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## Attorney News - February 2016



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### Things to Remember

- **Follow the Disciplinary Board on Twitter**

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## Registration Season Looms: Get Your Account Set Up

Attorney registration forms must be filed by July 1, 2016. Now would be a good time to get your account set up and get some practice with online registration, if you haven't already (see the next story). Fifty-seven percent of Pennsylvania attorneys submitted their registration forms online last year; don't fall to the back of the pack. If you don't have an online account set up yet, you can create an account at [this link](#).

## Disciplinary Board Publishes Electronic Registration Rule; Comments Due March 18

The Disciplinary Board has published a Notice of Proposed Rulemaking stating changes to **Rule 219 of the Rules of Disciplinary Enforcement**, relating to the electronic filing of registration forms. The proposed changes were **published** at 46 Pa. Bulletin 990 (Saturday, February 27, 2016).

## Supreme Court Restricts Practice by Court Employed Attorneys

The Supreme Court of Pennsylvania issued an **order** on December 29, 2015, published at **46 Pa.B. 351** (January 16, 2016), stating limits on the practice of law by attorneys employed within the Unified Judicial System. Citing various sources, the Court specified the following limits on practice by UJS attorneys:

- Any attorney in the UJS is prohibited from appearing as counsel in the division or section of the court in which the attorney is employed.
- An attorney employed in courts that have no formally established divisions or sections, or who is not employed within a division or section, is prohibited from appearing as counsel in the court itself.

These restrictions do not apply to *pro se* advocacy.

The rule further provides that any outside employment or commercial activities by attorneys employed in the Unified Judicial System, including the practice of law, must be permitted by, and must be approved in accordance with, the Rules of Professional Conduct, the Code of Conduct for Employees of the Unified Judicial System, and any other applicable personnel policies.

## ABA Committee Proposes Workplace Bias Amendment to Rule 8.4

The American Bar Association's Standing Committee on Ethics and Professional Responsibility has proposed an **amendment** to Rule 8.4 of the Model Rules of Professional Conduct, Misconduct, which would add a new subsection (g), declaring that:

It is professional misconduct for a lawyer to ... in conduct related to the practice of law, harass or knowingly discriminate against persons on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status.

In a comment, the proposal notes that “conduct related to the practice of law” includes the operation and management of a law firm or law practice. The comment excludes conduct unrelated to the practice of law or protected by the First Amendment from coverage of the rule. The comment makes clear that the provision does not prohibit lawyers from referring to any particular status or group when such references are material and relevant to factual or legal issues or arguments in a representation.

The ABA has debated and rejected antidiscrimination proposals on several prior occasions, most recently in 1997. Since then, 24 jurisdictions have added some sort of antidiscrimination provisions to their state rules. Pennsylvania has not added such language to **Pa.R.P.C. 8.4**. No change to the ABA Model Rules would be enforceable in Pennsylvania unless added to the Pennsylvania Rules by an amendment adopted by the Supreme Court of Pennsylvania.

The proposal was the subject of an open hearing at the ABA Midyear Meetings in San Diego, California, on February 7, 2016. In addition, interested parties may submit written comments through March 11, 2016. Comments should be submitted via email addressed to:

[abamodelruleamend@americanbar.org](mailto:abamodelruleamend@americanbar.org)

Information on comments is posted [here](#).

## Lawyer Admonished for Swiping Water Bottle

A North Carolina lawyer, renowned as an innocence advocate in criminal cases, **has received a written admonition** from a panel of the North Carolina Bar for removing a water bottle from the home of a relative of suspects in a murder investigation, and submitting the bottle for a DNA test the relative refused to undergo.

Christine Mumma, the director of the North Carolina Center on Actual Innocence, sought to demonstrate the innocence of a convicted prisoner. DNA was found at the scene which did not match her client’s. She visited the home of a sister of brothers who were alternate suspects, and took with her a water bottle from which the sister had taken a drink. She then had a DNA test performed on the bottle, but the results did not help her client. The client was exonerated through other efforts by Mumma, and freed after spending nearly 40 years in prison. The sister whose sample was taken testified in Mumma’s defense at the disciplinary hearing.

The panel found that Mumma had violated **Rule 4.4 of the Rules of Professional Conduct** by using methods of obtaining evidence that violate the legal rights of a person not a party to the proceeding. The panel concluded, however, that Mumma did not violate rules prohibiting conduct involving dishonesty or conduct prejudicial to the administration of justice, and recommended an admonition. Mumma expressed relief that the matter was concluded.

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