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October 15, 2018

Nan Heald
Executive Director

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

Re: Comments on proposed amendments to the Maine Rules of
Professional Conduct

Dear Matt:

The enclosed comments are submitted on behalf of Pine Tree Legal
Assistance. Please let me know if additional information would be helpful.

Very truly yours,



Nan Heald
Executive Director

Pine Tree Legal Assistance is a statewide nonprofit providing free legal assistance to low-income individuals in the civil justice system in Maine. It has been in operation since 1967 and currently maintains offices in six locations (Portland, Lewiston, Augusta, Bangor, Machias and Presque Isle.) It currently employs 39 lawyers, most of whom regularly appear in Maine District Courts throughout the state, and, less frequently, before the Superior Court, Supreme Judicial Court and Maine probate courts.

The Maine Supreme Judicial Court has invited comments on proposed amendments to the Maine Rules of Professional Conduct. The proposed amendments would add new language to state specifically that sexual relationships between attorneys and clients are prohibited.

Pine Tree Legal Assistance writes to support the proposed amendment to Maine Rules of Professional Conduct Rule 1.8(j). It is an opportune time for the Maine Bar to acknowledge the power differential between an attorney and client and how those dynamics can contribute to unwanted sexual relationships and sexual assault.

The power dynamic between attorneys and clients is uneven for many reasons:

- We are the only licensed professionals who can provide legal representation and legal advice.
- We have unique experience and training that tells the public they are better off being represented by an attorney than representing themselves.
- Many attorneys have esteemed reputations in their communities.
- Clients must have significant trust in their attorneys in order to rely on us to help them with their legal needs.
- There are limited legal services available to the people of Maine. Private attorney services are very expensive and legal aid programs do not have the funding to meet the needs of even very low-income Mainers (not to mention low and average income Mainers who also cannot afford private attorneys). In many rural areas, the number of attorneys in the community is not sufficient to meet the need.
- Clients frequently hire attorneys when they are in crisis and have no other options.
- The problems that attorneys help clients with are often fundamental to the client's well-being, whether regarding finances, safety, health, or any number of legal issues.

Sexual relationships are inappropriate when a relationship has such an imbalance of power because of the pressure the party with less power would feel to enter into that relationship. Other professions with similar imbalances of power have recognized this issue for years: doctors, therapists, and law enforcement all have prohibitions on sexual relationships. It is time for attorneys to recognize that they have power over their clients, too, and that the power does not create a context or environment for a healthy sexual relationship.

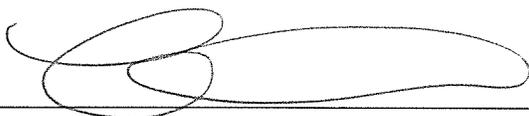
Attorneys have not always made appropriate decisions about clients and sexual relationships. Pine Tree Legal has represented clients who have disclosed unwanted sexual relationships with former attorneys on several occasions and there have been notable disciplinary decisions from Board of Overseers of the Bar that involve inappropriate attorney-client sexual relationships. We

do not believe that the occurrence of these relationships is limited to our client population or to certain subsets of the law, like family law clients. All attorney-client relationships come with uneven power dynamics.

We think it is crucial to have a bright-line rule that no attorney-client sexual relationship is appropriate. However, if the Court is persuaded that it would be appropriate to have a sexual relationship in certain subsets of attorney-client relationships, we ask that any exceptions be explicitly stated and narrowly defined to protect clients to the greatest extent possible.

The purpose of the Rules of Professional Conduct is the protection of the public. The protection of the public must take priority over the interest of attorneys in hypothetical sexual relationships. Attorneys must recognize that in order to ensure clients do not feel pressure to enter into unwanted sexual relationships, attorneys must not enter in sexual relationships with clients.

Respectfully submitted on October 15, 2018,



Nan Heald, Executive Director

Pine Tree Legal Assistance

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