
September 30, 2008

Mr. Mark Levison
10 S. Broadway, 13th Floor
St. Louis, MO 63102

RE: Proposed Lawyer Advertising Rule Changes

Dear Mr. Levison:

It is my understanding that the Board of Governors is considering the below listed rule changes, please take these comments into consideration when deliberating and voting on said changes:

Proposed Rule 4-7.3(b)(3):

ANY COMPLAINTS ABOUT THIS LETTER OR THE REPRESENTATION OF ANY LAWYER MAY BE DIRECTED TO THE OFFICE OF THE CHIEF DISCIPLINARY COUNSEL, 3335 AMERICAN AVENUE, JEFFERSON CITY, MISSOURI 65109-1079 (573) 635.7400.

This proposed addition is likely to result in numerous unnecessary and unsubstantiated complaints. It is extremely likely that many complaints may be resolved by simply contacting the attorney or firm responsible for said mailing. However, inviting one to contact the Office of the Chief Disciplinary Counsel ("OCDC") initially, is not the most efficient method of resolving potential complaints, and may not be the best utilization of the OCDC's time and resources.

Proposed Rule 4-7.3(b)(10):

SIMULTANEOUSLY WITH THE MAILING OF THE SOLICITATION, THE LAWYER MUST FILE A COPY OF IT WITH THE OFFICE OF CHIEF DISCIPLINARY COUNSEL ALONG WITH A SIGNED AFFIDAVIT IN WHICH THE LAWYER ATTESTS TO: (1) THE TRUTHFULNESS OF ALL FACTS CONTAINED IN THE COMMUNICATION; (2) HOW THE IDENTITY AND SPECIFIC LEGAL NEED OF THE INTENDED RECIPIENTS WERE DISCOVERED; AND (3) HOW

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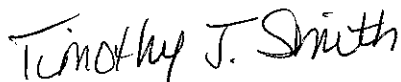
THE IDENTITY AND SPECIFIC NEED OF THE
INTENDED RECIPIENTS WERE VERIFIED BY THE
SOLICITATING LAWYER.

This proposed rule if implemented, will be very expensive for small firms and solo practitioners to comply with. Some attorneys mail hundreds of solicitations daily. This proposal would increase expenses related to postage, copies, and ink. This proposed rule is also unnecessary because anyone making a complaint is likely to keep a copy of said solicitation for their records. This proposed rule is also redundant because Rule 4-7.3(c)(3) prohibits solicitations from being false, fraudulent, misleading or deceptive. In other words, solicitations are already required to be truthful.

Lastly, this proposed rule would require lawyers to somehow verify the identity and specific need of the intended recipient. Without phoning or personally visiting said recipients, it is unclear how a lawyer would verify the identity and specific need of the intended recipient. Clearly, a phone call or personal visit would potentially violate the Rules of Professional Conduct. At a minimum, these actions are likely to cause more complaints against an attorney for attempting to comply with the proposed changes. I believe that it is more prudent and practical for an attorney to rely on public records, rather than attempt to comply with the proposed changes.

Once again, thank you for the opportunity to comment on these proposed rules. Please contact me at (314) 393.5199 (Cell) or (314) 645.7246 (Office); if you have any questions or if I can serve in any capacity regarding these proposed rules.

Best regards,



Timothy J. Smith
Rudman & Smith LLC

TJS/sll