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IN THE  
SUPREME COURT OF THE UNITED STATES

October Term, 1976

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No. 76-316

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JOHN R. BATES and VAN O'STEEN,

Appellants,

v.

STATE BAR OF ARIZONA,

Appellee.

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ON APPEAL FROM THE SUPREME COURT OF ARIZONA

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BRIEF FOR AMICUS CURIAE  
THE STATE BAR OF CALIFORNIA

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INTEREST OF AMICUS CURIAE\*

Amicus curiae The State Bar of California (hereinafter "California Bar") is a public corporation which is, under California law, a component of the judicial branch of the state's government.

As such, the California Bar performs essential state governmental functions, including serving as an administrative arm of the Supreme Court of the State of California (hereinafter "California Supreme Court") in attorney admission, discipline and reinstatement matters. Cal. Const., art. 6, §§9, 6, 8; Cal. Bus. & Prof. Code, §§6001, 6008, 6008.1,

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\* The parties to this appeal have consented to the filing of a brief amicus curiae by The State Bar of California. A written stipulation evidencing their consent is on file in the office of the Clerk of this Court.

6008.2; Emslie v. State Bar (1974) 11 Cal.3d 210, 224 [13], 113 Cal.Rptr. 175, 520 P.2d 991; Brotsky v. State Bar (1962) 57 Cal.2d 287, 301 [12, 13], 19 Cal.Rptr. 153, 368 P.2d 697. With regard to matters of attorney discipline alone, the California Bar operates an elaborate disciplinary court system for the California Supreme Court, at an annual cost in excess of \$1.5 million. This cost is borne solely by the more than 54,000 members of the California Bar.

The California Bar is directed and managed by a Board of Governors (hereinafter "Board"), the members of which are public officers.\* Chronicle Publishing

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\* The Board consists of 15 attorney members elected from geographic districts by California attorneys, and 6 non-attorney members appointed from the state at large by the Governor. Cal. Bus. & Prof. Code, §§6011-6013.5.

Company v. Superior Court (1960) 54 Cal.2d 548, 566 [18], 7 Cal. Rptr. 109, 354 P.2d 637. The Board is specifically empowered by state law "[w]ith the approval of the [California] Supreme Court, . . . [to] formulate and enforce rules of professional conduct for all members of the bar in the State." Cal. Bus. & Prof. Code, §6076. The rules thus formulated, however, are not binding until approved by the California Supreme Court. Cal. Bus & Prof. Code, §§6076-6077. Upon such approval, they become rules of that court. Barton v. State Bar (1930) 209 Cal. 677, 680 [2], 289 P. 818.

The Board recently formulated and proposed to the California Supreme Court extensive -- and experimental -- revisions to California's Rules of Professional



Conduct designed to permit greater flow of information about what attorneys do and cost (Appendix A).\* These proposed revisions would permit information about many California attorneys to be published in expanded, non-traditional and readily-available law lists, legal directories and telephone books, with appropriate prescriptions concerning form and content to foster comparisons and prevent deception. These revisions will not become effective unless and until approved by the California Supreme Court. Even if so approved, their impact will be closely monitored

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\* These proposed new California rules are presently pending before the California Supreme Court for its consideration and eventual approval or disapproval. They were filed on August 26, 1976 under the title and number, In the Matter of the Proposed Repeal of Rule 2-106, Rules of Professional Conduct, Cal. Sup. Ct. Bar Misc. No. 3922.

for that court by the California Bar, since they are intended as an experiment to learn if more information about California lawyers can flow in different and heretofore unconventional media without detriment to the public and demoralization of California's legal profession.

By this brief the California Bar urges a decision in the case at bench which will foster and encourage the role of state bars in serving state judiciaries -- including healthy reappraisals and experimentation of the type now in progress in California -- while simultaneously protecting the other public interests involved in the instant controversy.

PURPOSES OF THIS BRIEF

In furtherance of its just-described interest in preserving the essential role of professional organizations in the administration of justice, the California Bar urges two propositions in response to the First Amendment and Sherman Act challenges mounted by appellants against the Arizona rule prohibiting advertising and (more importantly) appellants' ultimate position that total deregulation of all professional solicitation and advertising by attorneys is constitutionally and statutorily required.

First, the California Bar submits that, even if the specific Arizona rule at issue here were to be deemed violative of the First Amendment, it would be essential that, in the course of invalidating the rule, credence not be given to the

possible conclusion that all restraints on hucksterism, ambulance chasing and hard-sell advertising techniques by attorneys are similarly invalid. Rather, the essential rule-making power of the state courts, assisted by administrative arms such as state bars, should be reaffirmed, with encouragement to such enterprises as the proposed California rules, in which the states reappraise and reweigh traditional standards against their own growing recognition of the need for further dissemination of information concerning the services and economics of the legal profession.

Second, it is urged that this Court refuse to extend the Sherman Act to embrace the activities of a state bar involved in formulating and proposing to the state's highest court rules of

professional conduct and thereafter enforcing the rules adopted by the state court. It should be held that such activity by a state bar is performance of an essential state governmental function, rendered as an integral part of the judicial branch of the state government.

DISCUSSION

I. WHATEVER THIS COURT'S DECISION REGARDING THE PARTICULAR ARIZONA RULE AT ISSUE, THIS COURT SHOULD PRESERVE THE TRADITIONAL AND HISTORICAL RULE-MAKING POWER OF STATE COURTS, ASSISTED BY STATE BARS, TO REGULATE THE PROFESSIONAL CONDUCT OF ATTORNEYS ADMITTED TO PRACTICE BEFORE THEM

A. The State Courts' Inherent Rule-Making Power

State courts traditionally and historically have possessed inherent power to control the professional conduct of attorneys admitted to practice before them. See, e.g., Theard v. United States (1957) 354 U.S. 278, 281, 77 S.Ct. 1274, 1276 [3-7], 1 L.Ed.2d 1342; Brotsky v. State Bar (1962) 57 Cal.2d 287, 300 [6], 19 Cal.Rptr. 153, 368 P.2d 697; Stratmore v. State Bar (1975) 14 Cal.3d 887, 123 Cal.Rptr. 101, 538 P.2d 229. In many states (including California), one of the principal reasons for the existence of

a state bar is to assist the state courts in the exercise of that power.

Consequently, the sensitive issue of relationship between federal and state courts is inherent in the issues presented by the case at bench. As Mr. Justice Black, speaking for the Court, said in Atlantic Coast Line Railroad Company v. Brotherhood of Locomotive Engineers (1970) 398 U.S. 281, 285-286, 90 S.Ct. 1739, 1742-1743, 26 L.Ed.2d 234:

"When this Nation was established by the Constitution, each State surrendered only a part of its sovereign power to the national government. But those powers that were not surrendered were retained by the States and unless a State was restrained by 'the supreme Law of the Land' as expressed in the Constitution, laws, or treaties of the United States, it was free to exercise those retained powers as it saw fit. One of the reserved powers was the maintenance of state judicial systems for the decision of legal controversies. . . ."  
(Emp. added.)

Shortly thereafter, the majority of this Court further articulated the reasons for avoiding unnecessary federal interference with state court actions, saying:

"This underlying reason for restraining courts of equity from interfering with criminal prosecutions is reinforced by an even more vital consideration, the notion of 'comity,' that is a proper respect for state functions, a recognition of the fact that the entire country is made up of a Union of separate state governments, and a continuance of the belief that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways. This, perhaps for lack of a better and clearer way to describe it, is referred to by many as 'Our Federalism,' and one familiar with the profound debates that ushered our Federal Constitution into existence is bound to respect those who remain loyal to the ideals and dreams of 'Our Federalism.' The concept does not mean blind deference to 'States' Rights' any more than it means centralization of control over every important issue in our National Government and its courts. The Framers rejected both these courses.



"What the concept does represent is a system in which there is sensitivity to the legitimate interests of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States."

(Emp. added.)

Younger v. Harris (1971) 401 U.S. 37,  
44, 91 S.Ct. 746, 750-751, 27 L.Ed.2d  
669.

B. The California Bar's Proposed Rules:  
A Tangible Illustration of State  
Bar Assistance to the Judiciary in This  
Field

The proper and creative functioning of this purely state system of regulation is well illustrated by the California Bar's development of its proposed revisions to California's Rules of Professional Conduct in the area of public information communications by attorneys.

In a voluntarily-initiated, exhaustive study commenced more than two years ago,

the Board, inter alia:

1. Undertook an encyclopedic review and analysis of existing printed materials, including all California decisions involving solicitation of professional employment by attorneys and most other court decisions, law review articles and other treatises on the legal and social issues.
2. Directed a questionnaire to all California attorneys regarding their preferences and possible participation in directories and law lists which would include information on lawyers' (a) areas of experience or specialization, (b) fees and (c) interest in serving groups; and analyzed the 1,761 responses received.
3. Carefully reviewed the results of a long-range planning conference,

entitled "Law in the Future," to which national figures generously contributed.

4. Reviewed the transcript of debates on the issues held at two annual conferences of representatives from constituent bar associations.
5. Prompted debate of the issues and proposals at the California Conference of Bar Presidents.
6. Published for comment three separate, specific proposals for revising California's Rules of Professional Conduct.
7. Reviewed and analyzed the written responses to the issues and concepts espoused by the California Barristers Association (attorneys under 37 years of age), 38 local bar associations, 253 individual attorneys, the Los Angeles Regional Office of the

Federal Trade Commission, the Resource Center For Consumers of Legal Services, California legislators, three local government consumer affairs offices, a "legal clinic," 102 students enrolled in a college program on administration of justice and individual members of the public.

8. Reviewed and analyzed written comments on the specific text of the proposed revisions submitted by local bar associations, individual lawyers, California legislators, a law directory publisher, the Director of the State Department of Consumer Affairs and the California Newspaper Service Bureau.
10. Commissioned and studied a report by an advertising and public relations agency specializing in service

business on ways to implement and evaluate informative institutional advertising programs.

10. Held public hearings in Los Angeles and San Francisco, at which the Los Angeles County District Attorney, the Director and other representatives of the California State Department of Consumer Affairs, and representatives of local government consumer affairs departments, consumer organizations, California Rural Legal Assistance and other legal aid organizations, and local bar associations, inter alia, testified on both the general issues and the specific proposals being considered by the Board.
11. Held discussions with representatives of various media, including newspapers and the telephone company.
12. Listened to the comments of persons attending the Board's public meetings.

13. Continually publicized its efforts by issuing 30 news releases directed to public and legal newspapers, and public service radio announcements regarding its public hearings; circulating numerous letters to the presidents of all local bar associations; publishing articles in the State Bar Reports; and mailing one letter containing the text of the proposed revisions directly to all California attorneys.

When the Board's final formulation of its proposed revisions was filed with the California Supreme Court on August 26, 1976, it was accompanied by a foot-high record of the Board's development of its proposals.

The California Bar undertook this two-year task voluntarily in its capacity as an administrative arm of the California

Supreme Court. In effect, the Board acted as a master for that court, performing a task the court would have been able to perform itself only with the most oppressive difficulty and expense.

II. IN RECOMMENDING RULES OF PROFESSIONAL CONDUCT TO A STATE'S HIGHEST COURT AND ENFORCING THE RULES ADOPTED BY THAT COURT, A STATE BAR PERFORMS ESSENTIAL STATE GOVERNMENTAL FUNCTIONS AND ACTS AS AN INTEGRAL PART OF THE JUDICIAL BRANCH OF STATE GOVERNMENT

Recognizing the immunity of the Arizona Supreme Court under the "state action" doctrine enunciated in Parker v. Brown (1943) 317 U.S. 341, 63 S.Ct. 307, 87 L.Ed. 315, appellants seek to impose antitrust liability\* on the Arizona State Bar for assisting the state court by (1) formulating the rule at issue and (2) conducting the disciplinary proceedings under it.

The California Bar respectfully cautions that adoption of that theory by this Court would have drastic and impolitic consequences, reaching far beyond the limited issue of attorney advertising

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\* Under 15 U.S.C., §§1 and 2.



and touching the very heart of the role of state bars as effective administrative arms of state courts, particularly in the disciplinary process.

If the California Bar, for example, were to be exposed to Sherman Act treble-damage lawsuits for actions taken by it in aid of the California Supreme Court (e.g., formulation of the proposed revisions already discussed or conducting attorney disciplinary proceedings), it simply could not function in the areas of attorney admission, discipline and reinstatement.\* The California Supreme Court would be effectively deprived of the administrative arm that

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\* The result would be a drastic vacuum in the attorney disciplinary process.

The California Bar receives and investigates over 5,000 disciplinary complaints against California attorneys each year.

(Footnote continued on next page)

the California Legislature has specifically created for it. Instead, the court

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(Footnote continued from preceding page)

For example, a survey of disciplinary matters pending before the California Bar on a single day (February 6, 1975) revealed the following:

<u>Disciplinary Matters Pending</u>	<u>Number</u>
At staff level	1,338
At preliminary hearing level	286
At trial hearing level	219
At disciplinary board level	69
TOTAL	<u>1,921</u>

A similar survey of disciplinary matters pending before the California Supreme Court on a comparable single day (January 7, 1975) revealed the following:

<u>Disciplinary Matters Pending</u>	<u>Number</u>
Proceedings originated by State Bar	43
Proceedings resulting from convictions of crimes	58
Resignations with charges pending	4
Revocation of license	1
Revocation of probation	1
TOTAL	<u>107</u>

itself would have to create, fund and operate its own mechanism to perform the functions formerly performed by the California Bar.\* The legal profession would no longer be involved in keeping its own house in order.

Surely Congress in enacting the Sherman Act, and this Court in interpreting it in the Parker case, supra, did not intend such a drastic and

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\* Application of the Sherman Act to the California Bar would effectively destroy the California Supreme Court's disciplinary machinery by bankrupting it.

At the present time the California Bar spends in excess of \$1.5 million on attorney discipline. These funds are derived entirely from membership fees. The state legislature has placed a ceiling on the California Bar's membership fees (Cal. Bus. & Prof. Code, §6140), and the California Bar has no power to additionally assess its members for any purpose. For some years now the California Bar's membership fees have been at the maximums allowed by the state legislature.

fundamental change in the manner by which ethical standards for attorneys are created and enforced throughout the United States. Fortunately, such an untoward result is neither compelled, nor even authorized, by this Court's prior decisions.

In the Parker case, supra, this Court expressly held that Congress did not intend the Sherman Act to invalidate restraints on competition imposed by states as sovereign acts of government. 317 U.S., at p. 352.

The California Bar respectfully submits that rules of professional conduct for attorneys are imposed and enforced by states as sovereign acts of government -- specifically, by the state judiciaries exercising their inherent or statutory power to govern the conduct of the attorneys whom they have admitted to practice before them. Therefore, the

state courts' antitrust immunity under the Parker case, supra, must apply to state bars, not only because their role in the attorney disciplinary process is wholly subordinate to, and subject to the plenary control of, the state courts, but also because state bar officers, appointees and employees are public officials.

For example, under California law, the California Bar performs essential governmental functions for the State of California by serving as the California Supreme Court's administrative arm in attorney admission, discipline and reinstatement matters, including, inter alia, formulating rules of professional conduct and conducting attorney disciplinary proceedings involving alleged violations of such rules.

This fact is expressed in the state constitutional and statutory scheme that provided for the creation and operation of the California Bar, i.e., it is a

constitutional public corporation within the judicial branch of the government of the State of California. Cal. Const., art. 6 (Judicial), §9; Cal. Bus. & Prof. Code, §6001.\*

The California Supreme Court has stated that "[t]he State Bar Act 'sets up an institution controlled and managed by the members of the profession who are public officers acting under oath without compensation and functioning as an arm or branch of this court in the matter of admissions, reinstatements and discipline of attorneys at law.'" (Emp. in original.) Chronicle Publishing Company v. Superior Court (1960) 54 Cal.

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\* See also Cal. Const., art. 6, §§6, 8; Cal. Bus. & Prof. Code, §6008 (all property of the California Bar is held for essential public and governmental purposes in the judicial branch of the state government, and such property is exempt from all state taxes); §6008.2 (evidences of indebtedness of the California Bar are issued for essential public and governmental purposes in the judicial branch of the state government).

2d 548, 566 [18]; see also 54 Cal. 2d, at p. 563 [11].

The California Legislature has expressly provided that the Board of Governors of the California Bar may formulate and enforce rules of professional conduct for all California attorneys only with the approval of the California Supreme Court. Cal. Bus. & Prof. Code, §§6076, 6002. (As the California Supreme Court has noted, "[t]he Rules of Professional Conduct are intended not only to establish ethical standards for members of the bar [citation omitted], but are also designed to protect the public. [Citations omitted.]" Ames v. State Bar (1973) 8 Cal. 3d 910, 917 [2], 106 Cal.Rptr. 489, 506 P.2d 625.) The California Legislature has further expressly provided that the rules thus formulated are not binding upon California attorneys until they have been approved by the California

Supreme Court. Cal. Bus. & Prof. Code, §§6076, 6077, 6002. The California Supreme Court itself has held that "[t]he Rules of Professional Conduct formulated by the Board of Governors of The State Bar, by the approval of the Supreme Court thereby became the rules of that court. . . ." Barton v. State Bar (1930) 209 Cal. 677, 680 [2], 289 P. 818.

In connection with enforcement of the rules so approved, the California Supreme Court has stated that "[b]y whatever name a [California Bar] disciplinary proceeding may be called, whether an action or special proceeding, it is in essence the initial stage of an action in [this] court."\* Brotsky v. State Bar

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\* Consequently, all actions taken by the California Bar in disciplinary  
(Footnote continued on next page)



(1962) 57 Cal.2d 287, 301 [14], 19 Cal. Rptr. 153, 368 P.2d 697.

In light of the state courts' own antitrust exemption, neither a state bar's role in assisting a state judiciary by formulating such rules for its consideration, nor a state bar's role in assisting a state judiciary in enforcing the rules ultimately adopted by the judiciary should expose such a state bar to liability under the Sherman Act. Otherwise, many state judiciaries will be wholly deprived of the invaluable administrative assistance they now receive from state bars in the vital areas of attorney ethics and discipline.

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(Footnote continued from preceding page)

matters are subject at any step to prompt, direct and plenary review by the California Supreme Court. Cal. Bus. & Prof. Code, §§6082-6084, 6087; Cal. Rules of Court, rules 951-952; Stratmore v. State Bar (1975) 14 Cal. 3d 887, 889 [1], 123 Cal.Rptr. 101, 538 P.2d 229.

CONCLUSION

For the reasons briefly canvassed above, the California Bar respectfully urges that whatever disposition may be made of the specific, narrow rule challenged herein be carefully circumscribed to avoid creating the mistaken impression in some quarters that this Court has disregarded Mr. Justice Frankfurter's warning against burning the house to roast the pig.\* While reappraisal and experimentation by the states in this area may be desirable, a decision which would inspire in some minds the impression that an extreme, if opposite, evil has been reached -- in which all restraints are off and the morals of Madison Avenue are those of the legal profession -- would be no service to the public or its

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\* Butler v. Michigan (1957) 352 U.S. 380, 383, 77 S.Ct. 524, 1 L.Ed. 412.

structure for administering justice  
under a federal system.

The California Bar respectfully urges  
this Court to be cognizant of the concerns  
expressed above in deciding the case at  
bench and to preserve the traditional and  
historical power of the state courts to  
regulate the professional conduct of  
attorneys admitted to practice before them,  
as well as the vital role of state bars  
as administrative aids to state courts  
in this process.

Dated: December 15, 1976.

Respectfully submitted,

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**APPENDIX**

**CALIFORNIA BAR'S PROPOSED REVISIONS TO**  
**CALIFORNIA'S RULES OF PROFESSIONAL CONDUCT**

**Rule 2-101. General Prohibitions Against Solicitation  
of Professional Employment.**

(A) A member of the State Bar shall not solicit professional employment. By way of example but without limiting the prohibition:

(1) A member of the State Bar shall not solicit professional employment in or about any prison or jail or other place of detention of persons, or the scene of any accident, or any hospital or sanitarium or other place of health care, or any court, or any public institution, or any public place, or any public street or highway, or any private institution or property of any character whatsoever, either personally or by use of any other person, firm, association, partnership, corporation or other entity or instrumentality acting on the member's behalf in any manner or in any capacity whatsoever.

(2) A member of the State Bar shall not solicit professional employment by compensating or giving or promising anything of value to a person or entity for the purpose of recommending or securing the member's employment by a client, or as a reward for having made a recommendation resulting in the member's employment by a client.

(3) A member of the State Bar shall not solicit professional employment by compensating or giving or promising anything of value to any representative of the press, radio, television or other communication medium in anticipation of or in return for publicity of the member or any other attorney.

(4) A member of the State Bar shall not solicit professional employment by recommending employment of the member or the member's partner or associate to a non-lawyer who has not sought the member's advice regarding employment of a member of the State Bar.

(5) A member of the State Bar shall not solicit professional employment by advertisement or other means of commercial publicity nor shall the member authorize or permit others to do so in the member's behalf.

**APPENDIX A**

(B) A member of the State Bar shall not accept employment when the member knows or should know that the person who seeks the member's services does so as a result of conduct prohibited under (A) of this rule.

(C) This rule does not prohibit the following identification of a member of the State Bar as such as well as by name and other reasonably pertinent data so long as such identification is not primarily directed to soliciting professional employment:

(1) In political advertisements;

(2) In public communications when the name and profession of a member of the State Bar are required or authorized by law or are reasonably pertinent for a purpose other than for the solicitation of potential clients;

(3) In or on legal documents prepared by the member of the State Bar;

(4) In routine reports and announcements of a bona fide business, civic, professional or political organization in which the member serves as a director or officer or other official capacity; and

(5) In or on articles, books, treatises, pamphlets, brochures or other such publications and in advertisements thereof.

#### **Rule 2-102. Public Information Communications.**

(A) A member of the State Bar may participate in the publication of any of the information about the member or the member's firm specified in (B)(3) of this rule in any of the following:

(1) Law lists and legal directories approved by the Board of Governors pursuant to the following criteria:

(a) The information published therein is substantially in the form and language specified in (B)(3) of this rule.

(b) Each such law list or legal directory is a separate collation which includes a reasonable number of attorneys (from different sole law practices, law partnerships, professional associations of attorneys practicing law together or law corporations), considering the size of the legal community and the field or fields of law involved, listed together under the title "Attorneys" or "Lawyers" and under such additional subclassifications (including, but not limited to, geo-

graphical areas in which members reside or maintain offices or regularly practice, fields of law or certified specialties) as are not likely to be misleading or injurious to the public or the profession.

(c) Preferential prominence is not given to any member listed therein, by different size or character of type, underscoring or any other method used for emphasis or to attract attention.

(d) The information itself and the manner in which the information is presented or distributed (i) are not false, fraudulent, misleading, deceptive or unfair, (ii) are not likely to mislead or deceive, whether because in context they make only a partial disclosure of variables and relevant facts, or for other reasons, (iii) do not contain laudatory statements about the member or the member's firm, (iv) are not intended or likely to create false or unjustified expectations of favorable results, (v) do not convey the impression that the member or the member's firm is in a position to influence improperly any court, tribunal or other public body or official, (vi) are not intended or likely to encourage a legal action or position being taken or asserted primarily to harass or maliciously injure another, (vii) are not intended or likely to appeal primarily to a person's fears, greed, desires for revenge or similar emotions, (viii) do not contain representations or implications that are likely to deceive or to cause misunderstanding, and (ix) are not for the primary purpose of obtaining professional employment of a particular member or member's firm for a specific matter or transaction.

(e) The law list or legal directory is published no more frequently than once quarterly.

(f) The law list or legal directory contains such explanatory information as the Board of Governors may prescribe from time to time for the protection of persons to whom the communications are addressed.

(g) The law list or legal directory clearly specifies for what period of time the information contained therein will be in effect.

(h) Law lists or legal directories may be published or distributed by commercial publishers of law lists or legal directories; bar associations; newspaper publishers; publishers of telephone directories; service clubs; charitable organizations; consumer organizations; labor unions; business, professional or trade

associations; and entities enumerated in Rule 2-104, provided the person or entity publishing the law list or legal directory files with the State Bar a certification that it will not arbitrarily, capriciously or unreasonably exclude any member of the State Bar from its law list or legal directory.

A member shall not participate in the publication of information about the member or the member's firm in any law list or legal directory which the member knows or should know does not comply with the requirements of this rule and has not been approved by the Board of Governors or has been subsequently disapproved by the Board of Governors. Applications for approval of law lists and legal directories shall be made on such forms and pursuant to such rules as adopted and as from time to time amended by the Board of Governors.

(2) Classified sections of the telephone directory or directories for the geographical area or areas in which the member of the State Bar resides or maintains offices or regularly practices law, provided:

(a) All listings of members and members' firms therein are in a separate collation listed together under the title "Attorneys" or "Lawyers" and, if under subclassifications, are only arranged according to fields of law in which the member or the member's firm concentrates, primarily engages, or will accept cases, or in which the member is a certified specialist.

(b) The information permitted in (B)(3) of this rule is presented in substantially the form and language set forth therein.

(c) Introductory paragraphs or footnotes include such explanatory information as the Board of Governors may prescribe from time to time for the protection of persons to whom the communications are addressed.

(d) The presentation of the information does not violate the provisions of (1)(c) or (d) of (A) of this rule.

(3) Law lists or legal directories published periodically by the State Bar.

As used herein, "fields of law" includes, but is not limited to, administrative agency law, admiralty or maritime law, antitrust law, (field(s) of) appellate practice, bankruptcy law, business law, (field(s) of) civil practice, civil rights law, condemnation law, contract law, copyright law,



corporation and partnership law, creditor's rights law, criminal law, debtor's rights law, education law, employment law, entertainment law, environmental law, estate planning, family law, general practice, immigration and naturalization law, juvenile law, labor law, landlord and tenant law, (field(s) of) malpractice law, patent law, pension and profit sharing law, personal injury law, probate law, real estate law, senior citizens law, social security law, taxation law, trademark law, (field(s) of) trial practice, trust law, unemployment insurance law, veterans law, welfare law, worker's compensation law, zoning law.

(B) A member of the State Bar may participate in the publication of any of the information about the member or the member's firm specified in paragraph (3) of this subdivision to the extent permitted in (A) of this rule and in Rules 2-103 and 2-104, provided:

(1) Both the information itself and the manner in which the information is presented or distributed (a) are not false, fraudulent, misleading, deceptive or unfair, (b) are not likely to mislead or deceive, whether because in context they make only a partial disclosure of variables and relevant facts, or for other reasons, (c) do not contain laudatory statements about the member or the member's firm, (d) are not intended or likely to create false or unjustified expectations of favorable results, (e) do not convey the impression that the member or the member's firm is in a position to influence improperly any court, tribunal or other public body or official, (f) are not intended or likely to encourage a legal action or position being taken or asserted primarily to harass or maliciously injure another, (g) are not intended or likely to appeal primarily to a person's fears, greed, desires for revenge or similar emotions, (h) do not contain representations or implications that are likely to deceive or to cause misunderstanding, and (i) are not for the primary purpose of obtaining professional employment of a particular member or member's firm for a specific matter or transaction.

(2) Only members who hold a current certificate as a specialist issued by the California Board of Legal Specialization pursuant to a plan for specialization approved by the Board of Governors may use the terms "certified specialist", "specialist", "specialty", "specializes" or "specializing" in describing themselves or the nature of their practice; and only members who are registered to practice in patent matters before the United States

Patent and Trademark Office may use the words “patent” or “patents” in describing themselves or the nature of their practice.

(3) Such information is presented in substantially the following form and language:

(a) Name of the member of the State Bar;

*Form:* “[name of member]”

(b) Name under which the member practices, which may be accompanied by a statement clarifying that the practice is (i) a sole practice, (ii) a law partnership, (iii) an association of attorneys or (iv) a public interest law firm which has been ruled exempt from federal income tax under the Internal Revenue Code; provided that if the name under which the member practices is a law corporation, the statement clarifying that the practice is a law corporation shall be given and shall comply with the provisions of section 6164 of the Business and Professions Code;

*Form:* “[name of member’s firm, e.g. ‘Legal Clinic of Doe and Roe’, ‘Doe and Roe, Lawyers’], [‘a sole practitioner’ or ‘a law partnership’ or ‘an association of attorneys’ or ‘a law corporation’ or ‘public interest law firm’]”

(c) The name(s) of predecessor law firm(s) in a continuing line of succession;

*Form:* “formerly: {name(s) of predecessor law firm(s) listed in reverse chronological order}”

(d) Address(es) and telephone number(s) of the office(s) maintained by the member or the member’s firm for the practice of law;

*Form:* “[address(es)], [telephone number(s)]”

(e) Office hours regularly maintained by the member or the member’s firm for the practice of law, and a statement that the member is available to meet with clients or potential clients at times other than the specified office hours;

*Form:* “office hours: [days and hours regularly maintained], [and/or ‘by appointment’]; [telephone answered:] [days and hours regularly answered or ‘24 hours’]”

(f) A statement that the member is (or is not) willing to meet with potential clients at locations other than the member’s office(s);

*Form:* “interviews [‘not’] limited to office(s)”

(g) Language(s) other than English spoken fluently by the member;

*Form:* “fluent in: [name(s) of language(s)]”

(h) Language(s) other than English for which the member or the member’s firm provides interpreter(s), and a statement whether such interpreter(s) are provided without charge;

*Form:* “[‘free’] [name(s) of language(s)] interpreter(s) provided”

(i) Cost of an initial interview for a specified period of time, or a statement that such interview for a specified period of time is without charge;

*Form:* “initial interview: [‘½ hour’ or ‘1 hour’ or other specified period of time], [dollar amount or ‘free’]”

(j) A statement that the member or the member’s firm does (or does not) provide a written fee schedule, and if such fee schedule is provided a statement whether such fee schedule is provided without charge;

*Form:* “[‘free’] written fee schedule available”

(k) A statement that the member or the member’s firm is (or is not) willing to provide written fee estimates for specific services prior to providing such services, and if such fee estimates are provided a statement whether such fee estimates are provided without charge;

*Form:* “[‘free’] written fee estimates given”

(l) Field(s) of law practiced by the member or the member’s firm in which fees are set by statute;

*Form:* “[field(s) of law] fees set by statute”

(m) Hourly fee(s) or range of hourly fee(s) charged by the member or the member’s firm, *together with* all of the variables and other relevant factors that could affect the amount(s) of the stated fee(s);

*Form:* “[hourly fee(s), together with all variables and relevant factors]: [dollar amount(s)]”

(n) Fee(s) or range(s) of fee(s) charged by the member or the member’s firm for specific types of services, *together with* all of the variables and other relevant factors that could affect the amounts of the stated fee(s);

*Form:* “[type(s) of service(s), together with all variables and relevant factors]: [dollar amount(s)]”

(o) Type(s) of case(s) that the member or the member’s firm is willing to accept on a contingency fee basis, *together with* the terms of a typical contingency fee contract (including, without limitation, how both investigation costs and litigation costs are computed and paid) *and* all of the variables and other relevant factors that could affect the stated terms;

*Form:* “contingency fee case(s): [type(s) of case(s)], [terms of contingency fee contract(s), together with all variables and relevant factors]”

(p) Name(s) of credit card(s) accepted by the member or the member’s firm in payment of fees (or a statement that credit cards are not accepted);

*Form:* “[name(s) of credit card(s)] accepted”

(q) A statement that the member or the member’s firm regularly accepts (or does not regularly accept) installment payments of fees on mutually satisfactory terms;

*Form:* “installment payments accepted on mutually satisfactory terms”

(r) A statement that the member or the member’s firm is (or is not) willing to submit any fee dispute(s) to arbitration, and if so willing a statement that such arbitration is or is not binding;

*Form:* “fee disputes submitted to [binding] arbitration”

(s) A statement that the member holds current certificate(s) as a specialist issued by the California Board of Legal Specialization pursuant to a plan for specialization approved by the Board of Governors;

*Form:* “certified specialist in [field(s) of law]”

(t) A statement that the member is registered to practice in patent matters before the United States Patent and Trademark Office;

*Form:* “patents” or “patent law” or “registered to practice in patent matters”

(u) Field(s) of law to which the member and/or member’s firm limits the member’s and/or firm practice;

*Form:* “[‘lawyer’s’] [‘firm’s’] practice limited to: [field(s) of law]”

(v) One or more fields of law in which the member or the member's firm concentrates or primarily engages (not to exceed (i) in the case of a member, three, and (ii) in the case of a firm, three per member or ten, whichever is less);

*Form:* "[‘lawyer’ or ‘firm’] [‘concentrates in:’ or ‘primarily engages in:’] [field(s) of law]"

(w) One or more fields of law in which the member or the member's firm accepts cases, *together with* the information set forth in (v) above;

*Form:* "[‘lawyer’ or ‘firm’] [‘concentrates in:’ or ‘primarily engages in:’] [field(s) of law] and accepts cases in: [field(s) of law]"

(x) A statement that the member or the member's firm is interested in providing professional services under group legal services plan(s) which the member or the member's firm does not actually serve;

*Form:* "interested in serving group plans"

(y) A statement that the member or the member's firm is interested in providing professional services under prepaid legal services plan(s) which the member or the member's firm does not actually serve;

*Form:* "interested in serving prepaid plans"

(z) One or more fields of law in which the member and/or the member's firm will not accept cases;

*Form:* "[‘lawyer’] [‘firm’] will *not* accept cases in: [field(s) of law]"

(aa) Number of active members of the State Bar (including the member) who are associated with the member or the member's firm in the practice of law on a substantially full-time basis;

*Form:* "number of California lawyers: [whole number]"

(bb) Name(s) of (i) active member(s) of the State Bar who are, (ii) deceased member(s) of the State Bar who have been and (iii) with their consent, living member(s) of the State Bar who have been, associated with the member or the member's firm in the practice of law, and a statement with regard to each, that he or she is or was (i) a full-time partner, (ii) a full-time associate or (iii) has a continuing relationship with the member or the member's firm other than as a full-time partner or a full-time associate

(“of counsel”), *together with* the pertinent dates with regard to any such member who is not currently associated with the member or the member’s firm in the practice of law;

*Form:* “[‘partner(s):’] [name(s) and, if applicable, dates of former association in years]; [‘associate(s):’] [name(s) and, if applicable, dates of former association in years]; [‘of counsel:’] [name(s) and, if applicable, dates of former association in years]”

(cc) Date and place of the member’s birth;

*Form:* “born: [date, place]”

(dd) State(s) and federal court(s) in which the member is entitled to practice law, *together with* the date(s) of admission to such practice;

*Form:* “admitted to practice in: [state, year]; [state, year]; [name of federal court, year]; [name of federal court, year]; [etc.]”

(ee) Name(s) of other professional license(s) currently or formerly held by the member, *together with* the state(s) issuing the license(s) and the pertinent dates;

*Form:* “other license(s): [official title or abbreviation of license(s) *currently* held], [state(s) of issuance], [first year of member’s continuous holding of the license(s)] ‘–present’; [official title or abbreviation of license(s) *formerly* held], [state(s) of issuance], [dates in years that license(s) were held]”

(ff) Name(s) of school(s) from which the member has graduated, and with regard to each such school, a statement describing the nature of the school, the date the member graduated, the degree(s) the member received and any scholastic distinction(s) the member received;

*Form:* “[‘college’ or ‘law school’ or ‘engineering school’ or other appropriate description of the nature of the school attended by the member]: [name of school, year of graduation, degree(s) received, official name or abbreviation of scholastic distinction(s) received]”

(gg) Official title(s) of public or quasi-public office(s) or post(s) of honor currently or formerly held by the member, *together with* the pertinent dates;

*Form:* “[official title or abbreviation of office(s) or post(s) of honor *currently* held], [year member’s current term began] ‘–present’; [official title or abbreviation of office(s) or post(s) of honor *formerly* held], [dates in years that office or post was held]”

(hh) Name(s) of the branch(es) of the armed forces of the United States in which the member served, and the pertinent dates of such service;

*Form:* “[name(s) of branch(es)], [dates of service in years]”

(ii) Publication(s) authored by the member;

*Form:* “author: [title of work authored, title of publication, date of publication]”

(jj) Teaching position(s) currently or formerly held by the member, *together with* the pertinent dates;

*Form:* “[official title or abbreviation of position *currently* held], [name of school], [first year of member’s continuous service in position] ‘–present’; [official title or abbreviation of position *formerly* held], [name of school], [dates in years that position was held]”

(kk) Name(s) of organization(s) or component(s) thereof to which the member belongs or belonged, and the pertinent dates of such membership;

*Form:* “member: [official name(s) or abbreviation(s) of organization(s) to which the member *currently* belongs], [first year of member’s continuous membership therein] ‘–present’; [official name(s) or abbreviation(s) of component(s) of organization(s) to which the member *currently* belongs], [first year of member’s continuous membership therein] ‘–present’; [official name(s) or abbreviation(s) of organization(s) to which the member *formerly* belonged], [dates of membership in years]; [official name(s) or abbreviation(s) of component(s) of organization(s) to which the member *formerly* belonged], [dates of membership in years]”

(ll) Name(s) of position(s) of responsibility currently or formerly held by the member in organization(s), *together with* the pertinent dates;

*Form:* “[official name(s) or abbreviation(s) of position(s) *currently* held] [first year of member’s continuous service in position(s)] ‘–present’; [official

name(s) or abbreviation(s) of position(s) *formerly held*], [dates in years that position was held]”

(C) In addition to the conduct permitted by this rule, members of the State Bar and law firms may continue to be listed in a telephone directory, community directory or guide, law list or legal directory, or in a membership roster, membership register, membership directory or other membership list of a service club, charitable organization, fraternity, school alumni association or business, professional or trade association to which the member belongs, in the manner previously permitted by Rules 2-103(A)(5), (6) and (7) and 2-106(4) of the Rules of Professional Conduct extant immediately prior to effective date of this rule.

**Rule 2-103. Professional Announcements, Door and Office Signs, Professional Cards, Letterheads and Trade Names.**

Only to the extent permitted in this rule:

(A) A member of the State Bar available to act as a consultant to or as an associate of other members of the State Bar may distribute to other members of the State Bar and publish in legal journals circulated or distributed primarily to members of the State Bar or lawyers licensed in other jurisdictions an announcement in modest and dignified form of such availability setting forth any of the information permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein.

(B) A member of the State Bar or a member's law firm may mail to lawyers, clients, former clients, personal friends and relatives a brief professional announcement card in modest and dignified form stating new or changed associations or addresses, change of firm name, or similar matters, pertaining to the professional office of the member or of the member's firm and any of the information permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein. The announcement may be distributed only once for any new or changed association or address, change of firm name, or similar matters.

(C) A member of the State Bar or a member's law firm may have a sign in modest and dignified form on or near the door of the member's or firm's law office and in the building directory identifying the law office. The sign may state the nature of the practice only to the extent permitted under Rule 2-102(B)(3)(s), (t), (u) or (v) in substantially the form and language set forth therein.



(D) A member of the State Bar or a member's law firm may use a professional card in modest and dignified form and only for the purpose of identification. The professional card of a member may identify the member by name as a lawyer and give the member's address(es), telephone number(s) and give the name of the member's law firm in substantially the form and language set forth in Rule 2-102(B)(3)(b). The professional card of a law firm may give its name in substantially the form and language set forth in Rule 2-102(B)(3)(b) and may also give the names of members and associates. The card may state the nature of the practice only to the extent permitted under Rule 2-102(B)(3)(s), (t), (u) or (v) in substantially the form and language set forth therein.

(E) A member of the State Bar or a member's law firm may use stationery with a professional letterhead in modest and dignified form. The letterhead of a member may identify the member by name and as a lawyer and give the member's address(es), telephone number(s), the name of the member's law firm in substantially the form and language set forth in Rule 2-102(B)(3)(b) and the names of members and associates thereof. A letterhead of a law firm may give its name in substantially the form and language set forth in Rule 2-102(B)(3)(b) and may also give the names of members and associates, names and dates relating to deceased and retired members, and the names and dates of predecessor firms in a continuing line of succession. A member of the State Bar may be designated "of counsel" on a letterhead if the member has a continuing relationship with a lawyer or law firm other than as a full-time partner or associate. The letterhead may state the nature of the practice only to the extent permitted under Rule 2-102(B)(3)(s), (t), (u) or (v) in substantially the form and language set forth therein.

(F) A member of the State Bar who is engaged both in the practice of law and another profession or business shall not so indicate on his or her office sign, professional card or letterhead, nor shall the member identify himself or herself as a member of the State Bar in connection with the member's other profession or business.

(G) A member of the State Bar or a member's law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if the member or the firm devotes a substantial amount of professional time in the representation of that client, provided the member of the State Bar uses such letterhead only for

correspondence relating to the professional representation of the client the member represents as general counsel unless the member performs no legal services for anyone other than the client the member represents as general counsel.

(H) A member of the State Bar or a member's law firm may practice under a fictitious name, provided that such name (1) includes the member's name or the name(s) of other member(s) of the State Bar who are associated with the member or the member's firm in the practice of law or the name(s) of deceased or retired member(s) of the firm or of a predecessor firm in a continuing line of succession or the name of a partnership within the meaning of (I) of this rule or, in the case of a law corporation, complies with the provisions of section 6164 of the Business and Professions Code, (2) is not false, fraudulent, misleading, deceptive or unfair, (3) is not likely to mislead or deceive, (4) does not contain laudatory statements about the member or the member's firm, (5) is not intended or likely to create false or unjustified expectations of favorable results, (6) does not convey the impression that the member or the member's firm is in a position to influence improperly any court, tribunal or other public body or official, (7) is not intended or likely to result in a legal action or position being taken or asserted primarily to harass or maliciously injure another, (8) is not intended or likely to appeal primarily to a person's fears, greed, desires for revenge or similar emotions, and (9) does not contain representations or implications that are likely to deceive or to cause misunderstanding.

(I) A partnership may be formed or continued between or among lawyers licensed in different jurisdictions, provided all enumerations of the members and associates of the firm make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions, and further provided that (1) each person occupying each office of the firm located in California who shall hold himself or herself out as a member or associate of such firm shall be an active member of the State Bar and (2) each person holding himself or herself out as a member of the firm shall be a bona fide partner in such firm, with a bona fide share in the profits, liabilities and professional responsibilities thereof and (3) at least one person occupying each office of the firm located in California shall be such a bona fide partner and an active member of the State Bar.

**Rule 2-104. Public, Group and Prepaid  
Legal Service Programs.**

(A) The participation of a member of the State Bar in a legal aid plan or program for the furnishing of services to indigents or pursuant to the plan or program of a non-profit organization formed for charitable or other public purposes which furnishes legal services to persons only in respect to their civic or political or constitutional rights and not otherwise in furtherance of such charitable or other public purposes of such organization, and the publicizing of such plans or programs are not, of themselves, violations of these Rules of Professional Conduct provided the name of such member of the State Bar is not publicized. Nothing in this rule shall prohibit a representative of such a plan or program from stating in response to inquiries as to the identity of such member of the State Bar any of the information concerning the member permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein.

(B) The participation of a member of the State Bar in a lawyer referral service established, sponsored, supervised and operated in conformity with the Minimum Standards for a Lawyer Referral Service in California, as adopted and as from time to time amended by the Board of Governors is not, of itself, a violation of these Rules of Professional Conduct provided the name of such member of the State Bar is not publicized. Nothing in this rule shall prohibit a representative of such lawyer referral service from identifying a member of the State Bar who is participating in that service, and stating any of the information concerning the member permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein, in connection with the making of a requested referral in conformity with the said Minimum Standards. A member of the State Bar may permit his or her name to be listed in lawyer referral service offices according to the fields of law in which the member will accept referrals and in such manner as is proper under the standards which the Board of Governors may from time to time promulgate.

(C) The furnishing of legal services by a member of the State Bar pursuant to an arrangement for the provision of such services to the individual member of a group, as herein defined, at the request of such group, is not of itself in violation of these Rules of Professional Conduct if the arrangement:

(1) permits any member of the group to obtain legal services independently of the arrangement from any attorney of his or her choice,

(2) is so administered and operated as to prevent

(a) such group, its agents or any member thereof from interfering with or controlling the performance of the duties of such member of the State Bar to the member's client,

(b) such group, its agents or any member thereof from directly or indirectly deriving a profit from or receiving any part of the consideration paid to the member of the State Bar for the rendering of legal services thereunder,

(c) unlicensed persons from practicing law thereunder, and

(d) all publicizing and soliciting activities concerning the arrangement except by means of simple, dignified announcements setting forth the purposes and activities of the group or the nature and extent of the legal services or both, without any identification of the member or members of the State Bar rendering or to render such services.

Nothing in this rule shall prohibit a statement in communications to persons entitled to receive legal services under the arrangement or in response to individual inquiries as to the identity of the member or members of the State Bar rendering or to render the services giving any of the information concerning the member or members permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein.

As used in this rule, a group means a professional association, trade association, labor union or other non-profit organization or combination of persons, incorporated or otherwise and including employees of a single employer, whose primary purpose and activities are other than the rendering of legal services.

A member of the State Bar furnishing legal services pursuant to an arrangement for the provision thereof shall advise the State Bar thereof within 60 days after entering into the same. Thereafter the member shall advise the State Bar, on forms provided by it, of the following matters: the name of the group, its address, whether it is incorporated, its primary purposes and activities, the number of its members and a general description of the types of legal

services offered pursuant to the arrangement. Annually on January 31, the member shall report to the State Bar, on forms provided by it, any changes in such matters, and the number of members of the group to whom legal services were rendered during the calendar year. Each report filed pursuant hereto and the information contained therein, except the name and address of the group, the fact that it has an arrangement for the provision of legal services and the names of members of the State Bar providing such services shall be confidential.

(D) Section a. The furnishing of legal services by a member of the State Bar pursuant to an arrangement for pre-paid legal services or other plan for defraying the costs of professional services of attorneys, is not of itself in violation of these Rules of Professional Conduct, if:

(1) the arrangement was established by or at the request of a group defined in Rule 2-104(C) of these rules for the individual members of the group and otherwise complies with Rule 2-104(C); or

(2) the arrangement is developed, administered and operated by a non-profit organization, incorporated or otherwise and

(a) permits any client to obtain legal services independently of the arrangement, from any attorney of his or her choice; and

(b) is so developed, administered and operated that

(i) the panel of attorneys furnishing legal services thereunder consists of at least 20% or 1000 of the active members of the State Bar engaged in private practice and maintaining their principal offices in the geographical area served by the arrangement, whichever is the lesser number, but in no event less than 15 such active members; and

(ii) the panel of attorneys furnishing the legal services thereunder is open to any active member of the State Bar engaged in practice in the geographical area served by the arrangement, provided that a panel of attorneys which is open to all of the members of a local bar association is deemed to comply with this requirement if membership in that bar association is open to any active member of the State Bar engaged in practice in said geographical area, and

(iii) the client shall have the right to select any attorney on the panel to perform the legal services provided that the attorney consents to perform the legal services, and

(iv) any referral of a client to an attorney or attorneys on the panel of attorneys furnishing legal services under the arrangement shall be at the request of the client and in a manner consistent with those provisions of the "Minimum Standards for a Lawyer Referral Service in California" respecting the making of referrals; and

(c) is so developed, administered and operated as to prevent

(i) a third party from interfering with or controlling the performance of duties of the member of the State Bar to the member's client, and

(ii) a third party from receiving any part of the consideration paid to the member of the State Bar for furnishing legal services thereunder except as permitted by Rules 2-108 and 3-102 of these rules, and

(iii) unlicensed persons from practicing law thereunder, and

(iv) all publicizing and soliciting activities concerning the arrangement except by means of simple, dignified announcements setting forth the purposes and activities of the non-profit organization or the nature and extent of the benefits pursuant to the arrangement or both, without any identification of the member or members of the State Bar rendering or to render legal services; provided that all such publicizing and soliciting activities are in good faith engaged in solely for the purpose of developing, administering or operating the arrangement, and not for the purpose of soliciting business for, or for the self-aggrandizement of, any specific member or members of the State Bar; provided further that all publicizing and soliciting activities concerning the arrangement, except publicizing activities directed at persons entitled to receive legal services under the arrangement, shall terminate at such time as the total number of persons entitled to receive legal services under all arrangements of which the State Bar is advised pursuant to Rule 2-104(C) of these rules

is equivalent to the total number of persons entitled to receive legal services under all arrangements reported to the State Bar pursuant to Section b.1. (b) of this Rule 2-104(D). For the purposes of this subsection (c)(iv) "persons" shall not include those who are eligible to receive legal services solely by reason of being a spouse or dependent family member.

Once the requirements of Section a.2.(b)(i) of this Rule 2-104(D) have been satisfied, nothing in this rule shall prohibit a statement in communications to persons entitled to receive legal services under the arrangement or in response to individual inquiries as to the identity of the member or members of the State Bar rendering or to render the services giving any of the information concerning the member or members permitted in Rule 2-102(B)(3) in substantially the form and language set forth therein.

As used in this section, "geographical area" means any one of the following: (1) the state; (2) one or more municipal court judicial districts; (3) any combination of one or more municipal court judicial districts together with one or more counties; (4) one or more counties; (5) one or more of the superior court districts in a county of 5,000,000 or more persons according to the latest federal census.

Section b. Subject to the provisions of Section c. of this Rule 2-104(D), a member of the State Bar who has agreed to furnish legal services pursuant to an arrangement for prepaid legal services or other plan for defraying the costs of professional services of attorneys, shall

(1) Within 60 days after entering into such agreement, file a notice thereof with the State Bar, and thereafter file with the State Bar, on the report forms provided by it and within 60 days after receiving such forms, the following under either (a) or (b), as applicable:

(a) If the arrangement was established by or at the request of a group pursuant to Section a.1. of this Rule 2-104(D):

(i) the name and office address of the group, the number of its members, its primary purposes and activities, and a copy of any agreement the member of the State Bar has entered into with the group respecting the arrangement;

(ii) if a person or entity other than the group itself is administering the arrangement, the name

and office address of such person or entity, whether such person or entity is incorporated, a copy of any agreement the member of the State Bar has entered into with such person or entity respecting the arrangement, and a copy of any agreement such person or entity has entered into with the group respecting the arrangement; and

(iii) a description of the methods and procedures under the agreement, if any, (A) whereby a client who is entitled to benefits under the arrangement may, upon request, be referred to an attorney or attorneys on the panel of attorneys furnishing legal services under the arrangement, (B) for periodically obtaining from those being served by the arrangement their comments, evaluations and recommendations respecting the operation of and furnishing of legal services under the arrangement, and (C) for resolution of client grievances.

(b) If the arrangement is developed, administered and operated by a non-profit organization pursuant to Section a.2. of this Rule 2-104(D):

(i) the name and office address of the non-profit organization and, if incorporated, a copy of its articles of incorporation and by-laws;

(ii) the geographical area served by the arrangement;

(iii) a copy of any agreement between the member of the State Bar and the non-profit organization respecting the arrangement;

(iv) the name and office address of any group being served by the arrangement, the number of its members, its primary purposes and activities, and a copy of any agreement the member of the State Bar or the non-profit organization, or both, has entered into with the group respecting the arrangement;

(v) if individuals, as distinguished from members of a group, are being served by the arrangement, then the number of such individuals and a copy of each form of agreement entered into between the non-profit organization and such individuals respecting the arrangement; and

(vi) a description of the methods and procedures under the arrangement, if any, as required under 1.(a)(iii) of this section.



(2) Annually thereafter, by January 31, file with the State Bar, on the report forms provided by it, the following: the number of persons to whom the member rendered legal services during the preceding calendar year pursuant to the arrangement, and the types of such services; and the changes, if any, in the information or documents the member filed with the State Bar under either 1.(a) or 1.(b) of this Section b.

Section c. Any notice, information or documents required to be filed by a member of the State Bar pursuant to Section b. of this Rule 2-104(D) need not be filed by such member personally if, within the time periods specified in that section, such notice, information or documents are filed on the member's behalf by either: (1) the group's officer, agent, or employee having primary responsibility for the arrangement established pursuant to Section a.1. of this Rule 2-104(D), or if such arrangement is being administered by a person or entity other than the group, by such person or entity; (2) the non-profit organization administering the arrangement pursuant to Section a.2. of this Rule 2-104(D).

When such notice, information or documents are so filed on behalf of two or more members of the State Bar for any one arrangement, they shall be consolidated where possible in a single notice or reporting form and documents already on file may be incorporated by reference so long as there are no changes therein.

Section d. Any notice, information or documents received by the State Bar pursuant to Sections b. or c. of this Rule 2-104(D) shall be public, whether or not also received by the State Bar pursuant to Rule 2-104(C) of these rules.