

NOTICE TO THE BAR

ADOPTION OF OFFICIAL COMMENT TO RULE OF PROFESSIONAL CONDUCT 4.2 AS A FOLLOW-UP TO IN RE ROBERTELLI

Following its decision in In re Robertelli, 248 N.J. 293 (2021), which concerned discipline of a lawyer whose paralegal communicated with a represented party through Facebook, the Supreme Court asked its Advisory Committee on Professional Ethics (ACPE) to consider potential amendments to the Rules of Professional Conduct or social media guidelines. The Committee recommended adding a new Official Comment to Rule of Professional Conduct 4.2 to codify the ruling in Robertelli. Acting on that recommendation, the Court in the July 15, 2024 Omnibus Rule Amendment Order, has adopted the following official comment to RPC 4.2 (“Communication with Person Represented by Counsel”), to be effective September 1, 2024:

A lawyer shall not engage in a prohibited communication through the acts of another. See RPC 8.4(a) (a lawyer may not violate any of the ethics rules “through the acts of another”).

Communications that are intended to gain access to non-public social media postings of a represented party fall within the prohibition of this Rule.



Glenn A. Grant, J.A.D.
Acting Administrative Director

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