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Matthew Pollack, Esq.
Executive Clerk
Maine Supreme Judicial Court
205 Newbury Street, Room 139
Portland, Maine 04112-0368

Via E-mail & hard copy by U.S. Mail

RE: Comment on Proposed Revisions to Maine Bar Rules and Rules of Professional Conduct

Dear Matt,

I write to support the proposed changes to the Maine Bar Rules and to the Rules of Professional Conduct concerning harassment and discrimination. I note a likely typo in 8.4(g) which I think should read "knows or reasonably should know ...". Other than that I have no suggested revisions to the texts.

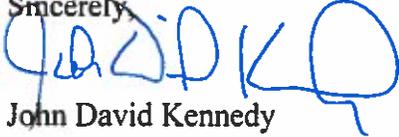
I would have hoped that such an explicit provision in the rules would be unnecessary, but unfortunately, in the context of training I have done over the past two years, both within Eaton Peabody, and for more broad audiences, I conclude that instances of harassment and discrimination, especially directed at younger and female attorneys, cannot be dismissed as merely episodic and unusual events, and require a system-wide remedial approach.

Having said that, I do fear that how the rule is actually interpreted and enforced will lead to more complaints and arguments that are collateral to core disputes being litigated. I hope that the Court and the Overseers will create a system akin to "pre-trial diversion" and "informal resolution" in the criminal and juvenile courts, in which "first offenses" and/or non-egregious examples of verbal harassment or discrimination are referred for some type of counseling required through the Maine Assistance Program for Lawyers and Judges.

If the proposed rules are adopted, and if the Court or the Overseers are interested in having interested persons work on the drafting of implementation provisions along these lines, I would be very willing to assist in that effort.

Matthew Pollack, Esq.
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Thank you for consideration of these comments.

Sincerely,

John David Kennedy

JDK/rt
cc: Aria Eee, Esq.
Nan Heald, Esq.
William Nugent, Esq.