

Rule 8.4: Misconduct

It is professional misconduct for a lawyer to:

(g) 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.

Comment

[3] Paragraph (g) applies to conduct related to a lawyer's practice of law, including the operation and management of a law firm or law practice. It does not apply to conduct unrelated to the practice of law or conduct protected by the First Amendment. Harassment or discrimination that violates paragraph (g) undermines confidence in the legal profession and our legal system. Paragraph (g) 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. Although lawyers should be mindful of their professional obligations under Rule 6.1 to provide legal services to those unable to pay, as well as the obligations attendant to accepting a court appointment under Rule 6.2, a lawyer is usually not required to represent any specific person or entity. Paragraph (g) does not alter the circumstances stated in Rule 1.16 under which a lawyer is required or permitted to withdraw from or decline to accept a representation. A lawyer who, in the course of representing a client, knowingly manifests by words or conduct, bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, violates paragraph (d) when such actions are prejudicial to the administration of justice. Legitimate advocacy respecting the foregoing factors does not violate paragraph (d). A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule.

Trish Weaver

From: Paul V Carlin <PCarlin@msba.org>
Sent: Wednesday, December 30, 2015 4:22 PM
To: Trish Weaver
Cc: Pamila Brown; Storm, Harry C.
Subject: FW: Draft proposal to amend ABA Model Rule of Professional Conduct 8.4 and Comment [3] to Rule 8.4.

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Hi Trish !

Here's something from the ABA your Ethics Committee might want to review.

Hope your holidays are great. Best Wishes for 2016 !

Paul

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From: ABA Center for Professional Responsibility [mailto:cpr@americanbar.org]
Sent: Monday, December 28, 2015 3:30 PM
To: Paul V Carlin
Subject: Draft proposal to amend ABA Model Rule of Professional Conduct 8.4 and Comment [3] to Rule 8.4.

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ABA Center for Professional Responsibility

Professional Responsibility is every lawyer's business. It's our business too

December, 2015

Center for Professional Responsibility members:

The Standing Committee on Ethics and Professional Responsibility has issued a draft proposal to amend ABA Model Rule of Professional Conduct 8.4 and Comment [3] to Rule 8.4. A memorandum explaining the Committee's drafting choices is also available.

The proposal reflects the efforts of the Committee to examine how the ABA Model Rules of Professional Conduct address discrimination and harassment by lawyers and is meant to further focus and advance the discussion on this important issue.

The Ethics Committee invites comments on the draft proposal both in writing and at a public hearing to be held on Sunday, February 7th, 2016 from 3:00 p.m. – 5:00 p.m. at the Marriott Marquis San Diego Marina, 3rd Floor, South Tower, Balboa & Mission Hills Meeting Rooms.

E-mail abamodelruleamend@americanbar.org to register to speak at the hearing (**Deadline January 29th**) and to submit written commentary (**Deadline March 11th**).

After reviewing comments from the public hearing and comments submitted in writing, the Committee will resume its work with the aim of producing a final Report and Resolution for consideration by the ABA House of Delegates at the August 2016 Annual Meeting in San Francisco, CA.

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