

June 5, 2018

Matthew Pollack  
Executive Clerk  
Maine Supreme Judicial Court  
205 Newbury St #139  
Portland, ME 04101-0368

Dear Mr. Pollack:

On behalf of Berman & Simmons, please accept this as our firm's comments on the proposed amendments to Rule 8.4 of the Maine Rules of Professional Conduct and Rule 5 of the Maine Bar Rules. We appreciate the opportunity to comment on these proposed amendments.

We strongly agree with the intent of the proposed amendments to address bias, harassment, and discrimination in the practice of law in Maine. The proposed amendments are a necessary and positive step in making clear that this type of conduct will not be tolerated in Maine and may have licensure implications.

Over the last two years, the problems of harassment and discrimination have arisen to the forefront of the public discourse. We have learned that any assumptions that the problem was behind us or was limited in scope are unfounded. Bias, harassment, and discrimination are serious and ongoing issues that require the attention of all those who seek redress through the courts. We cannot have a truly fair and effective justice system unless that system is free of bias, harassment, and discrimination. The State of Maine and our legal community need to attract and retain bright and righteous individuals. We cannot do so if judges, attorneys, or others engage in behavior that is disrespectful or uncivil.

Some of us are fortunate to practice as part of established law firms with long histories and known and respected attorneys. While the attorneys in that group may not be exposed to the worst of the behavior, we have learned through multiple reports that younger women, solo practitioners, and others outside of positions of power continue to suffer through shocking episodes of harassment. This cannot be accepted.

Craig A. Bramley, Esq.

June 5, 2018

Page 2

We support the amendment to Rule 8.4 of the Maine Rules of Professional Conduct to make clear that any harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, or gender identity constitutes professional misconduct for a lawyer. While it is disappointing that such an amendment is necessary in Maine, we believe that the clear statement made by this amendment removes any question of what is acceptable to the Maine Bar.

We support the amendment to Rule 5 of the Maine Bar Rules to require one live credit hour of continuing legal education per year primarily concerned with harassment and discriminatory conduct or communication related to the practice of law. Overall, our experience has been that the Maine Bar has a positive culture with emphasis on civility and collegiality. Requiring attorneys who already meet these high standards to attend one hour of CLE on these subjects is a small price to pay to address the problem through education before it occurs rather than discipline after. It has been our experience that even attorneys who have always acted with the greatest professionalism still have an opportunity to learn how to further address bias and discrimination in our legal community. Our hope is that this ongoing education of our legal community will help to reveal any ongoing issues and encourage continued discussion about bias, discrimination and harassment in a manner that can help to move our community forward.

We appreciate the Court's attention to this important issue and the opportunity to comment on these proposed rules.

Sincerely,



Craig A. Bramley  
*Managing Director*  
*Berman & Simmons*

CAB/vlf  
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