

Name: Michael S, Leib

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ADM File Number: 2023-35

Comment:

Michael S. Leib's Comment to ADM File No. 2023-5, Proposed Amendments of Canon 3 of the Code of Michigan Judicial Conduct and Rule 6.5 of the Michigan Rules of Professional Conduct.

June 30, 2025

1. I am the Chair of the State Bar of Michigan Special Committee on Professionalism and Civility. However, I make these comments on my personal behalf and not on behalf of the committee. I also take no position on proposed changes to Canon 3 of the Michigan Code of Judicial Conduct.
  2. My experience with the committee and as a panel member of the Attorney Discipline Board, however, has provided me exposure to MRPC 6.5 and its logical connection to the Professionalism Principles for Lawyers and Judges adopted by this court in 2020. Indeed, Professionalism includes courtesy and respect for those involved in the justice system.
  3. I oppose eliminating the "courtesy and respect language". Such language has served our profession well and was discussed in a Michigan Supreme Court opinion issued in 2006. See *Grievance Adm'r v. Fieger*, 719 N.W. 2d 123 (Mich. 2006).
  4. I agree illegal discrimination by an attorney should be prohibited. However, the issue here is whether anti-discrimination language should be inserted in MCR 6.5. No reason for the addition of such language or the proposed removal of the "courtesy and respect" language has been provided to the Bar. In other words, is there a problem we need to fix with the proposed amendment?
  5. Moreover, it is my understanding the Attorney Grievance Commission views the current language as a proper and flexible basis to challenge illegal discriminatory behavior by an attorney as well as other disrespectful behavior that may not constitute illegal discrimination.
  6. I suggest that if such non-discrimination language is believed to be necessary, then it should be added in MCR 8.4.
  7. I am aware of the many objections to the proposed anti-discrimination language by those asserting a First Amendment argument. Rather than debate the propriety of such argument, leaving the rule as it is avoids creating a problem that currently doesn't appear to exist.
  8. Finally, I respectfully request that if there should be a reference to the Professionalism Principles for Lawyers and Judges in the rule comments (and there should be), then the State Bar of Michigan Special Committee on Professionalism and Civility be a participant in creating such comment language.
- Thank you for the opportunity to comment.

Respectfully Submitted,

Michael S. Leib \_\_\_\_\_

Michael S. Leib

June 30, 2025