

STATE OF MAINE
SUPREME JUDICIAL COURT
AMENDMENTS TO THE MAINE BAR RULES

2008 Me. Rules 07

Effective: April 1, 2008

All of the Justices concurring therein, the following amendments to the Maine Bar Rules are hereby adopted, to become effective on April 1, 2008. This order amends the Maine Bar Rules, as those Rules have been amended by 2008 Me. Rules 01, as last amended December 12, 2007, and also effective April 1, 2008.

1. Maine Bar Rule 3.6(e)(1) is amended to read as follows:

3.6 Conduct During Representation

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(e) Preserving Identity of Funds and Property.

(1) All funds of clients paid to a lawyer or law firm, other than retainers and advances for fees, costs and expenses, shall be deposited in one or more identifiable accounts maintained in the state in which the law office is situated at a financial institution authorized to do business in such state. No funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(i) Funds reasonably sufficient to pay institutional service charges may be deposited therein; and

(ii) Funds belonging in part to a client and in part presently or potentially to a lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive the funds is disputed by the client; in that event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(iii) For purposes of this rule, “retainer” means a fee paid to an attorney for professional services that is earned upon the attorney’s engagement. A retainer payment is the property of the attorney when

received. “Retainer” does not include a payment by a client as an advance payment that will be credited toward fees for professional services as the attorney earns the fees.

2. Maine Bar Rule 6(a)(2) is amended to read as follows:

RULE 6. REGISTRATION; LIST OF TRUST ACCOUNTS

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(2) *IOLTA Accounts.* Every lawyer admitted to practice in this State shall annually certify to the Board of Overseers of the Bar in connection with the annual renewal of the lawyer’s registration, that:

(A) To the lawyer’s knowledge after reasonable investigation

(1) the lawyer or the lawyer’s law firm maintains at least one IOLTA account, and

(2) the lawyer has taken reasonable steps to ensure that all client funds are held in client trust accounts meeting the requirements of these Rules, or

(B) That the lawyer is exempt from maintaining an IOLTA or other trust account because the lawyer:

(1) is not engaged in the private practice of law;

(2) does not have an office within the State of Maine;

(3) is (i) a judge or other judicial officer employed full time by the United States Government, the State of Maine or another state government, (ii) on active duty with the armed services, or (iii) employed full time as an attorney by a local, state, or federal government, and is not otherwise engaged in the private practice of law;

(4) is counsel for a corporation or non-profit organization or a teacher or professor employed by an educational institution, and is not otherwise engaged in the private practice of law;

