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.... in things racial we have always been and continue to be, in too many ways, essentially a nation of cowards. ...if we are to make progress in this area, we must feel comfortable enough with one another and tolerant enough of each other to have frank conversations about the racial matters that continue to divide us.

—Attorney General Eric Holder, addressing Justice Department employees, February 18, 2009

I am writing to oppose the State Bar's petition to amend Rule 45(a)2 of the Rules of the Arizona Supreme Court to require active licensed Arizona attorneys to attend one hour of mandatory diversity and inclusion training every year for the remainder of their natural professional lives. Diversity and inclusion training is a euphemism that belies the true intentions of its proponents to assign guilt and shame to specific people based on irrelevant, immutable characteristics, to dismantle fundamental and cherished principles of justice and equality, and to institutionalize a dual system of justice that is necessary to facilitate these travesties.

The Petition offers no guidance as to what training on diversity and inclusion entails. Perhaps judicial notice may be taken of reports from training programs conducted by diversity and inclusion professionals for the federal government last year, programs that President Trump banned and that President Biden reinstated his first day in office. Department of Homeland Security training taught white employees that they were "committing microinequities" and had been "socialized into oppressor roles." Treasury Department training taught that "virtually all white people contribute to racism," and that "everyone in the federal government" must be converted to the ideology of "antiracism." Sandia National Laboratories sent white male executives to a 3-day symposium called "White Men's Caucus on Eliminating Racism, Sexism and Homophobia in Organizations," where they did an associative exercise in which the trainers suggested that "white male culture" was equivalent to the "KKK," "white supremacists," and "mass killings." At the conclusion of the conference, the participants were instructed to write letters of apology to imaginary women and people of color, renouncing their "white privilege" and pledging to become "better [allies]."

From these examples, it is clear that training on diversity and inclusion involves the use of groundless stereotypes to scapegoat, humiliate and dehumanize individuals.

The Petition makes much ado about ABA Model Rule 8.4(g). The Model Rule is said to be the inspiration for the Petition. Text of the Model Rule is given pride of place and set out at length in the Petition's first footnote. It is profoundly ironic then, that the instruction propounded by the Petition will violate the Model Rule, for surely diversity and inclusion training constitutes "harassment and discrimination on the basis of race... in conduct related to the practice of law."

(Never mind that the Model Rule is not the law in Arizona, having recently been expressly rejected for adoption in this state, or that to imply otherwise is disingenuous and misleading – it is gospel in the hearts and minds of many nonetheless. Assuming for the sake of argument that the Model Rule has relevance in Arizona, its violation described above can be tolerated only under a dual system of justice that ignores equal protection under the laws. Having been expressly rejected for adoption in this state, however, the Model Rule can be relevant in Arizona only under a dual system of justice that ignores the rule of law.)

Diversity and inclusion training, within the Bar's contemplation, can never be taught, or perhaps, more cynically, can never be learned, since the obligation for every Arizona lawyer to attend the training is perpetual. But diversity and inclusion "training" is not about teaching or learning. It is about ritual public humiliation on par with "struggle sessions" in Communist China. It will be an obligatory reinforcement of racial stereotypes, an indignity degrading to every participant of every color and creed, to be endured every year, year after year, unto ages of ages.

The Petition reminds us that diversity is a core value of our State Bar:

This value represents our commitment to ensuring that the legal profession and the justice system reflect the community it [sic] serves in all of its social, economic, and geographical diversity.

But why? Why must the justice system reflect the community, and what if it did? What then? What if we all woke up tomorrow and the justice system magically "reflected" the community down to the last tittle? Does anyone honestly expect the Bar to proclaim "mission accomplished," disband diversity and inclusion training, and turn its energy and attention (and the application of hundreds of thousands of dollars of our dues) elsewhere? Of course not. "Diversity and inclusion" has nothing to do with the platitudes and euphemisms in which our ostensible core value is cloaked. It is language manipulation of the first magnitude, meaning something quite different from the impression that a superficial interpretation of the words otherwise offers. "Diversity and inclusion" is racial rancor fomentation.

Contrary to the Petition's claim that diversity and inclusion training will "convey that all Arizona attorneys...uphold principles of justice and equality," diversity and inclusion training will perversely do the opposite, requiring us all to forsake principles of justice and equality. It is no overstatement that "diversity and inclusion" is destructive to the rule of law, destructive to equal protection under the laws, and destructive to freedom of speech, to name a few such principles that are the bulwarks of our legal system and profession and now in jeopardy. We will be constrained to disavow Justice O'Connor's naively overly optimistic legislative compromise in *Grutter v. Bollinger* in 2003 "that 25 years from now, the use of racial preferences will no longer be necessary," and acknowledge that the commitment is forever and always. Ours will become, in perpetuity, a dual system of justice.

It is hard to imagine anything more prejudicial to the administration of justice or more erosive of public confidence in the legal profession.