

FILED

SID J. WHITE

FEB 4 1998

IN THE SUPREME COURT OF FLORIDA

CLERK, SUPREME COURT

By _____

Chief Deputy Clerk

THE FLORIDA BAR RE
PETITION TO AMEND RULES
REGULATING THE FLORIDA BAR -
ADVERTISING RULES

CASE NO.

92,297

**PETITION TO AMEND RULES REGULATING THE FLORIDA BAR -
ADVERTISING RULES**

THE FLORIDA BAR, pursuant to rule 1-12.1, Rules Regulating The Florida Bar, hereby petitions this Court for an order amending the Rules Regulating The Florida Bar and states:

I

1. This petition has been authorized by the Board of Governors of The Florida Bar.
2. The amendments and action proposed herein were approved by the Board of Governors of The Florida Bar.

II

3. The suggested revisions to the Rules Regulating The Florida Bar as officially noticed and summarized in the Florida Bar *News* are:

CHAPTER 3: RULES OF DISCIPLINE

3-1. PREAMBLE

RULE 3-1.3 LAWYERS ADMITTED IN JURISDICTIONS OTHER THAN FLORIDA

Summary: Creates a new rule which recognizes the authority of the Supreme Court of Florida to regulate lawyers from other jurisdictions who advertise or solicit for legal employment in Florida when not admitted to practice law in Florida.

CHAPTER 4 - RULES OF PROFESSIONAL CONDUCT

RULE 4-1. COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

RULES 4-7.1 THROUGH 4-7.8

Summary: Subchapter 4-7 -- the primary compilation of lawyer advertising rules -- has been reorganized for further clarification, by including like items within the same rule. Proposed Rule 4-7.1 will generally define to which communications the rules will apply. Rule 4-7.2 will indicate: what information is required in all forms of advertisements; what information is prohibited in all forms of advertisements (including prohibiting advertising in areas of law not currently practiced); and rules that generally apply to all advertisements. Rule 4-7.3 will specifically address print media, Rule 4-7.4 will address direct contact with prospective clients, Rule 4-7.5 will address electronic media, and Rule 4-7.6 -- a new rule -- will address computer-accessed communications (Rule 4-7.6 will be a new rule). Rule 4-7.7 will discuss the Bar's review of advertisements, including advisory opinions. Rule 4-7.8 will outline exemptions from filing. Rule 4-7.9 will discuss information provided upon consumer request and will permit the dissemination of past results obtained by a lawyer or law firm. Rule 4-7.10 will address firm names and letterhead, while 4-7.11 will discuss lawyer referral services.

RULE 4-7.1 - COMMUNICATIONS CONCERNING A LAWYER'S SERVICES

Summary: Specifically states that past successes or results are prohibited as likely to create unjustified expectations in subdivision (b); defines advertisements to include certain computer-accessed communications in subdivision (a).

RULE 4-7.2 ADVERTISING

Summary: Permits only an attorney from the advertising law firm to appear in electronic media and limits the information that may be provided to certain "safe harbor" specifications in subdivision (b); specifies minimum size of the disclosure for all print ads and abbreviates the disclosure statement for outdoor advertisement in subdivision (d); limits illustrations to those permitted under *Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio*, 471 U.S. 626, 105 S.Ct. 2265 (1985) in subdivision (f); changes geographic disclosure to require listing of one or more bona fide offices and defines bona fide office in subdivision (l); prohibits payment for advertisements by any lawyer not in the firm being advertised in subdivision (m).

RULE 4-7.4 - DIRECT CONTACT WITH PROSPECTIVE CLIENTS

Summary: Includes electronic mail communications directed to a specific recipient as part of the direct mail rules in subdivision (a); defines written statement of qualifications in subdivision (b)(2)(E); clarifies which advertisements must include disclosure in subdivision (b)(2)(G); clarifies sufficiency of disclosure in subdivision (b)(2)(J).

RULE 4-7.7 - FIRM NAMES AND LETTERHEADS

Summary: Prohibits the use of trade names with the exception of the inclusion of deceased or retired partners in a law firm in subdivisions (b) and (c).

CHAPTER 15 - REVIEW OF LAWYER ADVERTISEMENTS AND SOLICITATIONS

RULE 15-1. PURPOSE

RULE 15-1.2 APPLICABILITY

Summary: New rule which recognizes the authority of the Supreme Court of Florida to

regulate lawyers from other jurisdictions who advertise or solicit for legal employment in Florida when not admitted to practice in of Florida.

III

4. In accordance with rule 1-12.1(d), Rules Regulating The Florida Bar, advance notice of proposed action was published prior to approval of each of the preceding amendments by the board.

5. Notice of the filing of this petition was published in the January 1, 1998 issue of The Florida Bar *News* to comply with the 30-day preview requirements of rule 1-12.1(g), Rules Regulating The Florida Bar.

IV

6. The preceding amendments are being submitted to this Court in advance of the Bar's annual filing of rules changes. This action is being taken because of the substantial number of changes to both the content and the organizational structure of the advertising rules and the relatively unique nature of this subject matter.

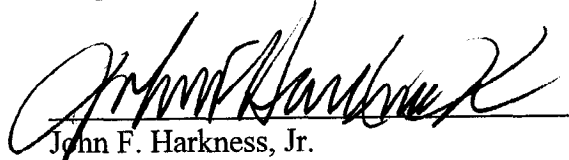
V

7. The full text of these proposed amendments is included in the Appendix to this petition.

8. The Appendix to this petition also includes materials supporting these proposed amendments which were considered by the Board of Governors and/or shared with the Bar membership at large. These materials are listed at the front of the Appendix.

WHEREFORE, The Florida Bar prays this Court will enter an order amending the Rules
Regulating The Florida Bar in the manner sought herein.

Respectfully submitted,



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