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CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

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Sid J. White, Clerk  
Supreme Court of Florida  
Tallahassee, Florida  
32399-1927

**COMMENT ON PROPOSED RULES REGULATING THE FLORIDA BAR,  
RULE 4-8.4(H) MISCONDUCT.**

Dear Mr. White and Honorable Members of the Supreme Court:

I am writing to comment on the proposed new Rule 4-8.4(h). Rule 4-8.4(h) should be more stringent than Section 61.13015, Florida Statutes (1993), because a lawyer as a professional is in the unique position of acting as an officer of the court.

When a lawyer openly disregards a final court order, such conduct constitutes a serious interference with the administration of justice, and reflects a blatant disdain for the legal system which a lawyer is sworn to respect and uphold. Because of a lawyer's special position as an officer of the legal system, any willful action in refusing to accord by the terms of a final judgment or settlement agreement in a dissolution matter should constitute misconduct.

Accordingly, in keeping with the severity of such disregard, I recommend adding three words to the Rule in order to make lawyers professionally responsible for obstructing any of the terms of a child support related order. The underlined words represent my suggested additions to the current language:

A lawyer shall not: . . . (h) willfully refuse to timely pay a child support or related obligation as determined by a court of competent jurisdiction.

The addition of the word "timely" prevents a lawyer obligor from renegeing on obligations, and then later circumventing the Rule by claiming that payment was eventually made, perhaps years later. The addition of the "or related" language in regards to child support, is to ensure that other agreed to expenses within a court

approved settlement agreement which relate to care and maintenance of a child are also covered. For example, many final orders require a parent to pay medical expenses and school expenses in addition to the monthly monetary sum categorized as child support.

Finally, the comment to the Rule should not state that it was added "in accordance with Section 61.13015, Florida Statutes (1993)" because this statement implies that the Rule is simply an additional means of collecting child support. The primary purpose of Section 61.13015 is to function as an alternate means for the collection of child support where all other remedies have failed.

Because lawyers as professionals are officers of the court, the primary purpose of Rule 4-8.4(h) is different than that of Section 61.13015, which applies to all professionals generally. The primary function of Rule 4-8.4(h) should be to ensure that officers of the court maintain the higher standards of the profession they have been privileged to join.

As a member of the Florida Bar, I appreciate this important step in maintaining high ethical standards in the profession, and thank the court for its considerations of my views.

Sincerely,



Michelle Dunaj  
Attorney at Law