IN THE SUPREME COURT OF THE STATE OF NEBRASKA

IN RE:) CASE NO
)
) PETITION FOR REVISION TO THE
) NEBRASKA RULES OF
) PROFESSIONAL CONDUCT
THE NEBRASKA RULES OF)
PROFESSIONAL CONDUCT	

COMES NOW the Nebraska State Bar Association ("NSBA"), by and through its Past President, Jill Robb Ackerman, and hereby petitions the Nebraska Supreme Court to adopt revisions to the Nebraska Rules of Professional Conduct.

In support of this Petition, the NSBA respectfully states as follows:

- 1. The purpose of the NSBA is to "improve the administration of justice; to foster and maintain high standards of conduct, integrity, confidence, and public service on the part of those engaged in the practice of law; to safeguard and promote the proper professional interests of the members of the Bar; to provide improvements in the education and qualifications required for admission to the Bar, the study of the science of jurisprudence and law reform, and the continuing legal education of the members of the Bar; to improve the relations of the Bar with the public; to carry on a continuing program of legal research; and to encourage cordial relations among the members of the Bar." Neb. Sup. Ct. R. § 3-802.
- 2. In July 2018, the Women in the Law Section of the NSBA issued a survey to the members of the Nebraska Bar to conduct an assessment in the areas of discrimination, inappropriate conduct and bias in the workplace and in the practice of law based on gender (the "Survey"), with more than 500 active licensed lawyers from both genders participating (an article summarizing the survey and the survey results are included as Exhibit A).
 - 3. Over eighty percent (80%) of respondents to the Survey stated they believed that

gender-based inappropriate conduct, and gender-based harassment and discrimination are occurring in Nebraska's legal communities and workplaces, with less than eight percent (8%) stating they believed such conduct was not occurring.

- 4. Nearly seventy percent (70%) of respondents to the Survey had personally experienced or witnessed conduct that demonstrated inappropriate behavior, harassment and/or discrimination on the basis of gender or other forms of gender bias.
- 5. Over one-third (1/3) of respondents to the Survey did not believe they had adequate reporting mechanisms in their places of employment or within the practice of law to report gender-based harassment, discrimination and/or biased behavior.
- 6. Over one-quarter (1/4) of respondents to the Survey believe that even if they reported the misconduct, their workplace and/or the legal community would not effectively respond to a report of gender-based harassment, discrimination and/or biased behavior.
- 7. The comment section of the Survey further contained consistent and numerous allegations of gender-based inappropriate conduct, bias and discrimination in the legal profession including: physical assaults, inappropriate touching, and grabbing; sexual invitations from attorneys (including supervising attorneys) in the workplace and/or while making hiring decisions; and wide-ranging and inappropriate comments on female lawyers' physical appearance;
- 8. Ensuring the high standards of conduct and integrity among the members of the Nebraska Bar is fundamental to the purpose of the NSBA.
- 9. The NSBA proposes that the Rule § 3-508.4 be amended to more specifically prohibit conduct constituting 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 connection with a lawyer's professional activities.

10. The NSBA's amendments are set forth in the attached Exhibit "B."

11. The NSBA's amendments are modeled after the Minnesota Rules of Professional

Conduct (see proposed Sections I and J) and were developed in consultation with the Nebraska

Counsel for Discipline.

12. The American Bar Association has amended its Rules of Professional Conduct to

prohibit conduct that a 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 (see proposed Section H).

13. On information and belief, twelve (12) other states have amended or are seeking to

amend their Rules of Professional Conduct to include the conduct prohibited by the NSBA's

amendments to Rule § 3-508.4. (See Exhibit C for research conducted for the Women in the Law

Section by a law student).

14. Amending Rule § 3-508.4 is necessary to maintain the high standards of conduct

and integrity among the members of the Nebraska Bar.

WHEREFORE, THE UNDERSIGNED, ON BEHALF OF THE NEBRASKA STATE

BAR ASSOCIATION, REQUESTS THE SUPREME COURT OF THE STATE OF

NEBRASKA TO APPROVE AND ADOPT THE PROPOSED REVISION TO THE

NEBRASKA RULES OF PROFESSIONAL CONDUCT AS SET FORTH HEREIN.

Respectfully submitted,

NEBRASKA STATE BAR ASSOCIATION,

Petitioner

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