



September 14, 2018

Supreme Court of the State of Washington  
P.O. Box 40929  
Olympia, WA 98504-0929  
[supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)

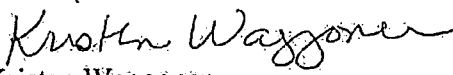
*Re: Comment opposing proposed General Rule 38*

Honorable Justices of the Supreme Court:

We respectfully urge the Court to reject proposed General Rule 38. As others have explained in greater detail, the proposed rule is unconstitutional on numerous grounds. The proposed rule violates the Due Process Clause of the Fourteenth Amendment by using vague and subjective terms that fail to provide members of the bar fair notice of what speech and conduct is prohibited, and which invite discriminatory enforcement. Proposed General Rule 38 also transgresses the Free Speech Clause of the First Amendment because it is facially content and viewpoint based and fails to safeguard against viewpoint-discriminatory applications. For these reasons and others, officials throughout the nation have refused to adopt similar rules of professional conduct. We urge this Court to follow their lead and reject proposed General Rule 38.

Sincerely,

Alliance Defending Freedom

  
Kristen Waggoner

Senior Vice President of  
U.S. Legal Division  
WSBA #27790  
[kwaggoner@ADFlegal.org](mailto:kwaggoner@ADFlegal.org)

Michael P. Farris  
President, CEO & General Counsel  
WSBA #6883

Katherine L. Anderson  
Legal Counsel  
WSBA #41707

**Tracy, Mary**

---

**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Friday, September 14, 2018 4:47 PM  
**To:** Tracy, Mary  
**Subject:** FW: 2018.09.14 K. Waggoner Re Comment opposing proposed General Rule 38.pdf  
**Attachments:** 2018.09.14 K. Waggoner Re Comment opposing proposed General Rule 38.pdf

---

**From:** Mary Alice Donnelly [mailto:[mdonnelly@adflegal.org](mailto:mdonnelly@adflegal.org)]  
**Sent:** Friday, September 14, 2018 4:45 PM  
**To:** OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
**Cc:** Kristen Waggoner <[kwaggoner@adflegal.org](mailto:kwaggoner@adflegal.org)>; Amanda Rossiter <[arossiter@adflegal.org](mailto:arossiter@adflegal.org)>  
**Subject:** 2018.09.14 K. Waggoner Re Comment opposing proposed General Rule 38.pdf

Dear Supreme Court of the State of Washington,

Please see the attached letter regarding Comment opposing proposed General Rule 38, on behalf of Alliance Defending Freedom.

In addition, if you are unable to open the attachment do not hesitate to contact me at the number listed below.

Best Regards,  
Mary Alice Donnelly

---



Mary Alice Donnelly  
Legal Assistant II  
+1 480 444 0020 (Office)  
+1 480 388 8174 (Direct Dial)  
480-444-0028 (Fax)  
[mdonnelly@ADFlegal.org](mailto:mdonnelly@ADFlegal.org)  
[ADFlegal.org](http://ADFlegal.org)

---

This e-mail message from Alliance Defending Freedom and any accompanying documents or embedded messages is intended for the named recipients only. Because Alliance Defending Freedom is a legal entity engaged in the practice of law, this communication contains information, which may include metadata, that is confidential, privileged, attorney work product, or otherwise protected from disclosure under applicable law. If you have received this message in error, are not a named recipient, or are not the employee or agent responsible for delivering this message to a named recipient, be advised that any review, disclosure, use, dissemination, distribution, or reproduction of this message or its contents is strictly prohibited. If you have received this message in error, please immediately notify the sender and permanently delete the message. PRIVILEGED AND CONFIDENTIAL - ATTORNEY-CLIENT COMMUNICATION/ATTORNEY WORK PRODUCT.