

A Review of New Ethical Rules- Scenarios, and Ethical Advertising Practices

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PART 1

A Quick Summary of the Advertising Rules



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Information About Legal Services (Lawyer Advertising and Solicitation)

HERE ARE THE BASICS ON ADVERTISING:

What Has Change in the Advertising Rules? *Everything!*

Current Rules 7.01 to 7.07 are deleted and now replaced by new rules 7.01 to 7.06 will be added. The rules on advertising and solicitation have been completely overhauled.

Goals:

- Simplify, modernize, and clarify the rules governing communications about legal services in the Digital Age.
- Reduce burdens related to law practice websites, use of social media, pro bono programs, and communications with experienced business clients.

NEW Rule 7.01(a)

False and Misleading Statements

The Key Provision in the Advertising and Solicitation Rules

- Front and center, the first provision in this part of the disciplinary rules states the basic rule that is the cornerstone in this area of the law: namely, a lawyer shall not make a false or misleading statement about legal services.
- This rule, which is rooted in Constitutional jurisprudence, applies to all communications offering legal representation.

New Rule 7.01 (b)

Advertisement Versus Solicitation

What is the Difference? Why Does It Matter?

- The terms “advertisement” and “solicitation communication” are defined in the new rules.
- An **advertisement** is a communication directed to the public at large...
- In contrast, a **solicitation communication** is a communication directed to a specific person, “which reasonably can be understood as offering to provide legal services that the lawyer knows or reasonably should know the person needs in a particular matter. ”
- A communication falls into *neither* category unless it is “**substantially motivated by pecuniary gain.**”
 - This means that lawyers promoting various forms of non-profit legal services, such as legal aid for the poor, do not need to worry about complying with the disclosure and filing requirements that are applicable to advertisements and solicitation communications. (Of course, they must still comply with the rule against false or misleading statements.)

New Rule 7.02

RULE 7.02 Advertisements

The requirements of this rule will feel familiar because they are rooted in earlier law. An advertisement:

- Must identify a lawyer responsible for its content (and the lawyer's primary practice location);
- May disclose that the lawyer has been certified or designated as possessing special competence, including by the Texas Board of Legal Specialization, if certain requirements are met; and
- Must disclose whether a client who is represented on a contingent fee basis will be obligated to pay for other expenses, such as costs of litigation.
- The rule also addresses how long a lawyer must conform to a specific fee or range of fees promoted in an advertisement.

New Rule 7.02

RULE 7.02 (b) Advertising special competence or certifications

May disclose that the lawyer has been certified or designated as possessing special competence, including by the Texas Board of Legal Specialization, if certain requirements are met;....

Sup. Court Revisions to Comment 3: Paragraph (b) of this Rule permits a lawyer to communicate that the lawyer practices, focuses, or concentrates in particular areas of law. Such communications are subject to the “false and misleading” standard applied by Rule 7.01 to communications concerning a lawyer’s services and must be objectively based on the lawyer’s experience, specialized training, or education in the area of practice.

Trade Names (cue the scary music)

Opinions are like [noses]:
Everyone's got one.

New Rule 7.01 (c)

Trade Names

What Has Changed in the Disciplinary Rules?

- Because statements that are truthful and not misleading are constitutionally protected, this rule abandons the traditional prohibition against the use of trade names.
- Unless it is **false or misleading**, use of a trade name is permitted.

CDRR Commentary:

- The traditional ban on trade names is constitutionally dubious.
- Today, most states allow the use of non-misleading trade names.

Scenario sample:

Name That Firm – Trade Names

Attorney P.L. Wynne is a plaintiffs' personal injury attorney in Dallas. He is planning major marketing campaign that would include advertising on a variety of platforms, including television and social media. P.L. is aware that the new rules permit the use of trade names for law firms. The following is P.L.'s list from which he will choose the new name. Which of these are likely to be allowed under the new rules, and which are not?

- A. The Personal Injury Place
- B. The Wynning Law Firm
- C. We Wynne for You! Attorneys at Law
- D. The Certified Center for Personal Injury Law
- E. Institute for Court Masters
- F. Your Dallas Personal Injury Resource

Scenario 6 (cont'd): Restrictions on Trade Names

- The new Rules remove strict prohibitions on law firm trade names. The new rule allows trade name provided the trade name is not “false or misleading.”
- Names likely to be misleading would include:
 - suggesting a connection to a person not in the firm;
 - suggesting a relationship to another entity or charitable institution;
 - suggesting a quality, credit or approval which the lawyer or firm does not have;
 - causing confusion as to the governmental affiliation;
 - falsely reporting accreditation or credentials or certification of specialized skills.

What About These Names

- “The Personal Injury Place”- Doesn’t appear to violate restrictions on its face.
- “The Wynning Law Firm” - Likely permitted.
- We Wynne for You! Attorneys at Law –Likely permitted.
- The Certified Center for Personal Injury Law - Likely misleading.
- Institute for Court Masters –Likely misleading.
- Your Dallas Personal Injury Resource – Likely misleading and confusing.

Reaching Out

Revisions making it easier to reach out to people who hire lawyers

New Rule 7.03(a, b, & c)

Solicitation and Other Prohibited Communications



IN PERSON STILL PROHIBITED, and Includes “live or interactive” methods (telephone, text, social media or email).

- This rule continues traditional prohibitions against in-person solicitation but now makes clear that the anti-solicitation ban applies not just to in-person contact, but to “telephone, social media, or electronic communication initiated by a lawyer . . . that involves communication in a live or electronically interactive manner.”

New Rule 7.03(a, b, & c)



However, you can contact “experienced users of the Type of legal services involved for business matters.”

For the first time in Texas, this rule allows solicitation communications with “a person who is known by the lawyer to be an experienced user of the type of legal services involved for business matters.” There is little risk of abuse.

But, the rules continue to prohibit any communication that involves “coercion, duress, overreaching, intimidation, or undue influence.”

New Rule 7.03(d & e)



More on Solicitation...

- A written solicitation communication must not be “misleadingly designed to resemble a legal pleading or other legal document” and, with limited exceptions, must be “plainly marked” ADVERTISEMENT.
- This provision continues the traditional rule that a lawyer may not pay or give anything of value to another person for soliciting or referring prospective clients, except that now “nominal gifts given as an expression of appreciation that are neither intended nor reasonably expected to be a form of compensation for recommending a lawyer’s services” are permitted.

Reciprocal Referrals OK

And payments or gifts
to lawyers and clients

New Rule 7.03(e)(2) & (f)

Reciprocal Referrals

- Reciprocal referral agreements are now allowed provided “(i) the ... agreement is not exclusive; (ii) clients are informed of the existence and nature of the agreement; and (iii) the lawyer exercises independent professional judgment in making referrals.”

Payments or Gifts to Clients

- The rule continues the prohibition against paying or giving anything of value to clients (other than litigation expenses and other financial assistance permitted by the rules), except that now “ordinary social hospitality of nominal value” will be permitted.

New Rule 7.04

Filing Requirements for Advertisements and Solicitation Communications



- This rule continues the filing requirements for certain advertisements and solicitation communications.
- It also continues to allow lawyers to seek pre-approval of advertisements and solicitation communications.



Bloggging Your Way into Trouble

Accidentally turning
your blog into an ad.

Caveat – blogging your way (accidentally) into the advertising rules.

We love your blogs. Do NOT turn them into a communication subject to the advertising rules by adding a tag line:

“... and for more information on my legal services, call me at, 713- 555-4444.”

Please blog all you want, and let the blogosphere find you, as they will. If someone believes they want more advice, they'll find you on that Google thingy.

The Billion Dollar Billboard

Requiring more transparency
when bragging about big
numbers

A San Antonio Billboard advertised that this well-known firm had a “final judgment” for \$1.25 billion – But, in truth, the Client had collected -0- **Was that False and Misleading?**

Responding to the criticism of such ads, the CDRR recommended, and the Texas Supreme Court issued an ORDER January 31, 2022, amending Comment 10 to Rule 7.01 (Communications Concerning a Lawyers Services) TDRPC:

10. A communication about legal services may be misleading because it omits an important fact or tells only part of the truth. A lawyer who knows that an advertised verdict was later reduced or reversed, **or never collected**, or that the case was settled for a lesser amount, must disclose **the amount actually received by the client** with equal or greater prominence to avoid creating unjustified expectations on the part of potential clients. A lawyer may claim credit for a prior judgement or settlement only if the lawyer played a substantial role in obtaining that result. This standard is satisfied if the lawyer served as lead counsel or was primarily responsible for the settlement. In other cases, whether the standard is met depends on the facts. A lawyer who did not play a substantial role in obtaining an advertised judgment or settlement is subject to discipline for misrepresenting the lawyer’s experience and, in some cases, for creating unjustified expectations about the results the lawyer can achieve.

Posting Review on Social Media

This is Not Yelpful

26 Paul Wants Some Good Reviews

Paul Presser, plaintiff's lawyer, has decided to go to the internet for help with his practice, so he take the following actions:

1. **Blast email** to all current and former clients asking for them to post glowing reviews on as many platforms as they can, including his website
2. **Post** the same message asking for reviews **on his Facebook Page**
3. Gets a **Yelp** Listing, and **encourages Yelp reviews**.

It works, and the reviews come in!

27 Paul sees Sarah's Glowing Review

A former client, Sarah, posts this review BOTH on his website and on Yelp:

"Paul is a rock star! He did a great job on my small case, but I know he has obtained multi-million dollars judgments for many of his clients!"

Paul is concerned because he has only had one Judgment in excess of a million dollars, and wonders what duty he has to clear that up....

He comes to you and you say...



28 Advice to Paul

You look at the situation and tell Paul:

1. First of all, you breached lawyer confidentiality by soliciting reviews
2. “You need to correct the review on **both** his website and Yelp because they are untruthful.”
3. “You need to correct the comment on your website, but not Yelp- Yelp is not in your control.”
4. “You only need to correct the comment on Yelp – it’s a public platform.”
5. “You have no duty to correct inaccurate statements which are by third persons that you did not direct them to write.”

Which of the above statements give the correct advice?

29 HERE'S the Correct Advice-

ANSWER: TEXAS PROF ETHICS OPINION 685 (Jan 2020)

1. You are NOT prohibited from soliciting ratings or online reviews*.
2. **PAUL DOES needs to correct the review on both his website and Yelp because they are untruthful.”**
3. You need to encourage Sarah to correct her Yelp post herself. You can’t change it.

When a lawyer becomes aware of a favorable false or misleading statement, the lawyer must take “reasonable steps” to correct or remove the misstatement.

When the lawyer does not control the platform that means “addressing the matter with the author” or if that fails, addressing it with the website or platform administrator.

*Claude’s Caveat: advise clients that they are under no obligation to post and may fully maintain the protections of the attorney-client relationship.

Lawyer Posts On Social Media

Stay within the guidelines,
and post freely!

New Rule 7.05(g)

Exemptions for Many Posting on Social Media and Other Media

A lawyer is not required to file “a communication in social media or other media, which does not expressly offer legal services, and that:

- (1) Is primarily informational, educational, political, or artistic in nature, or made for entertainment purposes; or
- (2) Consists primarily of the type of information commonly found on the professional resumes of lawyers.”

In Firm Training on Social Media

Do you need to know
social media?

33 Modernizing big firm

Biggus & Smooth has hired 10 new associates who have formed their own committee to modernize the “presence” of the firm, including the use of various online resources, including their website and social media (Twitter, Facebook, and Instagram).

The Senior Partner, Stanley Biggus, is all for it, and already uses a private Facebook page and publishes a blog. Stanley asks the committee:

1. Will my personal blog be subject to the lawyer advertising rules, and
 2. Will the firm need to train every lawyer on those social media platforms, or just the lawyers using it.
-

34 Whom do you train?

- a. Only the lawyers using the technology are required to learn it, and Stanley's FB page and blog are exempt of the advertising rules.
 - b. Every lawyer must be trained on all the firm's chosen social media but Stanley's private page is exempt.
 - c. Only the lawyers using the technology are required to learn it, but if there is a link to Stanley's blog, it must clear the advertising rules;
 - d. Every lawyer must be trained in firm's use of social media, and any linkage to Stanley's FB page or blog invokes advertising rules.
-

35 Answer: D

D. Every lawyer must be trained in firm's use of social media, and any linkage to Stanley's FB page or blog invokes advertising rules.

There is a duty to maintain a working knowledge of the firm's use of social media and keep abreast of changes (ABA Rule 1.1, comment 8; see also,

Texas Rule 1.01, 2019 revision to Comment 8).

Comment 8 Revised. Because of the vital role of lawyers in the legal process, each lawyer should strive to become and remain proficient and competent in the practice of law, **including the benefits and risks associated with relevant technology**. To maintain the requisite knowledge and skill of a competent practitioner, a lawyer should engage in continuing study and education. If a system of peer review has been established, the lawyer should consider making use of it in appropriate circumstances. Isolated instances of faulty conduct or decision should be identified for purposes of additional study and instruction.

D

Stanley's Facebook page:
Is it private or used to solicit business?

As for Stanley's FB page and blog:

While personal Facebook pages may be exempt from advertising and solicitation rules, if they are linked for work purposes (clearly suggesting or featuring the qualifications of the lawyer to be retained) they are subject to the advertising and solicitation rules (the rules suggest that blogging for "business" purposes would make the difference).

For a great discussion,

see California Standing Committee on Prof. Resp. Formal Opinion 2016-196

Transition/Emergency Planning:

For more than 20 years, the Texas Rules of Disciplinary **PROCEDURE** (Specifically Rules 13.01, 13.02, and 13.03) Have allowed lawyers to be appointed as “custodians” by appointment of the District Court in the home county of the affected lawyer.

What’s the benefit of appointment? You get “Good Samaritan” protection of sorts: the custodian cannot be sued for your service except for “intentional misconduct or gross negligence.”

But why not have a right to non-judicial appointment and service as a Custodian?

More New Rules and Decisions

Reporting Misconduct, and
Helping clients when they
might need you most!

New Rule 8.03: Reporting Professional Misconduct and Reciprocal Discipline for Federal Court or Federal Agency Discipline (Patent Bar and Immigration Bar)

Genesis: The Texas Chief Disciplinary Counsel's Office Request

The amendments to Rule 8.03 of the Texas Disciplinary Rules of Professional Conduct and Rules 1.06 and 9.01 of the Texas Rules of Disciplinary Procedure by extending existing self-reporting and reciprocal-discipline provisions to cover certain professional discipline by a federal court or federal agency.

The proposal specifically limits “‘discipline’ by a federal court or federal agency” to mean a public reprimand, suspension, or disbarment.

The proposal clarifies that the term does not include a letter of “warning” or “admonishment” or a similar advisory by a federal court or federal agency. The provisions also do not apply to mere procedural disqualification in a particular case.

New Rule 8.03- Reporting Professional Misconduct & Reciprocal Discipline



Commentary: Many lawyers are not aware that several wide areas of federal practice, such as Patent Law and Immigration Law, operate their own grievance systems.

This rule requires that a Texas lawyer who has been disciplined in one of these non-state systems owes the same duty to report that discipline as owed when disciplined by a state system.

The CDRR worked hard on this rule to ensure that the type of discipline which would trigger this reporting had to be related to professional misconduct, meaning public reprimand, suspension or disbarment. Minor infractions, such as failure to timely pay annuals fees or bar dues, or letters of admonishment or warning, or disqualification as counsel are certainly NOT reportable acts. These amendments were requested by, and its development was discussed with the Chief Disciplinary Counsel's office, as an improvement to oversights in the existing rule.

41 What Do I Do Now? (The “Trusted Person” Rule)

- Mary Jones is a 30-year practitioner with a good reputation in her mid-size Texas city. Like many lawyers, she has represented many people for decades.
 - One day, her longtime-client Bob comes in for an appointment. Bob is agitated and tells her, “I need a new will, I want to cut my daughter out completely, and give everything to my son.”
 - Mary is a bit startled, but asks good questions. When she asks, “What do you want to do with the acreage you received from your Mother?” Bob replies, “What acreage?”
 - Mary is very concerned that Bob is showing signs of mental decline.
-

What Do I Do Now? (The “Trusted Person” Rule)

- Mary’s communications are governed by the attorney-client privilege, so -- Who can Mary talk to?
 - What are the limitations on what she can say?
 - Should she create a guardianship?
 - Do the rules require Mary to reveal her fears learned during the attorney client communication?
 - Would Mary’s duties to Bob change if she were court-appointed to act for him?
 - Finally, would Mary’s rights or duties change if Bob were a brand new client showing signs of dementia or mental decline?
-

What Do I Do Now?

Mary Consults You for Ethics Advice and You say:

- A. Without instructions from the client, you must create a guardianship for Bob if you believe he needs protective action from making bad decisions.
- B. You should ask the Court to appoint you as an Attorney in fact only for his estate, but not his person.
- C. You can reach out to a trusted person, and reveal your fears about Bob's mental acuity.
- D. You have a duty to reach out to a trusted person, and protect Bob from his mental limitations



Correct Answer:

c. You “may” reach out to “Trusted Person”

Clients with Diminished Capacity New Rule 1.16



What has Changed in the Disciplinary Rule?

- Current Rule 1.02(g) deleted and new Disc. Rule 1.16 added.

Key Provision: The new rule makes clear that a “lawyer may take reasonably necessary protective action . . . [that] may include, but is not limited to, consulting with individuals or entities that have the ability to take action to protect the client,” such medical providers or even family members.

Permissive– not mandatory!

Does this rule apply to new clients, too?

SUPREME COURT COMMENTS

Comments to New Disciplinary Rule 1.16: DIMINISHED CAPACITY EXCEPTION TO CONFIDENTIALITY: Clarify that diminished capacity rule applies to existing client relationships:

- Comment 5: “Paragraph (b) *[of the rule]* contains a non-exhaustive list of action a lawyer may take to protect an **existing client** who does not have a guardian or other legal representative... “
- Comment 6: *[Summary]* Duties of court-appointed attorneys for clients with disabilities unaffected;
- Comment 6: “Nothing in this rule modifies or reduces a lawyer’s obligations under other law.”

Guarantying Client Debt?

Someone needs to sign for this

47 Settling Up

Paul is an experienced Plaintiff's personal injury lawyer.

He has negotiated for his client Harold, and finally reached a settlement with Goodhands Insurance.

As is typical, the Plaintiff agrees that all liens or other reimbursements shall be paid from the settlement proceeds.

48 Settling Up

Goodhands' lawyers send Paul a release to be signed by Plaintiff as well as Paul, Plaintiff's attorney. the release provided that Paul would personally indemnify and hold harmless the Defendant Group against any claims asserted by lienholders and reimbursement claimants.

When Paul objects, Goodhands says the indemnity is a condition of settlement, as Plaintiff might not have sufficient funds to satisfy all future unknown reimbursements.

IS IT A VIOLATION OF THE TRPC TO INDUCE PAUL TO SIGN?

49 Questions to Answer:

- Can Paul ethically become a guarantor of his client's debts? Even if he didn't, are conflicts imputed to Paul?
 - Is such guaranty a form of financial assistance?
 - Is it a conflict of interest to sign?
-

50 TDRPC 1.08(d):

Consider: Rule 1.08(d)(1) provides:

(d) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation or administrative proceedings, except that:

(1) a lawyer ***may advance or guarantee*** court costs, expenses of litigation or administrative proceedings, and ***reasonably necessary medical and living expenses***, the repayment of which may be contingent on the outcome of the matter . .

51 You give Paul the following advice

Paul comes to you, and you say:

- A. You can sign, so long as client also signs a similar guaranty and indemnity in your favor.
 - B. You can sign, because the case is over, and that rule 1.08(d) no longer applies.
 - C. You cannot sign, if you believe you'll someday you may pay, because it would create a conflict of interest.
 - D. You can sign if there is “no reasonable expectation” that your duties as a guarantor will be invoked.
 - E. You can't sign... the rules do not permit you to agree to personally indemnify a defendant or its lawyers.
-

52 Best Answer: E- You can't sign!

Texas Professional Ethics Opinion 694 –July 2022

Knowingly inducing a lawyer to sign an indemnity agreement as a condition of settlement would violate Rule 8.04(a)(1). Rule 8.04(a)(1) prohibits a lawyer from knowingly inducing another lawyer to violate the Rules. See Opinion 566 (February 2006) (a lawyer acting as a receiver may not pay a portion of the lawyer's fee to lawyers representing the parties in the case because it would induce those other lawyers to violate Rule 1.08(d)). So, because the Committee concludes that the **Rules do not permit a plaintiff's lawyer to agree to personally indemnify and hold harmless a defendant** or its lawyers or insurers against future reimbursement claims,

The Committee also concludes that a defendant's lawyer violates Rule 8.04 by "knowingly induces the plaintiff's lawyer to execute such a personal indemnity agreement."

TELL HIM: GO POUND SAND!

PART 4

You Told Who?

54 Mollie, the New Paralegal

Jim has a general litigation practice. He hires Mollie, as a legal assistant. Mollie is experienced but not certified. Jim provides a short training session, giving her the TX Disc Rules of Prof Conduct, and stresses the need for confidentiality.

The Mayor's Wife comes in to discuss a divorce from her very prominent husband. Jim asks Mollie to come in and take notes.

After the client meeting, Jim reminds Mollie of the duty of confidentiality, as the Election for Mayor will take place in three weeks, and no divorce will be filed until after that election is over.

55 The new Paralegal “dishes” the news.

That same night, Mollie and her husband are at her best friend, Amy’s, house for dinner.

Amy asks Mollie, “How’s the new job?”

Mollie informs Amy that she loves her new job, and how exciting it is to be handling high-profile cases. She ends up blurting out that she’s *likely “going to handle the divorce of the Mayor’s wife!”* oops. Amy promises to keep the info confidential.

The next morning, she informs Jim, who writes a certified Letter to Amy warning her not to disclose that confidential information.

Amy confirms that she won’t. Following the election, the divorce case is filed with no pre-disclosure.



56 Who is potentially subject to Discipline?

If that confidence had been published by Amy to the local Media, who is potentially subject to disciplinary Action or other legal action?

- A. Mollie
- B. Jim, as Mollie's attorney supervisor.
- C. Amy could be sued for violating the admonitions and certified letter.
- D. Both Amy and Jim
- E. No one.



57 What is “Confidential Information”

- “Confidential information” includes **both** “privileged information” and “unprivileged client information.”
- “Unprivileged client information” means **all** information relating to a client or furnished by the client, other than privileged information, acquired by the lawyer during the course of or by reason of the representation of the client.



What do the rules say?



Disc. Rule 1.05(a) includes all that information pertains to the client;

So:

- Mollie clearly violated that rule; and
- Jim may not knowingly reveal anything about that meeting;

And under **Disc Rule 5.03** (Responsibilities of the lawyer for Assistants)

- Jim must make reasonable efforts to ensure Mollie's conduct follows the rules; and is subject to discipline if he "orders, encourages or permits" such conduct, or fails to take "reasonable remedial action" if he learns of it.

Correct Answer? “D” No one.

- **Mollie** doesn't have a license to lose, and is not subject to disciplinary action. (Although, she is subject to being terminated from employment).
- **Amy** is under no legal obligation to refrain from publishing that information.
- **Jim** reasonably abided by the rules by:
 - Training Mollie on the TDRPC;
 - Reminding her of the duties of confidentiality, and
 - Taking reasonable action to mitigate the disclosure by sending the certified letter.

Patent Bar Disciplinary Actions

61 Patent Bar Discipline

About the Office of Enrollment and Discipline:

The Office of Enrollment and Discipline (OED) is responsible for registering attorneys and agents to practice before the USPTO and for developing and administering the registration examination.

Only registered patent attorneys and agents, as well as individuals granted limited recognition are permitted to practice before the USPTO in patent matters.

Additionally, the OED:

- Investigates allegations of misconduct by practitioners;
 - Administers and oversees the **USPTO Law School Clinic Certification**; and
 - Administers the **Patent Pro Bono Program**
-

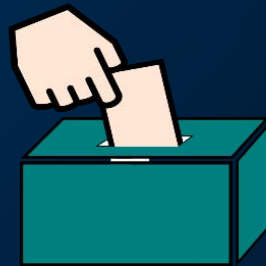
D2023-33 9-06-2023 *In Re: Puja Jabbour*- Practitioner filed over 500 applications from company in India, not properly signed by the named signatory. Result, resignation in lieu of disbarment.

D2023-30 9/18/2023 *In Re: Andrew Babcock* – Reciprocal Discipline (disbarment) after disbarment in Michigan in 2022.

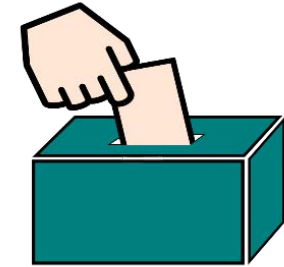
D2023-28 06/23/23 *In Re: Kevin Gallagher* - Disbarment for assisting another suspended practitioner to handle 3,500 trademark applications from China, violating numerous USPTO rules, including *inter alia* the U.S. Counsel rule.

2024 Proposed Changes!

Voting: April 2024



The Twelve Ballot Items that Lawyers Will Vote On



A: **Terminology** (Rule 1.00)

- Improved explanations and definitions- including
 - “informed consent” “screened” “writing” “substantial”

B: **Conflict of Interest: Doing Business w/Client** (Rule 1.08)

- Better, clearer explanations concerning disclosure and agreements

C: **Conflict of Interest: Former Client** (Rule 1.09)

- Clearer explanations of duties to former clients, defining “substantial relationships,” and duties of lawyers moving between firms.

D: **Imputation of Conflict of Interest** (Rule 1.10)

- Explanations improved defining when a lawyer is disqualified due to “substantial” relationship of another lawyer in firm.

Twelve Ballot Items Lawyers Will Vote On (Cont'd)



E: Duties To Prospective Client (Rule 1.18)

- Defines “Prospective Client” and when such prospective client’s disclosures must be protected. Also contains protections for lawyers against intentional attempts to disqualify firms.

F: Special Duties of a Prosecutor (Rule 3.09)

- Duty to Report “new and credible” evidence creating “reasonable likelihood” that convicted defendant did not commit the crime.

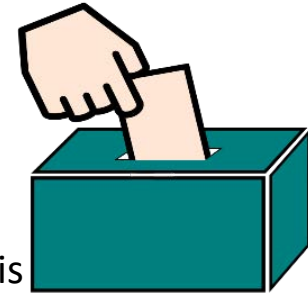
G: Dealing with Unrepresented Persons (Rule 4.03)

- Confirms duty not to give advice to unrepresented party which reasonably creates conflict with lawyer’s client.

H: Responsibility of a Partner or Supervisory Lawyer (Rule 5.01)

- Clarifies and confirms duties of managerial attorneys to make reasonable efforts that lawyers supervised comply with the disciplinary rules.

Twelve Ballot Items to Be Voted On (Cont'd)



I: **Unauthorized Practice of Law** (Rule 5.05)

- Defines which jurisdiction's disciplinary rules prevail when misconduct is alleged in another jurisdiction against a Texas lawyer, and when a lawyer licensed elsewhere is alleged to have committed misconduct in Texas.

J: **Jurisdiction** (Rule 8.05)

- Confirms that a Texas lawyer is always subject to potential disciplinary action in Texas regardless of where the alleged misconduct occurs.

K: **Choice of Law** (Rule 8.06)

- Provides consideration of the "predominant effect" of lawyer's conduct when choosing which jurisdiction's rules should be applied. But Texas lawyers advertising or soliciting from out of state seeking Texas employment are still subject to Texas Advertising Rules.

*This last item is a **Rule of Disciplinary Procedure***

L: **Termination of Custodianship** (New Section 13.05)

- Guides lawyers on how to terminate a Custodianship created under 13.03 or 13.04.

Please Help!



**If your practice involves a new rule,
and you have ideas to help
Implement, or modify
Attorney-Client agreements,
Or even want to suggest another
rule change, please
help us improve the
practice of law in Texas!**

Thanks!

Look us up: texasbar.com/cdrr



Thank You!
Claude@lawpay.com