

**Subject: Comment on Proposed Amendment to Civil Rule 8.4**

From: Poulin, Michael R. - To: lawcourt.clerk@courts.maine.gov - Date: December 4, 2017 at 2:38 PM

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

Dear Matt,

Please accept this comment on proposed Civil Rule 8.4(g) for consideration by the Court.

“engage in unlawful harassment or unlawful discrimination”

1. What is the intended scope of the term “unlawful harassment”? Unlawful harassment (e.g. based on sex, race, religion) generally would be subsumed within the term “unlawful discrimination”. What additional or different conduct is this intended to capture?
2. A law office is considered a “place of public accommodation” under state and federal disability discrimination laws. If an attorney fails to make reasonable accommodations to a prospective client or an employee with a disability (e.g. fails to provide a sign language interpreter for a hearing impaired person), or does not grant an employee an additional medical leave extension after six months of leave, is it the intent of this rule that the attorney would be subject to disciplinary action for unlawful discrimination, in addition to sanctions under the ADA and MHRA?
3. If the proposed rule read “engage in **intentional and invidious** unlawful discrimination” the apparent goal of reaching sexual harassment and other intentional and invidious forms of discrimination could be achieved without expanding the scope of discipline to cover the more typical and more “technical” violations of the complex scheme of federal and state discrimination laws.

Thank you.

Mike Poulin

Michael R. Poulin, Esq.  
**Skelton Taintor & Abbott**  
Attorneys at Law  
95 Main Street Auburn, ME 04210  
P: 207.784.3200 x.3015  
F: 207.784.3345  
[www.STA-Law.com](http://www.STA-Law.com)

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