

In the  
Indiana Supreme Court

Cause No: 94S00-1003-MS-128



**ORDER AMENDING INDIANA RULES OF PROFESSIONAL CONDUCT**

In 2006, the Court received from the Indiana State Bar Association the report of its Special Committee on Lawyer Advertising. Pursuant to Ind. Trial Rule 80, we referred this report to the Supreme Court Committee on Rules of Practice and Procedure for review and publication of proposed amendments for public comment. In 2007, the Rules Committee published proposed amendments to the Indiana Rules of Professional Conduct and collected extensive public comments. After review of the comments, further amendments were proposed and published for public comment in 2009. A final recommendation by the Rules Committee was presented to the Court this year.

We wish to thank the Indiana State Bar Association and its Special Committee on Lawyer Advertising and our Rules Committee for their long and hard work in bringing thoroughly considered recommendations to the Court. We are also appreciative of all those who took the time to comment on the proposed amendments. The Rules Committee and this Court carefully considered the numerous comments that were received.

Pursuant to its authority under Article 7, Section 4 of the Indiana Constitution providing for the admission and discipline of attorneys in this state Professional Conduct Rules 7.1, 7.2, 7.3, and 7.4, and 7.5 are amended to read as follows (deletions shown by ~~striking~~ and new text shown by underlining):

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**RULE 7.1: ~~Reserved~~ Communications Concerning a Lawyer's Services**

A lawyer shall not make a false or misleading communication about the lawyer or the

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

### **Commentary**

[1] This Rule governs all communications about a lawyer's services, including advertising permitted by Rule 7.2. Whatever means are used to make known a lawyer's services, statements about them must be truthful.

[2] Truthful statements that are misleading are also prohibited by this Rule. In the absence of special circumstances that serve to protect the probable targets of a communication from being misled or deceived, a communication will violate Rule 7.1 if it:

(1) is intended or is likely to result in a legal action or a legal position being asserted merely to harass or maliciously injure another;

(2) contains statistical data or other information based on past performance or an express or implied prediction of future success;

(3) contains a claim about a lawyer, made by a third party, that the lawyer could not personally make consistent with the requirements of this rule;

(4) appeals primarily to a lay person's fear, greed, or desire for revenge;

(5) compares the services provided by the lawyer or a law firm with other lawyers' services, unless the comparison can be factually substantiated;

(6) contains any reference to results obtained that may reasonably create an expectation of similar results in future matters;

(7) contains a dramatization or re-creation of events unless the advertising clearly and conspicuously discloses that a dramatization or re-creation is being presented;

(8) contains a representation, testimonial, or endorsement of a lawyer or other statement that, in light of all the circumstances, is intended or is likely to create an unjustified expectation about a lawyer or law firm or a person's legal rights;

(9) states or implies that a lawyer is a certified or recognized specialist other than as permitted by Rule 7.4;

(10) is prohibited by Rule 7.3.

[3] See also Rule 8.4(e) for the prohibition against stating or implying an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law.

**RULE 7.2. ~~Publicity and~~ Advertising.**

(a) ~~Subject to the requirements of this rule, a lawyers and law firms may advertise their professional services and law related services. The term “advertise” as used in these Indiana Rules of Professional Conduct refers to any manner of public communication partly or entirely intended or expected to promote the purchase or use of the professional services of a lawyer, law firm, or any employee of either involving the practice of law or law-related services, through public media, such as a telephone directory, legal directory, newspaper or other periodical, radio or television or through other public communication.~~

(b) ~~A lawyer shall not, on behalf of himself, his partner or associate or any other lawyer affiliated with him or his firm, use, or participate in the use of, any form of public communication containing a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim.~~

~~In order to facilitate the process of informed selection of a lawyer by potential consumers of legal service, a lawyer may advertise so long as said advertising is done in a dignified manner. The following constitute examples of permissible areas in which a lawyer may advertise:~~

~~(1) — name, including name of law firm and names of professional associates; addresses and telephone numbers;~~

~~(2) — one or more fields of law in which the lawyer or law firm practices, using commonly accepted and understood definitions and designations;~~

~~(3) — date and place of birth;~~

~~(4) — date and place of admission to the bar of state and federal courts;~~

~~(5) — schools attended, with dates of graduation, degrees and other scholastic distinctions;~~

- ~~(6) — public or quasi-public offices;~~
- ~~(7) — military service;~~
- ~~(8) — legal authorships;~~
- ~~(9) — legal teaching position;~~
- ~~(10) — memberships, offices, and committee assignments, in bar associations;~~
- ~~(11) — membership and offices in legal fraternities and legal societies;~~
- ~~(12) — technical and professional licenses;~~
- ~~(13) — memberships in scientific, technical and professional associations and societies;~~
- ~~(14) — foreign language ability;~~
- ~~(15) — names and addresses of bank references;~~
- ~~(16) — prepaid or group legal services programs in which the lawyer participates;~~
- ~~(17) — whether credit cards or other credit arrangements are accepted;~~
- ~~(18) — office and telephone answering service hours;~~
- ~~(19) — the following information:
  - ~~(a) — fee for an initial consultation;~~
  - ~~(b) — availability upon request of a written schedule of fees and/or an estimate of the fee to be charged for specific services;~~
  - ~~(c) — contingent fee rates provided that the statement discloses whether percentages are computed before or after deduction of costs;~~
  - ~~(d) — range of fees for services, provided that the statement discloses that the specific fee within the range which will be charged will vary depending upon the particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged, in print size equivalent to the largest print used in setting forth the fee information;~~
  - ~~(e) — hourly rate, provided that the statement discloses that the total fee charged will depend upon the number of hours which must be devoted to the particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee likely to be charged, in print size at least equivalent to the largest print used in setting forth the fee information; and~~~~

~~(f) — fixed fees for specific legal services, the description of which would not be understood or be deceptive, provided that the statement discloses that the quoted fee will be available only to clients whose matters fall into the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged in print size at least equivalent to the largest print used in setting forth the fee information.~~

~~(c) — Without limitation a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim includes a statement or claim which:~~

~~(1) — contains a material misrepresentation of fact;~~

~~(2) — omits to state any material fact necessary to make the statement, in the light of all circumstances, not misleading;~~

~~(3) — is intended or is likely to create an unjustified expectation;~~

~~(4) — states or implies that a lawyer is a certified or recognized specialist other than as permitted by Rule 7.4;~~

~~(5) — is intended or is likely to convey the impression that the lawyer is in a position to influence improperly any court, tribunal, or other public body or official;~~

~~(6) — contains a representation or implication that is likely to cause an ordinary prudent person to misunderstand or be deceived or fails to contain reasonable warnings or disclaimers necessary to make a representation of implication not deceptive.~~

~~(d) — A lawyer shall not, on behalf of himself, his partner or associate, or any other lawyer affiliated with him or his firm, use or participate in the use of any form of public communication which:~~

~~(1) — is intended or is likely to result in a legal action or a legal position being asserted merely to harass or maliciously injure another;~~

~~(2) — contains statistical data or other information based on past performance or prediction of future success;~~

~~(3) — contains a testimonial about or endorsement of a lawyer;~~

~~(4) — contains a statement or opinion as to the quality of the services or contains a representation or implication regarding the quality of legal services;~~

~~(5) — appeals primarily to a lay person's fear, greed, desire for revenge, or similar emotion; or~~

~~(6) — is prohibited by Rule 7.3.~~

~~(e) — A lawyer shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item. An advertisement must be identified as such unless it is apparent from the context that it is an advertisement. A copy or recording of an advertisement shall be approved by the lawyer and shall be kept for six years after its dissemination along with a record of when and where it was used.~~

A lawyer shall not give anything of value to a person for recommending or advertising the lawyer's services except that a lawyer may:

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

(2) pay the usual charges of a legal service plan or a not-for-profit or qualified lawyer referral service described in Rule 7.3(d);

(3) pay for a law practice in accordance with Rule 1.17; and

(4) refer clients to another lawyer or a non-lawyer professional pursuant to an agreement not otherwise prohibited under these Rules that provides for the other person to refer clients or customers to the lawyer, if

(i) the reciprocal referral agreement is not exclusive, and

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

(c) Any communication subject to this rule shall include the name and office address of at least one lawyer or law firm responsible for its content. The lawyer or law firm responsible for the content of any communication subject to this rule shall keep a copy or recording of each such communication for six years after its dissemination.

### Commentary

[1] To assist the public in obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information

campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising.

[2] Provided that the advertising otherwise complies with the requirements of the Rules of Professional Conduct, permissible subjects of advertising include:

(1) name and contact information, including the name and contact information for an attorney, a law firm, and professional associates;

(2) one or more fields of law in which the lawyer or law firm practices, using commonly accepted and understood definitions and designations;

(3) date and place of birth;

(4) date and place of admission to the bar of state and federal courts;

(5) schools attended, with dates of graduation, degrees, and other scholastic distinctions;

(6) academic, public or quasi-public, military, or professional positions held;

(7) military service;

(8) legal authorship;

(9) legal teaching position;

(10) memberships, offices, and committee assignments, in bar professional, scientific, or technical associations or societies;

(11) memberships and offices in legal fraternities and legal societies;

(12) technical and professional licenses;

(13) memberships in scientific, technical, and professional associations and societies;

(14) foreign language ability;

(15) names and addresses of bank references;

(16) professional liability insurance coverage;

(17) prepaid or group legal services programs in which the lawyer participates as allowed by Rule 7.3(d);

(18) whether credit cards or other credit arrangements are accepted;

(19) office and telephone answering service hours; and

(20) fees charged and other terms of service pursuant to which an attorney is willing to provide legal or law-related services.

[3] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

[4] Lawyers are not permitted to pay others for channeling professional work. Paragraph (b)(1), however, allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, banner ads, and group advertising. A lawyer may compensate employees, agents, and vendors who are engaged to provide marketing or client-development services, such as publicists, public-relations personnel, business-development staff, and website designers. See Rule 5.3 for the duties of lawyers and law firms with respect to the conduct of non-lawyers who prepare marketing materials for them.

**Rule 7.3. Recommendation or Solicitation of Professional Employment**  
**Direct Contact with prospective Clients**

(a) A lawyer (including the lawyer's employee or agent) shall not by in-person, live telephone, or real-time electronic contact solicit professional employment from a prospective client when a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted: seek or recommend by in person contact (either in the physical presence of, or by telephone, or by real time electronic contact), the employment, as a private practitioner, of the lawyer, the lawyer's partner, associate, or the lawyer's firm, to a nonlawyer who has not sought advice regarding the employment of a lawyer, or assist another person in so doing unless the contacted non-lawyer has a family or prior professional relationship with the lawyer.

(1) is a lawyer; or

(2) has a family, close personal, or prior professional relationship with the lawyer.

(b) A lawyer shall not solicit professional employment from a prospective client by in-person or by written, or recorded, audio, video, or electronic communication, including the Internet. ~~or by in-person or telephone, or by real-time electronic contact even when not otherwise prohibited by paragraph (a) if:~~

(1) the prospective client has made known to the lawyer a desire not to be solicited by the lawyer; ~~or~~

(2) the solicitation involves coercion, duress or harassment;

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

(4) the solicitation concerns a specific matter and the lawyer knows, or reasonably should know, that the person to whom the solicitation is directed is represented by a lawyer in the matter; or

(5) the lawyer knows, or reasonably should know, that the physical, emotional, or mental state of the person makes it unlikely that the person would exercise reasonable judgment in employing a lawyer.

(c) Every written, recorded, or electronic communication from a lawyer soliciting professional employment from a prospective client potentially in need of legal services in a particular matter, ~~and with whom the lawyer has no family or prior professional relationship,~~ shall include the words “Advertising Material” conspicuously placed both on the face of any outside envelope and at the beginning of any written communication, and both at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specified in paragraphs (a)(1) or (a)(2). A copy of each such communication shall be filed with the Indiana Supreme Court Disciplinary Commission at or prior to its dissemination to the prospective client. A filing fee in the amount of fifty dollars (\$50.00) payable to the “Supreme Court Disciplinary Commission Fund” shall accompany each such filing. In the event a written, recorded, or electronic communication is distributed to multiple prospective clients, a single copy of the mailing less information specific to the intended recipients, such as name, address (including email address) and date of mailing, may be filed with the Commission. Each time any

such communication is changed or altered, a copy of the new or modified communication shall be filed with the Disciplinary Commission at or prior to the time of its mailing or distribution. The lawyer shall retain a list containing the names and addresses, including email addresses, of all persons or entities to whom each communication has been mailed or distributed for a period of not less than one (1) year following the last date of mailing or distribution. Communications filed pursuant to this subdivision shall be open to public inspection.

~~(d) If success in asserting rights or defenses of his clients in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept employment from those he is permitted under applicable law to contact for the purpose of obtaining their joinder. A lawyer shall not accept referrals from, make referrals to, or solicit clients on behalf of any lawyer referral service unless such service falls within clauses (1)-(4) below. A lawyer or any other lawyer affiliated with the lawyer or the lawyer's law firm may be recommended, employed, or paid by, or cooperate with, one of the following offices or organizations that promote the use of the lawyer's services or those of the lawyer's firm, if there is no interference with the exercise of independent professional judgment on behalf of a client of the lawyer or the lawyer's firm:~~

~~(1) A legal office or public defender office:~~

~~(A) operated or sponsored on a not-for-profit basis by a law school accredited by the American Bar Association Section on Legal Education and Admissions to the Bar;~~

~~(B) operated or sponsored on a not-for-profit basis by a bona fide non-profit community organization;~~

~~(C) operated or sponsored on a not-for-profit basis by a governmental agency;~~

~~(D) operated sponsored, or approved in writing by the Indiana State Bar Association, the Indiana Trial Lawyers Association, the Defense Trial Counsel of Indiana, any bona fide county or city bar association within the State of Indiana, or any other bar association whose lawyer referral service has been sanctioned for operation in Indiana by the Indiana Disciplinary Commission; and~~

~~(E) operated by a Circuit or Superior Court within the State of Indiana.~~

~~(2) A military legal assistance office;~~

(3) A lawyer referral service operated, sponsored, or approved by any organization listed in clause (1)(D); or

(4) Any other non-profit organization that recommends, furnishes, or pays for legal services to its members or beneficiaries, but only if the following conditions are met:

(A) the primary purposes of such organization do not include the rendition of legal services;

(B) the recommending, furnishing, or paying for legal services to its members is incidental and reasonably related to the primary purpose purposes of such organization;

(C) such organization does not derive a financial benefit from the rendition of legal services by the lawyer; and

(D) the member or beneficiary for whom the legal services are rendered, and not such organization, is recognized as the client of the lawyer in the matter.

~~(e) A lawyer shall not accept referrals from any lawyer referral service unless such service falls within subparts 1-4 of this Rule 7.3(e). A lawyer or his partner or associates or any other lawyer affiliated with him or his firm may be recommended, employed or paid by, or may cooperate with, one of the following offices or organizations that promote the use of his services or those of his partner or associates or any other lawyer affiliated with him or his firm, if there is no interference with the exercise of independent professional judgment on behalf of his client:~~

~~(1) — A legal office or public defender office:~~

~~(a) — operated or sponsored on a not-for-profit basis by a law school accredited by the American Bar Association Section on Legal Education and Admissions to the Bar;~~

~~(b) — operated or sponsored on a not-for-profit basis by a bona fide non-profit community organization;~~

~~(c) — operated or sponsored on a not-for-profit basis by a governmental agency; and~~

~~(d) — operated, sponsored, or approved in writing by the Indiana State Bar Association, the Indiana Trial Lawyers Association, the Indiana Defense Lawyers Association, any bona fide county or city bar association within the State of Indiana, or any other bar association whose~~

~~lawyer referral service has been sanctioned for operation in Indiana by the Indiana Disciplinary Commission.~~

~~(2) — A military legal assistance office~~

~~(3) — A lawyer referral service operated, sponsored, or approved by any organization listed in Rule 7.3(e)(1)(D)~~

~~(4) — Any other non-profit organization that recommends, furnishes, or pays for legal services to its members or beneficiaries, but only if the following conditions are met:~~

~~(a) — The primary purposes of such organization do not include the rendition of legal services;~~

~~(b) — The recommending, furnishing, or paying for legal services to its members is incidental and reasonably related to the primary purpose of such organization;~~

~~(c) — Such organization does not derive a financial benefit from the rendition of legal services by the lawyer; and~~

~~(d) — The member or beneficiary for whom the legal services are rendered, and not such organization, is recognized as the client of the lawyer in the matter.~~

~~(f) A lawyer shall not compensate or give anything of value to a person or organization to recommend or secure histhe lawyer's employment by a client, or as a reward for having made a recommendation resulting in histhe lawyer's employment by a client, except that hethe lawyer may pay for public communication permitted by Rule 7. 2 and the usual and reasonable fees or dues charged by a lawyer referral service falling within the provisions of paragraph (d) above Rule 7.3(e).~~

~~(g) A lawyer shall not accept employment when hethe lawyer knows, or reasonably should know, it is obvious that the person who seeks histhe lawyer's services does so as a result of lawyer conduct prohibited under this ~~disciplinary rule~~Rule 7.3.~~

### Commentary

[1] There is a potential for abuse inherent in direct in-person, live telephone or real-time electronic contact by a lawyer with a prospective client known to need legal services.

These forms of contact between a lawyer and a prospective client subject the layperson to the private importuning of the trained advocate in a direct interpersonal encounter. The prospective client, who may already feel overwhelmed by the circumstances giving rise to the need for legal services, may find it difficult fully to evaluate all available alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's presence and insistence upon being retained immediately. The situation is fraught with the possibility of undue influence, intimidation, and over-reaching.

[2] This potential for abuse inherent in direct in-person, live telephone or real-time electronic solicitation of prospective clients justifies its prohibition, particularly since lawyer advertising and written and recorded communication permitted under Rule 7.2 offer alternative means of conveying necessary information to those who may be in need of legal services.

[3] The use of general advertising and written, recorded, or electronic communications to transmit information from lawyer to prospective client, rather than direct in-person, live telephone or real-time electronic contact, will help to assure that the information flows cleanly as well as freely. The contents of advertisements and communications permitted under Rule 7.2 can be permanently recorded so that they cannot be disputed and may be shared with others who know the lawyer. This potential for informal review is itself likely to help guard against statements and claims that might constitute false and misleading communications, in violation of Rule 7.1. The contents of direct in-person, live telephone, or real-time electronic conversations between a lawyer and a prospective client can be disputed and may not be subject to third-party scrutiny. Consequently, they are much more likely to approach (and occasionally cross) the dividing line between accurate representations and those that are false and misleading.

[4] There is far less likelihood that a lawyer would engage in abusive practices against an individual who is a former client, or with whom the lawyer has close personal or family relationship, or in situations in which the lawyer is motivated by considerations other than the lawyer's pecuniary gain. Nor is there a serious potential for abuse when the person contacted is a lawyer. Consequently, the general prohibition in Rule 7.3(a) and the requirements of Rule 7.3(c) are not applicable in those situations. Also, paragraph (a) is not intended to prohibit a lawyer

from participating in constitutionally protected activities of public or charitable legal-service organizations or bona fide political, social, civic, fraternal, employee, or trade organizations whose purposes include providing or recommending legal services to its members or beneficiaries.

[5] But even permitted forms of solicitation can be abused. Thus, any solicitation which contains information which is false or misleading within the meaning of Rule 7.1, which involves coercion, duress, or harassment within the meaning of Rule 7.3(b)(2), or which involves contact with a prospective client who has made known to the lawyer a desire not to be solicited by the lawyer within the meaning of Rule 7.3(b)(1) is prohibited. Moreover, if after sending a letter or other communication to a client as permitted by Rule 7.2, the lawyer receives no response, any further effort to communicate with the prospective client may violate the provisions of Rule 7.3(b).

[6] This rule allows targeted solicitation of potential plaintiffs or claimants in personal injury and wrongful death causes of action or other causes of action that relate to an accident, disaster, death, or injury, but only if such solicitation is initiated no less than 30 days after the incident. This restriction is reasonably required by the sensitized state of the potential clients, who may be either injured or grieving over the loss of a family member, and the abuses that experience has shown exist in this type of solicitation.

#### **Rule 7.4. Communication of Fields of Specialty Practice and Specialization.**

~~When the communication otherwise meets the requirements of Rules, 7.2, 7.3, and 7.5, a lawyer may:~~

- ~~(a) communicate the fact that the lawyer does or does not practice in particular fields of law, but may not express or imply any particular expertise except as otherwise provided in Rule 7.4(b);~~
- ~~(b) communicate that the lawyer is certified as a specialist in a field of practice when the certification and communication are authorized under Admission and Discipline Rule 30.~~

~~(e) Notwithstanding subsection (b), a lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation, and a lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation.~~

(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law.

(b) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Attorney" or a substantially similar designation.

(c) A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation.

(d) A lawyer shall not state or imply that the lawyer is a specialist in a particular field of law, unless:

(1) The lawyer has been certified as a specialist by an Independent Certifying Organization accredited by the Indiana Commission for Continuing Legal Education pursuant to Admission and Discipline Rule 30; and,

(2) The certifying organization is identified in the communication.

(e) Pursuant to rule-making powers inherent in its ability and authority to police and regulate the practice of law by attorneys admitted to practice law in the State of Indiana, the Indiana Supreme Court hereby vests exclusive authority for accreditation of Independent Certifying Organizations that certify specialists in legal practice areas and fields in the Indiana Commission for Continuing Legal Education. The Commission shall be the exclusive accrediting body in Indiana, for purposes of Rule 7.4(d)(1), above; and shall promulgate rules and guidelines for accrediting Independent Certifying Organizations that certify specialists in legal practice areas and fields. The rules and guidelines shall include requirements of practice experience, continu-

ing legal education, objective examination; and, peer review and evaluation, with the purpose of providing assurance to the consumers of legal services that the attorneys attaining certification within areas of specialization have demonstrated extraordinary proficiency within those areas of specialization. The Supreme Court shall retain review oversight with respect to the Commission, its requirements, and its rules and guidelines. The Supreme Court retains the power to alter or amend such requirements, rules and guidelines; and, to review the actions of the Commission in respect to this Rule 7.4.

### Commentary

[1] Paragraph (a) of this Rule permits a lawyer to indicate areas of practice in communications about the lawyer's services. If a lawyer practices only in certain fields, or will not accept matters except in a specified field or fields, the lawyer is permitted to so indicate.

[2] Paragraph (b) recognizes the long-established policy of the Patent and Trademark Office for the designation of lawyers practicing before the Office. Paragraph (c) recognizes that designation of Admiralty practice has a long historical tradition associated with maritime commerce and the federal courts.

### **Rule 7.5. Firm Names and Letterheads Professional Notices, Letterheads, Offices, and Law Lists**

- ~~(a) A lawyer or law firm shall not use or participate in the use of professional cards, professional announcement cards, office signs, letterheads, telephone directory listings, law lists, legal directory listings, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, deceptive, self-laudatory or unfair within the meaning of or that violates the regulations contained in Rule 7.2.~~
- ~~(b) A lawyer shall not practice under a name that is misleading as to the identity, responsibility, or status of those practicing thereunder, or is otherwise false, fraudulent, misleading, deceptive, self-laudatory or unfair within the meaning of Rule 7.2, or is contrary to law. In that it is inherently misleading, a lawyer in private practice shall not~~

~~practice under a trade name. However, the name of a professional corporation or professional association may contain “P.C.” or “P.A.” or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. A lawyer who assumes a judicial, legislative, or public executive or administrative post or office shall not permit his name to remain in the name of a law firm or to be used in professional notices of or public communications by the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm and during such period other members of the firm shall not use his name in the firm name or in professional notices of or public communications by the firm.~~

~~(c) A lawyer shall not hold himself out as having a partnership with one or more other lawyers unless they are in fact partners.~~

~~(d) — A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions; however the same firm name may be used in each jurisdiction.~~

Firm names, letterheads, and other professional designations are subject to the following requirements:

(1) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1.

(2) The name of a professional corporation, professional association, limited liability partnership, or limited liability company may contain, “P.C., “P.A.,” “LLP,” or “LLC” or similar symbols indicating the nature of the organization.

(3) If otherwise lawful a firm may use as, or continue to include in, its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. See Admission & Discipline Rule 27.

(4) A trade name may be used by a lawyer in private practice subject to the following requirements:

(i) the name shall not imply a connection with a government agency

or with a public or charitable legal services organization and shall not otherwise violate of Rule 7.1.

(ii) the name shall include the name of a lawyer (or the name of a deceased or retired member of the firm, or of a predecessor firm in a manner that complies with subparagraph (2) above).

(iii) the name shall not include words other than words that comply with clause (ii) above and words that:

(A) identify the field of law in which the firm concentrates its work, or

(B) describe the geographic location of its offices, or

(C) indicate a language fluency.

(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in Indiana if the name or other designation does not violate paragraph (a) and the identification of the lawyers in an office of the firm indicates the jurisdictional limitations on those not licensed to practice in Indiana.

(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm. A member of a part-time legislative body such as the General Assembly, a county or city council, or a school board is not subject to this rule.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when they in fact do so.

### **Commentary**

[1] A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity, or by a trade name that complies with the requirements of the Rules of Professional Conduct. A

lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. The use of a trade name in law practice is acceptable so long as it is not misleading and otherwise complies with the requirements of paragraph (a)(4). A firm name that includes the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm, or the name of a non-lawyer.

[2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm.

These amendments shall take effect January 1, 2011.

The Clerk of this Court is directed to forward a copy of this Order to the clerk of each circuit court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Prosecuting Attorney's Council; Public Defender's Council; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; Indiana Judges and Lawyers Assistance Program; the libraries of all law schools in this state; the Michie Company; and Thomson Reuters. The Clerk is also directed to post this Order to the Court's website.

Thomson Reuters is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this 14<sup>TH</sup> day of October, 2010.

/s/Randall T. Shepard  
Randall T. Shepard  
Chief Justice of Indiana

All Justices concur.