

**JOINT ORDER OF THE DEPARTMENTS OF THE NEW YORK STATE SUPREME
COURT, APPELLATE DIVISION**

The Judicial Departments of the Appellate Division of the New York State Supreme Court, pursuant to the authority vested in them, do hereby amend Part 1200, Rule 8.4 (g) (Rules of Professional Conduct) of Title 22 of the Official Compilation of the Codes, Rules, and Regulations of the State of New York, as follows, effective immediately (deletions in strikethrough, additions underlined).

Rule 8.4: Misconduct.

A lawyer or law firm shall not:

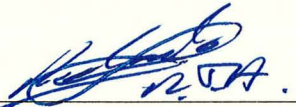
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- (g) ~~unlawfully discriminate in the practice of law, including in hiring, promoting or otherwise determining conditions of employment on the basis of age, race, creed, color, national origin, sex, disability, marital status, sexual orientation, gender identity, or gender expression. Where there is a tribunal with jurisdiction to hear a complaint, if timely brought, other than a Departmental Disciplinary Committee, a complaint based on unlawful discrimination shall be brought before such tribunal in the first instance. A certified copy of a determination by such a tribunal, which has become final and enforceable and as to which the right to judicial or appellate review has been exhausted, finding that the lawyer has engaged in an unlawful discriminatory practice shall constitute prima facie evidence of professional misconduct in a disciplinary proceeding;~~
~~or~~

engage in conduct in the practice of law that the lawyer or law firm knows or reasonably should know constitutes:

- (1) unlawful discrimination, or
- (2) harassment, whether or not unlawful, on the basis of one or more of the following protected categories: race, color, sex, pregnancy, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, gender expression, marital status, status as a member of the military, or status as a military veteran.
- (3) “Harassment” for purposes of this Rule, means physical contact, verbal conduct, and/or nonverbal conduct such as gestures or facial expressions that is:
 - a. directed at an individual or specific individuals; and
 - b. derogatory or demeaning.Conduct that a reasonable person would consider as petty slights or trivial inconveniences does not rise to the level of harassment under this Rule.
- (4) This Rule does not limit the ability of a lawyer or law firm to, consistent with these Rules:
 - a. accept, decline, or withdraw from a representation;

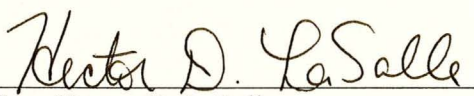
- b. express views on matters of public concern in the context of teaching, public speeches, continuing legal education programs, or other forms of public advocacy or education, or in any other form of written or oral speech protected by the United States Constitution or the New York State Constitution; or
 - c. provide advice, assistance, or advocacy to clients.
- (5) “Conduct in the practice of law” includes:
- a. representing clients;
 - b. interacting with witnesses, coworkers, court personnel, lawyers, and others, while engaging in the practice of law; and
 - c. operating or managing a law firm or law practice; or
- (h) engage in any other conduct that adversely reflects on the lawyer’s fitness as a lawyer.



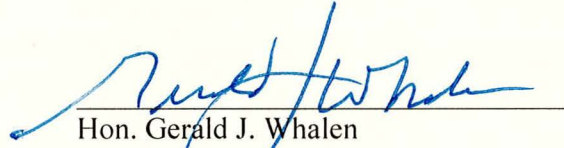
Hon. Rolando T. Acosta
Presiding Justice
First Judicial Department



Hon. Elizabeth A. Garry
Presiding Justice
Third Judicial Department



Hon. Hector D. LaSalle
Presiding Justice
Second Judicial Department



Hon. Gerald J. Whalen
Presiding Justice
Fourth Judicial Department

Date: June 10, 2022