INFORMATION ABOUT LEGAL SERVICES

Rule 7.7. Evaluation of Advertisements (signed 5/6/2021, effective 1/1/2022)

(a) **Louisiana State Bar Association Rules of Professional Conduct Committee.** With respect to said Committee, it shall be the task of the Committee, or any subcommittee designated by the Rules of Professional Conduct Committee (hereinafter collectively referred to as "the Committee"): 1) to evaluate all advertisements filed with the Committee for compliance with the Rules governing lawyer advertising and solicitation and to provide written advisory opinions concerning compliance with those Rules to the respective filing lawyers; 2) to develop a handbook on lawyer advertising for the guidance of and dissemination to the members of the Louisiana State Bar Association; and 3) to recommend, from time to time, such amendments to the Rules of Professional Conduct as the Committee may deem advisable.

(1) *Recusal of Members.* Members of the Committee shall recuse themselves from consideration of any advertisement proposed or used by themselves or by other lawyers in their firms.

(2) *Meetings.* The Committee shall meet as often as is necessary to fulfill its duty to provide prompt opinions regarding submitted advertisements' compliance with the lawyer advertising and solicitation rules.

(3) *Procedural Rules.* The Committee may adopt such procedural rules for its activities as may be required to enable the Committee to fulfill its functions.

(4) *Reports to the Court.* Within six months following the conclusion of the first year of the Committee's evaluation of advertisements in accordance with these Rules, and annually thereafter, the Committee shall submit to the Supreme Court of Louisiana a report detailing the year's activities of the Committee. The report shall include such information as the Court may require.

(b) **Advance Written Advisory Opinion.** Subject to the exemptions stated in Rule 7.8, any lawyer who advertises services through any public media or through unsolicited written communications sent in compliance with Rule 7.4 or 7.6(c) may obtain a written advisory opinion concerning the compliance of a contemplated advertisement or unsolicited written communication in advance of disseminating the advertisement or communication by submitting to the Committee the material and fee specified in subdivision (d) of this Rule at least thirty days prior to such dissemination. A filing number, as detailed in Rule 7.2(a)(3), shall be assigned and provided to the lawyer by the Louisiana State Bar Association at the time of filing. If the Committee finds that the advertisement or unsolicited written communication complies with these Rules, the lawyer's voluntary submission in compliance with this subdivision shall be deemed to satisfy the regular filing requirement set forth below in subdivision (c) of this Rule.

(c) **Regular Filing.** Subject to the exemptions stated in Rule 7.8, any lawyer who advertises services through any public media or through unsolicited written communications sent in

compliance with Rule 7.4 or 7.6(c) shall file a copy of each such advertisement or unsolicited written communication with the Committee for evaluation of compliance with these Rules. The copy shall be filed either prior to or concurrently with the lawyer's first dissemination of the advertisement or unsolicited written communication and shall be accompanied by the information and fee specified in subdivision (d) of this Rule. A filing number, as detailed in Rule 7.2(a)(3), shall be assigned and provided to the lawyer by the Louisiana State Bar Association at the time of filing. If the lawyer has opted to submit an advertisement or unsolicited written communication in advance of dissemination, in compliance with subdivision (b) of this Rule, and the advertisement or unsolicited written communication is then found to be in compliance with the Rules, that voluntary advance submission shall be deemed to satisfy the regular filing requirement set forth above.

(d) **Contents of Filing.** A filing with the Committee as permitted by subdivision (b) or as required by subdivision (c) shall consist of:

(1) a copy of the advertisement or communication in the form or forms in which it is to be disseminated and is readily-capable of duplication by the Committee (e.g., videotapes, audiotapes, print media, photographs of outdoor advertising, etc.);

(2) a typewritten transcript of the advertisement or communication, if any portion of the advertisement or communication is on videotape, audiotape, electronic/digital media or otherwise not embodied in written/printed form;

(3) a printed copy of all text used in the advertisement;

(4) an accurate English translation, if the advertisement appears or is audible in a language other than English;

(5) a sample envelope in which the written communication will be enclosed, if the communication is to be mailed;

(6) a statement listing all media in which the advertisement or communication will appear, the anticipated frequency of use of the advertisement or communication in each medium in which it will appear, and the anticipated time period during which the advertisement or communication will be used; and

(7) fees paid to the Louisiana State Bar Association, in an amount set by the Supreme Court of Louisiana: (A) for submissions filed prior to or concurrently with the lawyer's first dissemination of the advertisement or unsolicited written communication, as provided in subdivisions (b) and (c); or (B) for submissions not filed until after the lawyer's first dissemination of the advertisement or unsolicited written communication.

(e) **Evaluation of Advertisements.** The Committee shall evaluate all advertisements and unsolicited written communications filed with it pursuant to this Rule for compliance with the applicable rules on lawyer advertising and solicitation. The Committee shall

complete its evaluation within thirty days following receipt of a filing unless the Committee determines that there is reasonable doubt that the advertisement or unsolicited written communication is in compliance with the Rules and that further examination is warranted but cannot be completed within the thirty-day period, and so advises the filing lawyer in writing within the thirty-day period. In the latter event, the Committee shall complete its review as promptly as the circumstances reasonably allow. If the Committee does not send any communication in writing to the filing lawyer within thirty days following receipt of the filing, the advertisement or unsolicited written communication will be deemed approved.

(f) **Additional Information.** If the Committee requests additional information, the filing lawyer shall comply promptly with the request. Failure to comply with such requests may result in a finding of non-compliance for insufficient information.

(g) **Notice of Noncompliance; Effect of Continued Use of Advertisement.** When the Committee determines that an advertisement or unsolicited written communication is not in compliance with the applicable Rules, the Committee shall advise the lawyer in writing that dissemination or continued dissemination of the advertisement or unsolicited written communication may result in professional discipline. The Committee shall report to the Office of Disciplinary Counsel a finding under subsections (c) or (f) of this Rule that the advertisement or unsolicited written communication is not in compliance, unless, within ten days of notice from the Committee, the filing lawyer certifies in writing that the advertisement or unsolicited written communication has not and will not be disseminated.

(h) **Committee Determination Not Binding; Evidence.** A finding by the Committee of either compliance or noncompliance shall not be binding in a disciplinary proceeding, but may be offered as evidence.

(i) **Change of Circumstances; Re-filing Requirement.** If a change of circumstances occurring subsequent to the Committee's evaluation of an advertisement or unsolicited written communication raises a substantial possibility that the advertisement or communication has become false, misleading or deceptive as a result of the change in circumstances, the lawyer shall promptly re-file the advertisement or a modified advertisement with the Committee along with an explanation of the change in circumstances and an additional fee as set by the Court.

(j) **Maintaining Copies of Advertisements.** A copy or recording of an advertisement or written or recorded communication shall be submitted to the Committee in accordance with the requirements of Rule 7.7, and the lawyer shall retain a copy or recording for five years after its last dissemination along with a record of when and where it was used. If identical unsolicited written communications are sent to two or more prospective clients, the lawyer may comply with this requirement by filing a copy of one of the identical unsolicited written communications and retaining for five years a single copy together with a list of the names and addresses of all persons to whom the unsolicited written communication was sent.

(k) Lawyer Advertisement Public Information. The Louisiana State Bar maintains a current database of all advertisements and unsolicited written communications that have been filed with it under Rule 7.7. The name of filing lawyers, Louisiana State Bar Association Lawyer Advertising Filing Numbers and other basic identifying information for each advertisement and unsolicited written communication so filed and contained in the database shall be made readily available to and searchable by the public.

Rule 7.7. Evaluation of Advertisements (signed 6/26/2008, effective 12/1/2008) (signed, effective 10/31/2008, postponed till 4/1/2009) (signed, effective 2/18/2009, postponed 10/1/2009)

[Enforcement of Rule 7.7 as it pertains to filing requirements for Internet advertising is suspended, until further notice, by order of the Supreme Court of Louisiana, dated September 22, 2009.]

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