

Dear ABA Ethics Committee:

I am submitting a comment to show agreement with the 'Joint Comment of the 52 ABA Members' that has already been submitted. I make note of one particular argument in their statement that jumps out at me:

"Because the proposed amendments to Model Rule 8.4 constitute an extreme and dangerous departure from the principles and purposes historically underlying Model Rule 8.4 and the legitimate interests of professional regulation, they should be rejected."

I was among the attorneys on the Human Rights and Responsibilities Committee in Connecticut in the early days of the push for 'same sex' marriage in that state. Those who had long fought for religious liberties, parental rights and the rights of children quickly raised alarms that such new 'rights' would be used as a weapon against those who adhered to the time tested (2,000 years and counting), scripturally based beliefs and evidence in disagreement.

We were assured that all seeking new marriage 'rights' were solely seeking tolerance; and nothing else. All people holding different beliefs would be able to live, and let live, in peace - we were told.

Today, 15 years later, I have watched with great sadness as a scorched earth mentality has unfolded in our land. Those who continue to hold to deeply foundational faith values have been ferreted out and persecuted – whether publicly or quietly. There has become a real fear among individuals in our nation due to the overwhelming hatred that has been poured forth upon all those who live lives in accordance with their faith beliefs and mandates – from heads of corporations to local neighborhood bakers. It is a fear fueled by highly publicized, and deliberate, attacks on those who hold traditional Christian religious beliefs – attacks which seek not 'tolerance', but forced agreement and acceptance of beliefs in direct opposition to one's conscience.

I am sure that those behind such attacks feel justified in their actions and judgments. The problem is that human nature does not naturally judge itself – only others. A good example occurred when I was a young mother. I had left my infant asleep in her crib and had briefly run another child next door to drop off for play. A friend excoriated me for my 'neglect' and 'danger' to my infant – shortly before tossing her own toddler into the back of her hatchback car (*not* in a safety seat) while she drove home. Only judging my parenting slight, she never noticed the danger she placed her own in.

That is because we always make excuses for our own actions – never another's. It's human nature.

I saw it professionally on more than one occasion. For instance, a child protective attorney would ask me to 'understand' the abuse that occurred to a child by a foster parent who was 'tired'; while denying the same understanding to the actual parent who was equally tired. These requests for 'understanding' happened quite frequently. We understand our own weaknesses, thoughts, opinions, beliefs - yet judge others.

And so it is sad to see that those who have felt so 'judged' for so long by society have embraced the bludgeon of judging punishment, and forced acceptance, upon all those who now disagree with them. This is not the first time in history we have seen this. No movement that is based on anger and payback comes to a good end – none.

I find it ironic that the same good people who would fight to the death before allowing a black seamstress to be forced to produce white sheet coverings for the KKK – now seem to yawn at the prospect of Christians being forced to produce wedding bouquets for gay marriages. Those who would be shocked to discover that a tee-shirt company owned by a gay couple was forced to undergo ‘rehabilitative instruction’ as to why they should be happy to make tee-shirts filled with anti-gay speech – find nothing wrong in discovering that a Christian tee-shirt company is being forced to do the same to ‘re-educate’ themselves against their deeply held religious beliefs.

But then again – we find reasons to justify our own beliefs – yet find nothing but judgment to condemn others.

Perhaps these changes to the Model Rule 8.4 are due to good intentions. Yet ‘the road to hell is paved with good intentions’ is a well-known aphorism for good reasons. Another equally well-known saying is: ‘Good cases make bad law’. As noted by Oliver Wendell Holmes, Jr. himself in *Northern Securities Co. v. United States* (1904):

“Great cases like hard cases make bad law. For great cases are called great, not by reason of their importance... but because of some accident of immediate overwhelming interest **which appeals to the feelings and distorts the judgment.**” (emphasis mine.)

The Proposed Amendments to Model Rule 8.4 fall into this definition perfectly. They delve into the realm of feelings – and feelings almost always distort judgment. For any time you have laws encouraging people to make accusations and judgments based on feelings – and not facts – you are “taking an extreme and dangerous departure” from Justice.

I strongly urge you not to do it.

The remainder of “Joint Comment Regarding Proposed Changes To ABA Model Rule of Professional Conduct 8.4” that has been filed by 52 Member ABA Attorneys outlines, with excellent detail, reasoning and fact, all the other reasons why the Draft Amendment to Model Rule 8.4 should not be adopted. I wholeheartedly agree with their incisive and wise insights, and I urge the ABA to consider them deeply.

Sincerely Yours,

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