

**Rule 1.8.3 [4-400] Gifts From Client**  
**(Commission's Proposed Rule Adopted on October 21–22, 2016 – Clean Version)**

- (a) A lawyer shall not:
- (1) solicit a client to make a substantial\* gift, including a testamentary gift, to the lawyer or a person\* related to the lawyer, unless the lawyer or other recipient of the gift is related to the client, or
  - (2) prepare on behalf of a client an instrument giving the lawyer or a person\* related to the lawyer any substantial\* gift, unless (i) the lawyer or other recipient of the gift is related to the client or (ii) the client has been advised by an independent lawyer who has provided a certificate of independent review that complies with the requirements of Probate Code § 21384.
- (b) For purposes of this Rule, related persons\* include a person\* who is “related by blood or affinity” as that term is defined in California Probate Code § 21374(a).

**Comment**

[1] A lawyer or a person\* related to a lawyer may accept a gift from the lawyer's client, subject to general standards of fairness and absence of undue influence. A lawyer also does not violate this Rule merely by engaging in conduct that might result in a client making a gift, such as by sending the client a wedding announcement. Discipline is appropriate where impermissible influence occurs. See *Magee v. State Bar* (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839].

[2] This Rule does not prohibit a lawyer from seeking to have the lawyer or a partner\* or associate of the lawyer named as executor of the client's estate or to another potentially lucrative fiduciary position. Such appointments, however, will be subject to Rule 1.7(b) and (c).



**Proposed Rule 1.8.3 [4-400] Gifts from Client  
Synopsis of Public Comments**

**TOTAL = 2**      **A = 2**  
**D = 0**  
**M = 0**  
**NI = 0**

No.	Commenter/Signatory	Comment on Behalf of Group?	A/D/M/NI <sup>1</sup>	Rule Section or Cmt.	Comment	RRC Response
Y-2016-21g	State Bar Office of Chief Trial Counsel (OCTC) (Dresser) (01-09-17)	Y	A		OCTC supports this rule and the Comments	No response required.
Y-2016-7e	State Bar Standing Committee on Professional Responsibility and Conduct (COPRAC) (Spencer) (12-20-16)	Y	A		COPRAC supports the adoption of proposed Rule 1.8.3 as revised.	No response required.

<sup>1</sup> A = AGREE with proposed Rule

D = DISAGREE with proposed Rule

M = AGREE ONLY IF MODIFIED

NI = NOT INDICATED

