

VIA EMAIL: lawcourt.clerk@courts.maine.gov

December 29, 2017

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

RE: Comments on Proposed Amendment to Rule 8.4 of the
Maine Rules of Professional Conduct

Dear Matt:

Attached please find Drummond Woodsum's comments on the proposed amendment to Rule 8.4 of the Maine Rules of Professional Conduct.

Please feel free to contact me with any questions.

Sincerely,



Benjamin E. Marcus
Managing Director

**Comments on proposed amendment to Rule 8.4 of the Maine Rules of Professional Conduct
Submitted by Drummond Woodsum**

Drummond Woodsum takes this opportunity to comment on the proposed amendment to Rule 8.4 of the Maine Rules of Professional Conduct to add subdivision (g).

We agree strongly with the intent of the proposed rule change to make clear that discrimination and harassment by attorneys is unacceptable in Maine and may have licensure implications. We believe, however, that the proposed rule does not go far enough to address all instances of discrimination and harassment by an attorney which reflect adversely on their fitness to practice law.

ABA Model Rule 8.4(g), unlike the proposed rule amendment, is broader in scope, making it professional misconduct to engage in harassment or discrimination in conduct related to the practice of law regardless of whether such conduct is “unlawful” under employment or criminal statutes.

Model Rule 8.4(g) provides:

It is professional misconduct for a lawyer to:

(g) engage in conduct that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

We believe adopting this version of an anti-discrimination/anti-harassment conduct rule would do more to address the range of potential discriminatory or harassing behaviors by an attorney for which licensure implications should attach.

We appreciate the Court’s attention to this important problem as well as the opportunity to comment on this proposed rule.