32 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 5:31pm
Submitted by anonymous user: [68.59.185.143]
Submitted values are:

Your Name: Robert C. McGarvey, Ed.D.
Your Address: 2511 Waterhaven Dr. Chattanooga, Tn 37406
Your email address: mcgarveycj@comcast.net
Your Position or Organization: individual
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: This Rule change would necessarily restrict if not out-right prohibit the free exercise of the free speech of lawyers from representing their clients should their speech be challenged as "biased." This is the slippery slope that will bring political correctness into the courtroom to the detriment of people seeking justice. Please do not pass this new Rule 8.4. Thank you.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5338>

From: "Lynn Chaffin" <Lynn_chaffin@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:05 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:05pm
Submitted by anonymous user: [68.53.86.220]
Submitted values are:

Your Name: Lynn Chaffin
Your Address: 2711 Wortham Ave, Nashville TN 37215
Your email address: Lynn_chaffin@yahoo.com
Your Position or Organization: Individual citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

Regards, Lynn Chafin

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5339>

From: "Sherrie McCulley" <rsk1@blomand.net>
To: <mike.catalano@tncourts.gov>
Date: 3/28/2013 8:25 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, March 28, 2013 - 8:24pm
Submitted by anonymous user: [206.74.92.182]
Submitted values are:

Your Name: Sherrie McCulley
Your Address: 1605 McMinnville Hwy. Sparta, TN 38583
Your email address: rsk1@blomand.net
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013_00379-SC-RL1-RL
Your public comments: I am against the proposal change to this rule. The 1st Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5340>

From: "Bobbie Patray" <bobbie@tneagleforum.org>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 6:45 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 6:44am
Submitted by anonymous user: [107.208.104.184]
Submitted values are:

Your Name: Bobbie Patray
Your Address: 3216 Bluewater Trace
Your email address: bobbie@tneagleforum.org
Your Position or Organization: President, Tennessee Eagle Forum
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5341>

From: "Joanne Bregman" <JBregman@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 7:41 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 7:40am
Submitted by anonymous user: [98.87.122.208]
Submitted values are:

Your Name: Joanne Bregman
Your Address: 6049 Robin Hill Road
Your email address: JBregman@bellsouth.net
Your Position or Organization: attorney
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: The proposed rule change is incompatible with the professional duties lawyers sometimes execute on behalf of clients whose views may be considered "unpopular." Adopting a rule that encourages disciplinary action using a vague and subjective determination of "legitimacy" goes against the foundations of free speech even assuming some kind of higher standard for lawyers. What happened to the "marketplace of ideas"?

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5342>

From: "Dr. Michael Carlson" <mctnfan@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 8:21 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 8:20am
Submitted by anonymous user: [71.236.62.45]
Submitted values are:

Your Name: Dr. Michael Carlson
Your Address: 9017 Madison Lane, Knoxville, TN
Your email address: mctnfan@aol.com
Your Position or Organization: Family Physician in Summit Medical Group
Knoxille
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

As a practicing primary care physician assisting with the healthcare needs of many in our community, I value my First Amendment right to be honest and objective in conversing and promoting health in my patient's lives. This is vital to my profession if healing is to take place.

I believe lawyers must maintain this same right. I certainly have opinions pro and con on the advocacy of some in the legal profession, but nevertheless, they must be allotted this same freedom! This rule change would in essence destroy the freedoms that are required to maintain a legitimate representation of all individuals in a good and just society! I adamantly oppose the change to Rule 8.4 which is being reviewed. Thank you for your time,
Dr. Michael Carlson

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5345>

From: "Karen Nichols" <knichols@mtsu.edu>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 8:24 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 8:23am
Submitted by anonymous user: [161.45.188.26]
Submitted values are:

Your Name: Karen Nichols
Your Address: 151 Frazier Ln
Your email address: knichols@mtsu.edu
Your Position or Organization: clerk
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M0213-00379-SC-RL-1-RL
Your public comments: Lawyers must to allowed to have the freedom to be for or against the subject being tried. How could anyone possibly defend or convict without being allowed to have a bias or prejudice about what they are being asked to bring before a court of law.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5346>

From: "Kay D. Sheldon" <ksheldon2@juno.com>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 8:31 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 8:31am
Submitted by anonymous user: [98.86.8.166]
Submitted values are:

Your Name: Kay D. Sheldon
Your Address: 144 Dudala Way, Loudon, TN 37774
Your email address: ksheldon2@juno.com
Your Position or Organization: Concerned Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL-1-RL
Your public comments: I oppose the change to rule 8.4. It would discourage lawyers from advancing unpopular causes or representing unpopular positions. In a free society, everyone should be able to present their opinion, even if it is unpopular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5347>

From: "Gene W. Pierce" <pierc1@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 8:45 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 8:45am
Submitted by anonymous user: [173.10.212.173]
Submitted values are:

Your Name: Gene W. Pierce
Your Address: 2314 Nashboro Blvd., Nashville, Tenn. 37217
Your email address: pierc1@comcast.net
Your Position or Organization: Elder, Priest Lake Christian Fellowship
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5348>

From: "nick manginelli" <nickmang@netzero.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 8:58 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 8:58am
Submitted by anonymous user: [98.240.13.77]
Submitted values are:

Your Name: nick manginelli
Your Address: 4001 anderson rd, unit i51
Your email address: nickmang@netzero.net
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013 00379-SC-RL1-RL
Your public comments:

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is legitimate? The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5349>

From: "Billie Cash" <brcash@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 9:15 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 9:15am
Submitted by anonymous user: [75.66.172.93]
Submitted values are:

Your Name: Billie Cash
Your Address: 278 W Colbert ST, Collierville, TN 38017
Your email address: brcash@comcast.net
Your Position or Organization: Speaker/author
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SL-RL1-RL
Your public comments: Please protect our rights by holding the line of
judicial integrity for the people of TN.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5350>

From: "Debby Smith" <debbybsrn@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 10:02 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 10:02am
Submitted by anonymous user: [96.61.115.22]
Submitted values are:

Your Name: Debby Smith
Your Address: 102 Anna Belle Ct
Your email address: debbybsrn@bellsouth.net
Your Position or Organization: opposing changes of Rule 8
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2103-00379-SC-RLI-RL
Your public comments: I oppose the changes to Rule 8 because I am afraid it will discourage attorney from representing cases that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5351>

From: "Trecia Dillingham" <tdilli2@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 10:42 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 10:42am
Submitted by anonymous user: [74.179.211.176]
Submitted values are:

Your Name: Trecia Dillingham
Your Address: 214 Dawn Dr. Mt. Juliet, TN
Your email address: tdilli2@bellsouth.net
Your Position or Organization: home maker/concerned citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Our family asks you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5352>

From: "Brandon Pierce" <busyb8908@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 10:48 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 10:48am
Submitted by anonymous user: [69.245.0.13]
Submitted values are:

Your Name: Brandon Pierce
Your Address: 2314 Nashboro Blvd.
Your email address: busyb8908@yahoo.com
Your Position or Organization: Against
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: This is a dangerous law which should not be past.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5353>

From: "Jesseca Halverson" <halversonjr@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 10:50 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 10:50am
Submitted by anonymous user: [76.7.115.58]
Submitted values are:

Your Name: Jesseca Halverson
Your Address: Fall Branch, TN
Your email address: halversonjr@yahoo.com
Your Position or Organization: Private citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice. The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5354>

From: "Keith Curd" <keithcurd@ymail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 11:01 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 11:01am
Submitted by anonymous user: [74.179.63.130]
Submitted values are:

Your Name: Keith Curd
Your Address: 127 Rhine Drive
Your email address: keithcurd@ymail.com
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-379
Your public comments:
I think attorneys are by definition: advocates of a certain position.
They should have full first amendment speech freedom in expressing their
advocacy.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5355>

From: "Douglas K. Barth" <dougbarth78@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 12:09 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 12:09pm
Submitted by anonymous user: [76.18.182.125]
Submitted values are:

Your Name: Douglas K. Barth
Your Address: 9705 Mountain Ash CT, Brentwood, TN 37027
Your email address: dougbarth78@gmail.com
Your Position or Organization: COO & General Counsel
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

As a Tennessee licensed attorney, I am strongly opposed to the proposed amendment to Tennessee Rule of Professional Conduct 8.4. The proposed amendment would have several negative effects on the autonomy of Tennessee's attorneys as well as violate their constitutional rights of free speech and the free exercise of religion guaranteed under both the U.S. and Tennessee constitutions.

In sum, the proposed amendment could well bar attorneys from advocating views on behalf of their clients that at that point in time are considered unpopular or politically controversial. The proposed rule also engages in viewpoint discrimination because only "legitimate" advocacy is permitted under it, and apparently what is "legitimate" at the time will be determined by the views of those sitting on the Board of Professional Responsibility or their delegate. Tennessee's lawyers would no longer be able to freely advocate views on behalf of their clients but instead only those views that are deemed "legitimate" by some other person. And finally, the proposed amendment threatens to require attorneys with religiously-based beliefs to shelve those beliefs in their practice of law and accept and advocate for clients in a manner contrary to their religious convictions. To that extent, the amendment violates Article I, Section 3 of the Tennessee Constitution and the Tennessee Religious Freedom Act.

In the end, the proposed amendment violates not only constitutional guarantees but the essence of a lawyer's professional autonomy, a heretofore hallmark of the legal profession. Please reject the Board's proposal to amend this rule in its entirety.

Thank you.

Douglas K. Barth, Esq.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5356>

From: "Terry Williams" <terrywilliams21@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 1:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 1:08pm
Submitted by anonymous user: [98.70.115.51]
Submitted values are:

Your Name: Terry Williams
Your Address: 2035 Lawnville Rd, Kingston, TN 37763
Your email address: terrywilliams21@bellsouth.net
Your Position or Organization: individual
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. Lawyers should have the same right of free speech as you and I under the Constitution, which is the right to support or oppose unpopular ideas without being persecuted by government.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5357>

From: "Sabine Scoggins, PhD" <drscoggins@counselingconnection.us>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 2:16 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 2:15pm
Submitted by anonymous user: [50.142.191.132]
Submitted values are:

Your Name: Sabine Scoggins, PhD
Your Address: 834 Paxton Drive
Your email address: drscoggins@counselingconnection.us
Your Position or Organization: Therapist
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Please note that I strongly oppose the change to Rule 8.4, as it could discourage attorneys from advancing causes demeaned "politically-incorrect", unpopular, or oppositional to the views of the general public. A ruling of this kind has the potential to discourage free speech among lawyers if perceived as bias or prejudice and therefore not "legitimate," -- a term that lacks definition.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5358>

From: "Shelby Smith" <faithman102@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 2:43 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 2:43pm
Submitted by anonymous user: [99.42.12.150]
Submitted values are:

Your Name: Shelby Smith
Your Address: 102 Anna Belle Court, Smyrna, TN 37167
Your email address: faithman102@bellsouth.net
Your Position or Organization: Pastor, Walter Hill Baptist Church
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am against the proposed change to this rule.
Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5360>

From: "Lisa & Robert Smith" <lsmithy@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 4:09 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 4:08pm
Submitted by anonymous user: [50.142.151.12]
Submitted values are:

Your Name: Lisa & Robert Smith
Your Address: 129 Newberry Circle, Oak Ridge TN 37830
Your email address: lsmithy@comcast.net
Your Position or Organization: Concerned citizens of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I ask you NOT to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5361>

From: "William Morgan" <wdmatjbs@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 6:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 6:07pm
Submitted by anonymous user: [65.23.122.173]
Submitted values are:

Your Name: William Morgan
Your Address: 3110 Del Rio Pike, Franklin, TN 37069
Your email address: wdmatjbs@gmail.com
Your Position or Organization: Lifetime Citizen of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I OPPOSE the change to Rule 8.4. In my opinion, it will discourage lawyers from advancing unpopular causes or from representing positions that are not popular.

It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

Worse yet, advocates for one position will use this rule to silence lawyers for their opponents in the public arena by threatening to file ethical charges against them! This is NOT the American way!

However legitimate the intent behind this rule change is, the result will be detrimental not only to many attorneys but also to society at large.

I therefore ask you NOT TO ADOPT the change to this rule.

Respectfully submitted,

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5362>

From: "Mr and Mrs Alan Crider" <tcrider@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 6:47 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 6:47pm
Submitted by anonymous user: [68.59.223.149]
Submitted values are:

Your Name: Mr and Mrs Alan Crider
Your Address: 468 N Crest Rd, Chattanooga, TN 37404
Your email address: tcrider@comcast.net
Your Position or Organization: Pastors, River of Life Church
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: We oppose the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5363>

From: "Judy Thompson" <judyt54@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 11:18 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 11:17pm
Submitted by anonymous user: [50.17.130.204]
Submitted values are:

Your Name: Judy Thompson
Your Address: 220 Nelson Drive
Your email address: judyt54@comcast.net
Your Position or Organization: teacher / social worker
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: m2013-00379-sc-RL1-RL

Your public comments: I urge you to think through this rule change more carefully. While it may seem good on the surface, it has the potential to silence views that are unpopular by making an attorney hesitant to take a controversial case for fear he or she could be sanctioned. Any rule that silences anyone's free speech is against the spirit of our constitution. This rule has the power to be misused and abused to suppress the right of an attorney to their own free speech. This reeks of a poor attempt at enforcing political correctness.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5364>

From: "Brenda Kocher" <brenda@kocherfamily.org>
To: <mike.catalano@tncourts.gov>
Date: 3/29/2013 11:30 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Friday, March 29, 2013 - 11:29pm
Submitted by anonymous user: [24.179.88.61]
Submitted values are:

Your Name: Brenda Kocher
Your Address: 1285 Old Hunters Point Pike Lebanon, TN 37087
Your email address: brenda@kocherfamily.org
Your Position or Organization: Retired educator
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5365>

From: "J Edward Gang" <gkrmtfrgg@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 12:14 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 12:14am
Submitted by anonymous user: [184.41.31.7]
Submitted values are:

Your Name: J Edward Gang
Your Address: 3262 Don Valley Dr, Bartlett
Your email address: gkrmtfrgg@aol.com
Your Position or Organization: teacher
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5366>

From: "Larry Bridgesmith" <lbridgesmith@ermlegalsolutions.com>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 8:03 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 8:03am
Submitted by anonymous user: [69.245.56.116]
Submitted values are:

Your Name: Larry Bridgesmith
Your Address: Suite 1600, 511 Union Street, Nashville, TN 37219
Your email address: lbridgesmith@ermlegalsolutions.com
Your Position or Organization: General Counsel, Chief Relationship Officer
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: By elevating this laudable comment to a rule by eliminating the element of intent to discriminate, the BPR has created a strict liability standard for behavior which may be otherwise defensible on many grounds. As a labor and employment lawyer for over 30 years, the element of intent has always been an essential requirement for proof of illegal discrimination. Removing the element of intent could create liability for a lawyer who merely coincidentally discriminates by choosing a candidate for a job who merely happens to be a person of a gender, religion, sexual orientation, age, national origin or socio-economic status different from an unsuccessful candidate. This rule would elevate protected status over merit. As a result, the rule as written is an unconstitutional infringement on freedom of association and everything our state and nation has stood for since the time of the Civil War which was fought in part to prevent such stereotypical discrimination. As a result, I oppose its adoption..

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5367>

From: "Gary Fitsimmons" <gfitsimmons@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 9:44 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 9:44am
Submitted by anonymous user: [98.68.174.171]
Submitted values are:

Your Name: Gary Fitsimmons
Your Address: 230 Sydney Lane, Dayton TN
Your email address: gfitsimmons@yahoo.com
Your Position or Organization: Director of Library Services, Bryan College
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

It is my understanding that the rule change proposed would require lawyers to refrain from exhibiting bias in their professional activities. This sounds good and reasonable on the surface, but would, as a rule, end up being biased itself against lawyers that disagreed with public acceptance of anything added to the list of protected classes. This means that rights guaranteed to everyone (including lawyers) by the US Constitution would be cancelled. In the US a man does not surrender guaranteed rights simply by virtue of selecting a specific honorable career such as law. These rights include freedom of speech and right of association. The Bill of Rights secures these rights by restricting the government from infringing upon them.

Not only does this affect the lawyers, but this would also prohibit them from defending anyone charged with crimes against protected classes, thus denying those individuals their right to a defense attorney who would be able to stand for them without showing "bias."

Everyone has bias, and anyone who says they don't is lying. The point should be to encourage lawyers to be able to represent any side of an issue whether in a court of law or in the court of public opinion through advocacy, so that all sides will have representation in free and open public debate. This rule change as it is currently worded falls far short of that lofty goal. The citizens of Tennessee--all of them--deserve better than that.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5368>

From: "G.K. Williamson" <kevindeb2@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 11:35 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 11:34am
Submitted by anonymous user: [99.71.146.188]
Submitted values are:

Your Name: G.K. Williamson
Your Address: 2488 Crosspark Dr
Your email address: kevindeb2@hotmail.com
Your Position or Organization: Citizen of TN
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5369>

From: "Sherrie Orange" <sgobows@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 12:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 12:08pm
Submitted by anonymous user: [74.179.211.67]
Submitted values are:

Your Name: Sherrie Orange
Your Address: 1210 Martha Leeville Road, Lebanon, Tennessee 37090
Your email address: sgobows@aol.com
Your Position or Organization: Retired Teacher
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M20 13-00379-SC-RLI-RL
Your public comments:

Dear Sir,

I believe that this rule could discourage lawyers from representing many people because the issue may be deemed unpopular. In my humble opinion, this is simply an attack on our First Amendment Rights, being the right of Free Speech. I believe this law will create many unintended consequences which will not bode well for the citizens, nor lawyers. I see the process of our law being met with another obstacle to justice.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5370>

From: "Sherrie Orange" <sgobows@aol.com>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 12:08 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 12:08pm
Submitted by anonymous user: [74.179.211.67]
Submitted values are:

Your Name: Sherrie Orange
Your Address: 1210 Martha Leeville Road, Lebanon, Tennessee 37090
Your email address: sgobows@aol.com
Your Position or Organization: Retired Teacher
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M20 13-00379-SC-RLI-RL
Your public comments:

Dear Sir,

I believe that this rule could discourage lawyers from representing many people because the issue may be deemed unpopular. In my humble opinion, this is simply an attack on our First Amendment Rights, being the right of Free Speech. I believe this law will create many unintended consequences which will not bode well for the citizens, nor lawyers. I see the process of our law being met with another obstacle to justice.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5371>

From: "Marti Gibson" <xraygran@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 12:30 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 12:30pm
Submitted by anonymous user: [68.60.2.31]
Submitted values are:

Your Name: Marti Gibson
Your Address: 358 Warren Dr.
Your email address: xraygran@comcast.net
Your Position or Organization: concerned citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RLI-RL
Your public comments: I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment ;protects speech even if it is unpopular or offensive. Lawyers are not an exception. I oppose the rule change.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5375>

From: "Christine Blake" <Amblake1@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 5:23 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 5:22pm
Submitted by anonymous user: [74.244.249.69]
Submitted values are:

Your Name: Christine Blake
Your Address: 140 pebblecreek rd
Your email address: Amblake1@bellsouth.net
Your Position or Organization: Concerned citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I am totally against this bill! The ones who are designated in our system of government to protect the rule of law, to advance the rights of others, to protect free speech would be told that if they do so relative to some group of people or individuals that are unpopular, they could be disbarred. This is a power grab by the homosexuals to make life fair for only themselves and no one else. What ever happened to righteousness? Who wants to live in a state where your right to a fair representation is grossly limited.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5377>

From: "Robert C. McGarvey, Ed.D." <mcgarveycj@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 6:02 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 6:02pm
Submitted by anonymous user: [68.59.185.143]
Submitted values are:

Your Name: Robert C. McGarvey, Ed.D.
Your Address: 2511 Waterhaven Dr. Chattanooga, Tn 37406
Your email address: mcgarveycj@comcast.net
Your Position or Organization: individual
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: My previously submitted comment was returned to me. Therefore, please accept this concise statement in opposition to proposed Rule 8.4. Simply, the proposed Rule if approved will impinge upon the free speech both of the lawyer and proposed client to determine if they wish to enter into a contractual relationship. The proposed rule cites bias as a means for legal redress by an individual against a lawyer's decisions placing the burden of proof on the lawyer to prove he/she did not act in such a manner. In short, from my perspective as a retired history teacher, the proposed rule destroys common sense and free speech. Reminds me of the Salem witch trials. Who had the burden of proof? Reject the proposed Rule.
Sincerely, Dr. Robert C. McGarvey

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5378>

From: "Debbie Santiago" <debbiesantiago442@hotmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/30/2013 7:25 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Saturday, March 30, 2013 - 7:25pm
Submitted by anonymous user: [74.5.218.189]
Submitted values are:

Your Name: Debbie Santiago
Your Address: 157 Mayfield Drive, Elizabethton, TN 37643
Your email address: debbiesantiago442@hotmail.com
Your Position or Organization: United States Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. And, who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.
Thank you.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5379>

From: "Denise Ketterer" <doander@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 7:07 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 7:07am
Submitted by anonymous user: [108.174.99.40]
Submitted values are:

Your Name: Denise Ketterer
Your Address: 2518 Lyndon Ave, Chattanooga, TN 37415
Your email address: doander@comcast.net
Your Position or Organization: citizen of state of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5380>

From: "Douglas Dutton" <daddutton@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 7:53 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 7:52am
Submitted by anonymous user: [96.60.249.211]
Submitted values are:

Your Name: Douglas Dutton
Your Address: 12031 S Fox Den Dr., Knoxville, TN 37934
Your email address: daddutton@yahoo.com
Your Position or Organization: Retired Lawyer, BPR 622
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RLI-RL
Your public comments: The Rules of Professional Conduct should not be used to promote cultural values and certainly should not place lawyers in a position to be denied their free speech and their religious rights.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5381>

From: "Roy and Sarah McCollum" <roy3lovessarah@gmail.com>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 6:35 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 6:35pm
Submitted by anonymous user: [99.122.30.206]
Submitted values are:

Your Name: Roy and Sarah McCollum
Your Address: 2390 Interlackin Circle NW | Cleveland TN 37312
Your email address: roy3lovessarah@gmail.com
Your Position or Organization: President, LifeWise
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular, and that's bad for TN.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because SOMEONE decides it wasn't "legitimate." This is not freedom of speech.

I ask you not to adopt the change to this rule. Who gets to decide what advocacy by a lawyer is "legitimate?" The First Amendment protects speech, even if it is unpopular or offensive. Lawyers are not an exception.

Roy and Sarah McCollum

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5383>

From: "V.Brazier" <vjb497@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 7:46 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 7:46pm
Submitted by anonymous user: [198.51.179.254]
Submitted values are:

Your Name: V.Brazier
Your Address: P O Box 54 Signal Mtn, TN 37377
Your email address: vjb497@comcast.net
Your Position or Organization: Oppose change to Rule 8.4
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular.

I am against the proposed change to this rule. It seems to discourage free speech among lawyers because someone might think their words evidence bias or prejudice that isn't "legitimate," whatever that means.

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

I ask you not to adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5384>

From: "Jason Spence" <jmark205@charter.net>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 8:54 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 8:54pm
Submitted by anonymous user: [24.183.214.33]
Submitted values are:

Your Name: Jason Spence
Your Address: 1019 Mount Carmel Rd.
Your email address: jmark205@charter.net
Your Position or Organization: Grace Baptist Church
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the proposed rule change. Lawyers, like everyone else, should be able to say things, even if they are unpopular, without fear of being punished because someone decides it wasn't "legitimate."

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5385>

From: "Liese Anne Thomas" <ohliese@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 10:07 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 10:07pm
Submitted by anonymous user: [75.64.132.161]
Submitted values are:

Your Name: Liese Anne Thomas
Your Address: 5726 Sleepy Woods Cove, Bartlett, TN 38134
Your email address: ohliese@comcast.net
Your Position or Organization: Tennessee citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: The proposed change to Rule 8.4 is unconstitutional in that it violates lawyers' right to free speech. The First Amendment does not say that the free speech clause does not apply to lawyers.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5386>

From: "Matthew Thomas" <mcthmas1@memphis.edu>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 10:20 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 10:19pm
Submitted by anonymous user: [75.64.132.161]
Submitted values are:

Your Name: Matthew Thomas
Your Address: 5726 Sleepy Woods Cove, Bartlett, TN 38134
Your email address: mcthmas1@memphis.edu
Your Position or Organization: university student
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

This country's government--including its judicial system--profits from the discussion--even heated discussion--of people with different views. If certain non-politically-correct views are silenced (as in when these views are considered to be biased or prejudiced), all valid points of view are NOT heard, and the search for the best answer to a problem is greatly hindered. Also, it is very disturbing to know that certain panels of people would be able to decide what is and what is not bias and/or prejudice, based on the politically-correct view of the moment.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5387>

From: "Bonnie Walters" <bonwalters@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 3/31/2013 11:11 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Sunday, March 31, 2013 - 11:10pm
Submitted by anonymous user: [74.170.65.150]
Submitted values are:

Your Name: Bonnie Walters
Your Address: 3618 Polly Drive
Your email address: bonwalters@bellsouth.net
Your Position or Organization: citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am concerned about this proposed Rule change. I ask you not to adopt the change to this rule. The First Amendment protects speech even if it is unpopular or offensive. Lawyers are not an exception. Please protect our rights in this issue.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5388>

From: "Margaret Monaco" <devondelight22@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 5:55 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 5:54am
Submitted by anonymous user: [14.201.3.102]
Submitted values are:

Your Name: Margaret Monaco
Your Address: 1/626 Hamilton St, Johnson City, TN
Your email address: devondelight22@yahoo.com
Your Position or Organization: private citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: It is appropriate for a lawyer to defend or advocate for a position that is not mainstream, or that certain sections of the community decry eg, a lawyer advocating a position that marriage is between a man and a woman, or advocating freedom of conscience in the area of healthcare delivery or advocating on behalf of freedom of conscience to not provide services to a 'marriage' celebration that is not between a man and a woman. It is inappropriate for any law to be passed that does not allow a lawyer to advocate for any position for which he or she desires. It is inappropriate for legislation that limits a person's freedom in their exercise of bringing ideas to discussion.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5389>

From: "Barbara Sarratt" <barbarasarratt@bellsouth.net>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 8:10 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 8:10am
Submitted by anonymous user: [99.43.246.116]
Submitted values are:

Your Name: Barbara Sarratt
Your Address: 4599 Artelia Dr. Antioch, Tn. 37013
Your email address: barbarasarratt@bellsouth.net
Your Position or Organization: Individual
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-R:
Your public comments: I ask you not to adopt the change in this rule. Who decides what advocacy by lawyers is "legitimate?" The First Amendment protects speech even if it is unpopular or offensive, Lawyers are nto an exception. Thank you.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5390>

From: "Robert M. Pautienus III" <robert@iptlawfirm.com>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 9:20 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 9:20am
Submitted by anonymous user: [173.10.213.233]
Submitted values are:

Your Name: Robert M. Pautienus III
Your Address: 216 Centerview Drive, Ste 317 Brentwood TN 37027
Your email address: robert@iptlawfirm.com
Your Position or Organization: Ingraham, Pautienus & Tidwell PLLC
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: m2013-00379-sc-rl1-rl
Your public comments:

I am against the proposed rule change. The proposed revised language is ambiguous and does not strengthen the integrity of our legal system, nor does it address conduct that is prejudicial to the administration of justice. As an attorney, I should have the right to decline representing a client who is involved in behavior or with a cause that I deem to be morally wrong, without fear that I have committed ethical misconduct. The phrase "manifesting bias or prejudice" allows for a wide range of interpretation and appears to be drafted so as to allow individuals to press specific agendas.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5391>

From: "Laurie Scarbrough" <lms8@frontiernet.net>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 9:37 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 9:37am
Submitted by anonymous user: [184.8.76.234]
Submitted values are:

Your Name: Laurie Scarbrough
Your Address: 736 Clear Creek Rd Crossville, TN 38571
Your email address: lms8@frontiernet.net
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. It seems to discourage free speech (1st ammendment) among lawyers. I also feel it could discourage lawyers from advancing unpopular causes or representing positions that are no popular.

Unfortunately in this upside-down society in which we live in; people who believe in the first and second amendments, people who believe in Jesus, the bible, and the doctrine of marriage between one man and one woman are becoming "unpopular beliefs" through the hateful speech of main stream media, elected officials, movie stars, and the indoctrination of our children through the education system.

You are our elected officials of this great state of Tennessee-we put you in office to stand up for our rights and beliefs not to crumble to Washington or the United Nations or any other government agency.

I am asking you to please get a backbone and stand up and protect what little freedom we have left.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5392>

From: "Steve Chatman" <schatman@therivercc.com>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 10:32 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 10:32am
Submitted by anonymous user: [50.33.99.249]
Submitted values are:

Your Name: Steve Chatman
Your Address: Cookeville, TN
Your email address: schatman@therivercc.com
Your Position or Organization: Citizen
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. This will only create another regulation that will no doubt be administered in a biased manner, ultimately doing to attorneys what it says it is trying to prevent them from doing.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5393>

From: "John W. Henderson" <aslanariel@yahoo.com>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 10:55 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 10:55am
Submitted by anonymous user: [67.142.162.26]
Submitted values are:

Your Name: John W. Henderson
Your Address: 1173 Punkton Rd Del Rio TN 37727
Your email address: aslanariel@yahoo.com
Your Position or Organization: voter
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the change to Rule 8.4. Exactly who will decide what is "legitimate" and what is not? Freedom of speech as guaranteed by the first amendment has been infringed upon enough! Rule 8.4 is nothing more than yet another ploy to provide a legal door to advance unethical and immoral agendas in our country. Again, I OPPOSE it.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5394>

From: "Cindy Marsh" <cmash@csquared.biz>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 11:05 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 11:05am
Submitted by anonymous user: [75.151.221.98]
Submitted values are:

Your Name: Cindy Marsh
Your Address: 5845 Lagrange Rd Somerville, TN 38068
Your email address: cmash@csquared.biz
Your Position or Organization: Small business owner
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: Please do NOT adopt the change to this rule. Who decides what advocacy by a lawyer is "legitimate"? The First Amendment protects speech even if it is unpopular or offensive. Lawyers are no exception. I am concerned this could adversely affect our personal Constitutional Right to Free Speech as well.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5395>

From: "Daniel H. Puryear" <dpuryear@puryearlawgroup.com>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 11:44 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 11:43am
Submitted by anonymous user: [173.221.203.34]
Submitted values are:

Your Name: Daniel H. Puryear
Your Address: 102 Woodmont Blvd., Suite 520, Nashville, TN 37205
Your email address: dpuryear@puryearlawgroup.com
Your Position or Organization: Puryear Law Group
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments:

This e-mail is in opposition to the Board of Professional Responsibility's Petition asking the Court to amend RPC 8.4 to add a new paragraph (h), making it a professional misconduct for a lawyer to engage, in a professional capacity, in certain discriminatory conduct. Rather than reiterating all of the many good points already made in other letters already received, I would simply add my support to the reasoning articulated in the letters received by your office from Messrs. Brad Hornsby, Bryan Stephenson, Michael McKinney, and Dennis McClane.

By failing to define "professional capacity" and creating new protected classes not currently recognized by law, this proposed rule creates many more problems than it seeks to address.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5396>

From: "Lorie A. Banther" <lbanther@vec.org>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 3:40 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 3:39pm
Submitted by anonymous user: [204.116.105.86]
Submitted values are:

Your Name: Lorie A. Banther
Your Address: 7403 Chad Rd. Harrison, TN 37341
Your email address: lbanther@vec.org
Your Position or Organization: customer service
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I am opposed to the change to Rule 8.4. Lawyers, like everyone else, should have the right of free speech, even if the speech is unpopular.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5401>

From: "Matthew Thornton" <mthornton@bhammlaw.com>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 4:57 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 4:56pm
Submitted by anonymous user: [66.208.196.29]
Submitted values are:

Your Name: Matthew Thornton
Your Address: 5400 Poplar Ave, Ste 100, Memphis, TN 38119
Your email address: mthornton@bhammlaw.com
Your Position or Organization: Lawyer
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RLI-RL
Your public comments:
Dear Mr. Catalano:

I write in my personal capacity, not on behalf of my firm or any of its other members, to express strong opposition to the Board of Professional Responsibility's Petition to broaden Rule 8.4 RPC "to prohibit an attorney's manifestation of bias or prejudice in a professional capacity." In seeking to elevate certain classes of people to protected status, the language of the Board's Petition allows my constitutionally protected rights to be infringed. I submit the actions of the Board in bringing this Petition are contrary to the principles of the U.S. and Tennessee Constitutions and the public policy of the State of Tennessee.

The current Comment [3] to Rule 8.4 prevents a lawyer from using words or conduct which manifest bias or prejudice "when such actions are prejudicial to the administration of justice." The Petition lowers the ethical standard to biased conduct "in a professional capacity." What exactly does that standard mean? When I, as a lawyer, volunteer my time representing an indigent client in Court, clearly that is in my professional capacity. When I, as a lawyer, speak publicly for the rights of an unborn child, that line is not as clear. There are many people who believe abortion should be legal. There are many who do not. I have an unfettered right to speak publicly in favor of, or against, abortion as my conscience dictates. If a prospective client wants me to represent them in securing the legal right to an abortion for their disabled daughter, I have the freedom to refuse such representation on moral grounds without facing significant negative consequences as a lawyer or a citizen.

This is not as true in the homosexual debate. Tennessee should heed the warnings from other state jurisdictions where "sexual orientation" has been elevated to a protected status. The evidence is clear in those states that the citizen's lawful right of dissent is crushed under the threat of force of law. (See Appendix A attached) The end result of doing what the Board's Petition attempts to do is that the rights of those who believe that homosexuality is a sin are trampled upon and relegated to being only expressed in the private sphere. Adding insult to injury, professionals who offer their services in the public sphere are not allowed to refuse representation on moral grounds without significant negative consequences. I have represented individuals who identified themselves as homosexual successfully in the past with regard to matters that did not violate my conscience, but the language of the Board's Petition removes my choice of

representation in the future. It will be professional misconduct for me to refuse to accept representation solely on the basis of the sexual orientation of the prospective client.

The U.S. Constitution, Bill of Rights, Article I, states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech" Thus, the Petition's attempt to enjoin my rights of free exercise and of speech is an unconstitutional infringement by the Board upon my rights as a U.S. citizen.

The Tennessee Constitution, Article I, Section 3. states that "[A]ll men have a natural and infeasible right to worship Almighty God according to the dictates of their own conscience;... that no human authority can, in any case whatever, control or interfere with the rights of conscience." Furthermore in Section 19: "The free communication of thoughts and opinions, is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty." Thus, the Petition's attempt to enjoin my rights of free worship and of conscience is an unconstitutional infringement by the Board upon my rights as a Tennessee citizen.

As evidence of the public policy of this State, The Tennessee Constitution, Article XI, Section 18. states as follows:

The historical institution and legal contract solemnizing the relationship of one man and one woman shall be the only legally recognized marital contract in this state. Any policy or law or judicial interpretation, purporting to define marriage as anything other than the historical institution and legal contract between one man and one woman, is contrary to the public policy of this state and shall be void and unenforceable in Tennessee. If another state or foreign jurisdiction issues a license for persons to marry and if such marriage is prohibited in this state by the provisions of this section, then the marriage shall be void and unenforceable in this state. (While the issue of sexual orientation and gay marriage are not one and the same, they are closely related.)

All life is precious and I treat everyone with respect, even when we disagree. But the Bible is Truth and it is clear that homosexual behavior is immoral. It would certainly be easier for me if I would abandon my faith and allow myself to be washed along with the current wave of political correctness. It is much more difficult to stand against the growing tide, but stand I must. Some may think my views of the authority of the Bible as outdated. Apparently, the Board has taken that position too.

I unequivocally oppose the Board's Petition.

With best regards,

Matthew Thornton

Encl.

APPENDIX A

New Mexico

http://www.washingtonpost.com/national/on-faith/categories-c-a/2012/06/05/gJQAjYheGV_story.html

Colorado and Iowa

http://www.huffingtonpost.com/2012/07/30/jack-phillips-denver-bakery-gay-couple-wedding-cake_n_1721093.html

Examples cited in Recent Article (source listed below):

- In Lexington, Ky., a T-shirt shop called Hands On Originals was approached by the Gay and Lesbian Services Organization about printing shirts for the group. The T-shirt company politely declined and even sought out quotes and gave the group referrals to other T-shirt printers, along with comparable prices. They were promptly sued by the group under Lexington's anti-discriminatory laws and forced to comply with a lengthy investigation. The city's power-drunk human rights commission said the shop will be "required by law to participate in the investigation."

"We have subpoena power and have the backing of the law," Raymond Sexton, the executive director of the Human Rights Commission told Fox News. "We are a law enforcement agency and people have to comply."

Leftist groups are trying to get the company evicted from their premises. The city now has school districts freezing their business with the privately owned company. Meanwhile, the owner of the company tried to defend his faith and decision in an op-ed in the paper.

- A Methodist church in New Jersey was sued for not offering its facility for use during same-sex weddings. A judge ruled against the church.

- A same-sex couple from California sued a Hawaiian bed and breakfast privately owned by a Christian woman for not allowing them to rent a room.

- A bed and breakfast in Alton privately owned by a Christian couple was sued when they would not host a same-sex civil union ceremony.

- Owners of a small, privately owned inn in Vermont declined to host a same sex wedding reception due to their religious views and were sued.

- Catholic Charities was barred from assisting in adoptions in Massachusetts, Washington, D.C., and Illinois and excluded from future contracts because it declined to consider same sex couples.

"Gay marriage incompatible with Religious Freedom" By Erick Erickson

<http://www.foxnews.com/opinion/2013/03/26/gay-marriage-religious-freedom-are-incompatible/?intcmp=obnetwork#ixzz2PFXHZB5v>

The results of this submission may be viewed at:

<http://www.tncourts.gov/node/602760/submission/5416>

From: "Mitch Cone" <mitchcone@comcast.net>
To: <mike.catalano@tncourts.gov>
Date: 4/1/2013 5:01 PM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Monday, April 1, 2013 - 5:00pm
Submitted by anonymous user: [68.52.143.242]
Submitted values are:

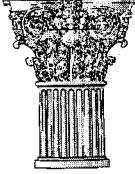
Your Name: Mitch Cone
Your Address: 1308 Old Hickory Blvd., Brentwood, TN 37027
Your email address: mitchcone@comcast.net
Your Position or Organization: Resident of the State of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL

Your public comments: I oppose the proposed change to Rule 8.4 for several reasons. First, the proposed change to Rule 8.4 is subject to constitutional challenge under free speech, freedom of association and free exercise of religion. There is no substantial benefit for risking the distraction, cost and other governmental resources and expenses to defend the proposed rule. Second, there are already federal and state laws on the books that proscribe discrimination based upon many of the protected classes enumerated in proposed Rule 8.4. Proposed Rule 8.4 discourages attorneys from undertaking the representation of clients who may currently be violating such non-discrimination laws even if the result of such representation results in the client's voluntary cessation of some or all of such clients discriminatory conduct at least partly due to the professional recommendations of the client's legal team even though such legal team may simultaneously assert colorable legal defenses on behalf of the client. Therefore, proposed Rule 8.4 may have the unintended consequence of increasing or continuing discrimination. Third, proposed Rule 8.4 will have a chilling effect on the willingness of lawyers to undertake any representation of a potential client who has or may be accused of any discriminatory activity in any way related to the enumerated protected classes. If proposed Rule 8.4 is adopted, Attorney's must undertake an assessment of whether it is worth the economic risk to represent a client who may have an ongoing practice that is or could be construed as being discriminatory even if the end result of the representation is a lessening of the actual or perceived discrimination. Fourth, the notion, spirit, idea, practice, value, protection and ideal of "freedom" is foundational and essential to the healthy function of the state of Tennessee and to the United States of America. Such essential freedoms include the rights of free speech and free association, the right to take an unpopular public position, the freedom to be wrong, and the right to prove oneself a fool in public with or without the assistance of an attorney or anyone else. Individuals exercising these freedoms and other rights often seek and sometimes need the assistance of legal counsel. Due to the ever increasing legal complexity of our society and the annually increasing number of laws, rules and regulations that are passed in Tennessee, the other 49 states and by the federal government, all citizens face an increasingly difficult challenge in keeping up with all the statutes, rules, regulations and other governmental activity that impacts the way they live and work. Today, whenever any new statute, rule, regulation, etc. is enacted, there often are groups of citizens attempting to determine how to comply with it and other groups of citizens attempting to determine how to avoid complying with it on legally supportable grounds. In each case, lawyers are very often providing needed professional guidance to each side.

That professional legal guidance of lawyer's runs the spectrum of advising a client to take no action to advising a client to fully assert the client's position. Regardless of the issue at hand, even those enumerated in the proposed revision to Rule 8.4, it is antithetical to the historical practice of "freedom" in Tennessee and in the United States of America to prevent lawyers from zealously representing a client regardless of whether the lawyer's personal beliefs are contrary to the client's legal interests. Any law, regulation or rule that may penalize a lawyer from taking professional positions whether in the representation of a client or in the lawyer's personal interest that are otherwise lawful has the logical and unavoidable result of reducing the availability of legal representation of citizens in a broad range of areas that can not be fully ascertained as each case will turn on its own facts and be subject to the legal creativity of the opposing side. Fifth, any lawyer being accused of violating proposed Rule 8.4 may not be able to defend his/her self without potentially violating the attorney client privilege which is of greater importance to our legal system than proposed Rule 8.4. Legal positions taken by lawyers on behalf of clients are the result of many things not the least of which is information given directly by the client to the client's lawyer. Such information includes not only otherwise discoverable facts of the case, but also the client's desired outcome, feared result, preferences, motivations, and a myriad of other information that is historically privileged information between the client and the client's lawyer. Such information and the applicable law are the basis by which the client and the client's lawyer jointly agree upon what legal positions will and will not be put forth on behalf of the client. It may be only this otherwise protected information that would prove that a lawyer is not in violation of proposed Rule 8.4 leaving the lawyer in a lose/lose situation in that the lawyer will be subject to ethical charges and civil damages for revealing the privileged information that would exonerate the attorney from charges under proposed Rule 8.4, or face charges under Rule 8.4 without being able to use the facts that would exonerate the lawyer. Sixth, our legal system has functioned reasonably well based upon the established rule of law. Proposed Rule 8.4 is contrary to the prevailing rule of law in many areas some of which are detailed above. The area of client representation in civil rights cases in particular would likely be in limbo while lawyer's evaluated their exposure under proposed Rule 8.4 with no corresponding benefit to the public, the judicial system, or our society. For the foregoing reasons and others, I request that proposed Rule 8.4 NOT be enacted.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5417>

**CHURCH LAW
INSTITUTE**



Church Law Institute, Inc.
5214 Maryland Way, Suite 402
Brentwood, TN 37027
(615) 376-2600 Voice
(615) 345-6009 Facsimile

Larry L. Crain, Founder
L.Crain@ChurchLawInstitute.com

Brian Schuette, Senior Counsel
Brian@ChurchLawInstitute.com

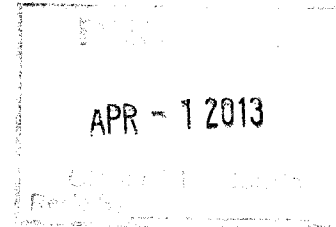
Joshua Hershberger, Counsel
Josh@ChurchLawInstitute.com

www.ChurchLawInstitute.com

Mike Catalano
Clerk, Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

April 1, 2013

**Re: Supreme Court Rule 8, Section 8.4
Proposed Rule Change
M2013-00379-SC-RL1-RL**



Requiring an attorney to choose between freely practicing their chosen profession and violating a cardinal tenet of their religious beliefs places an impermissible burden upon freedom of religion - -

Dear Mr. Catalano:

This letter shall serve as a comment on the proposed change to Tennessee Supreme Court Rule 8, Section 8.4. I write on behalf of the Church Law Institute, an organization for which I serve as founder and Senior Counsel. Church Law Institute ("CLI") is a legal and educational organization that provides churches and church leaders with a comprehensive resource of legal counsel, education, advice and referral on legal issues in all aspects of church ministry. Our staff attorneys, as well as those who serve as affiliate attorneys for CLI both in Tennessee and across the country, share a common commitment to the advancement of religious liberty and the protection of those constitutional freedoms embodied in the Free Exercise Clause of the First Amendment. Because we believe that the proposed change to Rule 8 undermines the core values of free exercise and the right of conscience shared by many attorneys across the State of Tennessee, we oppose this proposed modification.

**OBJECTIONS TO PROPOSED CHANGE
TO TENN.SUP.CT RULE 8, SECTION 8.4**

1. The Threat of Disciplinary Sanctions Upon Attorneys Who Object To Same-Sex Marriage on the Basis of Sincerely Held, Religious Beliefs Creates An Unconstitutional Conflict Of Having To Choose Between Exposure To Bar Sanctions Or Violating The Dictates Of Their Consciences And Religious Beliefs.

A state places an impermissible burden upon religion freedom when it forces people of faith to choose between adhering to their sincerely held religious beliefs and receiving a benefit offered

by the state. This is true regardless of whether the government conditions receipt of an important benefit upon conduct proscribed by religious faith or denies such a benefit because of conduct mandated by religious belief; while the compulsion may be indirect, the infringement upon free exercise is nonetheless substantial. *Thomas v. Review Bd. of Indiana Employment Sec. Div.*, 450 U.S. 707, 101 S. Ct. 1425, 67 L. Ed. 2d 624 (1981). It is beyond rational debate that the earned privilege to engage in the practice of law is an important and highly cherished government benefit bestowed by the state upon those who satisfy the requirements for admission to the bar.

Attorneys are often called upon to fulfill a unique role as advocates in our system of jurisprudence. We are appointed by the courts to represent as *guardians ad litem* children and mentally impaired individuals in the context of conservatorships, adoptions, divorce and to represent defendants in criminal cases. In fulfilling this duty, attorneys may be called upon to represent unpopular clients, and even those whose system of values and beliefs differ from their own. While mere disagreement with a client's moral judgments are an insufficient basis for withdrawal¹, when an attorney is called upon to advance a position that is diametrical to their core, personal religious beliefs, this conflict rises to a constitutional dimension.

Historically, Tennessee courts have recognized that attorneys faced with this conflict have an obligation to bring this to the attention of the court in a motion to withdraw. In *State v. Jones*, 726 S.W. 2d 515, 518-519 (Tenn. 1987), the Supreme Court upheld a contempt citation against an attorney who refused to accept a court-ordered appointment based on his interpretation of a formal ethics opinion, even where counsel's refusal was not disrespectful, unreasoning or contumacious. Procedurally, the Supreme Court held that in order for an attorney to avoid contempt for refusal to obey an order of appointment perceived to be erroneous, it was necessary for counsel to seek dissolution of the order in the appellate courts. *Id.* at 517.

There are several contexts in which attorneys who hold sincerely religious-based objections to same-sex marriage may be called upon to represent individuals in a factual context that implicates these beliefs. One classic example is an attorney may be appointed to serve as *guardian ad litem* in the context of a custody dispute between divorced parents, one of whom has joined a same-sex marriage. If the attorney holds, as a tenet of his sincere religious beliefs that such marriages are contrary to biblical mandate, then his ability to serve as a disinterested advocate in this scenario is compromised. Again, this is not merely a matter of personal predilection, but religious belief and practice - - a position that is entitled to the highest level of constitutional protection under the First Amendment Free Exercise Clause.

The Board delved into this issue in Tennessee Formal Ethics Opinion 96-F-140. There, a devout Roman Catholic attorney who routinely practiced before the Juvenile Court raised the

¹ In Tennessee Formal Ethics Opinion 84-F-73, this issue was addressed in the context of a first degree murder case.

question of whether he could ethically decline a court appointment to represent minors who elected to petition the Juvenile Court for waivers of the parental consent requirement to obtain abortions.

In its analysis of this case, the Board failed to conduct the necessary level of scrutiny required under the Free Exercise Clause, and consequently reached a decision that is decidedly at odds with well-settled constitutional jurisprudence. The Board instead applied the same level of deference to the attorney's religious-based objection as that typically accorded to mere conscientious objection.

Counsel also alleges that he is a devout Catholic and cannot, under any circumstances, advocate a point of view ultimately resulting in what he considers to be the loss of human life. The religious beliefs are so compelling that counsel fears his own personal interests will subject him to conflicting interests and impair his independent professional judgment in violation of DR 5-101(A). In other words, counsel contends his status is akin to that of a conscientious objector, who is opposed to participation in abortion in any form. Although counsel's religious and moral beliefs are clearly fervently held, EC 2-29 exhorts appointed counsel to refrain from withdrawal where a person is unable to retain counsel, except for compelling reasons. Compelling reasons as contemplated by this EC do not include such factors as: ...the repugnance of the subject matter of the proceeding, the identity or position of a person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merits of the civil case.

Tennessee Formal Ethics Opinion 96-F-140 (Tenn.Bd.Prof.Resp.), 1996 WL 340719, 3-4.

No single Supreme Court decision is cited by the Board in its analysis of whether an attorney's protected right of free exercise should trump a court's insistence that he serve in a case that compels him to take a position in derogation of his sincerely held religious beliefs.

Had the Board in Tennessee Formal Ethics Opinion 96-F-140 made a searching inquiry of controlling U.S. Supreme Court authority on this issue, it would have instead found that an individual's sincerely held religious beliefs are entitled to far greater protection than the mere "repugnance of the subject matter" or a "belief in the guilt or innocence of the client".

Starting with the seminal case of *Sherbert v. Verner*, 374 U.S. 398, 402-03, 83 S. Ct. 1790, 1793, 10 L. Ed. 2d 965 (U.S.S.C. 1963), the Supreme Court held:

The door of the Free Exercise Clause stands tightly closed against any governmental regulation of religious beliefs as such, *Cantwell v. Connecticut*, 310 U.S. 296, 303, 60 S.Ct. 900, 903, 84 L.Ed. 1213. Government may neither compel affirmation of a repugnant belief, *Torcaso v. Watkins*, 367 U.S. 488, 81 S.Ct. 1680, 6 L.Ed.2d 982; nor penalize or discriminate against individuals or groups

because they hold religious views abhorrent to the authorities, *Fowler v. Rhode Island*, 345 U.S. 67, 73 S.Ct. 526, 97 L.Ed. 828; nor employ the taxing power to inhibit the dissemination of particular religious views, *Murdock v. Pennsylvania*, 319 U.S. 105, 63 S.Ct. 870, 87 L.Ed. 1292; *Follett v. McCormick*, 321 U.S. 573, 64 S.Ct. 717, 88 L.Ed. 938; *cf. Grosjean v. American Press Co.*, 297 U.S. 233, 56 S.Ct. 444, 80 L.Ed. 660.

It is no a defense to this proposed ethics rule that the practice of law is not a right, but a privilege. As the Court pointed out in *Sherbert*:

Nor may the South Carolina court's construction of the statute be saved from constitutional infirmity on the ground that unemployment compensation benefits are not appellant's 'right' but merely a 'privilege.' It is too late in the day to doubt that the liberties of religion and expression may be infringed by the denial of or placing of conditions upon a benefit or privilege. 6 *American Communications Ass'n v. Douds*, 339 U.S. 382, 390, 70 S.Ct. 674, 679, 94 L.Ed. 925; *Wieman v. Updegraff*, 344 U.S. 183, 191-192, 73 S.Ct. 215, 218-219, 97 L.Ed. 216; *Hannegan v. Esquire, Inc.*, 327 U.S. 146, 155-156, 66 S.Ct. 456, 461, 90 L.Ed. 586.

Likewise, in *Speiser v. Randall*, 357 U.S. 513, 78 S.Ct. 1332, 2 L.Ed.2d 1460, the Court emphasized that conditions upon public benefits cannot be sustained if they so operate, whatever their purpose, as to inhibit or deter the exercise of First Amendment freedoms. In *Speiser*, the Court struck down a condition which limited the availability of a tax exemption to those members of the exempted class who affirmed their loyalty to the state government granting the exemption.

To condition the availability of benefits upon this appellant's willingness to violate a cardinal principle of her religious faith effectively penalizes the free exercise of her constitutional liberties.

Sherbert v. Verner, 374 U.S. 398, 406, 83 S. Ct. 1790, 1794-95, 10 L. Ed. 2d 965 (1963).

The proposed rule is constitutionally infirm inasmuch as it conditions an attorney's freedom to practice his or her profession upon the willingness to violate a cardinal principle of religious faith.

2. The Proposed Rule Is Impermissibly Vague And Has An Impermissible Chilling Effect Upon An Attorney's Constitutionally Protected Right of Free Expression.

The proposed wording of Rule 8.4(h) contains three operative clauses. An attorney commits misconduct when he or she:

a) engages in conduct,

b) in a professional capacity,

c) manifesting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status.

The only limited exception to this prohibition is if the attorney is engaged in “legitimate advocacy respecting the foregoing factors. . .”

The proposed rule, as drafted, has an impermissible chilling effect upon attorney free speech and advocacy. In essence, it creates a regime that allows the Board to select what political speech is “legitimate” and therefore politically safe by applying vague and ambiguous tests. If an attorney wants to avoid the possibility of disciplinary action, he or she must either refrain from speaking or ask the Board to issue an advisory opinion approving of the political speech in question. Presumably, then government officials pore over each word of a text to see if, in their judgment, it accords with their subjective opinion regarding what is or is not “legitimate”. To quote from *Citizens United v. Fed. Election Comm’n*, 558 U.S. 310, 130 S.Ct 876, 896, 175 L.Ed.2d 753 (2010),“(t)his is an unprecedented governmental intervention into the realm of free speech.”

It is axiomatic that the government may not regulate speech based on its substantive content or the message it conveys. *Police Dept. of Chicago v. Mosley*, 408 U.S. 92, 96, 92 S.Ct. 2286, 2290, 33 L.Ed.2d 212 (1972). Likewise in the realm of private speech or expression, government regulation may not favor one speaker over another. *Members of City Council of Los Angeles v. Taxpayers for Vincent*, 466 U.S. 789, 804, 104 S.Ct. 2118, 2128, 80 L.Ed.2d 772 (1984). Discrimination against speech because of its message is presumed to be unconstitutional. See *Turner Broadcasting System, Inc. v. FCC*, 512 U.S. 622, 641–643, 114 S.Ct. 2445, 2458–2460, 129 L.Ed.2d 497 (1994). Our Supreme Court has held that when the government “targets not subject matter, but particular views taken by speakers on a subject, the violation of the First Amendment is all the more blatant.” See *R.A.V. v. St. Paul*, 505 U.S. 377, 391, 112 S.Ct. 2538, 2547, 120 L.Ed.2d 305 (1992). Viewpoint discrimination is thus an egregious form of content discrimination. Likewise, government must abstain from regulating speech when the “specific motivating ideology or the opinion or perspective of the speaker is the rationale for the restriction.” *Perry Ed. Assn. v. Perry Local Educators’ Assn.*, 460 U.S. 37, 46, 103 S.Ct. 948, 955, 74 L.Ed.2d 794 (1983) and *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828-29, 115 S. Ct. 2510, 2516, 132 L. Ed. 2d 700 (1995).

CONCLUSION

The proposed change to Tenn.Sup.Crt Rule 8, Section 8.4 offends two fundamental constitutional protections afforded by the First Amendment: the free exercise of religion and freedom of expression. Based on the reasons and authorities cited herein, the Church Law Institute respectfully calls upon the Board to reject this proposed rule change in its present form.

Sincerely,

CHURCH LAW INSTITUTE



By: _____

Larry L. Crain
Founder and Senior Counsel



Brian Schuette
General Counsel
719A Dishman Lane
Bowling Green, KY 42104



Joshua Hershberger
Associate Counsel
320 Walnut Street
Madison, IN 47250

Merchant & Gould

An Intellectual Property Law Firm

9717 Cogdill Road
Suite 101
Knoxville, Tennessee
37932-3322 USA
TEL 865.380.5960
FAX 865.380.5999
www.merchantgould.com

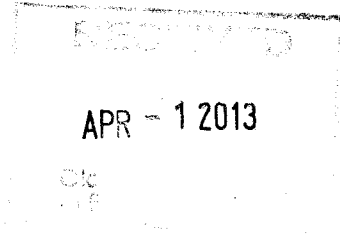
A Professional Corporation

Direct Contact | 865.380.5978
jlucas@merchantgould.com

April 1, 2013

Via email: mike.catalano@tncourts.gov

Mr. Michael W. Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Bldg.
401 7th Ave. North
Nashville, TN 37219-1407



**Re: Proposed Amendments to Tennessee Rule of Professional Conduct 8.4
Docket No. M2013-00379-SC-RL1-RL**

Dear Mr. Catalano:

I write to comment on the Petition filed by the Board of Professional Responsibility seeking the amendment of Rule 8, Rules of Professional Conduct 8.4, of the Rules of the Tennessee Supreme Court. I write in my personal capacity, not on behalf of my firm, any of my partners or any of our clients.

Many other attorneys have commented upon the proposed change, and virtually every comment that I have seen is negative. In addition, I have lent my name to a more lengthy legal analysis of the many flaws in the proposed change. I write separately to make a further brief point.

It is difficult for me to imagine any competent attorney advising a client to agree to a provision in any contract similar to the proposed rule. It is what I refer to as a "litigation breeder." With its restrictions on freedom of speech and expression, as well as its impermissible vagueness, it is certain to be challenged in court, leading to unnecessary litigation. I fail to understand the need for such a controversial rule absent some compelling problem that can only be solved by such drastic action.

Many other attorneys have commented on potential scenarios that could run afoul of the proposed rule. On its face it prohibits "conduct, in a professional capacity, manifesting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status." As many others have pointed out, it does not limit itself to conduct "in the course of representing a client," but seeks to regulate conduct in any "professional capacity." Thus, if an attorney speaks in a public forum where he or she has been identified as an attorney, and expresses an opinion on one of a number current controversial topics, he or she could be subject to discipline if that opinion is deemed to

“manifest[] bias or prejudice.” An attorney making a public statement of opinion on homosexual marriage could be subject to discipline under the proposed rule, if that opinion coincided with the opinion publicly held until recently by the President of the United States.

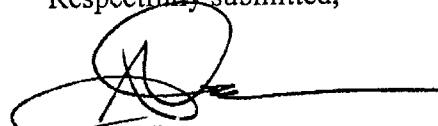
Similarly, an attorney specializing in domestic relations law who “manifests a bias” based on sex by acknowledging that he or she prefers to represent women, rather than men, would violate the proposed Rule.

Examples of conduct that would violate the proposed rule are limited only by one’s imagination. At the risk of belaboring the point, allow me to identify two more. The prohibition against conduct manifesting bias or prejudice (what is the difference?) based on sexual orientation will strike many attorneys who give it more than an instant’s thought as bizarre. It would, for example, prohibit attorneys from refusing to employ transvestites. To take another example, if a paralegal applicant listed that he was a member of NAMBLA,¹ would I be permitted to refuse to hire him on that basis alone? The proposed rule, as written, would appear to subject me to discipline were I to refuse.

Some may object that the proposed change is not intended to cover situations such as these or those discussed in other comments to the proposed Rule. However, on its face, the proposed rule is broad enough to encompass these scenarios. To avoid results such as those discussed above – which many would consider absurd – the proposed rule would have to be enforced selectively. Such selective enforcement, of course, would raise other legal issues and would foster the perception that the rule was being enforced only to punish deviations from perceived political correctness.

I could continue with numerous other examples, which would only serve to reinforce my point that the proposed rule is a “litigation breeder.” Its adoption would ill-serve the citizens of this State and would doubtlessly lead to litigation that would be an embarrassment to the State.

Respectfully submitted,



John A. Lucas

Jal/mkc

¹ “NAMBLA (North American Man/Boy Love Association)” is a pedophile and pederasty advocacy organization that advocates the decriminalization of adult sexual relationships with minors.

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APR 1 2013

Dear Mr. Catalano:

It has come to my attention that there is a proposed Rule being considered that could restrict evidence submitted by attorneys to what is legitimate. The proposed Rule 8.4 appears to discourage free speech. As a result, I oppose such a rule.

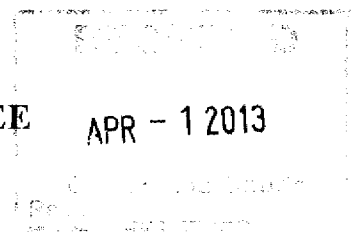
It seems to me that there is adequate ~~assaults~~ ^{assaults} on this Republic's freedoms. I do not believe the great State of Tennessee should join the ranks of those that think "Government" is the possessor of the "people's" rights.

Sincerely,

Dwight W. Dunlap

IN THE SUPREME COURT OF TENNESSEE

APR - 1 2013



IN RE: PROPOSED AMENDMENT)
TO TENNESSEE RULE OF) M2013-00379-SC-RLI-RL
PROFESSIONAL CONDUCT 8.4)

JOINT COMMENT IN OPPOSITION TO BOARD OF PROFESSIONAL
RESPONSIBILITY'S PETITION TO AMEND RULE OF PROFESSIONAL
CONDUCT 8.4

We, 54 concerned Tennessee attorneys, whose names appear hereon, do hereby submit this Comment in Opposition to the Tennessee Board of Professional Responsibility's Proposed Amendment To Tennessee Rule Of Professional Conduct 8.4.

I. The Current Rule and Comment

The current Rule 8.4 of the Tennessee Rules of Professional Conduct provides as follows:

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;*
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respect;*
- (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;*
- (d) engage in conduct that is prejudicial to the administration of justice;*
- (e) state or imply an ability to influence a tribunal or a governmental agency or official on grounds unrelated to the merits of, or the procedures governing, the matter under consideration;*

- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or*
- (g) knowingly fail to comply with a final court order entered in a proceeding in which the lawyer is a party, unless the lawyer is unable to comply with the order or is seeking in good faith to determine the validity, scope, meaning, or application of the law upon which the order is based.”*

The current Comment [3] to Rule 8.4 provides:

[3] A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio economic status violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d).

The current Tennessee Rule 8.4 and Comment [3] mirror Rule 8.4 of the ABA Model Rules of Professional Conduct. The ABA Model Rule and Comment [3] have been adopted in many states, although 18 states – including Alabama, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Montana, Nevada, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia, and Wyoming – have rejected the model Comment [3] to Rule 8.4 in its entirety.

II. The Proposed Amendment

The Board of Professional Responsibility (hereinafter “Board”) has proposed to amend Rule 8.4 by changing the substance of Comment [3] in significant ways and then elevating that rewritten Comment into Rule 8.4 itself, thereby making the Comment a Rule.

In particular, the Board has proposed that a new Rule be adopted that reads as follows:

“It is professional misconduct for a lawyer to: . . . (h) engage in conduct, in a professional capacity, manifesting bias or prejudice based on race, sex,

religion, national origin, disability, age, sexual orientation, or socio-economic status. Legitimate advocacy respecting the foregoing factors does not violate this provision.”

In addition, the Board then proposes that Comment [3] to the Rule be amended to read:

“[3] A lawyer who declines to represent a person based on his or her inability to pay the lawyer’s fee does not violate paragraph (h).”

III. A Summary of the Deleterious Effects of the Proposed Amendment

The Board’s proposed Amendment will have several deleterious effects on Tennessee attorneys, among which are the following:

1. the current Comment [3] has several defects, including;
 - a. it contains terms so vague as to fail to provide attorneys with sufficient notice as to what behavior is proscribed;
 - b. it is under-inclusive, fractionalizes society, enables special-interest groups to use the bar to advance social and political agendas, and extends protections beyond current law;
 - c. it compels speech;
 - d. it prohibits protected speech;
 - e. it discriminates on the basis of viewpoint; and
 - f. it violates the rights of attorneys to the free exercise of religion.
2. the proposed Amendment will perpetuate the defects contained in the current Comment [3];
3. the proposed Amendment will exacerbate the defects contained in the current Comment [3] by:
 - a. elevating the Comment to a Rule;
 - b. divorcing the Rule from its current grounding in the prevention of prejudice to the administration of justice; and
 - c. encroaching upon the professional autonomy of attorneys.

IV. The Current Comment [3] Has Several Significant Defects

A. The Current Comment [3] Contains Terms So Vague as to Provide Attorneys With Insufficient Notice as to What Behavior is Proscribed

The language of the current Comment [3] is so vague as to fail to provide Tennessee attorneys with fair notice of what is and what is not prohibited conduct. Specifically, the current Comment [3] prohibits an attorney from “*knowingly manifest[ing] by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status.*” An ethical requirement that “either forbids or requires the doing of an act in terms so vague that [persons] of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law”. Cramp v. Bd. Of Pub. Instruction of Orange County, Fla., 368 U.S. 278, 287 (1961). The current Comment [3] contains several terms so vague as to violate due process of law.

For example, the terms “bias” and “prejudice” and “manifest” leave trained attorneys to speculate about their meaning and application. Therefore, the current Comment [3] is so vague as to fail to provide attorneys with sufficient notice of what behavior is prohibited. Attorneys deserve to know with reasonable certainty what behavior is proscribed. The result of the Comment’s vague language is that attorneys’ valid speech is chilled for fear of offending against a standard whose parameters are lost in the mists of ambiguity. Uncertain terms require attorneys “to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked.” Baggett v. Bullitt, 377 U.S. 360, 372 (1964) (quotation and citations omitted).

B. The Comment's List of Specially Protected Classes and Characteristics is Under-inclusive, Fractionalizes Society, Enables Groups to Use the Bar to Advance Social and Political Interests Rather than the Interests of the Entire Bar, and Extends Beyond Current Law.

The Comment's ever-expanding list of specified protected groups creates a Rule that is exclusive rather than inclusive. If we, as a profession, are really concerned about discrimination, then we should be concerned about discrimination against any person, regardless of whether or not that person is a member of a certain group. Specifying certain groups for protection and not others implies that the Tennessee Bar is only concerned about acts of bias if those acts affect the members of specially favored groups. All others are excluded and may apparently be discriminated against with impunity.

Also, including a list of specifically protected groups results in the fractionalization of our profession - not to mention our society - by encouraging people to identify themselves in relation to or against other groups of individuals.

Furthermore, there is apparent confusion over what some of the current classifications even mean. For example, under the current Comment [3], attorneys are prohibited from manifesting bias or prejudice based on "socio-economic status." Who can adequately discern, let alone define, the parameters of that class? Indeed, the fact that the Board seeks to point out in the new proposed Comment [3] that rejecting a client for his or her inability to pay the attorney's fee does not constitute bias based on socio-economic status illustrates the problem - what is "socio-economic status" and how can (let alone why would) a lawyer discriminate against someone on that basis other than on account of the person's inability to pay the lawyer's fee? The same problem exists with respect to "sexual orientation." Even scholars who regularly study sexual orientation cannot agree on a definition for or an understanding of that term. See Todd A. Salzman

& Michael G. Lawler, *The Sexual Person* 150 (2008)(“The meaning of the phrase ‘sexual orientation’ is complex and not universally agreed upon.”).

In addition, providing a list of specially protected groups has pushed the Bar into the improper role of arbitrating political and social issues, including issues of personal morality. The recent controversy surrounding the injection of sexual behavior into our standards of professional conduct illustrates this danger. Certain groups have been granted recognition despite the fact that they have been unable to present any credible evidence that members of their group are, in fact, experiencing discrimination from Tennessee attorneys that application of the Comment would cure. It is not appropriate for groups to use the Tennessee Bar in order to advance their own political and social agendas, especially when there is disagreement among members of the Tennessee Bar as to the agendas of the groups seeking Bar support.

Using the Bar in this inappropriate manner results in frequent petitions to change the Rules. This is not merely a theoretical concern. In other states, such as Arizona, the inclusion of sexual orientation protection proved insufficient to satisfy the demands of those pushing for a redefinition of sexual identity protection. So a few years ago “gender identity” was added to the list of protected classes there. However, the inclusion of those two groups was considered insufficient and, so now, there is currently a petition before that State’s Supreme Court to add “gender expression” to the list. Where will such a process lead, and more importantly, when will it end? Even now there are additional groups who claim that their peculiar characteristics merit special recognition and protection (see, for example, The National Association to Advance Fat Acceptance (NAAFA) which has resolved “[t]hat ‘height and weight’ be included as a protected category in existing local, state, and federal civil rights statutes”). It is

only a matter of time before additional groups come forward to press their peculiar interests on the Bar.

Although we recognize the emotional investment and personal interest that many have in advocating for the political and social advancement of their particular groups – the Bar is not the appropriate forum or vehicle to advance those agendas. In fact, allowing itself to be used in this manner damages the credibility and effectiveness of the Bar because it aligns the Bar with special interest groups whose interests are parochial and who are attempting to use the Bar simply to advance their own political and social agendas rather than to advance the legitimate interests of the legal profession as a whole.

Another worrying trend of the ever-expanding protected group approach to non-discrimination provisions, which the current Comment continues, is that – whereas, historically, protected classes have centered upon objective characteristics that are easily discernible and not subject to change – lately we have seen protections extended to groups based on characteristics, and even behaviors, that are neither objectively observable nor immutable. This is a problem for lawyers called upon to avoid manifesting bias – for how can one be safe from a charge of bias against a characteristic one cannot objectively observe or that may change from one moment to the next?

In addition, certain of these groups have not even been recognized as protected classes under either U.S. or Tennessee law. Therefore, the Bar, in including these classes, has taken sides in an ongoing and contentious debate – with both political and moral ramifications – extending protections to groups that neither the United States, the State of Tennessee, nor a good many members of the Tennessee Bar, have determined ought to be granted special acknowledgement and protection.

C. The Comment Compels Speech

“[O]ne important manifestation of the principle of free speech is that one who chooses to speak may also decide what not to say.” Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc., 515 U.S. 557, 573 (1995)(quotations omitted). This bedrock constitutional principle undergirds the well-established rule against compelled expression, which prohibits the government from compelling a private actor, including an attorney, to express or affirm a message contrary to his or her beliefs. See Johanns v. Livestock Mktg. Ass’n, 544 U.S. 550, 557 (2005)(identifying compelled-speech cases as those where “an individual is obliged personally to express a message he disagrees with, imposed by the government.”); United States v. United Foods, Inc., 533 U.S. 405, 410 (2001)(recognizing that the First Amendment “prevent[s] the government from compelling individuals to express certain views”). The “choice of a speaker not to propound a particular point of view . . . is presumed to lie beyond the government’s power to control,” Hurley, supra, at 575, and the government may not “compromise” or otherwise invade “the speaker’s right to autonomy over the message.” Hurley, supra, at 576.

The Comment violates this constitutional guarantee against compelled speech. It may be read to compel an attorney to represent or continue representing a client even if advocating that client’s position or interest would conflict with the attorneys’ sincerely held religious or moral convictions. Because lawyers exercise many expressive rights when representing their client – indeed, the advocacy process is rife with expression (speaking, writing, and arguing, to name a few, see Gentile v. State Bar of Nevada, 501 U.S. 1030, 1071-73 (1991) – the Comment essentially forces attorneys to advocate unwanted positions or causes, and the federal Constitution flatly prohibits that result.

D. The Comment Prohibits Protected Speech

The Comment threatens to prohibit attorneys from advocating politically controversial views on behalf of their clients. These hot-button issues include, among others, that the law should continue to define marriage only as the union of one man and one woman (which might be said to “manifest bias . . . based upon . . . sexual orientation”). “The Constitution does not permit the Government to confine [clients] and their attorneys” by excluding ostracized yet vital “theories and ideas.” Cf. Legal Servs. Corp. v. Velazquez, 531 U.S. 533, 548 (2001)(dealing only with the litigation context). That, however, is precisely what the Comment threatens to do.

This silencing of attorney advocacy for publicly marginalized views runs directly counter to the purpose of the First Amendment. By branding these views as “discriminatory” (and, under the Board’s proposal, “professional misconduct”) the provision encourages public and private contempt, along with official punishment, against attorneys and clients who express such views and beliefs. Undoubtedly, many of those attorneys and their clients will stop communicating such opinions for fear that they might be punished by the Bar or viewed with scorn by their colleagues. This government-induced ostracism of unpopular views is deeply unsettling.

E. The Comment Discriminates On The Basis Of Viewpoint

A legal provision proscribing expression must not exhibit, either explicitly or implicitly, viewpoint discrimination. R.A.V. v. City of St. Paul, Minn., 505

U.S. 377, 391 (1992). The Comment suffers from this constitutional flaw, and a few examples illustrate this defect.

First, suppose that an attorney writes a letter for his client (in a context unrelated to a specific proceeding) arguing that the State should give marriage licenses to same-sex couples and that failing to do so is discrimination on the basis of sexual orientation. That attorney most assuredly would not be accused of manifesting bias or prejudice based on sexual orientation. But consider the attorney who, on his client's behalf, conveys the exact opposite position – that the State should continue defining marriage only as the union of one man and one woman. It is not stretch to think that many people would conclude that the latter expressions manifest bias or prejudice based on sexual orientation.

Second, contemplate that a group begins to lobby the Tennessee Legislature to add “sexual orientation” to the State’s nondiscrimination law. The attorneys who, while representing their clients, publicly advocate in favor of that proposed law certainly would not be charged with violating the proposed provision. But in contrast, the attorneys whose clients want them to oppose that legal change risk punishment under that provision for manifesting bias or prejudice against “sexual orientation.”

Some may argue that this concern is without merit because the Comment (and the proposed Rule) specifically allows for “legitimate advocacy.” However, we would counter that the word “legitimate,” modifying the word “advocacy,” contains a worrisome and difficult-to-define restriction on what lawyers do by profession – namely advocate. If there is “legitimate advocacy,” by definition there must also be “illegitimate advocacy.” Which is which? And, just as importantly, who will decide the meaning of that vague and undefinable term? If “bias or prejudice” against, say, those who engage in homosexual behavior, constitutes a disciplinary offense – what would keep the Board of Professional

Responsibility from contending that *any* advocacy against such behavior is not “legitimate advocacy”? So, what is clear is that lawyers will no longer be allowed to *freely* advocate. Lawyers will now only be allowed to advocate in ways the powers-that-be determine are “legitimate” and will face punishment if they engage in advocacy the powers-that-be determine is not “legitimate.”

In short, then, under the Comment (and even more so under the Board’s amendment elevating the Comment to a Rule), attorney advocacy “in favor of . . . [so called] tolerance and equality” concerning sexual orientation would be free and unfettered, while the expression of “those speakers’ opponents” would be stifled. See R.A.V., *supra*, at 391. That amounts to viewpoint discrimination, and as the Supreme Court has recognized, the government “has no such authority to license one side of a debate to fight freestyle, while requiring the other to follow Marquis of Queensberry rules.’ R.A.V., *supra* at 392.

F. The Comment Violates Attorneys’ Free Exercise Of Religion Rights

The direct conflict between religious liberty and the Comment’s inclusion of sexual orientation protection is plain to see. See Michael W. McConnell, The Problem of Singling Out Religion, 50 DePaul L. Rev. 1, 43-44 (2000); see generally Same-Sex Marriage and Religious Liberty: Emerging Conflicts (Douglas Laycock et al., eds., 2008). Indeed, we have already referenced it in passing. On the one hand, most of the major religions in Tennessee hold certain precepts and convictions concerning sexual behavior. On the other hand, the Comment threatens to force attorneys holding these beliefs to advocate for clients in a manner contrary to their religious tenets. This creates a direct clash between professional obligations and religious convictions.

Of course, the “Free Exercise Clause [of the First Amendment] pertain[s] if the law at issue discriminates against some or all religious beliefs.” Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah, 508 U.S. 520, 532 (1993). To that extent, then, the Comment discriminates against those attorneys who hold sincerely held religious beliefs concerning homosexual behavior.

In addition, the Tennessee Supreme Court pronounced in Carden v. Bland, 288 S.W.2d 718, 721 (Tenn. 1956) that the right of worship and freedom of conscience guaranteed in Art. I, Sec. 3 of the Tennessee Constitution exceeds the protections afforded by the U.S. Constitution. The Tennessee Supreme Court reiterated this principle in Planned Parenthood of Middle Tennessee v. Sundquist, 38 S.W.3d 1, 8-9 (Tenn. 2000). Further, Tennessee’s Constitution provides “. . . *that no human authority can, in any case whatever, control or interfere with the rights of conscience.*” Therefore, by requiring Tennessee attorneys to advocate views and legal positions that conflict with their conscience, the Board’s proposal would violate those attorneys’ rights under the Tennessee Constitution.

The Tennessee Religious Freedom Act, T.C.A. Sec. 4-1-407, also offers broader religious liberties than those protected by the First Amendment. The Tennessee Religious Freedom Act declares that “*no government entity shall substantially burden a person’s exercise of religion even if the burden results from a rule of general applicability.*” T.C.A. Sec. 4-1-107(b). For purposes of the Tennessee Religious Freedom Act, to “[s]ubstantially burden’ means to inhibit or curtail religiously motivated practice.” The infringement on the free-exercise rights of religiously motivated attorneys at issue here – by requiring them to advocate views and legal positions that conflict with their sincerely held religious beliefs – violates the Tennessee Religious Freedom Act because it substantially burdens their religious exercise.

And the State of Tennessee would be unable to show, as required by the Tennessee Religious Freedom Act, that the provision is both “*essential to further a compelling governmental interest; and [t]he least restrictive means of furthering that compelling governmental interest.*” T.C.A. Sec. 4-1-407(c).

It is unclear what interest, exactly, the State intends to further through the proposed Rule amendment, but whatever it is it does not appear to be a compelling one.

Moreover, regardless of whether the amendment furthers a compelling governmental interest, the State has not used the least restrictive means to achieve its end. Other less-restrictive means (such as incorporating a religious exemption) exist in these circumstances, and the State’s failure to use those alternatives dooms its actions under the Tennessee Religious Freedom Act analysis.

Therefore, the free-exercise rights of Tennessee’s attorneys weigh heavily in favor of denying the Board’s proposed amendment.

V. The Board’s Proposed Amendment Exacerbates the Current Comment’s Defects

The Board’s proposed Amendment, rather than curing the many defects of the current Comment [3], exacerbates them.

First, the Board proposes to elevate to Rule status what is now just a Comment to a Rule. A Comment is not officially a part of a Rule and, therefore, may not necessarily constitute grounds for the imposition of attorney discipline. Violation of a Rule, however, is a basis for invoking the professional disciplinary process and is, therefore, grounds for professional discipline, including

reprimands, sanctions, and suspension and revocation of an attorney's license to practice law. T.C.R.C. Preamble [20].

Therefore, elevation of the Comment to a Rule has much more serious consequences to all Tennessee attorneys.

Second, unlike the current Comment [3], which applies only to an attorneys' conduct "in the course of representing a client," the Board's proposed Amendment applies to all conduct an attorney engages in "in a professional capacity" – which is a much broader concept and sweeps in more of an attorney's conduct. In particular, the current Comment [3]'s reference may not apply to an attorney's initial decision to accept or reject representation because an attorney can be said not to be "in the course of representing a client" until the attorney-client relationship has been established. However, the Board's current proposed amendment clearly applies to client retention decisions because such decisions are made in the attorney's "professional capacity." That this is the Board's intention is illustrated by the fact that the Board's proposed amendment includes a new Comment [3] that provides "A lawyer who declines to represent a person based on his or her inability to pay the lawyer's fee does not violate paragraph (h)" – which can only mean, by implication, that declining to represent a person for reasons other than their ability to pay the attorney's fees does, in fact, fall within the parameters of conduct engaged "in a professional capacity."

Indeed, given its vagueness, it is possible that the phrase "in a professional capacity" could be interpreted so broadly so as to apply to all sorts of situations that fall short of an official representation of a client. Indeed, we can count on the fact it will, because the Board went out of its way to change the language to be more encompassing than "in the course of representing a client."

Third, the Board has removed from the proposed Rule any requirement that the offending conduct be intentional. The current Comment [3] applies only to "A

lawyer who . . . knowingly manifests” bias or prejudice. The Board’s proposed Rule applies to any “conduct . . . manifesting bias or prejudice.” So, again, the Board’s proposed Rule is much broader than the current Comment [3] and does not contain a scienter requirement.

Fourth, the current Comment [3] provides that a lawyer’s biased or prejudiced conduct is only proscribed if such conduct independently prejudices the administration of justice. That is obvious not only from the fact that the current Comment [3] owes its existence to the solely supplemental function it serves as a comment to the current Rule 8.4(d), which provides that “It is professional misconduct for a lawyer to: . . . (d) engage in conduct that is prejudicial to the administration of justice; . . .” but also because the current Comment [3] itself also specifically states that the offending conduct is proscribed only “when such actions are prejudicial to the administration of justice.” By elevating the Comment to a Rule – thereby detaching it from Rule 8.4(d) – and by deleting the current Comment’s reference to “when such actions are prejudicial to the administration of justice,” the Board’s proposal divorces the proscribed conduct from its former purpose and makes the conduct a free-standing ground of discipline without regard to whether the conduct prejudices the administration of justice. This demonstrates that its purpose and effect is no longer tied to the attorney’s role in the justice system, but is now simply one more free-standing non-discrimination law under which attorneys may be threatened and their livelihoods taken from them.

In short, the Board’s proposed Amendment exacerbates the current Comment [3]’s defects and, indeed, raises even more threatening concerns.

VI. The Board's Proposed Amendment Threatens the Attorney's Right to Moral and Professional Autonomy.

As pointed out above, the Board's proposed Amendment threatens every Attorney's right to conduct his or her professional life in accordance with sincerely held religious and moral beliefs, particularly with respect to that part of an attorney's practice that has historically been the ultimate expression of that autonomy – namely the attorney's decision to decline or withdraw from the representation of a client.

Attorneys have the right to professional and ethical autonomy. The Rules of Professional Conduct themselves recognize the rights and obligations of attorneys to exercise their personal ethical judgments in the practice of law. For example, paragraph [8] of the Rules' Preamble provides: "*Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience . . .*" (our emphasis). Paragraph [10] of the Preamble states: "*Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person . . . [s]uch issues must be resolved through the exercise of sensitive professional and moral judgment*" (our emphasis). And paragraph [2] of the Scope section of the Code provides: "*The Rules [of Professional Conduct] do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be competently defined by legal rules*" (our emphasis). Rule 2.1 provides that "*In rendering advice, a lawyer may refer not only to law, but to other considerations such as moral . . . factors*" (our emphasis). And Comment [2] to Rule 2.1 provides that "*It is proper for a lawyer to refer to relevant moral and ethical*

considerations in giving [legal] advice. . . moral and ethical considerations impinge upon most legal questions . . .” (our emphasis). “Sexual orientation” is, by its very nature, inextricably and deeply rooted in sexual behavior and, therefore, implicates sexual ethics. By adopting “sexual orientation” “as a protected class in a Professional Rule that is free-standing with no requirement of intent and no connection to the administration of justice, creates a conflict between the Bar’s expectations and many lawyers’ sincerely held moral beliefs.

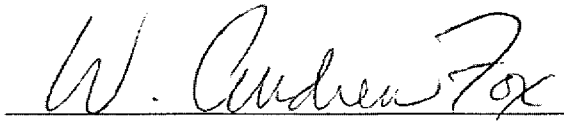
In doing so, the Bar is taking sides in a profound moral debate and will find itself in the position of forcing certain Tennessee attorneys in certain circumstances to either violate their conscience or face the possibility of professional discipline. The Bar should never find itself in such a position. One of the most important decision-points for an attorney and perhaps the greatest expression of a lawyer’s professional and moral autonomy is the decision whether to take a case, whether to decline a case, or whether to withdraw from representation. And a necessary corollary of the Rules’ directives that a lawyer be an ethical person – guided by the lawyer’s personal conscience and practicing law in the context of moral and ethical considerations – is that lawyers must not be forced to violate their moral and ethical principles in order to practice law. Lawyers must, therefore, retain their right to decline or withdraw from representation when to do otherwise would violate their sincerely held moral values.

The Board’s proposed Amendment prohibits attorneys from declining or withdrawing from representation in certain circumstances when their sincerely held religious and ethical beliefs require them to do so and, therefore, subjects them to the threat of professional discipline for acting in accordance with their professional and moral judgment.

CONCLUSION

For all the foregoing reasons we, the undersigned Tennessee attorneys object to the Board's proposed Amendment to Rule 8.4 of the Tennessee Code of Professional Conduct and request that the Board's proposal be rejected in its entirety.

Respectfully submitted,

A handwritten signature in cursive script that reads "W. Andrew Fox". The signature is written in black ink and is positioned above a horizontal line.

W. Andrew Fox #017356

Michael Ain #017019

N. Gloria Ananaba #027068

Fmr. Chief Justice William M. Barker #000609

Douglas K. Barth #30029M

Scott Bergthold #023186

Scott N. Brown, Jr. #01212

Yvonne K. Chapman #11909

R. Deno Cole #018595

Paul T. Coleman #010869

Leslie A. Cory #022055

Richard Crotteau #1675

Ronald E. Cunningham #000901

Zale Dowlen #026816

Douglas L. Dutton #622

Bryan A. Dykes #24109

Stephanie A. Elkins #029142

Kristin Fecteau #019772

James A. Fields #011484
Jonathan L. Fly #025386
David Fowler #014063
Roger L. Gilbert #011499
Brent Gray #23653
Doug S. Hamill #022825
Brig. Gen. William S. Hollis #5026
Rebecca Hope #022127
Thomas M. Horne #013833
Gay Dawn Horne-Nelson #021993
Angela Huddleston #023701
Robert L. Huddleston #024130
Frank C. Ingraham #2877
Richard P. Jahn, Jr. #1435
Lanis Karnes #019120
Steven D. Lipsey #007226
John A. Lucas #011198
Todd McCain #026993
Russell J. McCann #018793
Michael McKinney #2026
Robert M. Pautienus, III #020934
Judson Phillips #013029
Martin L. Pierce #009608
Mark Robinson #28313
Norman E. Sabin #016881
David Sadlow #023869
Hoyt O. Samples #006765

R. Culver Schmid #011128

Jon Scruggs #25679

John Matthew Sharp #025682

Andrea Smith #27805

Glenn C. Stophel #01927

Kevin Theriot #015049

Nicholas M. Tidwell #024196

T. E. Williams, III #020335

Johnny L. Woodruff #016958

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IN THE SUPREME COURT OF TENNESSEE

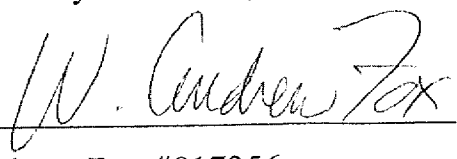
**IN RE: PROPOSED AMENDMENT)
 TO TENNESSEE RULE OF) M2013-00379-SC-RLI-RL
 PROFESSIONAL CONDUCT 8.4)**

**ADDENDUM TO JOINT COMMENT IN OPPOSITION TO BOARD OF
PROFESSIONAL RESPONSIBILITY'S PETITION TO AMEND RULE OF
PROFESSIONAL CONDUCT 8.4**

The "Joint Comment in Opposition to Board of Professional Responsibility's Petition to Amend Rule of Professional Conduct 8.4" filed on April 1, 2013 by 54 concerned attorneys is hereby supplemented by adding the following four Tennessee attorneys as supporting this comment:

- James D. Foster, #024429
- Peter C. Robison, #027498
- J. Ammon Smartt, #024712
- Jarom T. Smartt, #024833

Respectfully submitted,



W. Andrew Fox #017356

April 1, 2013

VIA HAND DELIVERY

APR 1 2013

Hon. Michael Catalano
Clerk, Tennessee Supreme Court
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219

Re: *Proposed Change to RPC 8.4*

Dear Mr. Catalano:

I write to express my personal opposition to the adoption of proposed changes to Rule of Professional Conduct 8.4. The opinions expressed in this letter are my own and are not intended to represent the views or opinions of any of my clients or professional colleagues.

I believe that the current language of Rule 8.4, together with comment 3 to that Rule, adequately strike the appropriate balance between protecting the administration of justice from the harmful effects of improper bias and avoiding infringement upon a lawyer's individual rights to free speech, religious liberty and free association. The change proposed by the Board of Professional Responsibility would alter that balance to the detriment of both individual lawyers and the administration of justice.

Moreover, as a Disciplinary Hearing Panel member, I do not know how I would undertake to enforce the proposed Rule which uses too many key terms without definition and does not require a connection between a violation of the Rule and an objective standard such as "prejudice to the administration of justice." I urge the Tennessee Supreme Court to reject the adoption of the proposed change to RPC 8.4

Sincerely,



Joseph A. Woodruff
BPR No. 12869
Waller Lansden Dortch & Davis, LLP

JAW:cwb

WILLIAM D. VINES, III*†
RONALD C. KOKSAL
JAMES C. WRIGHT
G. KEVIN HARDIN
EDWARD U. BABB
JOHN W. BUTLER
WELDON E. PATTERSON*
DARREN V. BERG
MARIANNA L. JABLONSKI

Of Counsel

DONNA R. DAVIS*†
LESLIE A. MUSE

*Rule 31 Listed General
Civil Mediator

†Certified as a Civil Trial Specialist
by the Tennessee Commission on
Continuing Legal Education
and Specialization

BUTLER
& VINES
BABB
Attorneys at Law

Butler, Vines and Babb, P.L.L.C.
2701 Kingston Pike
Post Office Box 2649
Knoxville, Tennessee
37901-2649

Telephone: (865) 637-3531
Facsimile: (865) 637-3385
Web: www.bvblaw.com

Legal Assistants
FRED GRELO, MD
KELLEY MYERS, ACP

March 28, 2013

APR - 1 2013

Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: Supreme Court Rule 8, Section 8.4
Docket Number: M2013-00379-SC-RL1-RL

Dear Mr. Catalano:

This letter is to respectfully advise of my opposition to the proposed rule change. I support the protection of rights of citizens to be free from discrimination. However, there are numerous laws that provide protections for these rights. To muzzle and hand-tie lawyers with the additional threat of sanctions, including the loss of their law license, for actions that might not even be illegal is not acceptable in a free society and open society - that relies upon the open discourse and exchange of ideas we bring. I have not always been pleased with the comments or positions taken by lawyers on unpopular subjects - but the right to have that open discourse is critical.

From a pure protection of freedom of speech standpoint, I am greatly troubled by this proposal. The proposal seeks to ban speech by lawyers that as to matters that should be open to free and open discussion. In what forum is there left that a person/a citizen have a right to have a lawyer express their views, no matter how unpopular. To cloud this with a judgment and potential disciplinary sanction of whether the speech before any forum was "legitimate" is chilling.

I'm also concerned that we are going to add a weapon to the party making a claim of discrimination - that of sanctions for the lawyer or law firm that didn't hire or didn't give a raise, or fired someone.

Beyond this is the issue of religious beliefs that could no longer be expressed by lawyers in public forums or in their offices or before any tribunal or in a writing or electronic format.

If a lawyer doesn't represent poor people, is the lawyer violating this?

If a lawyer only represents elders or juveniles, is the lawyer violating?

If a lawyer does not represent people from other countries or declines to represent them, has the lawyer violated?

If a lawyer only represents men or women in domestic cases, has the lawyer violated?

If a lawyer turns down representation of the KKK or the Black Panthers, have they violated?

Beyond this the rule seems to try to limit this to "professional capacity" acts; however, the Courts have had a hard time limiting when lawyers are not wearing our "lawyer hats."

If a lawyer gives a speech to a group - church, civic or comments to a paper - discussing any of the above, could these subject the lawyer to sanctions?

Statements in Court are generally deemed protected. Does this rule (and likely it is meant to) do away with this protection for this "unpopular," or better put, "illegitimate" conduct. And is the Board now going to be called upon to decide what is legitimate versus illegitimate speech or conduct? Will this standard vary with time depending on what is popular in the public for these areas. For instance, in 1996 when DOMA was passed it was politically proper to claim homosexuality was immoral. Today this would be seen as being potentially unpopular and then perhaps not legitimate. In fact, the rule would make it by definition not legitimate speech.

These all seem to infringe on first amendment rights and freedom of religion, as well as rights of access to open courts by under our Tennessee Constitution.

I realize the comment to 8.4 exists with similar language. But my understanding is that a Rule can subject to sanctions, a comment provides guidance and sets goals of higher aspiration -- or at least that is my understanding. As an aspirational goal it is likely a good thing. However, to make this a Rule subjecting one to discipline is profoundly significant and different.

Again I would most respectfully oppose this amendment.

Very truly yours,


James C. Wright

JCW/pad

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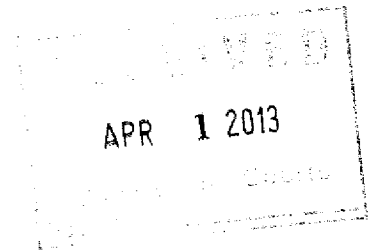
The Winchester Law Firm

ATTORNEYS AT LAW

Richard E. Charlton III
David F. Leake
Richard L. Winchester, Jr.
John D. Home
Mark J. Grai
Robin Winchester Webb

Of Counsel:
L. B. Myhr, Jr.
Bernie J. Brown, Jr.

Lee Winchester (1888-1967)
James R. Winchester (1918-1962)
Thomas R. Price (1918-1996)
R. Lee Winchester (1924-2009)



March 28, 2013

Mr. Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219-1407

Dear Mr. Catalano:

I hereby submit as an exhibit to this letter my comments to the proposed revision to Rule 8.4: MISCONDUCT.

If you have any questions, please give me a call.

Sincerely yours,

Richard E. Charlton, III

/kac
Enclosure

6060 Poplar Avenue
Suite 295
Memphis, TN 38119
Telephone (901) 685-9222
Facsimile (901) 685-9260 (Real Estate)
Facsimile (901) 869-0912 (Litigation)
E-Mail & Home Page: www.winchesterlawfirm.com

Please Use
Mailing Address:

P.O. Box 17236
Memphis, TN 38187-0236

I am against proposed Rule 8.4 as being a basis for alleged “professional misconduct”, even though I readily qualify as a potential victim of age discrimination.

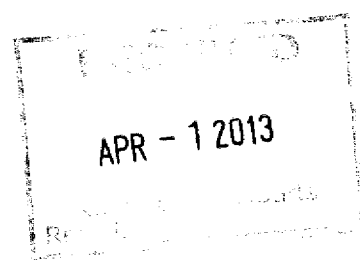
First, any attorney who does not hire or interview an attorney or a secretary or paralegal or an expert witness or a court reporter or a claims investigator or other person in the course of their legal practice is subject to the candidate informing the prospective employing attorney that he or she has been guilty of violating Rule 8.4 and must self-report the transgression. This creates an unfair weapon in the hands of persons who are not interviewed or hired for any number of reasons that have nothing to do with ethics or discrimination, but personal preferences and/or the multitude of nuances and impressions that we all use to reach decisions.

Second, our Disciplinary Board does not need to become an enforcement arm of the EEOC with its use of statistics and polls and subjective analysis over attorneys’ decisions about who they choose to rely upon as fellow attorneys or employees or assistants in their practices or who they choose to rely upon to get the job done.

Third, we, as professionals, are aware of the various laws and precedent that exist for the protection of persons against discrimination and for the protection of the person accused of discrimination. Sufficient remedies exist under those jurisdictions for violations that are proven. We don’t need to set up another tribunal for allegations of discrimination in our personal offices or practices or to provide sanctions in addition to those that already exist under law.

Richard E. (Rick) Charlton (#7791)
Winchester Law Firm
6060 Poplar Ave., Suite 295
Memphis, TN 38111
Phone: 901.685.9222
Fax: 901.685.9260 & 901.869.0912
Email: rcharlton@winchesterlawfirm.com

March 28, 2013



Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: Proposed Amendment to TN Rule of Professional Conduct 8.4; No. M2013-00379-SC-RL1-RL

Problems with the Proposed Rule:

“The pace of cultural change seems to be accelerating and those who maintain traditional perspectives on matters such as sexuality and the family are under increasing pressure to compromise those values to find acceptance.” *Christopher Rosik, Ph.D., National Association for Research & Therapy of Homosexuality.*

Application of the Proposed Rule in a Hypothetical:

Solo Christian Attorney (Hiring Attorney) is interviewing candidates for an associate position to expand his practice. He has two candidates; one is a Transvestite Bisexual (“Transvestite Candidate”) and graduate of Harvard Law School. This Transvestite candidate is open (in his interview) to the hiring attorney about his/her “sexual orientation” when he/she is asked to “tell me more about yourself.”

The other candidate, is a male- married to a woman (and apparently heterosexual- though he does not explicitly make this claim) and a graduate of a night law school, non ABA Accredited, in another state (“Other Candidate”).

Said Hiring attorney does not discriminate against clientele (based on “sexual orientation” - however defined; or sexual lifestyle; e.g. heterosexuals living together outside of marriage), and serves all clients and potential clients to the best of his ability. But he also views his practice as a ministry to help the broken and spread the “good news.” His Christian World view is a part of his law practice, and is part of his office culture. He does not run afoul of the current Rule 8.4 which prohibits discrimination against any based on sexual orientation which would affect the “administration of justice.”

The Transvestite candidate has superior credentials on paper; and expresses a sincere and desire to work for the Hiring Attorney; he also has some (6 months) relevant experience. The other

candidate, has a less stellar resume on paper; and has no relevant experience. However the hiring attorney believes the “other candidate” could be trained. Hiring Attorney prefers the Other candidate because he believes the other candidate will be more compatible with his values, his style, and his office culture.

The Hiring Attorney would seem to run afoul of the proposed revision to BPR 8.4 because he is showing bias, or preference, in favor of the “Other Candidate” because the other candidate’s “Sexual orientation” is more compatible with the hiring attorney’s world view and values on the subject of sexual behavior and/or sexual ethics. The hiring attorney is afoul of the proposed rule because he is allowing his personal views on sexual ethics to affect him in his “Professional Capacity” as the Hiring Attorney; to the Detriment of the Transvestite Candidate.

I think this proposed rule change does not advance the “administration of justice” but rather imposes a World view of sexual ethics that is contrary to the Hiring Attorney’s religious belief system which includes sexual mores. It infringes upon the Hiring Attorney’s religious liberty; which includes his expression of his ministry in his law practice.

The Terms in the proposed rule are also vague. For instance:

1. Under this proposed rule, what is the scope of “Professional Capacity” of an attorney?
 - a. Would this rule prohibit an attorney from advising a Church on how said church can defend its religious liberty to express its world view on sexual ethics which does show bias against certain sexual lifestyles?
2. Under this proposed rule, what is the definition of “Sexual Orientation?”
 - a. Is this definition limited only to members of the “LGBT Community” (Lesbian, Gay, Bisexual, Transgender community); and how exactly is that community defined?
 - b. Once someone claims to be a member of that community, are they a protected class? and is any sexual behavior they engage in considered part of their “sexual orientation?”
 - c. Who decides which sexual orientations are worthy of protection from bias or discrimination?
 - d. Are persons in a polyamorous relationship [two men/two women (a foursome) involved in a committed sexual relationship] covered by this provision? And if a polyamorous partnership is not protected, why not? Who gets to decide which view of sexual practices/ethics is an acceptable view and hence, fall within the accepted views to be applied to all Tennessee Attorneys in their professional capacity?
 - e.

I certainly do not have a problem with serving practicing homosexuals in my practice; some of

which I find to be easier to work with than practicing heterosexuals. I have never observed any Tennessee attorneys experience abuse because of their "sexual orientation" however one wishes to define this term.

I believe the currently constructed Rule 8.4 is adequate based upon my experience. If there are particular fact patters that have arisen, that gave rise to this proposed rule amendment, I would like to know what they are.

Respectfully Submitted,

/s/ A Concerned Tennessee Citizen and Licensed Tennessee Attorney



LEITNER, WILLIAMS,
DOOLEY & NAPOLITAN, PLLC
Attorneys at Law

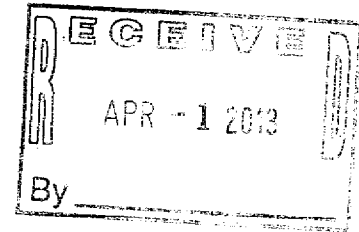
William E. Godbold III, Member

801 Broad Street
Third Floor, Pioneer Building
Chattanooga, Tennessee 37402
Main 423.265.0214

Direct 423.424.3907 • Fax 423.424.3981
Toll-Free 800.421.0979
bill.godbold@leitnerfirm.com

March 28, 2013

The Honorable Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



Re: *Docket No. M2013 - 00379 - SC-RL1-RL*

Dear Mr. Catalano:

This letter is in response to the invitation for comments regarding the Board of Professional Responsibility's proposed Amendment to Rule 8, R.P.C. 8.4 of the *Rules of the Tennessee Supreme Court* by the addition of a new Paragraph(h). I have been practicing law in Tennessee since 1976 and I have served as a Hearing Committee Member of the Board of Professional Responsibility from 1990 to 1996.

With all due respect, it is my opinion that this proposed revision is unnecessary, unenforceable, and unwise. My concern is that the proposed Amendment will create more ills than it could ever cure.

It is not the purpose of the Rules of Professional Responsibility to legislate social issues. If anyone, including an attorney, violates a legitimate discrimination law, there are both substantive laws and ethic rules already in place that appropriately address those problems. There is simply too much potential for abuse and misuse of the proposed Amendment to Rule 8.

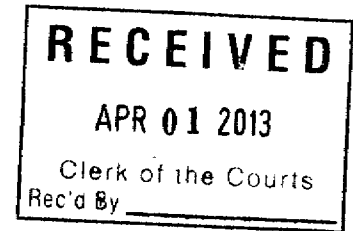
Accordingly, I strongly oppose the proposed amendment.

Sincerely,

WILLIAM E. GODBOLD, III

WEG:blb

From: "Mitch Cone" <mitchcone@comcast.net>
To: <lisa.marsh@tncourts.gov>
Date: 04/01/2013 5:01 PM
Subject: TN Courts: Submit Comment on Proposed Rules



Submitted on Monday, April 1, 2013 - 5:00pm
Submitted by anonymous user: [68.52.143.242]
Submitted values are:

Your Name: Mitch Cone
Your Address: 1308 Old Hickory Blvd., Brentwood, TN 37027
Your email address: mitchcone@comcast.net
Your Position or Organization: Resident of the State of Tennessee
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments: I oppose the proposed change to Rule 8.4 for several reasons. First, the proposed change to Rule 8.4 is subject to constitutional challenge under free speech, freedom of association and free exercise of religion. There is no substantial benefit for risking the distraction, cost and other governmental resources and expenses to defend the proposed rule. Second, there are already federal and state laws on the books that proscribe discrimination based upon many of the protected classes enumerated in proposed Rule 8.4. Proposed Rule 8.4 discourages attorneys from undertaking the representation of clients who may currently be violating such non-discrimination laws even if the result of such representation results in the client's voluntary cessation of some or all of such clients discriminatory conduct at least partly due to the professional recommendations of the client's legal team even though such legal team may simultaneously assert colorable legal defenses on behalf of the client. Therefore, proposed Rule 8.4 may have the unintended consequence of increasing or continuing discrimination. Third, proposed Rule 8.4 will have a chilling effect on the willingness of lawyers to undertake any representation of a potential client who has or may be accused of any discriminatory activity in any way related to the enumerated protected classes. If proposed Rule 8.4 is adopted, Attorney's must undertake an assessment of whether it is worth the economic risk to represent a client who may have an ongoing practice that is or could be construed as being discriminatory even if the end result of the representation is a lessening of the actual or perceived discrimination. Fourth, the notion, spirit, idea, practice, value, protection and ideal of "freedom" is foundational and essential to the healthy function of the state of Tennessee and to the United States of America. Such essential freedoms include the rights of free speech and free association, the right to take an unpopular public position, the freedom to be wrong, and the right to prove oneself a fool in public with or without the assistance of an attorney or anyone else. Individuals exercising these freedoms and other rights often seek and sometimes need the assistance of legal counsel. Due to the ever increasing legal complexity of our society and the annually increasing number of laws, rules and regulations that are passed in Tennessee, the other 49 states and by the federal government, all citizens face an increasingly difficult challenge in keeping up with all the statutes, rules, regulations and other governmental activity that impacts the way they live and work. Today, whenever any new statute, rule, regulation, etc. is enacted, there often are groups of citizens attempting to determine how to comply with it and other groups of citizens attempting to determine how to avoid complying with it on legally supportable grounds. In each case, lawyers are very often providing needed professional guidance to each side.

That professional legal guidance of lawyer's runs the spectrum of advising a client to take no action to advising a client to fully assert the client's position. Regardless of the issue at hand, even those enumerated in the proposed revision to Rule 8.4, it is antithetical to the historical practice of "freedom" in Tennessee and in the United States of America to prevent lawyers from zealously representing a client regardless of whether the lawyer's personal beliefs are contrary to the client's legal interests. Any law, regulation or rule that may penalize a lawyer from taking professional positions whether in the representation of a client or in the lawyer's personal interest that are otherwise lawful has the logical and unavoidable result of reducing the availability of legal representation of citizens in a broad range of areas that can not be fully ascertained as each case will turn on its own facts and be subject to the legal creativity of the opposing side. Fifth, any lawyer being accused of violating proposed Rule 8.4 may not be able to defend his/her self without potentially violating the attorney client privilege which is of greater importance to our legal system than proposed Rule 8.4. Legal positions taken by lawyers on behalf of clients are the result of many things not the least of which is information given directly by the client to the client's lawyer. Such information includes not only otherwise discoverable facts of the case, but also the client's desired outcome, feared result, preferences, motivations, and a myriad of other information that is historically privileged information between the client and the client's lawyer. Such information and the applicable law are the basis by which the client and the client's lawyer jointly agree upon what legal positions will and will not be put forth on behalf of the client. It may be only this otherwise protected information that would prove that a lawyer is not in violation of proposed Rule 8.4 leaving the lawyer in a lose/lose situation in that the lawyer will be subject to ethical charges and civil damages for revealing the privileged information that would exonerate the attorney from charges under proposed Rule 8.4, or face charges under Rule 8.4 without being able to use the facts that would exonerate the lawyer. Sixth, our legal system has functioned reasonably well based upon the established rule of law. Proposed Rule 8.4 is contrary to the prevailing rule of law in many areas some of which are detailed above. The area of client representation in civil rights cases in particular would likely be in limbo while lawyer's evaluated their exposure under proposed Rule 8.4 with no corresponding benefit to the public, the judicial system, or our society. For the foregoing reasons and others, I request that proposed Rule 8.4 NOT be enacted.

The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5417>

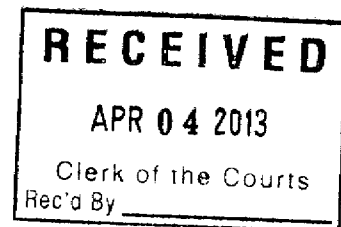
From: "Debbie Crenshaw" <debbiercrenshaw@yahoo.com>
To: <lisa.marsh@tncourts.gov>
Date: 04/04/2013 10:58 AM
Subject: TN Courts: Submit Comment on Proposed Rules

Submitted on Thursday, April 4, 2013 - 10:58am
Submitted by anonymous user: [74.223.56.90]
Submitted values are:

Your Name: Debbie Crenshaw
Your Address: 600 Vosswood Dr.
Your email address: debbiecrenshaw@yahoo.com
Your Position or Organization: resident of Davidson County
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RL1-RL
Your public comments:

I oppose the change to Rule 8.4. In my opinion, it could discourage lawyers from advancing unpopular causes or representing positions that are not popular. The First Amendment guarantees freedom in this country to speak our beliefs.

Thank you.
Debbie Crenshaw



The results of this submission may be viewed at:
<http://www.tncourts.gov/node/602760/submission/5476>

DONALD E. BOURLAND*
JOHN J. HEFLIN III
ROBERT K. ALVAREZ*
LANCELOT L. MINOR III*
PAUL A. MATTHEWS*
ROBERT J. PINSTEIN
DAVID L. BOURLAND
JOHN MARSHALL JONES
DAVID M. RUDOLPH**
KENNETH P. JONES
M. MATTHEW THORNTON**
SCOTT B. PEATROSS**

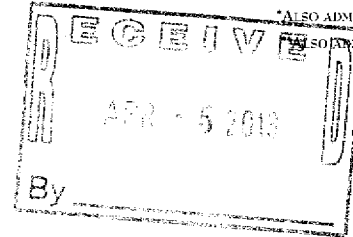
**BOURLAND
HEFLIN
ALVAREZ
MINOR &
MATTHEWS, PLC**
ATTORNEYS AT LAW

5400 POPLAR AVENUE
SUITE 100
MEMPHIS, TENNESSEE 38119-3660
TELEPHONE (901) 683-3526
FAX (901) 763-1037
WWW.BHAMMLAW.COM

ALBERT C. RICKEY (1917-2003)
AARON SHANKMAN (RET)

*ALSO ADMITTED IN MISSISSIPPI
*ALSO ADMITTED IN ARKANSAS

April 1, 2013



Michael W. Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Bldg.
401 Seventh Ave. N.
Nashville, TN 37219-1407

Re: Rule 8.4 RPC

Dear Mr. Catalano:

I write in my personal capacity, not on behalf of my firm or any of its other members, to express strong opposition to the Board of Professional Responsibility's Petition to broaden Rule 8.4 RPC "to prohibit an attorney's manifestation of bias or prejudice in a professional capacity." In seeking to elevate certain classes of people to protected status, the language of the Board's Petition allows my constitutionally protected rights to be infringed. I submit the actions of the Board in bringing this Petition are contrary to the principles of the U.S. and Tennessee Constitutions and the public policy of the State of Tennessee.

The current Comment [3] to Rule 8.4 prevents a lawyer from using words or conduct which manifest bias or prejudice "when such actions are prejudicial to the administration of justice." The Petition lowers the ethical standard to biased conduct "in a professional capacity." What exactly does that standard mean? When I, as a lawyer, volunteer my time representing an indigent client in Court, clearly that is in my professional capacity. When I, as a lawyer, speak publicly for the rights of an unborn child, that line is not as clear. There are many people who believe abortion should be legal. There are many who do not. I have an unfettered right to speak publicly in favor of, or against, abortion as my conscience dictates. If a prospective client wants me to represent them in securing the legal right to an abortion for their disabled daughter, I have the freedom to refuse such representation on moral grounds without facing significant negative consequences as a lawyer or a citizen.

This is not as true in the homosexual debate. Tennessee should heed the warnings from other state jurisdictions where "sexual orientation" has been elevated to a protected status. The evidence is clear in those states that the citizen's lawful right of dissent is crushed under the threat of force of law. (See Appendix A attached) The end

Michael W. Catalano, Clerk

April 1, 2013

Page 2

result of doing what the Board's Petition attempts to do is that the rights of those who believe that homosexuality is a sin are trampled upon and relegated to being only expressed in the private sphere. Adding insult to injury, professionals who offer their services in the public sphere are not allowed to refuse representation on moral grounds without significant negative consequences. I have represented individuals who identified themselves as homosexual successfully in the past with regard to matters that did not violate my conscience, but the language of the Board's Petition removes my choice of representation in the future. It will be professional misconduct for me to refuse to accept representation solely on the basis of the sexual orientation of the prospective client.

The U.S. Constitution, Bill of Rights, Article I, states that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech" Thus, the Petition's attempt to enjoin my rights of free exercise and of speech is an unconstitutional infringement by the Board upon my rights as a U.S. citizen.

The Tennessee Constitution, Article I, Section 3. states that "[A]ll men have a natural and indefeasible right to worship Almighty God according to the dictates of their own conscience;... that no human authority can, in any case whatever, control or interfere with the rights of conscience." Furthermore in Section 19: "The free communication of thoughts and opinions, is one of the invaluable rights of man and every citizen may freely speak, write, and print on any subject, being responsible for the abuse of that liberty." Thus, the Petition's attempt to enjoin my rights of free worship and of conscience is an unconstitutional infringement by the Board upon my rights as a Tennessee citizen.

As evidence of the public policy of this State, The Tennessee Constitution, Article XI, Section 18. states as follows:

The historical institution and legal contract solemnizing the relationship of one man and one woman shall be the only legally recognized marital contract in this state. Any policy or law or judicial interpretation, purporting to define marriage as anything other than the historical institution and legal contract between one man and one woman, is contrary to the public policy of this state and shall be void and unenforceable in Tennessee. If another state or foreign jurisdiction issues a license for persons to marry

BOURLAND
HEFFIN
ALVAREZ
&
MINOR
MATTHEWS, P.C.

Michael W. Catalano, Clerk

April 1, 2013

Page 3

and if such marriage is prohibited in this state by the provisions of this section, then the marriage shall be void and unenforceable in this state.¹

All life is precious and I treat everyone with respect, even when we disagree. But the Bible is Truth and it is clear that homosexual behavior is immoral. It would certainly be easier for me if I would abandon my faith and allow myself to be washed along with the current wave of political correctness. It is much more difficult to stand against the growing tide, but stand I must. Some may think my views of the authority of the Bible as outdated. Apparently, the Board has taken that position too.

I unequivocally oppose the Board's Petition.

With best regards,



M. Matthew Thornton

Encl.

¹While the issue of sexual orientation and gay marriage are not one and the same, they are closely related.

MATTHEW
MINOR &
ALVAREZ
HEFLIN
BOURLAND

APPENDIX A

New Mexico

http://www.washingtonpost.com/national/on-faith/categories-c-a/2012/06/05/gJQAjYheGV_story.html

Colorado and Iowa

http://www.huffingtonpost.com/2012/07/30/jack-phillips-denver-bakery-gay-couple-wedding-cake_n_1721093.html

Examples cited in Recent Article (source listed below):

- In Lexington, Ky., a T-shirt shop called Hands On Originals was approached by the Gay and Lesbian Services Organization about printing shirts for the group. The T-shirt company politely declined and even sought out quotes and gave the group referrals to other T-shirt printers, along with comparable prices. They were promptly sued by the group under Lexington's anti-discriminatory laws and forced to comply with a lengthy investigation. The city's power-drunk human rights commission said the shop will be "required by law to participate in the investigation."

"We have subpoena power and have the backing of the law," Raymond Sexton, the executive director of the Human Rights Commission told Fox News. "We are a law enforcement agency and people have to comply."

Leftist groups are trying to get the company evicted from their premises. The city now has school districts freezing their business with the privately owned company. Meanwhile, the owner of the company tried to defend his faith and decision in an op-ed in the paper.

- A Methodist church in New Jersey was sued for not offering its facility for use during same-sex weddings. A judge ruled against the church.

- A same-sex couple from California sued a Hawaiian bed and breakfast privately owned by a Christian woman for not allowing them to rent a room.

- A bed and breakfast in Alton privately owned by a Christian couple was sued when they would not host a same-sex civil union ceremony.

- Owners of a small, privately owned inn in Vermont declined to host a same sex wedding reception due to their religious views and were sued.

- Catholic Charities was barred from assisting in adoptions in Massachusetts, Washington, D.C., and Illinois and excluded from future contracts because it declined to consider same sex couples.

"Gay marriage incompatible with Religious Freedom" By Erick Erickson

<http://www.foxnews.com/opinion/2013/03/26/gay-marriage-religious-freedom-are-incompatible/?intcmp=obnetwork#ixzz2PFXHZB5v>

Lisa Marsh - Comment Provided by the Knoxville Bar Association regarding RPC 8.4

From: Marsha Wilson <mwilson@knoxbar.org>
To: "Mike.Catalano@tscmail.state.tn.us" <Mike.Catalano@tscmail.state.tn.us>
Date: 04/24/2013 4:42 PM
Subject: Comment Provided by the Knoxville Bar Association regarding RPC 8.4
CC: "Heidi A. Barcus (hbarcus@londonamburn.com)" <hbarcus@londonamburn.com>
Attachments: KBAComent.Rul8.4.042413.pdf

505 Main Street, Suite 50
P.O. Box 2027
Knoxville, Tennessee 37901-2027
Telephone: (865) 522-6522
Facsimile: (865) 523-5662
www.knoxbar.org

505 Main Street, Suite 50
P.O. Box 2027
Knoxville, Tennessee 37901-2027
Telephone: (865) 522-6522
Facsimile: (865) 523-5662
www.knoxbar.org

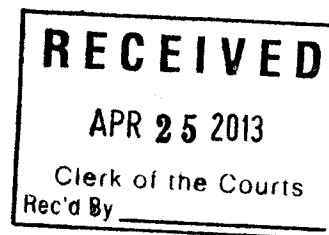
Good afternoon Mike.


Attached please find the comment from the Knoxville Bar Association on the proposed changes to rule 8.4 of the Tennessee Code of Professional Conduct. A copy of this letter is being sent by U.S. mail. If you need additional information or would prefer this information in a different format, please let me know.

Thank you.

Marsha

Marsha S. Wilson
Knoxville Bar Association
Executive Director
Ph: 865-522-6522
FAX: 865-523-5662
Cell: 865-919-6559
mwilson@knoxbar.org



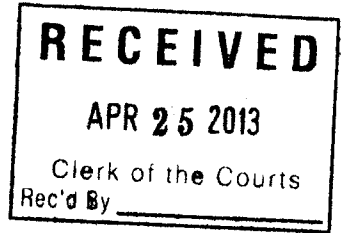
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The views expressed in this electronic mail transmission do not necessarily reflect the views of the Knoxville Bar Association.



April 24, 2013



VIA EMAIL & U.S. MAIL

Knoxville Bar Association
505 Main Street, Suite 50
P.O. Box 2027
Knoxville, TN 37901-2027
PH: (865) 522-6522
FAX: (865) 523-5662
www.knoxbar.org

Mr. Michael W. Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: Comment of The Knoxville Bar Association
Regarding the Proposed Amendment to Rule 8, RPC 8.4

Dear Mr. Catalano:

Pursuant to the Tennessee Supreme Court's Order filed February 13, 2013, the Knoxville Bar Association ("KBA") Professionalism Committee has carefully considered current rule 8.4 of the Tennessee Code of Professional Conduct as well as the proposed Amendment and the comments filed in opposition thereto. At its meeting on April 17, 2013, the KBA Board of Governors ("KBA Board") also considered the matter carefully with thoughtful and substantive discussion.

Please know that members of both the KBA Board and the KBA as a whole recognize the power of language. Our members are also very sensitive to the harm which can occur with the inappropriate use of language. They believe it is an important issue and the spirit of the proposed Amendment is something which should always be in our minds as legal professionals. The KBA and its members further concur with the principle that the type of prohibited language being addressed by the proposed Amendment should never be a part of our daily interaction with others.

That said, the KBA Board, following the referenced discussion, affirmed the recommendation of its Professionalism Committee to join with the Tennessee Bar Association's ("TBA") comment filed on March 27, 2013 ("Comment"). In the KBA's view, the TBA's Comment responsibly raises significant concerns about, and the problems with attempting to implement, the proposed Amendment. The KBA appreciates the Court's careful consideration of the proposed Amendment and respectfully requests that it follow the TBA thinking on this matter.

As always, we appreciate the opportunity to comment on proposed rules promulgated by the Tennessee Supreme Court.

Sincerely yours,

Handwritten signature: Heidi A. Barcus

Heidi A. Barcus, President
Knoxville Bar Association

Officers

Heidi A. Barcus
President

Wade V. Davies
President-Elect

Tasha C. Blakney
Treasurer

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Debra C. Poplin

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Adam M. Priest

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Hon. John F. Weaver

Shelly L. Wilson

Executive Director

Marsha S. Wilson
mwilson@knoxbar.org

cc: Hon. John Weaver, Co-Chair, KBA Professionalism Committee
Garry Ferraris, Co-Chair, KBA Professionalism Committee

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Tracey Malone
Anne Johnson Meade
Bryan Smith

ABA DELEGATE
Danny Van Horn

AWA REPRESENTATIVE
Frances Riley

**LAW SCHOOL
REPRESENTATIVE**
Estelle Winsett

NBA REPRESENTATIVE
Alicia Washington

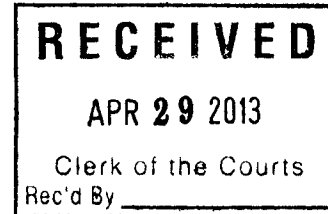
**YOUNG LAWYERS
DIVISION PRESIDENT**
Annie Christoff

PAST PRESIDENT
Gary Smith

EXECUTIVE DIRECTOR
Anne Fritz
afritz@memphisbar.org

April 25, 2013

Mike Catalano, Clerk
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407



Re: Proposed Amendment to Tennessee Rule of Professional Conduct 8.4
No. M2013-00379-SC-RL1-RL

Dear Mr. Catalano,

The Memphis Bar Association has adopted the recommendation of its Professionalism Committee to oppose the Petition filed the Board of Professional Responsibility seeking to have the Court amend Tenn. Sup. Ct. R. 8, RPC 8.4.

Initially, the MBA was inclined to support the petition because of its strong support for broadening the diversity of the legal profession. No one can argue that discrimination against any class of people should have no place in a system based upon the rule of law. However, after considering the arguments put forth on both sides of this issue, the MBA changed its position due to the vague nature of the proposed amendment's language and its potential for overbroad enforcement. So as not to unduly burden the Court with repetitive arguments, the MBA wishes to join in the comments of Yvonne K. Chapman, a member of its Professionalism Committee, and the Tennessee Bar Association in opposing this petition.

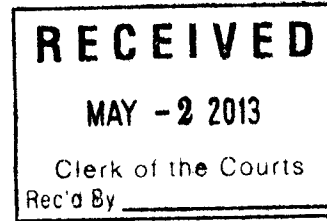
The MBA thanks the Court for allowing its motion for extension of time to comment on this matter. We appreciate the additional time given to us to express our opinion.

Sincerely,

Linda Warren Seely,
President

From: "Thomas Williams" <ned@iptlawfirm.com>
To: <lisa.marsh@tncourts.gov>
Date: 05/01/2013 10:53 PM
Subject: TN Courts: Submit Comment on Proposed Rules

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Submitted by anonymous user: [70.197.164.122]
Submitted values are:



Your Name: Thomas Williams
Your Address: 216 Centerview Drive
Your email address: ned@iptlawfirm.com
Your Position or Organization: attorney
Rule Change: Supreme Court Rule 8, Section 8.4
Docket number: M2013-00379-SC-RLI-RL
Your public comments:
IN THE SUPREME COURT OF TENNESSEE

IN RE: PROPOSED AMENDMENT)
TO TENNESSEE RULE OF) M2013-00379-SC-RLI-RL
PROFESSIONAL CONDUCT 8.4)

JOINT COMMENT IN OPPOSITION TO BOARD OF PROFESSIONAL RESPONSIBILITY'S
PETITION TO AMEND RULE OF PROFESSIONAL CONDUCT 8.4

We, 48 concerned Tennessee attorneys, whose names appear hereon, do hereby submit this Comment in Opposition to the Tennessee Board of Professional Responsibility's Proposed Amendment To Tennessee Rule Of Professional Conduct 8.4.

I. The Current Rule and Comment
The current Rule 8.4 of the Tennessee Rules of Professional Conduct provides as follows:

- It is professional misconduct for a lawyer to:
- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
 - (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respect;
 - (c) engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
 - (d) engage in conduct that is prejudicial to the administration of justice;
 - (e) state or imply an ability to influence a tribunal or a governmental agency or official on grounds unrelated to the merits of, or the procedures governing, the matter under consideration;
 - (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law; or
 - (g) knowingly fail to comply with a final court order entered in a proceeding in which the lawyer is a party, unless the lawyer is unable to comply with the order or is seeking in good faith to determine the validity, scope, meaning, or application of the law upon which the order is base."

The current Comment [3] to Rule 8.4 provides:
[3] A lawyer who, in the course of representing a client, knowingly manifests, by words or conduct, bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio economic status violates paragraph (d) when such actions are prejudicial to

the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d).

The current Tennessee Rule 8.4 and Comment [3] mirror Rule 8.4 of the ABA Model Rules of Professional Conduct. The ABA Model Rule and Comment [3] have been adopted in many states, although 18 states – including Alabama, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Montana, Nevada, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Texas, Virginia, West Virginia, and Wyoming – have rejected the model Comment [3] to Rule 8.4 in its entirety.

II. The Proposed Amendment

The Board of Professional Responsibility (hereinafter “Board”) has proposed to amend Rule 8.4 by changing the substance of Comment [3] in significant ways and then elevating that rewritten Comment into Rule 8.4 itself, thereby making the Comment a Rule.

In particular, the Board has proposed that a new Rule be adopted that reads as follows:

“It is professional misconduct for a lawyer to: . . . (h) engage in conduct, in a professional capacity, manifesting bias or prejudice based on race, sex, religion, national origin, disability, age, sexual orientation, or socio-economic status. Legitimate advocacy respecting the foregoing factors does not violate this provision.”

In addition, the Board then proposes that Comment [3] to the Rule be amended to read:

“[3] A lawyer who declines to represent a person based on his or her inability to pay the lawyer’s fee does not violate paragraph (h).”

III. A Summary of the Deleterious Effects of the Proposed Amendment

The Board’s proposed Amendment will have several deleterious effects on Tennessee attorneys, among which are the following:

1. the current Comment [3] has several defects, including;
 - a. it contains terms so vague as to fail to provide attorneys with sufficient notice as to what behavior is proscribed;
 - b. it is under-inclusive, fractionalizes society, enables special-interest groups to use the bar to advance social and political agendas, and extends protections beyond current law;
 - c. it compels speech;
 - d. it prohibits protected speech;
 - e. it discriminates on the basis of viewpoint; and
 - f. it violates the rights of attorneys to the free exercise of religion.
2. the proposed Amendment will perpetuate the defects contained in the current Comment [3];
3. the proposed Amendment will exacerbate the defects contained in the current Comment [3] by:
 - a. elevating the Comment to a Rule;
 - b. divorcing the Rule from its current grounding in the prevention of prejudice to the administration of justice; and
 - c. encroaching upon the professional autonomy of attorneys.

IV. The Current Comment [3] Has Several Significant Defects

A. The Current Comment [3] Contains Terms So Vague as to Provide Attorneys With Insufficient Notice as to What Behavior is Proscribed

The language of the current Comment [3] is so vague as to fail to provide Tennessee attorneys with fair notice of what is and what is not prohibited

conduct. Specifically, the current Comment [3] prohibits an attorney from "knowingly manifest[ing] by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation, or socioeconomic status." An ethical requirement that "either forbids or requires the doing of an act in terms so vague that [persons] of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law". *Cramp v. Bd. Of Pub. Instruction of Orange County, Fla.*, 368 U.S. 278, 287 (1961). The current Comment [3] contains several terms so vague as to violate due process of law.

For example, the terms "bias" and "prejudice" and "manifest" leave trained attorneys to speculate about their meaning and application. Therefore, the current Comment [3] is so vague as to fail to provide attorneys with sufficient notice of what behavior is prohibited. Attorneys deserve to know with reasonable certainty what behavior is proscribed. The result of the Comment's vague language is that attorneys' valid speech is chilled for fear of offending against a standard whose parameters are lost in the mists of ambiguity. Uncertain terms require attorneys "to steer far wider of the unlawful zone than if the boundaries of the forbidden areas were clearly marked." *Baggett v. Bullitt*, 377 U.S. 360, 372 (1964) (quotation and citations omitted).

B. The Comment's List of Specially Protected Classes and Characteristics is Under-inclusive, Fractionalizes Society, Enables Groups to Use the Bar to Advance Social and Political Interests Rather than the Interests of the Entire Bar, and Extends Beyond Current Law.

The Comment's ever-expanding list of specified protected groups creates a Rule that is exclusive rather than inclusive. If we, as a profession, are really concerned about discrimination, then we should be concerned about discrimination against any person, regardless of whether or not that person is a member of a certain group. Specifying certain groups for protection and not others implies that the Tennessee Bar is only concerned about acts of bias if those acts affect the members of specially favored groups. All others are excluded and may apparently be discriminated against with impunity.

Also, including a list of specifically protected groups results in the fractionalization of our profession - not to mention our society - by encouraging people to identify themselves in relation to or against other groups of individuals.

Furthermore, there is apparent confusion over what some of the current classifications even mean. For example, under the current Comment [3], attorneys are prohibited from manifesting bias or prejudice based on "socio-economic status." Who can adequately discern, let alone define, the parameters of that class? Indeed, the fact that the Board seeks to point out in the new proposed Comment [3] that rejecting a client for his or her inability to pay the attorney's fee does not constitute bias based on socio-economic status illustrates the problem - what is "socio-economic status" and how can (let alone why would) a lawyer discriminate against someone on that basis other than on account of the person's inability to pay the lawyer's fee? The same problem exists with respect to "sexual orientation." Even scholars who regularly study sexual orientation cannot agree on a definition for or an understanding of that term. See Todd A. Salzman & Michael G. Lawler, *The Sexual Person* 150 (2008) ("The meaning of the phrase 'sexual orientation' is complex and not universally agreed upon.").

In addition, providing a list of specially protected groups has pushed the

Bar into the improper role of arbitrating political and social issues, including issues of personal morality. The recent controversy surrounding the injection of sexual behavior into our standards of professional conduct illustrates this danger. Certain groups have been granted recognition despite the fact that they have been unable to present any credible evidence that members of their group are, in fact, experiencing discrimination from Tennessee attorneys that application of the Comment would cure. It is not appropriate for groups to use the Tennessee Bar in order to advance their own political and social agendas, especially when there is disagreement among members of the Tennessee Bar as to the agendas of the groups seeking Bar support.

Using the Bar in this inappropriate manner results in frequent petitions to change the Rules. This is not merely a theoretical concern. In other states, such as Arizona, the inclusion of sexual orientation protection proved insufficient to satisfy the demands of those pushing for a redefinition of sexual identity protection. So a few years ago "gender identity" was added to the list of protected classes there. However, the inclusion of those two groups was considered insufficient and, so now, there is currently a petition before that State's Supreme Court to add "gender expression" to the list. Where will such a process lead, and more importantly, when will it end? Even now there are additional groups who claim that their peculiar characteristics merit special recognition and protection (see, for example, The National Association to Advance Fat Acceptance (NAAFA) which has resolved "[t]hat 'height and weight' be included as a protected category in existing local, state, and federal civil rights statutes"). It is only a matter of time before additional groups come forward to press their peculiar interests on the Bar.

Although we recognize the emotional investment and personal interest that many have in advocating for the political and social advancement of their particular groups – the Bar is not the appropriate forum or vehicle to advance those agendas. In fact, allowing itself to be used in this manner damages the credibility and effectiveness of the Bar because it aligns the Bar with special interest groups whose interests are parochial and who are attempting to use the Bar simply to advance their own political and social agendas rather than to advance the legitimate interests of the legal profession as a whole.

Another worrying trend of the ever-expanding protected group approach to non-discrimination provisions, which the current Comment continues, is that – whereas, historically, protected classes have centered upon objective characteristics that are easily discernible and not subject to change – lately we have seen protections extended to groups based on characteristics, and even behaviors, that are neither objectively observable nor immutable. This is a problem for lawyers called upon to avoid manifesting bias – for how can one be safe from a charge of bias against a characteristic one cannot objectively observe or that may change from one moment to the next? In addition, certain of these groups have not even been recognized as protected classes under either U.S. or Tennessee law. Therefore, the Bar, including these classes, has taken sides in an ongoing and contentious debate – with both political and moral ramifications – extending protections to groups that neither the United States, the State of Tennessee, nor a good many members of the Tennessee Bar, have determined ought to be granted special acknowledgement and protection.

C. The Comment Compels Speech
"[O]ne important manifestation of the principle of free speech is that one who chooses to speak may also decide what not to say." Hurley v.

Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc., 515 U.S. 557, 573 (1995)(quotations omitted). This bedrock constitutional principle undergirds the well-established rule against compelled expression, which prohibits the government from compelling a private actor, including an attorney, to express or affirm a message contrary to his or her beliefs. See *Johanns v. Livestock Mktg. Ass'n*, 544 U.S. 550, 557 (2005)(identifying compelled-speech cases as those where “an individual is obliged personally to express a message he disagrees with, imposed by the government.”); *United States v. United Foods, Inc.*, 533 U.S. 405, 410 (2001)(recognizing that the First Amendment “prevent[s] the government from compelling individuals to express certain views”). The “choice of a speaker not to propound a particular point of view . . . is presumed to lie beyond the government’s power to control,” *Hurley*, supra, at 575, and the government may not “compromise” or otherwise invade “the speaker’s right to autonomy over the message.” *Hurley*, supra, at 576.

The Comment violates this constitutional guarantee against compelled speech. It may be read to compel an attorney to represent or continue representing a client even if advocating that client’s position or interest would conflict with the attorneys’ sincerely held religious or moral convictions. Because lawyers exercise many expressive rights when representing their client – indeed, the advocacy process is rife with expression (speaking, writing, and arguing, to name a few, see *Gentile v. State Bar of Nevada*, 501 U.S. 1030, 1071-73 (1991) – the Comment essentially forces attorneys to advocate unwanted positions or causes, and the federal Constitution flatly prohibits that result.

D. The Comment Prohibits Protected Speech

The Comment threatens to prohibit attorneys from advocating politically controversial views on behalf of their clients. These hot-button issues include, among others, that the law should continue to define marriage only as the union of one man and one woman (which might be said to “manifest bias . . . based upon . . . sexual orientation”). “The Constitution does not permit the Government to confine [clients] and their attorneys” by excluding ostracized yet vital “theories and ideas.” Cf. *Legal Servs. Corp. v. Velazquez*, 531 U.S. 533, 548 (2001)(dealing only with the litigation context). That, however, is precisely what the Comment threatens to do. This silencing of attorney advocacy for publicly marginalized views runs directly counter to the purpose of the First Amendment. By branding these views as “discriminatory” (and, under the Board’s proposal, “professional misconduct”) the provision encourages public and private contempt, along with official punishment, against attorneys and clients who express such views and beliefs. Undoubtedly, many of those attorneys and their clients will stop communicating such opinions for fear that they might be punished by the Bar or viewed with scorn by their colleagues. This government-induced ostracism of unpopular views is deeply unsettling.

E. The Comment Discriminates On The Basis Of Viewpoint

A legal provision proscribing expression must not exhibit, either explicitly or implicitly, viewpoint discrimination. *R.A.V. v. City of St. Paul, Minn.*, 505 U.S. 377, 391 (1992). The Comment suffers from this constitutional flaw, and a few examples illustrate this defect.

First, suppose that an attorney writes a letter for his client (in a context unrelated to a specific proceeding) arguing that the State should give marriage licenses to same-sex couples and that failing to do so is discrimination on the basis of sexual orientation. That attorney most

assuredly would not be accused of manifesting bias or prejudice based on sexual orientation. But consider the attorney who, on his client's behalf, conveys the exact opposite position – that the State should continue defining marriage only as the union of one man and one woman. It is not stretch to think that many people would conclude that the latter expressions manifest bias or prejudice based on sexual orientation.

Second, contemplate that a group begins to lobby the Tennessee Legislature to add “sexual orientation” to the State's nondiscrimination law. The attorneys who, while representing their clients, publicly advocate in favor of that proposed law certainly would not be charged with violating the proposed provision. But in contrast, the attorneys whose clients want them to oppose that legal change risk punishment under that provision for manifesting bias or prejudice against “sexual orientation.” Some may argue that this concern is without merit because the Comment (and the proposed Rule) specifically allows for “legitimate advocacy.” However, we would counter that the word “legitimate,” modifying the word “advocacy,” contains a worrisome and difficult-to-define restriction on what lawyers do by profession – namely advocate. If there is “legitimate advocacy,” by definition there must also be “illegitimate advocacy.” Which is which? And, just as importantly, who will decide the meaning of that vague and undefinable term? If “bias or prejudice” against, say, those who engage in homosexual behavior, constitutes a disciplinary offense – what would keep the Board of Professional Responsibility from contending that any advocacy against such behavior is not “legitimate advocacy”? So, what is clear is that lawyers will no longer be allowed to freely advocate. Lawyers will now only be allowed to advocate in ways the powers-that-be determine are “legitimate” and will face punishment if they engage in advocacy the powers-that-be determine is not “legitimate.” In short, then, under the Comment (and even more so under the Board's amendment elevating the Comment to a Rule), attorney advocacy “in favor of . . . [so called] tolerance and equality” concerning sexual orientation would be free and unfettered, while the expression of “those speakers' opponents” would be stifled. See R.A.V., supra, at 391. That amounts to viewpoint discrimination, and as the Supreme Court has recognized, the government “has no such authority to license one side of a debate to fight freestyle, while requiring the other to follow Marquis of Queensberry rules.” R.A.V., supra at 392.

F. The Comment Violates Attorneys' Free Exercise Of Religion Rights

The direct conflict between religious liberty and the Comment's inclusion of sexual orientation protection is plain to see. See Michael W. McConnell, *The Problem of Singling Out Religion*, 50 DePaul L. Rev. 1, 43-44 (2000); see generally *Same-Sex Marriage and Religious Liberty: Emerging Conflicts* (Douglas Laycock et al., eds., 2008). Indeed, we have already referenced it in passing. On the one hand, most of the major religions in Tennessee hold certain precepts and convictions concerning sexual behavior. On the other hand, the Comment threatens to force attorneys holding these beliefs to advocate for clients in a manner contrary to their religious tenets. This creates a direct clash between professional obligations and religious convictions.

Of course, the “Free Exercise Clause [of the First Amendment] pertain[s] if the law at issue discriminates against some or all religious beliefs.” *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 532 (1993). To that extent, then, the Comment discriminates against those attorneys who hold sincerely held religious beliefs concerning homosexual

behavior.

In addition, the Tennessee Supreme Court pronounced in *Carden v. Bland*, 288 S.W.2d 718, 721 (Tenn. 1956) that the right of worship and freedom of conscience guaranteed in Art. I, Sec. 3 of the Tennessee Constitution exceeds the protections afforded by the U.S. Constitution. The Tennessee Supreme Court reiterated this principle in *Planned Parenthood of Middle Tennessee v. Sundquist*, 38 S.W.3d 1, 8-9 (Tenn. 2000). Further, Tennessee's Constitution provides ". . . that no human authority can, in any case whatever, control or interfere with the rights of conscience." Therefore, by requiring Tennessee attorneys to advocate views and legal positions that conflict with their conscience, the Board's proposal would violate those attorneys' rights under the Tennessee Constitution.

The Tennessee Religious Freedom Act, T.C.A. Sec. 4-1-407, also offers broader religious liberties than those protected by the First Amendment. The Tennessee Religious Freedom Act declares that "no government entity shall substantially burden a person's exercise of religion even if the burden results from a rule of general applicability." T.C.A. Sec. 4-1-107(b). For purposes of the Tennessee Religious Freedom Act, to "[s]ubstantially burden" means to inhibit or curtail religiously motivated practice." The infringement on the free-exercise rights of religiously motivated attorneys at issue here – by requiring them to advocate views and legal positions that conflict with their sincerely held religious beliefs – violates the Tennessee Religious Freedom Act because it substantially burdens their religious exercise.

And the State of Tennessee would be unable to show, as required by the Tennessee Religious Freedom Act, that the provision is both "essential to further a compelling governmental interest; and [t]he least restrictive means of furthering that compelling governmental interest." T.C.A. Sec. 4-1-407(c).

It is unclear what interest, exactly, the State intends to further through the proposed Rule amendment, but whatever it is it does not appear to be a compelling one.

Moreover, regardless of whether the amendment furthers a compelling governmental interest, the State has not used the least restrictive means to achieve its end. Other less-restrictive means (such as incorporating a religious exemption) exist in these circumstances, and the State's failure to use those alternatives dooms its actions under the Tennessee Religious Freedom Act analysis.

Therefore, the free-exercise rights of Tennessee's attorneys weigh heavily in favor of denying the Board's proposed amendment.

V. The Board's Proposed Amendment Exacerbates the Current Comment's Defects

The Board's proposed Amendment, rather than curing the many defects of the current Comment [3], exacerbates them.

First, the Board proposes to elevate to Rule status what is now just a Comment to a Rule. A Comment is not officially a part of a Rule and, therefore, may not necessarily constitute grounds for the imposition of attorney discipline. Violation of a Rule, however, is a basis for invoking the professional disciplinary process and is, therefore, grounds for professional discipline, including reprimands, sanctions, and suspension and revocation of an attorney's license to practice law. T.C.R.C. Preamble [20].

Therefore, elevation of the Comment to a Rule has much more serious consequences to all Tennessee attorneys.

Second, unlike the current Comment [3], which applies only to an attorneys'

conduct "in the course of representing a client," the Board's proposed Amendment applies to all conduct an attorney engages in "in a professional capacity" – which is a much broader concept and sweeps in more of an attorney's conduct. In particular, the current Comment [3]'s reference may not apply to an attorney's initial decision to accept or reject representation because an attorney can be said not to be "in the course of representing a client" until the attorney-client relationship has been established. However, the Board's current proposed amendment clearly applies to client retention decisions because such decisions are made in the attorney's "professional capacity." That this is the Board's intention is illustrated by the fact that the Board's proposed amendment includes a new Comment [3] that provides "A lawyer who declines to represent a person based on his or her inability to pay the lawyer's fee does not violate paragraph (h)" – which can only mean, by implication, that declining to represent a person for reasons other than their ability to pay the attorney's fees does, in fact, fall within the parameters of conduct engaged "in a professional capacity."

Indeed, given its vagueness, it is possible that the phrase "in a professional capacity" could be interpreted so broadly so as to apply to all sorts of situations that fall short of an official representation of a client. Indeed, we can count on the fact it will, because the Board went out of its way to change the language to be more encompassing than "in the course of representing a client."

Third, the Board has removed from the proposed Rule any requirement that the offending conduct be intentional. The current Comment [3] applies only to "A lawyer who . . . knowingly manifests" bias or prejudice. The Board's proposed Rule applies to any "conduct . . . manifesting bias or prejudice." So, again, the Board's proposed Rule is much broader than the current Comment [3] and does not contain a scienter requirement. Fourth, the current Comment [3] provides that a lawyer's biased or prejudiced conduct is only proscribed if such conduct independently prejudices the administration of justice. That is obvious not only from the fact that the current Comment [3] owes its existence to the solely supplemental function it serves as a comment to the current Rule 8.4(d), which provides that "It is professional misconduct for a lawyer to: . . . (d) engage in conduct that is prejudicial to the administration of justice; . . ." but also because the current Comment [3] itself also specifically states that the offending conduct is proscribed only "when such actions are prejudicial to the administration of justice." By elevating the Comment to a Rule – thereby detaching it from Rule 8.4(d) – and by deleting the current Comment's reference to "when such actions are prejudicial to the administration of justice," the Board's proposal divorces the proscribed conduct from its former purpose and makes the conduct a free-standing ground of discipline without regard to whether the conduct prejudices the administration of justice. This demonstrates that its purpose and effect is no longer tied to the attorney's role in the justice system, but is now simply one more free-standing non-discrimination law under which attorneys may be threatened and their livelihoods taken from them. In short, the Board's proposed Amendment exacerbates the current Comment [3]'s defects and, indeed, raises even more threatening concerns.

VI. The Board's Proposed Amendment Threatens the Attorney's Right to Moral and Professional Autonomy.

As pointed out above, the Board's proposed Amendment threatens every

Attorney's right to conduct his or her professional life in accordance with sincerely held religious and moral beliefs, particularly with respect to that part of an attorney's practice that has historically been the ultimate expression of that autonomy – namely the attorney's decision to decline or withdraw from the representation of a client.

Attorneys have the right to professional and ethical autonomy. The Rules of Professional Conduct themselves recognize the rights and obligations of attorneys to exercise their personal ethical judgments in the practice of law. For example, paragraph [8] of the Rules' Preamble provides: "Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience . . ." (our emphasis).

Paragraph [10] of the Preamble states: "Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person . . . [s]uch issues must be resolved through the exercise of sensitive professional and moral judgment" (our emphasis). And paragraph [2] of the Scope section of the Code provides: "The Rules [of Professional Conduct] do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be competently defined by legal rules" (our emphasis). Rule 2.1 provides that "In rendering advice, a lawyer may refer not only to law, but to other considerations such as moral . . . factors" (our emphasis). And Comment [2] to Rule 2.1 provides that "It is proper for a lawyer to refer to relevant moral and ethical considerations in giving [legal] advice. . . moral and ethical considerations impinge upon most legal questions . . ." (our emphasis). "Sexual orientation" is, by its very nature, inextricably and deeply rooted in sexual behavior and, therefore, implicates sexual ethics. By adopting "sexual orientation" "as a protected class in a Professional Rule that is free-standing with no requirement of intent and no connection to the administration of justice, creates a conflict between the Bar's expectations and many lawyers' sincerely held moral beliefs.

In doing so, the Bar is taking sides in a profound moral debate and will find itself in the position of forcing certain Tennessee attorneys in certain circumstances to either violate their conscience or face the possibility of professional discipline. The Bar should never find itself in such a position. One of the most important decision-points for an attorney and perhaps the greatest expression of a lawyer's professional and moral autonomy is the decision whether to take a case, whether to decline a case, or whether to withdraw from representation. And a necessary corollary of the Rules' directives that a lawyer be an ethical person – guided by the lawyer's personal conscience and practicing law in the context of moral and ethical considerations – is that lawyers must not be forced to violate their moral and ethical principles in order to practice law. Lawyers must, therefore, retain their right to decline or withdraw from representation when to do otherwise would violate their sincerely held moral values.

The Board's proposed Amendment prohibits attorneys from declining or withdrawing from representation in certain circumstances when their sincerely held religious and ethical beliefs require them to do so and, therefore, subjects them to the threat of professional discipline for acting in accordance with their professional and moral judgment.

CONCLUSION

For all the foregoing reasons we, the undersigned Tennessee attorneys object to the Board's proposed Amendment to Rule 8.4 of the Tennessee Code of

Professional Conduct and request that the Board's proposal be rejected in its entirety.

Respectfully submitted,

/s/ W. Harold Bigham, retired—BPR #002548

/s/ Peter C. Robison, #027498

/s/ Jarom Smartt, #024833

/s/ Ammon Smartt, #024712

/s/ Jonathan Wardle, #025741

The results of this submission may be viewed at:

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