

ADOPTED AS REVISED

RESOLUTION

1 RESOLVED, That the American Bar Association amends Rule 8.4 and Comment of the ABA
2 Model Rules of Professional Conduct as follows (insertions underlined, deletions ~~struck through~~):

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4 Rule 8.4: Misconduct

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6 It is professional misconduct for a lawyer to:

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8 (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or
9 induce another to do so, or do so through the acts of another;

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11 (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness
12 or fitness as a lawyer in other respects;

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14 (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

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16 (d) engage in conduct that is prejudicial to the administration of justice;

17
18 (e) state or imply an ability to influence improperly a government agency or official or to
19 achieve results by means that violate the Rules of Professional Conduct or other law; ~~or~~

20
21 (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable
22 rules of judicial conduct or other law; or

23
24 (g) ENGAGE IN CONDUCT THAT THE LAWYER KNOWS OR REASONABLY
25 SHOULD KNOW IS HARASSMENT OR DISCRIMINATION ~~harass or discriminate~~ on the
26 basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender
27 identity, marital status or socioeconomic status in conduct related to the practice of law. This Rule
28 PARAGRAPH does not limit the ability of a lawyer to accept, decline, or withdraw from a
29 representation in accordance with Rule 1.16. THIS PARAGRAPH DOES NOT PRECLUDE
30 LEGITIMATE ADVICE OR ADVOCACY CONSISTENT WITH THESE RULES.

DELETIONS STRUCK THROUGH; ADDITIONS UNDERLINED

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31 Comment

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35 [3] Discrimination and harassment by lawyers in violation of paragraph (g) undermines confidence
36 in the legal profession and the legal system. Such discrimination includes harmful verbal or
37 physical conduct that manifests bias or prejudice towards others because of their membership or
38 perceived membership in one or more of the groups listed in paragraph (g). Harassment includes
39 sexual harassment and derogatory or demeaning verbal or physical conduct towards a person who
40 is, or is perceived to be, a member of one of the groups. Sexual harassment includes unwelcome
41 sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a
42 sexual nature. The substantive law of antidiscrimination and anti-harassment statutes and case law
43 may guide application of paragraph (g).

44
45 [4] Conduct related to the practice of law includes representing clients; interacting with witnesses,
46 coworkers, court personnel, lawyers and others while engaged in the practice of law; operating or
47 managing a law firm or law practice; and participating in bar association, business or social
48 activities in connection with the practice of law. Paragraph (g) does not prohibit conduct
49 undertaken to promote diversity. **LAWYERS MAY ENGAGE IN CONDUCT UNDERTAKEN**
50 **TO PROMOTE DIVERSITY AND INCLUSION WITHOUT VIOLATING THIS RULE BY,**
51 **FOR EXAMPLE, IMPLEMENTING INITIATIVES AIMED AT RECRUITING, HIRING,**
52 **RETAINING AND ADVANCING DIVERSE EMPLOYEES OR SPONSORING DIVERSE**
53 **LAW STUDENT ORGANIZATIONS.**

54
55 [5] Paragraph (g) does not prohibit legitimate advocacy that is material and relevant to factual or
56 legal issues or arguments in a representation. **A TRIAL JUDGE'S FINDING THAT**
57 **PEREMPTORY CHALLENGES WERE EXERCISED ON A DISCRIMINATORY BASIS**
58 **DOES NOT ALONE ESTABLISH A VIOLATION OF PARAGRAPH (G).** A lawyer does not
59 violate paragraph (g) by limiting the scope or subject matter of the lawyer's practice or by limiting
60 the lawyer's practice to members of underserved populations in accordance with these Rules and
61 other law. A lawyer may charge and collect reasonable fees and expenses for a representation.
62 Rule 1.5(a). Lawyers also should be mindful of their professional obligations under Rule 6.1 to
63 provide legal services to those who are unable to pay, and their obligation under Rule 6.2 not to
64 avoid appointments from a tribunal except for good cause. See Rule 6.2(a), (b) and (c). A lawyer's
65 representation of a client does not constitute an endorsement by the lawyer of the client's views or
66 activities. See Rule 1.2(b).

67 ...

