Staffing the Mass Tort and Jury Trial Team: 
*Stereotypes and Ethical Considerations*

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Staffing the Mass Tort and Jury Trial Team:  
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This provocative and interactive hypothetical-driven session will explore stereotypes, biases, assumptions, and ethical considerations that go into choosing the lawyers who will staff and lead a mass tort over its lifetime.

**I. Hypothetical #1 (staffing trial team and courtroom dynamics)**

A class action litigation is gearing up for trial. The plaintiffs in this class action, all women and their spouses/partners, claim that, after taking fertility medication manufactured by your company and undergoing several expensive rounds of in vitro fertilization, they were unable to conceive because the fertility medication was not potent and may never conceive because they cannot afford any further fertility treatments. Lead counsel for the plaintiffs are two female partners, one in her early forties and one in her early fifties.

- As the client, how do you want the rest of your trial team staffed, where trial defense counsel are males, one in his mid-fifties and one in his mid-sixties?
- As the client, how are you going to instruct your male trial counsel to deal with the female plaintiffs on cross examination in discussing fertility and other sensitive conception-related issues?
- As counsel for the client, how does this hypothetical implicate ABA Model Rule 1.4 (Communication)/LA Rule of Professional Conduct 1.4 (Communication), which require that a lawyer “reasonably consult with the client about the means by which the client's objectives are to be accomplished”?
- How does ABA Model Rule 2.1 (Advisor)/LA Rule of Professional Conduct 2.1 (advisor) apply to this situation, which require a lawyer to “exercise independent professional judgment and render candid advice,” by referring “not only to the law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation”?

**II. Hypothetical #2 (jury selection)**

You are about to select a jury for a civil trial in the Eastern District of New York. The plaintiff is a forty-two year old white, male police officer who has 12 years of police service and prior military service and is suing your client for failing to warn of the risk of visual hallucinations associated with the drug at issue that your company manufactures, markets and sells. The plaintiff claims he began taking the drug to treat his high blood pressure and, shortly thereafter, experienced visual hallucinations during a routine patrol that caused him to fire a shot that killed a civilian. The decedent was a twenty-two year old black male. At the time of the shooting, the plaintiff was responding to a female caller saying that an armed robbery was taking place at the location, when the decedent exited the door of his mother's house in Brooklyn, New York, unarmored.

- As the client, for what characteristics in potential jurors are you looking? As trial counsel, for what characteristics in potential jurors are you looking?
- How would you apply ABA Model Rule 8.4 (Misconduct) to this situation, which states that it is professional misconduct for a lawyer to “engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law”?
• Does your answer change if the inquiry is based on Louisiana Rule of Professional Conduct 8.4 (Misconduct), which provides that it is professional misconduct for a lawyer to “engage in conduct that is prejudicial to the administration of justice”?

• As trial counsel, how does ABA Model Rule 1.3 (Diligence)/LA Rule of Professional Conduct 1.3 (Diligence), which provides that “[a] lawyer shall act with reasonable diligence and promptness in representing a client,” inform how you chose the jury?

III. Hypothetical #3 (discussion with board/firm regarding trial team staffing)

Ellen is a mid-level associate on a case involving alleged personal injuries arising out of ingestion of a drug used to treat anxiety and depression manufactured by your company. Ellen regularly wears tailored pants suits, wing tip shoes, and a tie, and her hair cut is very short. She has been with the firm for six years. She has not yet been second chair for a jury trial but would very much like to do so. One of the cases is now scheduled for trial. The plaintiff in that case, a transgender male, claims that he experienced a heart attack after taking a the drug manufactured by your company to treat his anxiety and depression during and after his transition from female to male. The board informs you that they do not “feel comfortable” assigning Ellen as second chair to the jury trial without some changes in her appearance, demeanor, and dress and believes this will have a negative impact on the jury.

• As the client, how do you discuss the board’s concern with the board? How do you communicate the board’s concerns to trial counsel?

• As trial counsel, how do you communicate your view to the client that you think having Ellen as second chair will positively impact the jury?

• How does ABA Model Rule 2.1 (Advisor)/LA Rule of Professional Conduct 2.1 (Advisor) apply to this situation, which require the lawyer to “exercise independent professional judgment and render candid advice,” by referring “not only to the law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation”?

• ABA Model Rule 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer) and LA Rule of Professional Conduct 1.2 (Scope of Representation and Allocation of Authority Between Client and Lawyer) provide that ”a lawyer shall abide by a client’s decision concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued.” How do these rules apply to this situation?

• If outside counsel wishes to staff the trial team with Ellen, who outside counsel believes is competent, but the client is advocating for an eight-year associate who has some experience second-chairing at trial, but also has a clean-cut appearance, how does ABA Model Rule 1.1 (Competence)/LA Rule of Professional Conduct 1.1 (Competence) come into play. Rule 1.1 requires a lawyer to provide “competent representation to a client,” which is defined as “the legal knowledge, skill, thoroughness and preparation reasonably necessary for the presentation”?

• Based on this hypothetical, when would ABA Model Rule 1.16 (Declining or Terminating Representation)/LA Rule of Professional Conduct (Declining or Terminating Representation), which provides that a lawyer may withdraw from representing a client if “the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement,” apply?
ON THE IMPORTANCE AND ADVANTAGES OF DIVERSITY
IN THE COURTROOM

Remember the saying “Birds of a Feather Flock Together”? Well, research shows they also think alike, and in a group decision-making situation—alike can spell danger.

When people with similar backgrounds, experiences, and attitudes come together to accomplish a task, they become particularly susceptible to “groupthink,” a psychological phenomenon that can result in faulty, ineffective, or unwittingly dangerous decisions—all made in an attempt to reach consensus. When “groupthink” takes hold, demographic, interpersonal, social, and/or cultural forces operate to squelch independent thinking. In the face of group pressure toward conformity and cohesion, people ignore important facts, risks, and warnings and often abandon critical analysis, reality testing, and moral judgment. The result is that a group of people begin to think with one brain, and that one brain can make bad decisions as the group ignores unpopular opinions.

One tragic example of groupthink resulted in the mid-air explosion of the space shuttle “Challenger” in January of 1986. Before the launch, the subcontractors who made the O-rings for the rocket boosters raised concerns about test results showing the corrosive impact of cold temperatures, but after a 5-minute meeting with NASA officials, the decision was made to launch anyway. The fairly homogeneous group of NASA and subcontractor management decisionmakers were driven by a desire to preserve cohesiveness and avoid a weather delay. Groupthink inhibited the free flow of opposing views, and the shuttle exploded 73 seconds after launch.

Similar group dynamics can be found in the jury room. In the classic 1957 movie Twelve Angry Men, Henry Fonda thwarted the effects of groupthink on a homogenous jury panel deciding the fate of a young man accused of murder. As the title suggests, it was an all-male jury, and the pressure to conform to the majority opinion, maintain cohesiveness, and avoid conflict in the group was palpable. The result was dogmatic thinking, repeated reliance on and justification of shaky evidence, and rampant stereotyping. The first vote was 11-1 Guilty. Henry Fonda was the lone dissenting juror, and but for his willingness to voice a different perspective—challenge the beliefs of the powerful majority leader in the room to battle on behalf of the defendant—the verdict would have been swift, severe, and flat wrong.

Socially diverse groups are more likely to overcome herd mentality as each participant advances a different perspective on a problem.

True diversity goes beyond demographic differences and includes experiential diversity. We must consider not just race, gender, age, and education, but also the different experiences of people who hail from very different cultures and backgrounds and who harbor differing socio-political views, and express differing attitudes.

Consider the parable of the blind men and the elephant. Each man touches only one part of the beast, and goes on to characterize the animal for the group. The man touching the ear describes a fan, the one touching the tail describes a rope, the one touching the tusk describes a pipe, etc. Not surprisingly, the group cannot reach consensus on the nature of the animal. The story is used to illustrate that one person’s experience and perspective can be true and accurate, but it is not definitive or exhaustive because it is constrained by the experiences of that individual. Only by weaving together the experiences of all of the individuals can the group truly “see” the elephant.
Diverse groups are higher performing, more creative, and more innovative—i.e., they make better decisions.

The advantages of diversity have been demonstrated in the business world. Research shows that diversity adds value and often gives the company a competitive advantage. For example, racial and gender diversity in senior management of top companies in the S&P 500 resulted in an increase of $42M in the value of those companies. These companies were also more creative and innovative in their fields.

Likewise, social and cultural diversity in groups can enhance discussion. For example, organizational structures that are “flat and interactive” encourage people to speak their mind more than do those that are “hierarchical and authoritarian.” The clash of differing perspectives can produce new ideas and better solutions.

The lack of diversity can derail the American jury system, which relies wholly on a group of complete strangers coming together to solve difficult legal disputes.

This unique problem-solving task facing jurors presents many inherent challenges. For example, jurors are often deciding complex cases in completely unfamiliar domains (e.g., medical malpractice, patents, anti-trust, fraud, murder, etc.). Jurors often feel anxiety and stress about their ability to solve the case, and these feelings can erode confidence in their individual assessments of the case—especially when faced with the prospect of having to express and defend those opinions in the deliberation room. While it is true that jurors often grumble about being seated on a jury panel, once selected, jurors take their jobs very seriously and are singularly motivated by a desire to reach the RIGHT decision. Group composition and dynamics during deliberations can either enhance or inhibit the chances of that happening.

Simply put, if you believe your side should win based on a searching and intelligent review of the facts and the law, you will be better served by a diverse jury that is motivated and equipped with the tools needed to avoid groupthink.

Why does diversity improve group decision-making?

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The more diverse the group, the greater the breadth and depth of experiences and opinions expressed in the discussion—that is the story of the blind men and the elephant—each brought differing experiences to the discussion.

This is true not only in a litigation setting. For an automotive engineering and design team, for example, it stands to reason that it is important to have diversity in scientific training or academic discipline to ensure that all aspects of the vehicle are addressed: the engine, ergonomics of the interior design, the tires, etc. These examples speak to the question of what unique information and perspective each participant brings to the table.

But, research also shows that social diversity in groups enhances information processing as well because it changes how people think, talk, and listen—and how they work to influence other group members.

In one study, Democrats and Republicans participated in an exercise requiring that they persuade another person on a particular issue. Some participants were told that their study partner was of their political party, while others were told that their study partner belonged to the opposite party. Results showed that both Democrats and Republicans were more diligent and creative in preparing their arguments and evidence when they thought they had to convince someone with different political beliefs. Authors characterized this as the power of anticipation, explaining that people in homogenous groups rest on the belief that members will share similar views and will therefore reach consensus more easily. As the authors put it, diversity “jolts us into cognitive action in ways homogeneity does not.” Heterogeneous groups anticipated that members would have dissimilar views and therefore assumed that they would have to work harder to come to consensus.

In another study focusing on jury decision-making, racially diverse jury groups were found to share a wider range of information in greater detail during deliberations on a sexual assault case, as compared to homogenous groups. Mixed-race jury groups (4 White and 2 African American jurors) demonstrated better recall of relevant case information and a greater openness to discussing the role of race in the case, as compared to the homogenous jury groups (6 White jurors). The diverse jury groups were more accurate and detailed in considering case facts, and made fewer errors in recalling relevant information during deliberations. Authors concluded that these results were due to the fact that jurors in the diverse groups actually changed their communication behavior. In the presence of diversity, all jurors were more diligent and open-minded about differing perspectives.

One can infer from this study that lawyers who are confronting a diverse jury are similarly challenged to be creative and multi-faceted in presenting the evidence and crafting persuasive arguments. Lawyers will rise to the occasion to find, themes and language, and perspectives that will resonate with a panel consisting of jurors from all walks of life.

Not only does diversity improve the quality of discussion and the decisions reached, jurors value diversity in deliberations and ultimately have greater confidence in the group’s decision.
ON THE IMPORTANCE OF ADVANTAGES AND DIVERSITY IN THE COURTROOM
(CONTINUED)

Jurors in a mock trial exercise were asked which would make them feel better about their decision: having a jury panel composed of people with diverse perspectives and backgrounds or one composed of people with similar perspectives and backgrounds.

The majority of jurors (56%) said they would feel better about a decision made by a diverse panel. Jurors’ verbal responses tell the story:

- “The more perspectives available, the better. Odds are that something outside my own considerations could be brought to light.”
- Better decisions result “because of differing intelligence, experiences, ideas, and emotional responses.”
- “Varied opinions often lead to a better overall decision.”
- “It is important to hear other opinions and views. Everybody’s brain works differently, and somebody may consider a perspective you hadn’t.”

All of this translates to the lawyers presenting the case, as well—just as it takes sopranos, altos, tenors, and baritones to make a good choir, it takes all kinds of lawyers to make a good trial team.

Diverse trial teams are also apt to be better prepared, more creative, more astute, and more comprehensive than homogenous trial teams. Experience with diverse trial teams shows that people work harder to reach consensus and are more willing to implement new and creative trial solutions. The net result is a more effective presentation of the case and more favorable trial outcomes.

To be clear, jurors report noticing and appreciating diversity in trial teams—but, it has to be “real” diversity to pass muster. Jurors are often cynical and sensitive to being “played.” Companies that simply assign an African American lawyer to a legal team for a high-stakes fraud trial in a predominantly African American community—or assign a woman to a sexual harassment case—risk the ire of jurors today. Jurors balk when the “diversity lawyer” is perceived to be a “token” appointment on the eve of trial and has little substantive role in trying the case. Trial teams with different voices are better prepared, and sing loudest and best.

In sum, the accuracy and quality of the discussions engaged in by senior executives, jurors, and lawyers improves as the group becomes more diverse. People of differing social, cultural, racial, and socioeconomic backgrounds bring new and unique perspectives to the table, and—by their mere presence—change the way people at the table think and prepare, and how they talk and listen to one another. In the presence of diversity, everyone tends to be more diligent, more detailed, more accurate, and more open-minded because they are prompted to work harder to reach consensus.

In short: Diversity Works. Use it.

Maithilee K. Pathak PhD, JD and Rick R. Fuentes, PhD

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(CONTINUED)

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Recommended reading


V. Louisiana Rules of Professional Conduct

Louisiana Rules of Professional Conduct

With amendments through July 1, 2016

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Suite 310
Metairie, Louisiana 70002
(504) 834-1488 or (800) 489-8411
Client-Lawyer Relationship

Rule 1.1. Competence
(a) A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

(b) A lawyer is required to comply with the minimum requirements of continuing legal education as prescribed by Louisiana Supreme Court rule.

(c) A lawyer is required to comply with all of the requirements of the Supreme Court’s rules regarding annual registration, including payment of Bar dues, payment of the disciplinary assessment, timely notification of changes of address, and proper disclosure of trust account information or any changes therein.

Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer
(a) Subject to the provisions of Rule 1.16 and to paragraphs (c) and (d) of this Rule, a lawyer shall abide by a client’s decisions concerning the objectives of representation, and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client’s decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client’s decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer’s representation of a client, including representation by appointment, does not constitute an endorsement of the client’s political, religious, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

Rule 1.3. Diligence
A lawyer shall act with reasonable diligence and promptness in representing a client.

Rule 1.4. Communication
(a) A lawyer shall:

With amendments through June 2, 2016.
promptly inform the client of any decision or circumstance with respect to which the client’s informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client’s objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer’s conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) The lawyer shall give the client sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued.

(c) A lawyer who provides any form of financial assistance to a client during the course of a representation shall, prior to providing such financial assistance, inform the client in writing of the terms and conditions under which such financial assistance is made, including but not limited to, repayment obligations, the imposition and rate of interest or other charges, and the scope and limitations imposed upon lawyers providing financial assistance as set forth in Rule 1.8(e).

Rule 1.5. Fees
(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) the fee customarily charged in the locality for similar legal services;

(4) the amount involved and the results obtained;

(5) the time limitations imposed by the client or by the circumstances;

(6) the nature and length of the professional relationship with the client;
participation in the program in some fashion. The Rules do not prohibit a lawyer from advising all clients or third persons of the lawyer’s advancing the administration of justice in Louisiana beyond the lawyer’s individual abilities in conjunction with other public-spirited members of the profession. The placement of funds of clients or third persons in an IOLTA Account is within the sole discretion of the lawyer in the exercise of the lawyer’s independent professional judgment; notice to the client or third person is for informational purposes only.

(3) The Louisiana Bar Foundation shall hold the entire beneficial interest in the interest or dividend income derived from client trust accounts in the IOLTA program. Interest or dividend earned by the program will be paid to the Louisiana Bar Foundation, Inc. to be used solely for the following purposes:

(a) to provide legal services to the indigent and to the mentally disabled;

(b) to provide law-related educational programs for the public;

(c) to study and support improvements to the administration of justice; and

(d) for such other programs for the benefit of the public and the legal system of the state as are specifically approved from time to time by the Supreme Court of Louisiana.

(4) The Louisiana Bar Foundation shall prepare an annual report to the Supreme Court of Louisiana that summarizes IOLTA income, grants, operating expenses and any other problems arising out of administration of the IOLTA program. In addition, the Louisiana Bar Foundation shall also prepare an annual report to the Supreme Court of Louisiana that summarizes all other Foundation income, grants, operating expenses and activities, as well as any other problems which arise out of the Foundation’s implementation of its corporate purposes. The Supreme Court of Louisiana shall review, study and analyze such reports and shall make recommendations to the Foundation with respect thereto.

Rule 1.16. Declining or Terminating Representation

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) the representation will result in violation of the rules of professional conduct or other law;

(2) the lawyer’s physical or mental condition materially impairs the lawyer’s ability to represent the client; or

(3) the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

With amendments through June 2, 2016.
withdrawal can be accomplished without material adverse effect on the interests of the client;

(2) the client persists in a course of action involving the lawyer’s services that the lawyer reasonably believes is criminal or fraudulent;

(3) the client has used the lawyer’s services to perpetrate a crime or fraud;

(4) the client insists upon taking action that the lawyer considers repugnant or with which the lawyer has a fundamental disagreement;

(5) the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer’s services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled;

(6) the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

(7) other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client’s interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. Upon written request by the client, the lawyer shall promptly release to the client or the client’s new lawyer the entire file relating to the matter. The lawyer may retain a copy of the file but shall not condition release over issues relating to the expense of copying the file or for any other reason. The responsibility for the cost of copying shall be determined in an appropriate proceeding.

Rule 1.17. Sale of a Law Practice

A lawyer or a law firm may sell or purchase a law practice, or an area of law practice, including good will, if the following conditions are satisfied:

(a) The selling lawyer has not been disbarred or permanently resigned from the practice of law in lieu of discipline, and permanently ceases to engage in the practice of law, or has disappeared or died;

(b) The entire law practice, or area of law practice, is sold to another lawyer admitted and currently eligible to practice in this jurisdiction;
Counselor

Rule 2.1.Advisor
In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client’s situation.

Rule 2.2. (DELETED)

Rule 2.3. Evaluation for Use by Third Persons
(a) A lawyer may provide an evaluation of a matter affecting a client for the use of someone other than the client if the lawyer reasonably believes that making the evaluation is compatible with other aspects of the lawyer’s relationship with the client.

(b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client’s interests materially and adversely, the lawyer shall not provide the evaluation unless the client gives informed consent.

(c) Except as disclosure is authorized in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by Rule 1.6.

Rule 2.4. Lawyer Serving as Third-Party Neutral
(a) A lawyer serves as a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them. Service as a third-party neutral may include service as an arbitrator, a mediator or in such other capacity as will enable the lawyer to assist the parties to resolve the matter.

(b) A lawyer serving as a third-party neutral shall inform unrepresented parties that the lawyer is not representing them. When the lawyer knows or reasonably should know that a party does not understand the lawyer’s role in the matter, the lawyer shall explain the difference between the lawyer’s role as a third-party neutral and a lawyer’s role as one who represents a client.

Advocate

Rule 3.1. Meritorious Claims and Contentions
A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

With amendments through June 2, 2016.
for office shall inform the Judiciary Commission. Complaints concerning the conduct of federal judges shall be filed with the appropriate federal authorities in accordance with federal laws and rules governing federal judicial conduct and disability.

(c) This rule does not require the disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program or while serving as a member of the Ethics Advisory Service Committee.

Rule 8.4. Misconduct
It is professional misconduct for a lawyer to:

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

(b) Commit a criminal act especially one that reflects adversely on the lawyer’s honesty, trustworthiness or fitness as a lawyer in other respects;

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

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

(e) State or imply an ability to influence improperly a judge, judicial officer, governmental agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law;

(f) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable Rules of Judicial Conduct or other law; or

(g) Threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

Rule 8.5. Disciplinary Authority; Choice of Law
(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer’s conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and