Via Email
July 28, 2016

Myles V. Lynk, Chair
ABA Standing Committee on Ethics and Professional Responsibility

Re: Support of Resolution 109 to Amend Model Rule of Professional Conduct 8.4

Dear Mr. Lynk,

On behalf of the National Association of Women Judges, I write to express NAWJ’s support for Resolution 109 to amend Model Rule of Professional Conduct 8.4. The revision promotes fair and equal treatment for all in the profession, including women, and is consistent with NAWJ’s mission. NAWJ was at the forefront of establishing gender bias task forces in both federal and state courts. We have greatly advanced the administration of justice in areas of domestic violence, child support and child custody, and the treatment of women and vulnerable populations in the courts of America. We thank the ABA Standing Committee on Ethics and Professional Responsibility for its effort in drafting the proposed revision to Rule 8.4 and for its thoughtful consideration of comments made to the initial draft of the proposal.

Since 1979, the National Association of Women Judges has fought to preserve judicial independence, ensure equal justice and access to the courts for women, minorities and other historically disfavored groups, to increase the numbers and advancement of women judges at all levels, and provide cutting-edge judicial education. NAWJ's diverse membership includes women and men at all levels of the federal, state, trial, military and administrative judiciary from every state in the nation, as well as attorneys, law clerks and law students committed to our mission of diversity and equality in the system of justice.

The proposed revision to Rule 8.4 provides a mechanism for removing barriers to advancement for women and minorities in a profession that is charged with providing justice for all. The amended Rule is necessary because explicit and implicit bias is still pervasive in our institutions as well as across a counsel table. The proposed revision to Rule 8.4 would offer a mechanism to deter instances of discrimination and harassment that take place both on and off the record.

As the ABA’s most recent publication makes clear, “A Current Glance at Women in the Law,” updated May, 2016, efforts to advance women to equity partnership have all but stagnated over the past decade, despite the efforts of many over the span of many years, as has the wage gap, and equity partner compensation. See http://www.americanbar.org/content/dam/aba/marketing/women/current_glance_statistics_may2016.authcheckdam.pdf. Women now make up roughly 18% of equity partners in the AmLaw 200 and make 80% of what their male colleagues make. Perhaps when the refusal to accept
discrimination and harassment is literally written into the moral code of the legal profession, women and minorities will be fully accepted as equal colleagues, partners, bosses, and opposing counsel.

For all of the above reasons, the National Association of Women Judges strongly supports passage of Resolution 109 and the adoption of amended Model Rule 8.4(g). We again thank the Standing Committee on Ethics and Professional Responsibility, and the cosponsoring Goal III entities, for this effort.

Very truly yours,

Hon. Lisa Walsh
President, NAWJ
11th Judicial Circuit
Miami-Dade, Florida