

1 RULE 7.1: COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

2 A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's  
3 services. A communication is false or misleading if it contains a material misrepresentation of  
4 fact or law, or omits a fact necessary to make the statement considered as a whole not  
5 materially misleading.

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7 The maximum penalty for a violation of this rule is disbarment.

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9 Comment

10 [1] This Rule governs all communications about a lawyer's services, including advertising.  
11 Whatever means are used to make known a lawyer's services, statements about them must be  
12 truthful.

13 [2] Misleading truthful statements are prohibited by this Rule. A truthful statement is  
14 misleading if it omits a fact necessary to make the lawyer's communication considered as a  
15 whole not materially misleading. A truthful statement is misleading if a substantial likelihood  
16 exists that it will lead a reasonable person to formulate a specific conclusion about the lawyer  
17 or the lawyer's services for which there is no reasonable factual foundation. A truthful  
18 statement is also misleading if presented in a way that creates a substantial likelihood that a  
19 reasonable person would believe the lawyer's communication requires that person to take  
20 further action when, in fact, no action is required.

21 [3] A communication that truthfully reports a lawyer's achievements on behalf of clients or  
22 former clients may be misleading if presented so as to lead a reasonable person to form an  
23 unjustified expectation that the same results could be obtained for other clients in similar  
24 matters without reference to the specific factual and legal circumstances of each client's case.  
25 Similarly, an unsubstantiated claim about a lawyer's or law firm's services or fees, or an  
26 unsubstantiated comparison of the lawyer's or law firm's services or fees with those of other

27 lawyers or law firms, may be misleading if presented with such specificity as would lead a  
28 reasonable person to conclude that the comparison or claim can be substantiated. The  
29 inclusion of an appropriate disclaimer or qualifying language may preclude a finding that a  
30 statement is likely to create unjustified expectations or otherwise mislead the public.

31 [4] It is professional misconduct for a lawyer to engage in conduct involving dishonesty, fraud,  
32 deceit or misrepresentation. Rule 8.4(a)(4). See also Rule 8.4(a)(6) for the prohibition against  
33 stating or implying an ability to improperly influence a government agency or official or to  
34 achieve results by means that violate the Rules of Professional Conduct or other law.

35 [5] Firm names, letterhead and professional designations are communications concerning a  
36 lawyer's services. A firm may be designated by the names of all or some of its current members,  
37 by the names of deceased members where there has been a succession in the firm's identity or  
38 by a trade name if it is not false or misleading. A lawyer or law firm also may be designated by a  
39 distinctive website address, social media username or comparable professional designation  
40 that is not misleading. A law firm name or designation is misleading if it implies a connection  
41 with a government agency, with a deceased lawyer who was not a former member of the firm,  
42 with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or with a  
43 public or charitable legal services organization. If a firm uses a trade name that includes a  
44 geographical name such as "Springfield Legal Clinic," an express statement explaining that it is  
45 not a public legal aid organization may be required to avoid a misleading implication.

46 [6] A law firm with offices in more than one jurisdiction may use the same name or other  
47 professional designation in each jurisdiction.

48 [7] Lawyers may not imply or hold themselves out as practicing together in one firm when they  
49 are not a firm, as defined in Rule 1.0(c), because to do so would be false and misleading.

50 [8] It is misleading to use the name of a lawyer holding a public office in the name of a law  
51 firm, or in communications on the law firm's behalf, during any substantial period in which the  
52 lawyer is not actively and regularly practicing with the firm.

1 RULE 7.2: COMMUNICATIONS CONCERNING A LAWYER'S SERVICES: SPECIFIC RULES

2 (a) A lawyer may communicate information regarding the lawyer's services through any media.

3 (b) A lawyer shall not compensate, give or promise anything of value to a person for  
4 recommending the lawyer's services except that a lawyer may:

5 (1) pay the reasonable costs of advertisements or communications permitted by this Rule;

6 (2) pay the usual and reasonable fees or dues charged by a lawyer referral service, if the service  
7 does not engage in conduct that would violate the Rules if engaged in by a lawyer;

8 (3) pay the usual and reasonable fees or dues charged by a bar-operated non-profit referral  
9 service, including a fee which is calculated as a percentage of the legal fees earned by the  
10 lawyer to whom the service has referred a matter, provided such bar-operated non-profit  
11 lawyer referral service meets the following criteria:

12 i. the lawyer referral service shall be operated in the public interest for the  
13 purpose of referring prospective clients to lawyers, pro bono and public service legal programs,  
14 and government, consumer or other agencies who can provide the assistance the clients need.  
15 Such organization shall file annually with the Office of the General Counsel a report showing its  
16 rules and regulations, its subscription charges, agreements with counsel, the number of lawyers  
17 participating and the names and addresses of the lawyers participating in the service;

18 ii. the sponsoring bar association for the lawyer referral service must be open to all  
19 lawyers licensed and eligible to practice in this state who maintain an office within the  
20 geographical area served, and who meet reasonable objectively determinable experience  
21 requirements established by the bar association;

22 iii. the combined fees charged by a lawyer and the lawyer referral service to a client  
23 referred by such service shall not exceed the total charges which the client would have paid had  
24 no service been involved; and

25           iv.       a lawyer who is a member of the qualified lawyer referral service must maintain  
26 in force a policy of errors and omissions insurance in an amount no less than \$100,000 per  
27 occurrence and \$300,000 in the aggregate.

28 (4) pay the usual and reasonable fees to a qualified legal services plan or insurer providing legal  
29 services insurance as authorized by law to promote the use of the lawyer's services, the  
30 lawyer's partner or associates services so long as the communications of the organization are  
31 not false, fraudulent, deceptive or misleading;

32 (5) pay for a law practice in accordance with Rule 1.17;

33 (6) refer clients to another lawyer or a nonlawyer professional pursuant to an agreement not  
34 otherwise prohibited under these Rules that provides for the other person to refer clients or  
35 customers to the lawyer, if:

36           (i) the reciprocal referral agreement is not exclusive; and

37           (ii) the client is informed of the existence and nature of the agreement; and

38 (7) give nominal gifts as an expression of appreciation that are neither intended nor reasonably  
39 expected to be a form of compensation for recommending a lawyer's services.

40 (c) A lawyer may communicate the fact that the lawyer does or does not practice in particular  
41 fields of law. A lawyer who is a specialist in a particular field of law by experience, specialized  
42 training or education, or is certified by a recognized and bona fide professional entity, may  
43 communicate such specialty or certification so long as the statement is not false or misleading.

44 (d) Any communication made under this Rule must include the name and contact information  
45 of at least one lawyer or law firm responsible for its content.

46 The maximum penalty for a violation of this Rule is disbarment.

47

48 Comment

49 [1] This Rule permits public dissemination of information concerning a lawyer's or law firm's  
50 name, address, email address, website, and telephone number; the kinds of services the lawyer  
51 will undertake; the basis on which the lawyer's fees are determined, including prices for specific  
52 services and payment and credit arrangements; a lawyer's foreign language ability; names of  
53 references and, with their consent, names of clients regularly represented; and other  
54 information that might invite the attention of those seeking legal assistance.

55 Paying Others to Recommend a Lawyer

56 [2] Except as permitted under paragraphs (b)(1)-(b)(7), lawyers are not permitted to pay others  
57 for recommending the lawyer's services. A communication contains a recommendation if it  
58 endorses or vouches for a lawyer's credentials, abilities, competence, character, or other  
59 professional qualities. Directory listings and group advertisements that list lawyers by practice  
60 area, without more, do not constitute impermissible "recommendations."

61 [3] Paragraph (b)(1) allows a lawyer to pay for advertising and communications permitted by  
62 this Rule, including the costs of print directory listings, on-line directory listings, newspaper ads,  
63 television and radio airtime, domain-name registrations, sponsorship fees, Internet-based  
64 advertisements, and group advertising. A lawyer may compensate employees, agents and  
65 vendors who are engaged to provide marketing or client development services, such as  
66 publicists, public-relations personnel, business-development staff, television and radio station  
67 employees or spokespersons and website designers.

68 [4] Paragraph (b)(7) permits lawyers to give nominal gifts as an expression of appreciation to a  
69 person for recommending the lawyer's services or referring a prospective client. The gift may  
70 not be more than a token item as might be given for holidays, or other ordinary social  
71 hospitality. A gift is prohibited if offered or given in consideration of any promise, agreement  
72 or understanding that such a gift would be forthcoming or that referrals would be made or  
73 encouraged in the future.

74 [5] A lawyer may pay others for generating client leads, such as Internet-based client leads, as  
75 long as the lead generator does not recommend the lawyer, any payment to the lead generator  
76 is consistent with Rules 1.5(e) (division of fees) and 5.4 (professional independence of the  
77 lawyer), and the lead generator's communications are consistent with Rule 7.1  
78 (communications concerning a lawyer's services). To comply with Rule 7.1, a lawyer must not  
79 pay a lead generator that states, implies, or creates a reasonable impression that it is  
80 recommending the lawyer, is making the referral without payment from the lawyer, or has  
81 analyzed a person's legal problems when determining which lawyer should receive the referral.  
82 See Comment [2] (definition of "recommendation"). See also Rule 5.3 (duties of lawyers and  
83 law firms with respect to the conduct of nonlawyers); Rule 8.4(a)(1) (duty to avoid violating the  
84 Rules through the acts of another).

85 [6] A lawyer may pay the usual charges of a legal service plan or a lawyer referral service. A  
86 legal service plan is a prepaid or group legal service plan or a similar delivery system that assists  
87 people who seek to secure legal representation. A lawyer referral service, on the other hand, is  
88 any organization that holds itself out to the public as a lawyer referral service.

89 [7] A lawyer who accepts assignments or referrals from a legal service plan or referrals from a  
90 lawyer referral service must act reasonably to assure that the activities of the plan or service  
91 are compatible with the lawyer's professional obligations. Legal service plans and lawyer  
92 referral services may communicate with the public, but such communication must be in  
93 conformity with these Rules. Thus, advertising must not be false or misleading, as would be the  
94 case if the communications of a group advertising program or a group legal services plan would  
95 mislead the public to think that it was a lawyer referral service sponsored by a state agency or  
96 bar association.

97 [8] A lawyer also may agree to refer clients to another lawyer or a nonlawyer professional, in  
98 return for the undertaking of that person to refer clients or customers to the lawyer. Such  
99 reciprocal referral arrangements must not interfere with the lawyer's professional judgment as  
100 to making referrals or as to providing substantive legal services. See Rules 2.1 and 5.4(c). Except

101 as provided in Rule 1.5(e), a lawyer who receives referrals from a lawyer or nonlawyer  
102 professional must not pay anything solely for the referral, but the lawyer does not violate  
103 paragraph (b) of this Rule by agreeing to refer clients to the other lawyer or nonlawyer  
104 professional, so long as the reciprocal referral agreement is not exclusive and the client is  
105 informed of the referral agreement. Conflicts of interest created by such arrangements are  
106 governed by Rule 1.7. Reciprocal referral agreements should not be of indefinite duration and  
107 should be reviewed periodically to determine whether they comply with these Rules. This Rule  
108 does not restrict referrals or divisions of revenues or net income among lawyers within firms  
109 comprised of multiple entities.

#### 110 Communications about Fields of Practice

111 [9] Paragraph (c) of this Rule permits a lawyer to communicate that the lawyer does or does  
112 not practice in particular areas of law. A lawyer is generally permitted to state that the lawyer  
113 “concentrates in” or is a “specialist,” practices a “specialty,” or “specializes in” particular fields  
114 based on the lawyer’s experience, specialized training or education, but such communications  
115 are subject to the “false and misleading” standard applied in Rule 7.1 to communications  
116 concerning a lawyer’s services.

117 [10] The Patent and Trademark Office has a long-established policy of designating lawyers  
118 practicing before the Office. The designation of Admiralty practice also has a long historical  
119 tradition associated with maritime commerce and the federal courts. A lawyer’s  
120 communications about these practice areas are not prohibited by this Rule.

#### 121 Required Contact Information

122 [11] This Rule requires that any communication about a lawyer or law firm’s services include  
123 the name of, and contact information for, the lawyer or law firm. Contact information includes  
124 a website address, a telephone number, an email address or a physical office location.

125

1 Rule 7.3: Solicitation of Clients

2 (a) "Solicitation" or "solicit" denotes a communication initiated by or on behalf of a lawyer or  
3 law firm that is directed to a specific person the lawyer knows or reasonably should know needs  
4 legal services in a particular matter and that offers to provide, or reasonably can be understood  
5 as offering to provide, legal services for that matter.

6 (b) A lawyer shall not solicit professional employment by live person-to-person contact when a  
7 significant motive for the lawyer's doing so is the lawyer's or law firm's pecuniary gain, unless  
8 the contact is with a:

9 (1) lawyer;

10 (2) person who has a family, close personal, or prior business or professional relationship with  
11 the lawyer or law firm; or

12 (3) person who routinely uses for business purposes the type of legal services offered by the  
13 lawyer.

14 (c) A lawyer shall not solicit professional employment even when not otherwise prohibited by  
15 paragraph (b), if:

16 (1) the target of the solicitation has made known to the lawyer a desire not to be solicited by  
17 the lawyer; or

18 (2) the solicitation involves coercion, duress, fraud, overreaching, harassment, intimidation or  
19 undue influence; or

20 (3) the written communication concerns an action for personal injury or wrongful death or  
21 otherwise relates to an accident or disaster involving the person to whom the communication is  
22 addressed or a relative of that person, unless the accident or disaster occurred more than 30  
23 days prior to the communication; or



24 (4) the lawyer knows or reasonably should know that the physical, emotional or mental state of  
25 the person is such that the person could not exercise reasonable judgment in employing a  
26 lawyer.

27 (d) This Rule does not prohibit communications authorized by law or ordered by a court or  
28 other tribunal.

29 (e) Notwithstanding the prohibitions in this Rule, a lawyer may participate with a prepaid or  
30 group legal service plan operated by an organization not owned or directed by the lawyer that  
31 uses live person-to-person contact to enroll members or sell subscriptions for the plan from  
32 persons who are not known to need legal services in a particular matter covered by the plan.

33 The maximum penalty for a violation of this Rule is disbarment.

34

#### 35 Comment

36 [1] Paragraph (b) prohibits a lawyer from soliciting professional employment by live person-to-  
37 person contact when a significant motive for the lawyer's doing so is the lawyer's or the law  
38 firm's pecuniary gain. A lawyer's communication is not a solicitation if it is directed to the  
39 general public, such as through a billboard, an Internet banner advertisement, a website or a  
40 television commercial, or if it is in response to a request for information or is automatically  
41 generated in response to electronic searches.

42 [2] "Live person-to-person contact" means in-person, face-to-face, live telephone and other  
43 real-time visual or auditory person-to-person communications where the person is subject to a  
44 direct personal encounter without time for reflection. Such person-to-person contact does not  
45 include chat rooms, text messages or other written communications that recipients may easily  
46 disregard. A potential for overreaching exists when a lawyer, seeking pecuniary gain, solicits a  
47 person known to be in need of legal services. This form of contact subjects a person to the  
48 private importuning of the trained advocate in a direct interpersonal encounter. The person,

49 who may already feel overwhelmed by the circumstances giving rise to the need for legal  
50 services, may find it difficult to fully evaluate all available alternatives with reasoned judgment  
51 and appropriate self-interest in the face of the lawyer's presence and insistence upon an  
52 immediate response. The situation is fraught with the possibility of undue influence,  
53 intimidation, and overreaching.

54 [3] The potential for overreaching inherent in live person-to-person contact justifies its  
55 prohibition, since lawyers have alternative means of conveying necessary information. In  
56 particular, communications can be mailed or transmitted by email or other electronic means  
57 that do not violate other laws. These forms of communications make it possible for the public  
58 to be informed about the need for legal services, and about the qualifications of available  
59 lawyers and law firms, without subjecting the public to live person-to-person persuasion that  
60 may overwhelm a person's judgment.

61 [4] The contents of live person-to-person contact can be disputed and may not be subject to  
62 third-party scrutiny. Consequently, they are much more likely to approach (and occasionally  
63 cross) the dividing line between accurate representations and those that are false and  
64 misleading.

65 [5] There is far less likelihood that a lawyer would engage in overreaching against a former  
66 client, or a person with whom the lawyer has a close personal, family, business or professional  
67 relationship, or in situations in which the lawyer is motivated by considerations other than the  
68 lawyer's pecuniary gain. Nor is there a serious potential for overreaching when the person  
69 contacted is a lawyer or is known to routinely use the type of legal services involved for  
70 business purposes. Examples include persons who routinely hire outside counsel to represent  
71 the entity; entrepreneurs who regularly engage business, employment law or intellectual  
72 property lawyers; small business proprietors who routinely hire lawyers for lease or contract  
73 issues; and other people who routinely retain lawyers for business transactions or formations.  
74 Paragraph (b) is not intended to prohibit a lawyer from participating in constitutionally  
75 protected activities of public or charitable legal-service organizations or bona fide political,

76 social, civic, fraternal, employee or trade organizations whose purposes include providing or  
77 recommending legal services to their members or beneficiaries.

78 [6] A solicitation that contains false or misleading information within the meaning of Rule 7.1,  
79 that involves coercion, duress, fraud, overreaching, harassment, intimidation or undue  
80 influence within the meaning of Rule 7.3 (c)(2), or that involves contact with someone who has  
81 made known to the lawyer a desire not to be solicited by the lawyer within the meaning of Rule  
82 7.3(c)(1) is prohibited. Live, person-to-person contact of individuals who may be especially  
83 vulnerable to coercion or duress is ordinarily not appropriate, for example, the elderly, those  
84 whose first language is not English, or the disabled.

85 [7] This Rule does not prohibit a lawyer from contacting representatives of organizations or  
86 groups that may be interested in establishing a group or prepaid legal plan for their members,  
87 insureds, beneficiaries or other third parties for the purpose of informing such entities of the  
88 availability of and details concerning the plan or arrangement which the lawyer or lawyer's firm  
89 is willing to offer. This form of communication is not directed to people who are seeking legal  
90 services for themselves. Rather, it is usually addressed to an individual acting in a fiduciary  
91 capacity seeking a supplier of legal services for others who may, if they choose, become  
92 prospective clients of the lawyer. Under these circumstances, the activity which the lawyer  
93 undertakes in communicating with such representatives and the type of information  
94 transmitted to the individual are functionally similar to and serve the same purpose as  
95 advertising permitted under Rule 7.2.

96 [8] Communications authorized by law or ordered by a court or tribunal include a notice to  
97 potential members of a class in class action litigation.

98 [9] Paragraph (e) of this Rule permits a lawyer to participate with an organization which uses  
99 personal contact to enroll members for its group or prepaid legal service plan, provided that the  
100 personal contact is not undertaken by any lawyer who would be a provider of legal services  
101 through the plan. The organization must not be owned by or directed (whether as manager or  
102 otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (e)

103 would not permit a lawyer to create an organization controlled directly or indirectly by the  
104 lawyer and use the organization for the person-to-person solicitation of legal employment of  
105 the lawyer through memberships in the plan or otherwise. The communication permitted by  
106 these organizations must not be directed to a person known to need legal services in a  
107 particular matter, but must be designed to inform potential plan members generally of another  
108 means of affordable legal services. Lawyers who participate in a legal service plan must  
109 reasonably assure that the plan sponsors are in compliance with Rules 7.1, 7.2 and 7.3 (c).

110