

# Texas Referral Practices Survey Report

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State Bar of Texas  
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## Executive Summary

On October 9, 2003, the Supreme Court of Texas proposed (Misc. Docket No. 03-9160) to amend Texas Rules of Civil Procedure by adding Rule 8a, “Referral Fees,” effective January 1, 2004. The Supreme Court suspended implementation of the proposed rule to await final recommendations from a special task force appointed by the State Bar of Texas. The Referral Fee Task Force, chaired by Richard Hile of Austin, was authorized to conduct public hearings and to conduct a survey to better understand the referral practice in Texas. The Research and Analysis Department of the State Bar worked with the Task Force to survey active in-state State Bar of Texas attorneys. A summary of the results is included here.

1. Those who responded appear to be representative of Texas’ attorney population (the Texas in-state active attorneys), with a few exceptions. Those responding were more likely to belong to a State Bar of Texas section and be certified by the Texas Board of Legal Specialization. They also were slightly more likely to practice solo, have been licensed longer, and be slightly older.
  2. Some 42% of private practitioners make formal referrals (referrals involving some expectation of financial compensation), compared to 6% by attorneys who are not private practitioners. Some 29% of private practitioners receive formal referrals, compared to 1% of attorneys who are not private practitioners.
  3. The mean number of cases formally referred annually *by* private practitioners is 8, the mean number referred *to* private practitioners is 24, and the mean number *accepted* is 12.
  4. The survey indicated the most prevalent type of formal referrals accepted were Personal Injury – auto accidents, and Personal Injury – products liability, accounting for 45% of the total. Another 27% were accounted for by Personal Injury – third-party actions, Personal Injury – other, Criminal Matter, and Commercial Litigation.
  5. The top three reasons cited for formal referrals were “Case was out of my practice area”, “Case was in my practice area but was too complicated/technical,” and “Case was in another geographic area.”
  6. The factor rated most important for choosing the attorney to formally or informally refer to was “The attorney’s reputation in his/her practice area.”
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7. About half of the attorneys verbally disclose the size (amount or percent) of the referral fee to the client, when referring or accepting a client. However, of those attorneys who formally refer clients, only 7.5% stated the size of the referral fee in the client contract or power of attorney. Twenty-five percent of attorneys who accept formal referrals stated the size of the fee in their client contract or power of attorney or both.

8. About two-thirds of attorneys making formal referrals report receiving, on average, 30% of the attorney fee recovered. The other third of referring attorneys typically accept whatever the handling lawyer pays.

9. About half of attorneys making formal referrals report receiving \$5,000 or less as a fee.

10. Attorneys who reported making formal referrals indicated that they continue to perform services a mean 37% of the time.

11. Attorneys making formal referrals report about half of their clients choose them based on “recommendation from former clients”. Another 25% of attorneys indicate their clients hear about them from “recommendations from client’s friends, acquaintances, etc.”

12. More than half the referring attorneys responding to the survey indicated the proposed changes to the law would reduce or stop their accepting referral fees or making referrals. Attorneys who accept formal referrals anticipated a somewhat less effect, between 40% and 49%, depending on the type of change.

13. When asked specifically about tort reform legislation, like House Bill 4, about half of attorneys making formal referrals said it would decrease the number of cases they refer to other attorneys. A little more than half of attorneys who accept formal referrals said it would decrease the number of referrals they accept.

## **Introduction**

### **Background**

On October 9, 2003, the Supreme Court of Texas proposed (Misc. Docket No. 03-9160) to amend Texas Rules of Civil Procedure by adding Rule 8a, "Referral Fees," effective January 1, 2004. The Supreme Court suspended implementation of the proposed rule to await final recommendations from a State Bar of Texas appointed special task force, the Referral Fee Task Force, chaired by Richard Hile of Austin. The tasks were to conduct public hearings, and to conduct a survey to better understand the referral practice in Texas. The Research and Analysis Department of the State Bar worked with the Task Force to survey active in-state State Bar of Texas attorneys. The survey was conducted from March 23, 2004 through April 23, 2004. The returned paper surveys were data entered, verified, and analyzed from April 24, 2004 through May 20, 2004. This report describes the findings from the survey.

### **Methodological Notes**

#### **The survey procedures**

The Texas Referral Practices Survey was developed by the Research & Analysis Department in conjunction with Richard Hile and the Task Force. The survey was then pilot tested on several Austin attorneys.

The survey was administered to a random sample of 4,000 Bar members. These members were asked to participate in the Texas Referral Practices Survey, either online, through a secure confidential portion of the State Bar of Texas website, and/or via mailed paper surveys. The majority (3,533) of attorneys of the sample had valid email addresses on file with the State Bar of Texas and were emailed an invitation to participate in an online version of the survey. This online survey began on March 23<sup>rd</sup>, 2004 and was held open through March 30<sup>th</sup>-a total of seven days. Some 343 surveys were completed online by attorneys during that week.

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For those 466 Bar members with inactive email addresses or those with no email on file with the State Bar of Texas, paper surveys were mailed to Bar members on March 29<sup>th</sup>, 2004. On April 2<sup>nd</sup>, 2004, 3,190 paper copies of the survey were mailed to Bar members who were invited via email to participate online but did not respond (copies of relevant documents are in appendix B).

To garner a larger response rate, a second email invitation was made to those 2,662 attorneys who had not yet responded to the initial email invitation or to the paper survey. This final invitation to participate in an online survey was made on Monday April 19<sup>th</sup>. The online survey was open to invitees through Friday April 23<sup>rd</sup> 2004. Some 113 online surveys were completed during this week.

The closing date for the survey was Friday, April 23<sup>rd</sup> 2004. No additional paper surveys or response cards were accepted after that day.

In total, 1,215 attorneys participated in the survey--759 paper surveys were collected over the course of roughly three weeks and 456 respondents completed the online survey. The fact that more attorneys chose to participate via paper surveys than online was not anticipated. Reasons for this are not known, but speculation would include respondent concerns about online security and anonymity, lack of familiarity with taking/navigating online surveys, and issues regarding online survey layout and design (each question was a page, each requiring an answer and that the respondent click 'Next' to get to the next question).

The summary statistics of the survey administration are as follows:

Total paper surveys mailed: 3,656  
Total paper surveys returned completed: 759  
Response rate via mail: 20.8%

Total attorneys invited to completed the survey online: 3,533  
Total surveys completed online: 456  
Response rate via email invitation: 12.9%

Total Sample: 4,000 attorneys  
Total Respondents: 1,215 attorneys  
Overall Response Rate: 30.4%.

### **Characteristics of the randomly selected sample**

A random sample of 4,000 was taken on February 26th 2004 from the relevant universe of 66,364 active in-state attorneys [at that time, the number of total active SBOT attorneys was 73,305]. To determine if the those who responded in the sample can be inferred to represent the population of active in-state attorneys, several comparisons were made, using the demographic measures obtained on four groups: the randomly selected sample (n=4,000), the respondents who submitted surveys (n=1,215), the respondents who sent in cards (n=1,210), and the population of the Texas in-state active attorneys (N=66,358) (tables with this information are shown below in Appendix C). The first comparison involved determining if the randomly selected sample differs significantly from the population of Texas in-state active attorneys.

A second comparison was also made, between the survey respondents and the in-state active attorneys. Even if it was decided that the identified sample of 4,000 was randomly selected, determination needed to be done of whether those who actually responded to the survey are representative of the in-state active lawyer population.

Lastly, a third comparison was made, for a few measures where incomplete information was available in the survey. For some items, fewer responses than expected were made. For these items, a comparison was made of the demographic information of the respondents who sent in cards after submitting the survey. Almost all survey respondents returned a card that identified them, even though no link could be made between the card and the submitted survey. Demographic information on the sample of survey respondents kept at the State Bar of Texas could then be analyzed and compared to the population.

### **Calculating the confidence interval for percentages**

With a sample of 1,215 persons responding, the 95% confidence interval is plus or minus 3 percentage points. This is calculated using the formula for the standard error of a percentage (e.g., p. 161, Guilford, 1965)<sup>1</sup>.

We can then proceed to use three percentage points as the difference, with a sample size of 1,215, which, if detected, would lead us to infer that a statistically significant difference has been observed. Of course, because this is a 95% confidence interval, we would be incorrect in inferring a statistically significant difference 5% of the time. That is, 5% of the time an observed difference of 3 percentage points is not due to a real difference having occurred.

### **Comparing the selected sample and the population of Texas in-state attorneys**

Using the tool of the three percentage points 95% confidence interval, analysis was done of the randomly selected sample (n=4,000) and the population of the Texas in-state active attorneys members (N=66,358). These two groups differed very little on 125 demographic measures, which included gender, race/ethnicity, years licensed, age, State Bar of Texas section

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<sup>1</sup> Guilford, J. P. Fundamental statistics in psychology and education (4<sup>th</sup> edition). New York: McGraw-Hill Book Company, 1965.

membership, board certification area, law school attended, primary occupation, law firm size (private practitioners only), number of State Bar of Texas sections a member, and number of board certified areas. Some 27 of the 122 demographic measures that are expressed as percentages showed a 1 percentage point difference. Three of the same 122 demographic measures showed a 2 point difference. On average, the two groups only differ by  $\frac{1}{4}$  of a percentage point difference, over the 122 demographic measures, indicating the groups appear to have a very similar set of characteristics. There were three additional demographic measures that were not defined by percentages. These were the median years licensed, the median age, and the median firm size (only for private practitioners). None of these median values differed between the two groups. This analysis confirms that a random selection process was used to select the 4,000 members of the sample. Because none of the differences in the 122 percentages were at or exceeded the three percentage points confidence interval, we can say this confirms that we randomly selected the sample.

**Are the survey respondents also a random sample?**

Differences are shown in the results of comparing the respondents who completed the survey (n=1,215) with the population of Texas in-state active lawyers. Overall there is an average 1.3 percentage point difference. Those differences that were at or exceeded three percentage points will be reviewed:

1. One difference appears in membership in State Bar of Texas sections. The survey respondents are more likely to belong to one or more sections compared to the Texas in-state lawyers. However, this analysis is complicated by the fact that some of the survey respondents skipped answering this question. A supplemental analysis was done of the survey respondents using the post card they returned to identify their characteristics. This analysis still shows that survey respondents were more likely to belong to a Bar section than the Texas in-state lawyers (49% versus 43%).
  
2. Another difference between survey respondents and the State Bar of Texas is in board certification: 20% of the survey respondents are board certified, compared to 10% of the Texas in-state lawyers. However, this analysis also is complicated by the fact that some of the survey respondents skipped answering this question. Again, a supplemental analysis was done of the survey respondents using the post card they returned to identify their characteristics. This analysis still shows that survey respondents were more likely to be board certified than the Texas in-state lawyers (16% versus 10%).
  
3. Another difference is in primary occupation. A greater percentage of respondents were private practitioners (73%) compared to the Texas in-state lawyers (69%). However, when this analysis is done of the respondents who returned a card, the difference is less, 71% of those who returned a card reported being private practitioners.
  
4. A greater percentage of survey respondents reported practicing solo (42%) compared to the Texas in-state lawyers (37%). A law firm size difference is also seen for the ‘Over 60’ category. Fewer survey respondents report being in a law firm over 60 members (13%) than the Texas in-state lawyers (18%). There is also a difference in the median

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firm size (reported only by private practitioners). The survey respondents median is 3, compared to the in-state attorneys' median of 4.

5. A few differences were seen in the 41 Bar section memberships. In six sections the survey respondents reported fewer memberships than the Texas in-state lawyers (by three or more percentage points): Antitrust and Business Litigation (1% versus 4%), Business Law (7% versus 12%), Corporate Counsel (5% versus 9%), General Practice, Solo, and Small Firm (5% versus 9%), Real Estate, Probate and Trust Law (14% versus 22%), and Taxation Law (3% versus 6%). One Bar section showed survey respondents with greater memberships than the Texas in-state lawyers (by three or more percentage points): Litigation Law (28% versus 25%).

6. In only two of the 19 board certification areas were there differences of three or more percentage points. These were in Criminal Law, where survey respondents showed smaller board certification (6% versus 12%), and Estate Planning and Probate Law, where survey respondents showed greater board certification (12% versus 9%).

7. Two other measures showed differences: the survey respondents showed a greater median number of years licensed (18 years versus 16 years), and a greater median age (47 years versus 45 years). If we use a 0.05 confidence interval based on the standard error of the median (p. 158, Guilford, 1965)<sup>2</sup>, the two groups are significantly different on both of these measures (the standard error of the age median is 0.45, and that of the years licensed median is also 0.45).

To summarize, it appears, while the sample was randomly selected, the survey respondents are different on a few measures from the Texas in-state lawyers population. The differences are that the survey respondents are more likely (by 6 percentage points) to belong to a Bar section and more likely (by 6 percentage points) to be board certified. The survey respondents were also more likely (by 5 percentage points) to practice solo, and less likely (by 5 percentage points) to be in a law firm with more than 60 members. The median firm size for survey respondents was also less (3 for private practitioners), compared to the active in-state attorneys (4 for private practitioners). Some differences were seen in 7 of the 41 Bar section memberships (of not more than 8 percentage points). Two of the 19 board certification area showed differences (of not more than 6 percentage points). Two other differences were found: the survey respondents indicated two more years of being licensed, and reported a median two more years of age.

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<sup>2</sup> Guilford, J. P. Fundamental statistics in psychology and education (4<sup>th</sup> edition). New York: McGraw-Hill Book Company, 1965.

## **Organization of the Survey and Results**

The Texas Referral Practices Survey was organized into three sections:

The first section asked about informal referrals. The attorney was asked whether he or she referred or accepted informal referrals, which involved no expectation of financial compensation. Additional questions were asked about the average number of cases, the types of cases, the reasons for referring, and how the choice of attorney to refer to was made.

The second section asked about making and accepting formal referrals, which involve some expectation of financial compensation. The same questions were asked as were asked of informal referrals, along with some additional questions. These additional questions were about the referral, contracts and powers of attorney, continued involvement with the client, advertising and how clients find the attorney, and opinions about possible changes to the law. The questions about the referral and contracts and powers of attorney included asking about verbal disclosure of the referral fee, when the referral is made, the nature of the referral fee and the typical amount made and accepted.

A third section of the survey asked about demographic information of the respondent.

While these three sections served to effectively capture the three types of information sought by the Task Force, and are how the Survey Questions section of results (shown in a later section below) is presented, the description of results to be given next will focus on the formal referrals, comparing results when appropriate to informal referrals. A decision was made to analyze some of the questions separately by private practitioners and attorneys who are not private practitioners. This is because for some of the questions, most of those attorneys involved with formal referrals were private practitioners.

## Description of the Results

The results will be briefly described. A complete description of the results is found in the Survey Questions section that follows in this report. As stated earlier, analysis of some of the questions is done separately for private practitioners and attorneys who are not private practitioners. This is because, as will be shown, most of those involved with formal referrals were private practitioners. The term “formal referrals” will be used in this report to refer to those referrals involving some expectation of financial compensation.

### Percent of practitioners making, receiving referrals

Some 48% of private practitioners report *making* or *receiving* formal referrals, compared to 7% of those not private practitioners. The percents are similar when we restrict the question to asking about *making* formal referrals (42% of private practitioners make formal referrals and 6% of those not private practitioners make formal referrals). When we limit the question to asking about *receiving* formal referrals, we find that 29% of private practitioners and 1% of those not private practitioners do so.

There is not as great a contrast for *informal* referrals, involving no expectations of financial compensation. Some 88% of private practitioners report referring or accepting informal referrals, while 51% of those not private practitioners refer or accept informal referrals.

### Average number of cases referred

The mean number of cases referred formally *by* private practitioners per year is 8, while the median is 3. The mean number of cases referred formally *to* private practitioners from other attorneys per year is reported to be 24, with a median of 5. The mean number of cases per year referred formally that private practitioners *accept* from other attorneys is 12, with a median of 4.

The averages differ somewhat when private practitioners reported on *informal* referrals. They refer informally a mean of 16 per year (median of 10), and have a mean of 16 (median 3) referred informally to them. They accepted a mean of 8 informal referrals per year (median 5).

### Types of cases referred

An analysis was done of the number of *formal referrals made* for each type of case by using the average numbers reported by attorneys for each type, and multiplying by the count of attorneys reporting for each type. By doing so we obtain an estimate of the number of cases reported by type. Half (51.6%) of the number of formal referrals reported fell into four types (out of the 13 types listed in the survey): Personal injury – medical malpractice (16%), Personal injury – auto accidents (14%), Personal injury – products liability (12%), and Criminal matter (9%). Another 22% are reported as three types: Family law (8%), Employment law (7%), and Personal injury – Other (7%).

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### **Types of cases accepted**

A similar kind of analysis was done of the reported formal referrals *accepted* by attorneys. Nearly half (45%) of the formal referrals accepted were the top two types: Personal injury – auto accidents (26%), and Personal injury – products liability (19%). Another 27% are reported as four types: Personal injury – third-party actions (7.5%), Personal injury – other (7%), Criminal matter (7%), and Commercial litigation (5%).

### **Reasons for referring**

The top five reasons for formally referring cases (endorsed by at least 15% of attorneys) and the percentage selecting that reason were:

- “Case was out of my practice area” (81%)
- “Case was in my practice area but was too complicated/technical” (38%)
- “Case was in another geographic area” (34%)
- “Case dollar value was less than what I usually handle” (19%)
- “My caseload was too great to take on new cases” (18%)

The percentage endorsing these reasons was similar for those making or accepting *informally*, with two exceptions. The first is that “Case was in my practice area but was too complicated/technical” was only endorsed by about half the percentage (18%) of those making or accepting formal referrals. The second is that those making or accepting *informally* were about twice as likely to give an ‘Other’ reason (20% of attorneys), than those making formal referrals (11% of attorneys).

### **Choosing the attorney to refer to**

Attorneys were asked to rate how important several factors were for choosing the attorney to refer clients to. The rating was done using a scale from 1 (Not at all important) to 5 (Very important). The average ratings were similar for both formal and informal referrals. Most important is “The attorney’s reputation in his/her practice area” (rated 4.8 / 4.7 for formal and informal referrals). The next two factors were “Other (specify)” (3.9 / 3.5), and “Personal compatibility/fit between the client and the attorney” (3.6 / 3.5). Those who made formal referrals were also asked about “The size (amount/percentage) of the referral fee I will receive from that attorney”. This factor was rated 2.2 in importance on the 5-point scale. The factor rated lowest was “Reciprocity: whether or not I expect that the particular attorney will refer cases to me in the future”. This was rated 2.1 by those making formal referrals and 1.9 by those making informal referrals.

### **Timing of the formal referral**

The survey also inquired about the point at which the *formal* referral is made. Those who make formal referrals reported most frequently “There is no set pattern, the timing of the referral varies” (41.5%). Next most common selection was “Shortly after an initial phone call with the client” (24.7%). The third selection was “Shortly after an initial office visit with a client in which I do not obtain client’s power of attorney” (17.1%). Fourth was “Shortly after an initial office visit with a client in which I do obtain client’s power of attorney” (10.5%). Next was “After I’ve been working on the case for some time” (3.4%). Lastly some 2.9% selected “Other (please describe)”.

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**Provision to refer cases**

Some 52% of attorneys who *make* formal referrals reported that their standard client contract or power of attorney does have a provision to refer cases to other attorneys. Only 7.5% of these attorneys reported that their client contract or power of attorney states the size (amount or percentage) of referral fee that the attorney would receive in event of a referral. However, 55% of the attorneys do verbally disclose to the client, at or about the time of the referral, the size (amount or percent) of the referral fee the attorney would receive.

Of those attorneys *accepting* formal referrals, 25% reported that either their standard power of attorney/client contract and/or their consent-to-referral form states the size (amount or percentage) of the referral fee to be paid to the referring attorney. A little more than half (56%) of attorneys *accepting* formal referrals said they verbally disclose to the client, at or about the time of the referral, the size of the fee that would be paid to the referring attorney.

**Type and amount of referral fee**

Inquiry was made about the type of referral fee. Of those attorneys *making* formal referrals, some 67% reported that they typically received a percent of the attorney fee recovered. The arithmetic mean of reported percent is 30%, a median of 33%, with a low of 5% and a high of 50%. The other attorneys (33%) reported they typically accept whatever the handling lawyer pays. No attorney reported receiving a flat fee.

For the attorneys *accepting* formal referrals, 52% reported negotiating the amount of the referral fee. The other 48% said they offer a standard fee. For 67% of those *accepting* formal referrals, the typical referral fee was “A percent of the attorney fee recovered”. Others selected said the typical fee was “The amount/percentage is negotiated on a case-by-case basis” (32%). Lastly some 2% stated that “A flat fee” was the typical referral fee paid.

The average “Percent of attorney fee recovered” reported by attorneys *accepting* formal referrals matched the average percent reported by attorneys *making* formal referrals: 30%. The median was 33%, the low 7%, and the high 50%.

The amount of referral fee received by attorneys *making* formal referrals was reported in categories of dollar ranges. Some 54% of attorneys report receiving \$5,000 or less. This was the lowest category used in the survey. Another 30.5% reported a typical amount received being between \$5,001 and \$25,000. The categories of larger ranges of fees were reported by smaller percentages of attorneys, until the highest category, of “More than \$125,000” was reported by 1% of attorneys who make formal referrals.

Attorneys *accepting* formal referrals were asked if they typically increase the fee charged clients referred in order to cover some or all of the costs of any referral fee. Only 1% of attorney gave an unqualified ‘Yes’, 92% said ‘No’, and 6% said, “Depends on the type of case or other factors”.

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**Continued involvement with client**

The survey also asked about what percent of time the attorney making the referral continued to perform services of any sort for the client *after* the referral. On average attorneys reported that 37% of the time services continued after the referral. The median percent was 25%, the low 0%, and the high 100%.

Attorneys who made formal referrals were asked what typical services they performed for the client following the referral, from a list of eight services. Depending on the service, between 72% and 67% of attorneys indicated the following three services were performed: (1) “Providing information to the handling lawyer about the client”, (2) “Serving as a resource for or provide support to the client”, and (3) “Act as a liaison between client and handling attorney.” About half (47%) said they (4) “Handle communications or correspondence with the client.” About 20% of attorneys perform each of three services: (5) “Attend trial”, (6) “Attend hearings”, and (7) “Attend depositions”. The last service attorneys were asked to consider is (8) “Prepare responses to discovery”, which 14% indicated they performed as a typical service. Finally, 15% of attorneys listed other services beyond the list of eight presented in the survey.

Only about a quarter (27%) of attorneys making formal referrals reported that they document in the referral agreement or elsewhere the services the attorney agreed to perform for the client after the referral. However, some two thirds (67.5%) of attorneys making formal referrals did verbally disclose to the client, at or about the time of the referral, the services the attorney agreed to perform for the client after the referral.

Only 10% of those making formal referrals included in the referral documentation a disclaimer of responsibility to the client following the referral.

**How clients heard about the attorney**

Another type of information sought about the formal referral process involved how clients heard about attorneys. Attorneys were asked how the clients they referred heard about the attorney. The question asked attorneys to make only one selection, and for those that did, the most frequent selection was “Recommendation from former clients”, with 45% of attorneys so indicating. The next most popular was “Recommendations from client’s friends, acquaintances, etc”, chosen by 24.5%. Third was the “Other (please specify)” category, for 11% of attorneys. Referrals from another lawyer was the first choice of 10% of attorneys. The remaining choices were “Yellow Pages display ad” (4%), “Don’t know” (3%), “Firm website” (1%), and “Television” and “Radio” (0.4% for each).

However, this question was given multiple answers by about one third of the attorneys who answered the question. For these, the rank order of choices was similar to the order shown for those who answered with one selection, even though the endorsement rate was higher (because people made multiple selections). “Recommendation from former clients” was endorsed by 97% of attorneys. The next most popular was “Recommendations from client’s friends, acquaintances, etc”, chosen by 92.5%. Third was the “Referrals from another lawyer” category, for 71% of attorneys. The remaining choices were “Yellow Pages display ad” (16%), “Other”

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(8%), “Firm website” (7.5%), “Radio” (2%), “Television” (1.5%), “Newspaper” (1.5%), “Don’t know” (1.5%), followed by three choices which each got about 1%: “Direct mail to consumers,” “Paid internet subscription service,” and “Billboards.”

**How attorneys who *make* formal referrals would respond to changes in the law**

Another set of questions was asked about how attorneys who *make* formal referrals would respond to possible changes to the law. The results are shown in the table below. The table shows that for the first three listed changes, a majority (from 56% to 69%) think they will either no longer accept referral fees, no longer refer cases, or refer fewer cases than now. The last possible change, regarding disclosure of the amount of the fee in the pleadings to the court, was reported by 43% as having a decreasing effect in terms of the three kinds of responses just listed. A majority (57%) indicated for this change they would continue at the same rate, and 0.3% said they would refer more.

**Regarding Possible Changes to the Law**

Those answering ‘Yes’ to ‘Make formal referrals’					
Type of Change	Response				
	No longer accept referral fees for the cases I refer	No longer refer any cases to other attorneys	Refer fewer cases than I do now	Continue to refer cases at the same rate as I do now	Refer more cases than I do now
If I were required by law to be jointly responsible for cases I referred to another lawyer and received a referral fee for, I would:	12%	14%	30%	43%	1%
	Sum of responses = 56%				
If the amount of referral fee I received must, by law, be based on the proportion of services I performed, I would:	11%	14%	44%	30%	1%
	Sum of responses = 69%				
If referral fees are capped at 15% of amount recovered by the client or \$50,000, whichever is less, I would:	3.5%	13%	40%	42%	1%
	Sum of responses = 57%				
If I knew that by law, the size and the amount of the referral fee would be disclosed in the pleadings to the court, I would:	4.5%	11.5%	27%	57%	0.3%
	Sum of responses = 43%				

(Note that because of rounding of the values summed, the sums may *appear* to be not correct.)

**How attorneys who *make* formal referrals would respond to changes in the law**

Half (50%) of said they expected recent tort reform legislation, like House Bill 4, to “Decrease the number of cases I refer to other attorneys.” Some 45% said that it would “Have no impact on the number of cases I refer to other attorneys.” A small number (6%) said the expected it would “Increase the number of cases I refer to other attorneys.”

**How attorneys who *accept* formal referrals would respond to possible changes**

Another set of questions was asked of attorneys who *accept* formal referrals, to learn how they would respond to possible changes to the law. These results are shown in the table below. The changes are reported as having somewhat less of an effect on the acceptance of formal referrals, compared to those changes anticipated by the attorneys referring formal referrals. The first and last changes described in the table show about a 40 to 60 percent split, between those who report a decreasing effect on accepting formal referrals and those who report they will continue to accept referrals at the same rate as they do now. The second change, stating that the amount of the referral fee the attorney accepting the referral paid “must, by law, be based on the proportion of services the forwarding lawyer performed”, was thought by about half of the attorneys (49%) to have a decreasing effect, and by the other half (51%) to have no effect or result in more referrals.

Those answering ‘Yes’ to ‘Accept formal referrals’					
Type of Change	Response				
	No longer pay referral fees to attorneys who referred cases to me	No longer accept any cases referred to me	Accept fewer cases than I do now	Continue to accept referrals at the same rate as I do now	Accept more referrals than I do now
If the law required the attorney to whom I paid a referral fee remained jointly responsible for case they referred to me, I would:	5%	5%	30%	59%	1%
	Sum of responses = 40%				
If the amount of referral fee I paid must, by law, be based on the proportion of services the forwarding lawyer performed for the client, I would:	6%	6.5%	37%	48%	3%
	Sum of responses = 49%				
If I knew that by law, the size and the amount of the referral fee would be disclosed in the pleadings to the court, I would:	4%	8%	27%	59%	1%
	Sum of responses = 40%				

(Note that because of rounding of the values summed, the sums may *appear* to be not correct.)

**How attorneys who *accept* formal referrals would respond to changes in the law**

More than half (59%) said they expected recent tort reform legislation, like House Bill 4, to “Decrease the number of referrals I accept.” Some 39% said that it would “Have no impact on the number of referrals I accept.” A small number (2%) said the expected it would “Increase the number of referrals I accept.”

## SURVEY QUESTIONS

- Notes: (1) Percentages in the following tables may not sum to 100% due to rounding.*
- (2) Many of the questions were not answered by all respondents. The survey was structured so that an answer to an earlier question could result in only those who answered, for example, 'Yes' being able to answer a later question or series of questions. For example, questions 2 through 8 of Section I are only presented to those who answered 'Yes' to an earlier question 1 that asks whether they 'Refer or accept informal referrals'. After each question will be shown the number who responded to the question being analyzed, and what the response was to the earlier question. For example, "[Answered by 923, who responded 'Yes' to 'Refer or accept informal referrals']". If a question is answered by all respondents, it will be stated "[Answered by 1,215, all respondents]." Note that the reason for putting a comma **after** the number is to make clear that the number shown describes the number who answered the question being analysed, not the number who are described as "responded 'Yes' to 'Refer or accept informal referrals'."*

## **SECTION I: INFORMAL REFERRALS**

### **1. Do you *refer* or *accept* referrals for cases involving no expectation of financial compensation?**

[Answered by 1,215, all respondents].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
Yes	77.5%	942
No	22.5%	273

#### **Private Practitioners and Attorneys Not Private Practitioners\***

<b>Response</b>	<b>Private Practitioners (n=861)</b>		<b>Not Private Practitioners (n=320)</b>	
	<b>Percent</b>	<b>Number Responding</b>	<b>Percent</b>	<b>Number Responding</b>
Yes	87.8%	756	50.9%	163
No	12.2%	105	49.1%	157

\* Not all attorneys indicated primary occupation.

*For items 2 through 8 in Section I, respondents were those who answered ‘Yes’ to ‘Do you refer or accept informal referrals?’*

**2. On average, approximately how many cases do you refer informally per year?**

[Answered by 923, who responded ‘Yes’ to ‘Refer or accept informal referrals’].

Number of informal referrals you make	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>
	14.0	6	1	450

**Private Practitioners and Attorneys Not Private Practitioners\***

Number of informal referrals you make	Private Practitioners (n=744)				Not Private Practitioners (n=156)			
	Mean	Median	Low	High	Mean	Median	Low	High
	15.5	10	1	450	7.0	5	1	50

\* Not all attorneys indicated primary occupation.

**Analysis by category of “Number of informal referrals you make,” by Private Practitioners and Attorneys Not Private Practitioners**

Number of informal referrals you make	Private Practitioners (n=744)		Not Private Practitioners (n=156)	
	Percent	Number Responding	Percent	Number Responding
1-5	41.3%	307	66.0%	103
6-10	25.0%	186	17.3%	27
11-20	18.4%	137	10.3%	16
21-30	7.0%	52	4.5%	7
31-40	2.0%	15	1.3%	2
41-50	2.3%	17	0.6%	1
51-60	0.3%	2	0.0%	0
61-70	0.3%	2	0.0%	0
71-80	0.7%	5	0.0%	0
81-90	0.0%	0	0.0%	0
91-100	1.2%	9	0.0%	0
101-125	0.4%	3	0.0%	0
126-150	0.5%	4	0.0%	0
151-200	0.5%	4	0.0%	0
201-300	0.0%	0	0.0%	0
301-400	0.0%	0	0.0%	0
401-500	0.1%	1	0.0%	0
501 or more	0.0%	0	0.0%	0

### 3. On average, approximately how many cases are referred to you informally per year?

[Answered by 728, who responded ‘Yes’ to ‘Refer or accept informal referrals’].

Number of informal referrals to you	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>
	15.2	6	1	1000

#### Private Practitioners and Attorneys Not Private Practitioners\*

Number of informal referrals to you	Private Practitioners (n = 669)				Not Private Practitioners (n = 45)			
	Mean	Median	Low	High	Mean	Median	Low	High
	15.8	7	1	1000	6.7	3	1	50

\*Not all attorneys indicated primary occupation.

#### Analysis by category of “Number of informal referrals to you,” By Private Practitioners and Attorneys Not Private Practitioners

Number of informal referrals to you	Private Practitioners (n = 669)		Not Private (n = 45)	
	Percent	Number Responding	Percent	Number Responding
1-5	44.1%	295	73.3%	33
6-10	22.3%	149	11.1%	5
11-20	17.9%	120	11.1%	5
21-30	6.9%	46	2.2%	1
31-40	1.9%	13	0.0%	0
41-50	3.1%	21	2.2%	1
51-60	0.9%	6	0.0%	0
61-70	0.1%	1	0.0%	0
71-80	0.4%	3	0.0%	0
81-90	0.0%	0	0.0%	0
91-100	1.0%	7	0.0%	0
101-125	0.1%	1	0.0%	0
126-150	0.3%	2	0.0%	0
151-200	0.4%	3	0.0%	0
201-300	0.1%	1	0.0%	0
301-400	0.0%	0	0.0%	0
401-500	0.0%	0	0.0%	0
501 or more	0.1%	1	0.0%	0

**4. On average, approximately how many cases referred to you informally from other attorneys do you accept per year?**

[Answered by 691, who responded ‘Yes’ to ‘Refer or accept informal referrals’].

Number of informal referrals you accept	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>
	7.8	4	1	130

**Private Practitioners and Attorneys Not Private Practitioners\***

Number of informal referrals you accept	<b>Private Practitioners (n = 643)</b>				<b>Not Private Practitioners (n = 36)</b>			
	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>
	8.1	5	1	130	3.1	2	1	20

\*Not all attorneys indicated primary occupation.

**Analysis by category of “Number of informal referrals you accept,” by Private Practitioners and Attorneys Not Private Practitioners**

Number of informal referrals you accept	<b>Private Practitioners (n = 643)</b>		<b>Not Private (n = 36)</b>	
	<b>Percent</b>	<b>Number Responding</b>	<b>Percent</b>	<b>Number Responding</b>
1-5	63.8%	410	86.1%	31
6-10	18.0%	116	11.1%	4
11-20	11.8%	76	2.7%	1
21-30	2.6%	17	0.0%	0
31-40	1.6%	10	0.0%	0
41-50	1.1%	7	0.0%	0
51-60	0.0%	0	0.0%	0
61-70	0.0%	0	0.0%	0
71-80	0.6%	4	0.0%	0
81-90	0.2%	1	0.0%	0
91-100	0.2%	1	0.0%	0
101-125	0.0%	0	0.0%	0
126-150	0.2%	1	0.0%	0
151-200	0.0%	0	0.0%	0
201-300	0.0%	0	0.0%	0
301-400	0.0%	0	0.0%	0
401-500	0.0%	0	0.0%	0
501 or more	0.0%	0	0.0%	0

**5. Indicate the type(s) and approximate number(s) of cases you refer and are referred to you informally per year.**

[Answered by 907, who responded ‘Yes’ to ‘Refer or accept informal referrals’].

Type of Case	Number of Informal Referrals Made By You					Number of Informal Referrals Referred to You and Accepted				
	Mean	Median	Low	High	Number Responding	Mean	Median	Low	High	Number Responding
Personal injury -Medical Malpractice	3.6	2	1	100	263	2.7	1	1	15	41
Personal injury -Products liability	2.9	1	1	20	85	4.2	2	1	30	38
Personal injury -Auto accidents	3.8	2	1	50	287	5.4	3	1	35	88
Personal injury -Third-party actions	2.6	2	1	20	59	3.7	2	1	15	30
Personal injury -Other	2.9	2	1	25	175	3.0	2	1	15	64
Commercial litigation	4.3	2	1	100	253	4.4	2	1	200	187
Consumer protection	4.5	2	1	100	139	4.1	2	1	70	71
Criminal matter	6.2	3	1	200	339	9.5	5	1	200	93
Family law	6.5	3	1	250	498	9.1	5	1	150	171
Employment law	4.2	2	1	100	246	4.6	2	1	50	61
Worker’s compensation	6.5	2	1	100	130	6.0	2	2	25	6
Probate law	3.3	2	1	25	195	4.8	3	1	25	132
Real Estate law	4.3	2	1	50	205	5.0	3	1	30	132
Other (specify)	6.8	3	1	100	124	8.0	3	1	130	135

**5b. Listing of ‘Other types of cases you refer and are referred to you informally per year’** (Numbers in parentheses denote number of respondents, if more than one).

- |                                  |  |  |
|----------------------------------|--|--|
| * Bankruptcy (30)                | * Commercial Transaction Work          | * Litigation   |
| * Immigration (18)               | * Common Drafting Review Of Counsel    | * Contracts, Business Sales, Corporate/Business Stuff    |
| * Intellectual Property (13)     | * Constructio n & Immigration          | * Maritime   |
| * Oil & Gas (12)                 | * LTD/SSD                              | * Mediation  |
| * Estate Planning (10)           | * Contracts/Transactions               | * Municipal, Small Party Disputes                        |
| * Corporate (8)                  | * Corporate Or Business Matters        | * Natural Resources, Environment                         |
| * Administrative (6)             | * Corporate Start -Ups                 | * Of The Limited Cases, It Could Be Of This Type         |
| * Appellate (6)                  | * Corporate Transactions               | * Oil & Gas Probate                                      |
| * Business (6)                   | * Debt Collection                      | * Physician Peer Review                                  |
| * Environmental (3)              | * Disability Issues                    | * Refer Out Bankruptcy Accept Social Security Disability |
|                                  |  | * Regulatory/Administrative                              |
| * Social Security Disability (3) | * Divorce                              | * Complex Insurance Coverage Case \$150 MM               |
| * Tax (3)                        | * Education Law                        | * School Law   |
| * Civil Rights (2)               | * Elder Law (Medicaid Qualification)   | * Security Tax   |
| * Construction (2)               | * Elder Law/ Medicaid, Estate Planning | * Social Security  |
| * Elder (2)                      | * Elder Law/Medicaid Planning          | * Social Security & Immigration                          |
| * Juvenile (2)                   | * Eminent Domain                       | * Specific Court   |
| * Legal Malpractice (2)          | * Estate And Business Planning         | * Tax And Business Planning                              |
| * Patent Law (2)                 | * Gen. Civil                           | * Tax Controversy  |
| * Personal Bankruptcy (2)        | * General Corporate Matters            | * Tax/Estate Planning                                    |
| * Pro-Bono (2)                   | * Government Contracts Issues/Disputes | * Transactions   |
| * Securities (2)                 | * Governmental                         | * Trust Related  |
| * Various (2)                    | * Health Law                           | * Usury  |
| * Wills, Estate Planning (2)     | * Immigration, Bankruptcy              | * Commendations And Contested Regulatory Matters.        |
| * General Litigation (2)         | * Immigration, Bankruptcy, Tax         | * Water And Environmental                                |
| * Utility Litigation             | * Immigration/Bankruptcy               | * White Collar   |
| * Administrative-Utility Related | * Insurance Defense                    | * Wills And Estates And Bankruptcy                       |
| * Adoptions                      | * Insurance Law                        | * Wills, Trusts, Estate Planning                         |
| * Business Corporate             | * IP                                   | * Social Security Disability; Bankruptcy                 |
| * Collection                     | * IRS/Tax Defense                      |  |
| * RICO                           | * Landlord/Tenant                      |  |
| * 1983 Actions                   | * Lawyer Professional Responsibility   |  |

**6. Why do you refer? When you refer a case informally, which of the following reasons explain why you refer that case? (*Check all that apply*)**

*(Because more than one response can be made, the percents will not add to 100%).*

[Answered by 932, who responded ‘Yes’ to ‘Refer or accept informal referrals’].

Reason	Percent	Number Responding
Case was out of my practice area	85.5%	797
Case was in my practice area but was too complex/technical	18.0%	168
Case was in another geographic area	35.3%	329
My caseload was too great to take on new cases	20.9%	195
Case dollar value was less than what I usually handle	26.7%	249
Case dollar value was more than what I usually handle	2.3%	21
Most or all of my cases are referred to other attorneys	4.8%	45
Other (specify)	19.7%	184

## **6b. Listing of ‘Other reasons for why you refer a case informally?’**

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* Conflict of interest. (52)
- \* In-house counsel. (17)
- \* Not in private practice. (7)
- \* No longer practice law. (6)
- \* Government attorney. (5)
- \* Client conflict. (2)
- \* I do defense work, not plaintiff’s work. (2)
- \* Not actively practicing. (2)
- \* Accept position with intuitional clients & cannot accept private clients.
- \* Another lawyer would better represent the client.
- \* As a criminal prosecutor, I can't have a private practice.
- \* As a law clerk, I could not handle these cases.
- \* Case had too many previous attorneys involved.
- \* Case involved employee claims and I represent only employers.
- \* Case not in firm's practice area.
- \* Case was outside the scope of what our state agency does.
- \* Cases arose on other side of bar.
- \* Client personality not a match.
- \* Client earns too much income - we have legal aid practice.
- \* Client would be better served by other lawyer depending on certain situation.
- \* Conflict - in which case I generally provide a short list of lawyers that I'm comfortable can do a good job.
- \* Conflict of interest on construction cases.
- \* Conflict out - have represented other side or affiliate of other side.
- \* Conflict. Plaintiff case when I mostly do defense.
- \* Corporate attorney.
- \* Couldn't stand the client.
- \* Criminal work rarely permitted at my firm.
- \* District attorney.
- \* Do not work for 3rd parties.
- \* Does not need board certificate.
- \* Don't think I can make client happy.
- \* Employed by nonprofit corporation; not allowed to do estate planning for donors.
- \* Firm conflict.
- \* Government attorney - I am limited to the outside matters that I can handle.
- \* Government attorney - I am prohibited from taking on other work.
- \* Government attorney - I cannot accept any outside/private cases as a condition of my employment.
- \* Government attorney - I cannot accept legal representation outside my government practice.
- \* Government attorney - I cannot work on outside cases.
- \* Government attorney - I do not accept cases involving private representation.
- \* Government attorney - I do not have a separate practice.
- \* Government attorney - I do not maintain a private practice.
- \* Government attorney - I only handle cases for my client.
- \* Government attorney - May not take outside employment.
- \* I am a civil prosecutor.
- \* I am a defense lawyer.
- \* I am a prosecutor.
- \* I am an attorney employed by a corporation. I do not handle cases for individuals.
- \* I am staff counsel for an insurance company and do not have my own practice.
- \* I do defense work, not plaintiffs.
- \* I don't refer cases.
- \* I generally don't represent employees in employment law cases, but rather employers. I refer the potential plaintiff's cases to other attorneys.
- \* I handle defense work and do not handle claims for plaintiffs generally so I will refer the work to others, although it is in my practice area and I would not be too busy to handle it otherwise.
- \* have a full time employer - it wouldn't be ethical to do outside work.
- \* I only accept pro bono cases now and refer all others.
- \* I only defend my employer's insured's.
- \* I teach law, not practice.
- \* I thought someone else would do a good job.
- \* I was a corporate attorney and did not handle private matters.

## 6b. Listing of ‘*Other reasons*’ (*Continued*)

- \* I work as General Counsel for a corporation.
- \* I work for the state, so I can't accept outside employment.
- \* I work insurance defense; I send the person to someone who handles plaintiffs' cases.
- \* Illness.
- \* I'm not functioning as an attorney in my government job - government. affairs - but friends, family and co-workers frequently ask me for attorney suggestions.
- \* In-house counsel - I am unable to represent individuals on their legal matters.
- \* In-house counsel - I can only represent my employer. However, persons ask me for advice about private practitioners who could handle cases.
- \* In-house counsel - I do not practice publicly.
- \* In-house counsel - I do not represent other clients.
- \* In-house counsel - I limit my practice to the corporate client's matters.
- \* In-house counsel for Allstate Insurance and not allowed to take any legal work except for a close family member with approval from home office.
- \* It was a TT case but I am in a defense firm.
- \* Legal Services Firm with formal pro bono referral system.
- \* More experienced attorney is needed.
- \* Need co-counsel.
- \* No attorney fee withholding in certain (SSI) disability cases.
- \* Not allowed / public pro bono.
- \* Not enough resources to finance case.
- \* Not in private practice until recently; state or county employee 10 of last 11 years.
- \* Only handle members.
- \* Other attorney has greater expertise in area.
- \* Party lacked money for estimated legal fees.
- \* Person calling was a friend or someone I had worked with in the past. I don't have a private practice at this time.
- \* Plaintiff [*illegible*]
- \* Plaintiff case.
- \* Plaintiffs' cases, since I am a defense lawyer.
- \* Prohibited by legal services finders.
- \* Reciprocity.
- \* Referred to the best attorney in the field in the area.
- \* Slowing my practice.
- \* State agency attorneys and referring client of state agency to legal aide or advocacy area.
- \* They are for plaintiff's work I can't handle.
- \* This is my second year of practice. The one[*illegible*] for me the case had exceptional merit.
- \* To keep referrals coming to me.
- \* Try to get best lawyer for the client.
- \* Uncomfortable with potential client.
- \* We do not take fee generating cases or cases where the client is able to pay.
- \* We only represent as some refer. It's easier to find lawyers.

**7. How do you choose the attorney to refer the client to? Please rate each of the following factors in terms of their importance to you in deciding which attorney to refer a case to. Remember to think only about referrals involving **NO** expectation of financial compensation.**

[Answered by 924, who responded ‘Yes’ to ‘Refer or accept informal referrals’].

Factor	Average and Number Responding		Percent Indicating per Category				
	Mean	Number Responding	Not at All Important 1	2	3	4	Very Important 5
The attorney’s reputation in his/her practice area	4.7	919	0.9%	.07%	4.9%	18.6%	75.0%
Reciprocity: whether or not I expect that the particular attorney will refer cases to me in the future	1.9	862	52.6%	19.4%	16.2%	7.7%	4.2%
Personal compatibility/fit between the client and the attorney	3.5	875	8.8%	9.5%	25.1%	34.7%	21.8%
Other (specify)	3.5	218	25.7%	0.5%	13.8%	17.4%	42.7%

**7b. Listing of ‘Other factors’**

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* A friend that can use the business.
- \* Ability & competence.
- \* Ability to work with me.
- \* Affordable fees.
- \* An attorney known to me personally, worked with or against.
- \* Any prejudices the attorney may have against the client because of the client’s minority status.
- \* Assist a young lawyer.
- \* Attorney able to devote time and counseling to client.
- \* Attorney caseload and fees.
- \* Attorney I am familiar with and respect, or that I know will accept a difficult case.
- \* Attorney I know.
- \* Attorney is a friend.
- \* Attorney known to me.
- \* Attorney’s ability.
- \* Attorney’s ability to make maximum recovery for client.
- \* Attorney’s practice area.
- \* Attorney’s relationship with the court.
- \* Attorney’s reputation in community for diligence.
- \* Attorney’s satisfactory handling of any previous referrals.
- \* Attorney’s skill/track record.
- \* Attorney’s firm’s practice does not compete with mine.
- \* Board certification.
- \* Board certification / personal knowledge.
- \* Character & integrity.
- \* Charge from other attorney.
- \* Client’s ability to pay anticipated fee.
- \* I like to help other solo practitioners out since I work for a high volume practice.

## 7b. Listing of ‘Other factors’ (Continued)

- \* Client's ability to pay the other attorney's usual fee.
- \* Client's best interests (legal business).
- \* Communication with client.
- \* Competence.
- \* Competence in area.
- \* Complexity of case.
- \* Complexity, ability to pay for services.
- \* Cost.
- \* Cost considerations.
- \* Does the attorney speak Spanish.
- \* Economic ability of client and what attorney charges.
- \* Efficiency and quality of work.
- \* Ethics of attorney.
- \* Expense.
- \* Expertise in sub-specialty area needed.
- \* Expertise in the field.
- \* Fee.
- \* Fee charged by attorney receiving referral.
- \* Fee versus client's ability to afford.
- \* Friends get first pick.
- \* Friendship. (4)
- \* Gave recent CLE presentation or personal friend.
- \* General feeling of suitability for both client and attorney.
- \* General recommendations.
- \* Geographic.
- \* Geographic location.
- \* Geographical area. Often a referral is in a distant county or out of state.
- \* Geographical location of client or prospective litigation.
- \* Handle type of case pro bono.
- \* Has handled other cases for clients to their satisfaction.
- \* Honesty, integrity of that attorney.
- \* How well I know the attorney.
- \* I consider the attorney's ability in the area of practice.
- \* I don't refer cases.
- \* I generally want to refer the case to someone I know personally, or who is known personally by another attorney that I know and respect.
- \* I know the attorney.
- \* I often refer people to attorneys whom I know. I know that they will handle the matter competently if they can, but if they feel they cannot, they will further refer it.
- \* I only refer cases to attorneys whom I have had an opportunity to assess their skill level.
- \* I personally know the attorney.
- \* I refer cases to good lawyers who I have opposed in the past.
- \* I refer cases to personal friends of mine on occasion.
- \* I try to refer clients to the best attorney I think they can afford.
- \* I usually know the attorney personally.
- \* If I feel the attorney will do a good job for client.
- \* If I happen to know an attorney personally and they are good.
- \* Integrity of attorney being referred.
- \* Know other attorney.
- \* Know the attorney personally.
- \* Knowledge of attorney's capabilities, spoken languages, geographic location.
- \* Latinos ask for Spanish speaking attorney.
- \* Location.
- \* Location and ability of client to pay.
- \* Location of attorney.
- \* Lower fee range of other attorney.
- \* Martindale Hubbel rating.
- \* Moral and ethical reputation and personal knowledge of the attorney.
- \* My assessment of ability in area.
- \* I feel responsible for the referral to the extent that the person will be properly represented.
- \* My association with the attorney (friends).

## 8. Additional Comments. Please make any additional comments that you feel would help us understand your *informal* referral practices.

- \* I believe a client is often best served by having a referring attorney to watch over the intangibles and details, while having a referral attorney handling the litigation. Often, even if a referral does not involve "work sharing" per se, the referring counsel still serves the client's interests by keeping the case on course and acting as a sounding board/liaison for the client.
- \* I send people I don't want or are out of my county to where they can best be helped.
- \* Most important factor is to insure client is provided competent counsel.
- \* I refer cases to lawyers more capable than I in a given field of practice.
- \* In order to fully serve my client's best interest, I regularly refer matters to attorneys who have greater experience or resources in areas of practice differing from my own. I am interested more in securing the best representation for my client than whether there is a referral fee.
- \* I don't really keep up with who refers to me and who I refer to. If I can't take a case, I always try to send the case to another attorney. No compensation expected from either side of referral.
- \* The referred attorney I know through the Association of Woman attorneys (Houston).
- \* Because my area is so limited I do lots of referrals outside my area. All of my referrals are because of my expertise.
- \* I always try to refer a client to an attorney who: 1) will accept the case: 2) obtain maximum recovery for client and: 3) I know & respect.
- \* Referral always to lawyers that will serve clients interest diligently and quickly.
- \* Personal knowledge working relationship in other member or attorney.
- \* I have been a solo practitioner for less than 6 months and expect the number of referrals I make to rise as I continue to practice alone. While a member of a "big firm" I did not refer outside the firm.
- \* I mediate so I pick best attorney to fit case, client, and financial capabilities.
- \* To ban referral fees would encourage lawyers who not competent in a given area not to refer the cases to detriment of client. Ultimately, the client is the loser.
- \* Generally, I refer to attorneys I know.
- \* I refer cases from my client base whom I have represented or whose family or friends I have represented who trust my referral choice.
- \* Expectation of referral fee varies by case type that I must decide on a case-by-case basis.
- \* Cases I refer and cases referred to me are hourly billing cases.
- \* I refer cases when I am unable to properly represent the client, for whatever reason, or when I think it is in the client's best interest.
- \* I try to contact the attorneys in advance prior to making the referral.
- \* Understand that because the insurance carriers we work for would frown on taking medical claims against their potential insured's, we will informally refer these cases to reputable plaintiffs' medical lawyers.
- \* My main goal is to match person with an attorney who can help the person with his matter, so I don't have to worry about it.
- \* I think any referral be made to an attorney well suited for the client and the case.
- \* I do not think this informal distinction serves anyone's purpose but those who want to cap, limit or get rid of referral fees. Sometimes I get them and sometimes I do not. It is important to have an incentive to send a case to the right attorney.
- \* I personally do not believe in "referral" fees and thus have never referred a case with any expectation of payment.
- \* Some of these referrals could result in fees, if I (as referring lawyer) or the referring lawyer (if I am the receiving lawyer), desired that result. Ordinarily, though, neither of us cares about that or even mentions it (though sometimes one of us will say something like "no referral fee off).
- \* I don't refer cases.
- \* My referrals are usually based on time and distance as this may relate to the clients best interests. I have in the past referred cases in which there is or could be a conflict with current or past clients.
- \* Will refer to an attorney I believe to be competent and skilled in the area of practice based on personal experience whenever possible. Otherwise, may rely on Martindale Hubbel rating information and word of mouth.
- \* Attorneys (most) are mature and intelligent enough to decide what is in the best interest of their clients and what professional arrangements. Why does our own profession mistrust us so much?
- \* Informal referrals are made for people that call or visit and have problems outside my practice area or time constraints.
- \* I usually refer clients to my friends, who I believe, could accomplish the legal task in a way that would be of the greatest benefit to the client.
- \* I have been closing my practice to retire, travel and do my hobby, photography.
- \* I'm new to the legal field. My years of experience as a registered nurse teaches that the patient/client need is all important. While I would take it as a compliment, I do not expect referral cases yet.
- \* If I determine I cannot, [*illegible*] my goal is to find the client an attorney who will do as good of a job that I believe I would do and who will ethically represent the client, thus not allowing the client to form an adverse opinion of me because of the attorney I referred him to.
- \* I only refer cases to attorneys I personally know and who I know from past practice will handle the matter well, timely and at a reasonable rate.
- \* Referring clients to the best available lawyer is one of the most important services I can provide. A good referral is critical to being a true professional putting the client first.
- \* I always listen to what the potential client needs and try to help them find an attorney suitable to their needs. Most people are low income so I try to find them someone who they could possibly afford or who I know will take payment plans - and if the person gets lucky, some of the attorneys I suggest may work pro bono.

## 8. Additional Comments (*Continued*)

- \* Typically these are divorce cases (which I don't handle) or smaller PI employment or contract disputes. If I am referred a case, it is typically always to try to help out the client who is referred to me and likewise I want to refer to someone who will help the client.
- \* Referrals are essential to helping the general public and assures competent representation--it helps assure the right attorney handles the case.
- \* I will refer cases to young/solo practitioners in an effort to establish their practice.
- \* The majority of informal referral I have experienced, either direction, were the result of client conflicts.
- \* I am primarily in medical practice (MD, JD) and do relatively little legal work. When I do, it is usually not referred by an attorney.
- \* I am a business lawyer and do not handle litigation matters. When requested, I will attempt to assist clients and friends in locating a trial lawyer to help in particular cases. I do not charge anyone for my assistance, but do it as a courtesy.
- \* Most cases I refer without an expectation of referral fees are hourly work cases. I do not believe that it is appropriate to pay or receive referral fees in non-contingent fee matters.
- \* What makes the most sense for the client.
- \* Sometimes I refer cases to an attorney who I know is interested in handling particular type of case.
- \* I refer the prospective client to an attorney that I feel will do a good job at a reasonable fee. I find that access to the judicial system is far beyond the financial ability of most people and there is no solution from the courts.
- \* I have long-standing relationships with my estate planning and probate clients and enjoy being the "family lawyer" who is called for all legal matters that arise for my clients and their family and friends. I refer my clients to appropriate counsel for matters outside of my specialty.
- \* Tax matters includes federal tax debt in relation to bankruptcy; I handle the IRS, refer the bankruptcy filing.
- \* Over the years, I have gotten to know several attorneys fairly well, in regards to their legal skills and abilities in their respective areas of practice. I have also become familiar with those attorneys' respective character and ethics. When a person comes to me for help in an area in which I do not practice, I will usually refer the person to one of the attorneys I know personally, because I feel comfortable and confident that the person referred will receive good, sound legal advice from an attorney who I believe to be an ethical and skillful practitioner in there particular area.
- \* Both formal and informal referrals are explained their rights and duties for referral help under the law. I go over the facts of their case and help them determine whether they wish to proceed and the likelihood of success.
- \* Most of the cases that are referred to me are too small [*illegible*] the attorneys referring to me or client are not financially sound enough for this [*illegible*].
- \* Experience dictates who you can trust to handle matters the way you would want.
- \* Generally I refer to someone I know or someone else knows etc. If all else fails I look at recent CLE speakers.
- \* I've only been practicing for 8 months.
- \* The attorney to whom I refer a file or a client reflects on me and my reputation, so his/her competence is the most important consideration.
- \* Cases I refer to other attorneys are based on skill level and type of practice & the attorney. Also, client and attorney must be compatible.
- \* Don't keep very close track; not aware of who sends clients to me usually.
- \* I don't litigate.
- \* My firm is very specialized. I, and others in the firm, regularly refer matters that involve our clients but are outside the narrow emphasis of our firm. We believe that is the most efficient method for us and for our clients.
- \* My primary concern with informal referrals is to ensure that the person referred receives some form of help.
- \* Clients are directed to specialists who can assist them the best.
- \* Please note that I am a new attorney to the practice, thus I have yet to develop a referral practice or habit. I've responded to your questions based on an approximation.
- \* My primary practice is in Hood County, Granbury, Texas and things are fairly informal between attorneys around here. For the most part, we all work well together.
- \* The most important thing in any referral is how well the client's interest will be served.
- \* In addition, I try, where possible, to ascertain the potential client's goal and recommend only attorneys who seem likely to work toward that goal. For example, if someone wanted a family amicable divorce, I wouldn't recommend a divorce lawyer with a scorched earth approach. I always try to present three equally suitable attorneys as alternatives.
- \* Latinos ask for Spanish speaking attorney.
- \* Many times with both non-financial referrals and financial referrals, I will refer cases to attorneys that I know and have a working relationship.
- \* With increased specialization, referrals are a must.
- \* As lawyers we are charged to represent the best interests of our clients. By best representing the interests for clients, our best interests as lawyers will be served ultimately.
- \* I refer most people to the lawyer referral service of Central Texas.
- \* I do not generally do referrals.
- \* I am in the business of practicing law, not referring cases. So, if an individual needs a lawyer, I don't try to find someone who will cut me in. If I cannot represent the client and sign a contract with that client, I do not feel that it is appropriate to ask a referred attorney for money. On the other hand, if I had performed a substantial amount of work on a case and for some reason needed help, I might then refer a case and ask to be compensated for the work or value of the work performed. I would fully disclose the details to my client.
- \* I simply believe that it's good professionally to be known as one who is anxious to refer business out. Attorneys caring about clients.

## 8. Additional Comments *(Continued)*

- \* Depends on case circumstances.
- \* Almost all referrals are due to areas of practice, conflicts (small population - 120,000 & ownership interest in title co - NOT suing any realtors) and what "client" can afford to pay.
- \* My practice is limited to plaintiff's contingent fee litigation. Most other cases are referred internally.
- \* Most referrals to other criminal defense attorneys are due to the conflict posed by representing a co-defendant. Often family members are charged together in same episode and the other defendants are sent to hire their own attorneys.
- \* My practice is defense. I refer all plaintiff cases in my practice area.
- \* My approach to other attorneys has been with caveat that I am not considering this referral as involving any fee for me, and that I am offering the referral simply because I want to see the client in good hands. Conversely, I have met referring attorney's fee-splitting proposals (really, very few) with the position that I would not feel comfortable advising the contemplated client of such arrangement.
- \* Ability of client to pay other attorney many times I have referred client to attorneys who are consigned. [*illegible*]. I often spend 2-3 hours at no cost to the client to find competent counsel they can afford.
- \* Try to fit the case/client to attorney.
- \* Referrals are vital to insure that a competent attorney can handle the client's problem.
- \* Have known many attorneys for many years, can evaluate their skills.
- \* I receive calls from people looking to sue for medical malpractice, but I defend such claims. Rather than leaving the caller with a flat out rejection, I refer his or her to the names of various other attorneys.
- \* I feel referral fee(s) are a very useful and an important part of providing the right attorney for the client. I do believe mass tort litigation referral fee(s) and class action referral fee(s) should be limited.
- \* I do not refer with the expectation of a fee and do not accept cases with the expectation of paying a fee. The only time I share a fee is if we both come in as co-counsel and have a fee agreement covering both. I find the practice of a fee for just a referral and nothing else an invitation to trouble with the client and personally distasteful.
- \* Merely try to help a client find legal assistance required for problem presented.
- \* Informal referral is the norm in my area of practice.
- \* I refer cases that I do not handle or that I do not want to undertake for one reason or another.
- \* The practice of encouraging referrals between lawyers helps to ensure that the client's best interests are paramount by assuring that competent and capable attorneys handle the appropriate types of matters.
- \* I take seriously the importance of helping the person referred to the most suitable attorney regarding the subject matter of the referral.
- \* There is a limited number of good employment lawyers in my city who will represent employees. I limit my referrals to lawyers in that small group who I know will represent clients well.
- \* Referrals to me are usually from other insurance defense attorney's conflicted out for some reason.
- \* All referrals are formal. There is no such thing as an informal referral.
- \* I handle a limited area of employment law. I refer other employment law cases to a host of other attorneys.
- \* I practice in a very specialized area, and only a few attorneys have the expertise and experience to handle water and environmental matters. I know them very well.
- \* I refer clients to attorneys for whom I have received good feedback from the clients previously referred to those attorneys.
- \* Referrals are usually based on simply wanting to help someone in need, as best as possible.
- \* I refer with no expectation of referral fee and I never pay a referral fee.
- \* I am a sub-specialist representing Chapter 7 bankruptcy trustees. My concern is to get potential clients to a lawyer who can give appropriate level services at the lowest reasonable fee. Referrals in to me are based on my reputation for working on complex Chapter 7 cases involving missing or transferred assets.
- \* Most of the cases I refer are people who call wanting a divorce, custody matter or other issue I no longer handle. I typically refer to someone I know and respect based on location, fit between potential client and attorney. I mostly receive bankruptcy, probate and elder law referrals from family law and personal injury attorneys. On occasion lawyers from out of state will contact me.
- \* I will normally refer matter based on my personal knowledge of the attorney and his or her practice. I normally do not refer on reputation or any expectation of a fee. To date, I have never taken a referral fee, nor do I contemplate doing so in the foreseeable future.
- \* The above information is a very conservative estimate. I get calls on new matters frequently, at least weekly. Many are referred informally if another practice area is involved.
- \* I refer cases to attorneys I know well, and think that they are quality people in addition to being competent professionals.
- \* When I informally refer a case, I make several recommendations of attorneys and tell the person what I know about each. I give them contact information and they must make the contact. I recommend that they call more than one attorney. If I know the potential client and/or the attorney rather well, then I will call the attorney and let them know that the potential client may call them and explain the information that I know about the situation.
- \* All of my referrals are informal. I'm a relatively young attorney (practicing 5 years) and generally my fellow colleges and I refer cases to each other depending on practice area without an expectation of compensation.
- \* I recommend lawyers that I believe are honest and hard working. If they are intelligent, that's just lagniappe.
- \* I have no other comments.
- \* I currently only practice law about 10 - 20 hours a week. With another business, I have to refer cases that come to me, most of the time.
- \* I usually try to refer the client to more than one attorney that I trust to handle the case properly.

## 8. Additional Comments (*Continued*)

- \* I refer cases I do not want to be involved in or which are outside my areas of expertise.
- \* I practice in the area of business law, not probate, personal injury, etc.; so the primary reason I refer matters to other counsel is because the matters are probate, criminal, personal injury, etc. matters. Why I refer matters to the attorneys I do refer them to, is that I always prefer to refer a matter to a competent, ethical attorney whom I know myself, not someone whom I know only by reputation; that way, I have confidence that the client will get good representation.
- \* Whether or not there is an expectation of compensation, the practice of referrals between attorneys serves the public interest. Most laypersons trying to select an attorney will find a far better "match" for their needs with the assistance of an attorney who understands the nature of their legal problem.
- \* I refer cases primarily to personal friends.
- \* Reputation in practice area [*illegible*]. Personal compatibility, not known at the time of referral.
- \* I have not mentioned ad litem appointments because I was not sure they qualify as referrals. I receive several of those each year, both attorney A.L. and Guardian A.L.; they are often a drain on my time because I under bill my real time and charge less per hour than for most work, because I view it as, in part, a community service.
- \* If case requires high cost for discovery, etc., I choose not to get involved.
- \* I refer cases to attorneys who practice in an area I do not, who are really good attorneys. I believe the client should have a good attorney for the case he has. I do not believe an attorney who advertises should refer cases. If he can't handle it he should pass.
- \* Referrals (informal) are a way of life in the practice of law. No attorney can know all aspects of the law. The ability to send someone with a problem to an attorney to deal with it helps build client relations, self-esteem, and camaraderie among attorneys.
- \* I accept cases within my practice area that are economically feasible and refer cases that don't fit.
- \* I like to refer clients to the best attorney I think they can afford.
- \* You simply have to refer. You can't be a jack-of-all-trades or a one-stop shopping experience for your clients . . . unless you're a big, evil sweatshop firm. You hope, when you refer, that the other attorney will some day reciprocate, but in practice it rarely happens. The attorney typically forgets what you do or is never able to refer anything to you. I see the attempted rule change as just a veiled effort by big firms to squash little firms by making it impossible, unnerving or even criminal for lawyers to refer anything. I perceive that big firms feel threatened.
- \* Referrals are also based on the needs of the client and the estimated ability of the client to pay for services. I also try to refer the client to an attorney more closely located to the client's residence.
- \* I try to send to best attorney I know in the particular area of law.
- \* These answers are assuming that the referrals would be to/from attorneys outside of my law firm.
- \* Most of the attorneys that I recommend have worked on matters with or for me.
- \* Difficult to know numbers. Many phone calls result in other attorney's name provided.
- \* Refer mostly non-contingent fee cases. I have a general practice. I will handle some personal injury -auto or other accident-- cases, but my P.I. caseload is not very heavy. Medical malpractice cases I will try to refer out with client's approval.
- \* I value an attorneys' willingness to return calls to me and my referred client.
- \* I believe allowing attorneys incentive to refer will insure that clients get the best representation possible. As a mediator, I see cases all the time that SHOULD have been referred to an expert in the area, but unfortunately for the client, were not referred. This will only get worse if we restrict referral fees.
- \* I have limited my practice to uncontested family law and wills and probate only. Most callers have contested cases so I refer them to others.
- \* I have not paid any referral fees for years. I have received one referral fee about 4 years ago, on a personal injury case. I handled the case up until the suit was filed after settlement attempt failed.
- \* My practice of law is only part-time (which may account for the unusually low number of referrals, both made by me and to me).
- \* When referring cases, I try to match the client with an attorney whose office can handle the client's needs be they the area of practice, language, geography, as the case may be. I try to refer only to attorneys that I know something about or that someone can give me assurances as to ability and competence. When accepting cases, I try to make sure my office can meet the same client needs; area of practice, language, geography, as the case may be.
- \* I refer to attorneys who I believe are not only exceptional practitioners but also genuinely good people. This greatly narrows the field.
- \* Usually I only refer out cases that are outside of my area. In turn those same attorney's refer cases to me that are in my area but not theirs. These are usually small cases such as divorces or small personal injury, not cases likely to be complex, involve much time or money.
- \* Informal referrals usually only occur when someone comes to me with criminal or family law needs, or when a friend comes to me with a problem I can't handle.
- \* I send clients to other attorneys who also make themselves available to me on an informal basis to help me better understand their areas of the law, and I believe they send me clients based on the same expectation. For example, if the bankruptcy lawyer needs to know something specific about a probate question, he knows he can just call me and I'll know it off the top of my head, and I do the same with debtor/creditor.
- \* I get telephone calls from injured workers, in workers' compensation claims, which I refer to lawyers often, if I am not representing the workers' compensation carrier. Also, on the criminal, family law or employment cases, I will refer them to someone that I believe will do a good job for the person, without an expectation that they refer work to me.
- \* I do not advertise, and feel that advertisement has had a deleterious impact on the public's perception of lawyers in general. But for referrals from other lawyers, I would not be able to maintain a practice. I think regulation of the referral system would negatively impact the cordial and reciprocal practice of referral, and encourage lawyers to handle cases they have no business handling, to the ultimate detriment of the client.

## **SECTION II: FORMAL REFERRALS**

### **9. Do you *make* or *receive* referrals involving some expectation of financial compensation?**

[Answered by all 1,215 respondents].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
Yes	36.7%	446
No	63.3%	769

#### **Private Practitioners and Attorneys Not Private Practitioners\***

<b>Response</b>	<b>Private Practitioners (n = 861)</b>		<b>Not Private Practitioners (n = 320)</b>	
	<b>Percent</b>	<b>Number Responding</b>	<b>Percent</b>	<b>Number Responding</b>
Yes	47.9%	412	6.9%	22
No	52.1%	449	93.1%	298

\*Not all attorneys indicated primary occupation.

*For items 10 through 48 in Section II, respondents were those who answered ‘Yes’ to ‘Do you make or receive referrals involving some expectation of financial compensation?’*

**10. On average, approximately how many cases do you refer formally per year?**

[Answered by 402, who responded ‘Yes’ to ‘Make or receive formal referrals’].

Number of formal referrals you make	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>
	7.4	3	1	125

**Private Practitioners and Attorneys Not Private Practitioners\***

Number of formal referrals you make	Private Practitioners (n = 373)				Not Private Practitioners (n = 18)			
	Mean	Median	Low	High	Mean	Median	Low	High
	7.6	3	1	125	4.2	1.5	1	20

\*Not all attorneys indicated primary occupation.

**Analysis by category of “How many cases do you refer formally per year,” by Private Practitioners and Attorneys Not Private Practitioners**

Number of formal referrals you make	Private Practitioners (n = 373)		Not Private (n = 18)	
	Percent	Number Responding	Percent	Number Responding
1-5	71.6%	267	77.8%	14
6-10	14.5%	54	16.7%	3
11-20	6.7%	25	5.6%	1
21-30	1.6%	6	0.0%	0
31-40	2.1%	8	0.0%	0
41-50	1.6%	6	0.0%	0
51-60	0.5%	2	0.0%	0
61-70	0.0%	0	0.0%	0
71-80	0.8%	3	0.0%	0
81-90	0.0%	0	0.0%	0
91-100	0.3%	1	0.0%	0
101-125	0.3%	1	0.0%	0
126-150	0.0%	0	0.0%	0
151-200	0.0%	0	0.0%	0
201-300	0.0%	0	0.0%	0
301-400	0.0%	0	0.0%	0
401-500	0.0%	0	0.0%	0
501 or more	0.0%	0	0.0%	0

**11. On average, approximately how many cases are referred to you formally from other attorneys per year?**

[Answered by 280, who responded 'Yes' to 'Make or receive formal referrals'].

Number of formal referrals to you	Mean	Median	Low	High
	22.9	5	1	1000

**Private Practitioners and Attorneys Not Private Practitioners\***

Response	Private Practitioners (n = 266)				Not Private Practitioners (n = 5)			
Number of formal referrals to you	Mean	Median	Low	High	Mean	Median	Low	High
	23.8	5	1	1000	4.6	3	2	10

\*Not all attorneys indicated primary occupation.

**Analysis by category of "How many cases are referred to you," by Private Practitioners and Attorneys Not Private Practitioners**

Number of formal referrals to you	Private Practitioners (n = 266)		Not Private (n = 5)	
	Percent	Number Responding	Percent	Number Responding
1-5	53.4%	142	80.0%	4
6-10	17.7%	47	20.0%	1
11-20	11.3%	30	0.0%	0
21-30	6.8%	18	0.0%	0
31-40	0.8%	2	0.0%	0
41-50	3.0%	8	0.0%	0
51-60	0.0%	0	0.0%	0
61-70	0.4%	1	0.0%	0
71-80	0.8%	2	0.0%	0
81-90	0.0%	0	0.0%	0
91-100	1.9%	5	0.0%	0
101-125	0.0%	0	0.0%	0
126-150	0.8%	2	0.0%	0
151-200	0.8%	2	0.0%	0
201-300	2.3%	6	0.0%	0
301-400	0.0%	0	0.0%	0
401-500	0.0%	0	0.0%	0
501 or more	0.4%	1	0.0%	0

## 12. On average, approximately how many cases referred to you formally from other attorneys do you accept per year?

[Answered by 270, who responded 'Yes' to 'Make or receive formal referrals'].

Number of formal referrals you accept	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>
	11.5	4	1	250

### Private Practitioners and Attorneys Not Private Practitioners\*

Number of formal referrals you accept	Private Practitioners (n = 257)				Not Private Practitioners (n = 5)			
	Mean	Median	Low	High	Mean	Median	Low	High
	11.8	4	1	250	4.2	3	2	8

\*Not all attorneys indicated primary occupation.

### Private Practitioners and Attorneys Not Private Practitioners

Number of formal referrals you accept	Private Practitioners (n = 257)		Not Private (n = 5)	
	Percent	Number	Percent	Number
1-5	64.6%	166	80.0%	4
6-10	15.2%	39	20.0%	1
11-20	12.1%	31	0.0%	0
21-30	2.3%	6	0.0%	0
31-40	1.2%	3	0.0%	0
41-50	1.2%	3	0.0%	0
51-60	0.0%	0	0.0%	0
61-70	0.0%	0	0.0%	0
71-80	1.2%	3	0.0%	0
81-90	0.0%	0	0.0%	0
91-100	0.4%	1	0.0%	0
101-125	0.0%	0	0.0%	0
126-150	0.4%	1	0.0%	0
151-200	0.8%	2	0.0%	0
201-300	0.8%	2	0.0%	0
301-400	0.0%	0	0.0%	0
401-500	0.0%	0	0.0%	0
501 or more	0.0%	0	0.0%	0

**13. Indicate the type(s) and approximate number(s) of cases you refer and are referred to you formally per year.**

[Answered by 419, who responded ‘Yes’ to ‘Make or receive formal referrals’].

Type of Case	Number of Formal Referrals Made By Attorney					Number of Formal Referrals Referred to Attorney and Accepted				
	Mean	Median	Low	High	Number Responding	Mean	Median	Low	High	Number Responding
Personal injury -Medical Malpractice	3.3	2	1	35	201	4.0	2	1	20	42
Personal injury -Products liability	4.9	1	1	200	99	13.8	3	1	200	46
Personal injury -Auto accidents	3.6	2	1	25	163	8.2	3	1	200	105
Personal injury -Third-party actions	3.0	2	1	20	48	6.9	5	1	50	36
Personal injury -Other	2.8	1	1	75	101	5.4	2	1	50	44
Commercial litigation	3.8	2	1	45	57	2.9	2	1	20	60
Consumer protection	4.5	2	1	30	28	2.5	1	1	10	20
Criminal matter	5.9	3	1	100	61	7.3	3	1	99	31
Family law	4.5	2	1	25	68	3.1	2	1	10	31
Employment law	7.2	2	1	125	41	6.7	3	1	50	17
Worker’s compensation	9.5	5	1	100	23	42.0	8.5	1	150	4
Probate law	3.0	2	1	25	30	2.7	2	1	10	23
Real Estate law	4.4	2	1	25	26	5.2	2	1	30	23
Other (specify)	9.1	2.5	1	75	18	5.6	3	1	35	29

**13b. Indicate the type(s) and approximate number(s) of cases you refer and are referred to you formally per year. (Continued)**

[Answered by 419, who responded ‘Yes’ to ‘Make or receive formal referrals’].

The following table is an analysis of the percent of total cases by type.

Type of Case	Number of Formal Referrals Made by Attorney				Number of Formal Referrals Referred to Attorney and Accepted			
	Mean	Number Responding	Estimated Frequency (Mean times Number Responding)	Percent Of Total Cases	Mean	Number Responding	Estimated Frequency (Mean times Number Responding)	Percent Of Total Cases
Personal injury-Medical Malpractice	3.3	201	658	16.3%	4.0	42	168	5.1%
Personal injury-Products liability	4.9	99	486	12.0%	13.8	46	634	19.1%
Personal injury-Auto accidents	3.6	163	582	14.4%	8.2	105	865	26.0%
Personal injury-Third-party actions	3.0	48	145	3.6%	6.9	36	250	7.5%
Personal injury-Other	2.8	101	283	7.0%	5.4	44	236	7.1%
Commercial litigation	3.8	57	217	5.4%	2.9	60	174	5.2%
Consumer protection	4.5	28	126	3.1%	2.5	20	49	1.5%
Criminal matter	5.9	61	359	8.9%	7.3	31	227	6.8%
Family law	4.5	68	308	7.6%	3.1	31	95	2.9%
Employment law	7.2	41	294	7.3%	6.7	17	114	3.4%
Worker’s compensation	9.5	23	218	5.4%	42.0	4	168	5.1%
Probate law	3.0	30	89	2.2%	2.7	23	63	1.9%
Real Estate law	4.4	26	115	2.8%	5.2	23	119	3.6%
Other (specify)	9.1	18	163	4.0%	5.6	29	161	4.9%
Total			4,043	100.0%			3,323	100.0%

### 13b. Listing of ‘*Other* types of case referrals made or accepted formally’

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* Bankruptcy (6)
- \* Oil & Gas (5)
- \* Estate Planning (3)
- \* Tax (4)
- \* Social Security Disability (2)
- \* Malpractice (2)
- \* Intellectual Property (3)
- \* Corporate (2)
- \* Business (2)
- \* Trademark
- \* Social Security & Immigration
- \* Social Security
- \* RICO
- \* Personal Injury
- \* Lawyer Professional Liability
- \* Juvenile
- \* Immigration
- \* General Corporate/Admiralty[*illegible*].
- \* Elder
- \* Court/Judge Specific
- \* Corporate and Business Matters
- \* Complex Class Action
- \* Collections
- \* 1983 Police Excessive Force
- \* Another Area Only
- \* Some years, it may be a medical malpractice; other years it may be a products claim, other years it may be an auto accident or other type of personal injury claim.

## 14. Do you *make* referrals to other attorneys involving some expectation of financial compensation?

[Answered by 446, who responded ‘Yes’ to ‘Make or receive formal referrals’].

The first table below shows in the **solid shaded** section the percents of *all respondents*. This answers the question, what proportion of all attorneys make referrals to other attorneys involving some expectation of financial compensation. Some 32% of all respondents answered ‘Yes’ to the question ‘Do you *make* formal referrals?’ The **gridded** section shows the percents of those who already answered yes to the earlier question ‘Do you *make* or *receive* formal referrals?’. The percents shown for this group are different because they are about a subset of the population, those who already have been identified to ‘Make or receive formal referrals’.

Response to ‘Do you <i>make</i> or <i>receive</i> formal referrals?’	Response to ‘Do you <i>make</i> formal referrals?’	Number Responding	Percent (of all respondents, n=1,215)	Percent (of those who <i>make</i> or <i>receive</i> formal referrals, n=446)
Yes	Yes	392	32.3%	87.9%
	No	54	4.4%	12.1%
No	N/A	769	63.3%	N/A

### 14b. Do you *make* referrals to other attorneys involving some expectation of financial compensation? (*continued*)

[Answered by 446, who responded ‘Yes’ to ‘Make or receive formal referrals’].

The table below shows the same type of information separately for two groups, private practitioners and attorneys not private practitioners. The **solid shaded** section shows the percents of *all respondents in each of these two groups*. This answers the question “what proportion of private practitioners, and what proportion of attorneys not private practitioners make referrals to other attorneys involving some expectation of financial compensation?”. Some 42% of private practitioners indicate they make formal referrals. Among attorneys who are not private practitioners, 6% make formal referrals. The **gridded** section shows the percents of those who already answered yes to the earlier question ‘Do you *make* or *receive* formal referrals?’. As stated previously, the percents shown for this group are different because they are about a subset of the population, those who already have been identified to ‘Make or receive formal referrals’.

**Private Practitioners and Attorneys Not Private Practitioners\***

Response to ‘Do you <i>make</i> or <i>receive</i> formal referrals’	Response to ‘Do you <i>make</i> formal referrals’	Private Practitioners			Not Private Practitioners		
		Number Responding	Percent (of all Private Practitioners n=861)	Percent (of Private who make or receive formal referrals n=412)	Number Responding	Percent (of all Not Private Practitioners n=320)	Percent (of non-Private Practitioners who make or receive formal referrals n=22)
Yes	Yes	364	42.3%	87.9%	19	5.9%	86.4%
	No	48	5.6%	11.7%	3	0.9%	13.6%
No	N/A	449	52.1%	N/A	298	93.1%	N/A

\*Not all attorneys indicated primary occupation.

**15. AT WHAT POINT DO YOU REFER? When I refer a client and expect to receive a referral fee, I most often make the referral: (Check only one)**

[Answered by 381, who responded ‘Yes’ to ‘Make formal referrals’].

Response	Percent	Number Responding
Shortly after an initial phone call with the client	24.7%	94
Shortly after an initial office visit with a client in which I <u>do not</u> obtain client’s power of attorney	17.1%	65
Shortly after an initial office visit with a client in which I <u>do</u> obtain client’s power of attorney	10.5%	40
After I’ve been working on the case for some time	3.4%	13
There is no set pattern, the timing of the referral varies	41.5%	158
Other (please describe)	2.9%	11

**15b. Listing of *Other* responses to question “At what point do you refer?”**

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* After a review of the case, evaluating appropriateness of our firm to handle, then refer when appropriate.
- \* After I have worked on the client's Social Security case for some time and realize he has a PI case.
- \* All cases are referred on an annual basis.
- \* On the only case I have referred, I worked the case through investigation and medical record evaluation.
- \* Shortly after an initial office visit with a client in which I do obtain client's power of attorney; after I've been working on the case for some time.
- \* Shortly after an initial phone call with the client; shortly after an initial office visit with a client in which I do not obtain client’s power of attorney. (2)
- \* There is no set pattern, the timing of the referral varies with client consent; also I remain actively involved.
- \* Usually after initial office visit with client's power of attorney. Occasionally it is after working the case for some time.
- \* Usually early on, but varies wildly with each case.
- \* When I believe it is in the client’s best interest.

**16. WHY DO YOU REFER? When you refer a case to another attorney and expect to receive a referral fee, which of the following reasons best explains why you referred the case to the other attorney? (Check all that apply)**

*(Because more than one response can be made, the percents will not add to 100%).*

[Answered by 384, who responded ‘Yes’ to ‘Make formal referrals’].

Reason	Percent	Number Responding
Case was out of my practice area	80.7%	310
Case was in my practice area but was too complex/technical	38.0%	146
Case was in another geographic area	34.1%	131
My caseload was too great to take on new cases	17.7%	68
Case dollar value was less than what I usually handle	19.0%	73
Case dollar value was more than what I usually handle	10.7%	41
Most or all of my cases are referred to other attorneys	1.8%	7
Other (specify)	10.9%	42

**16b. Listing of *Other* responses to question “Why do you refer?”**

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* Additional expertise-usually co-counsel.
- \* Another lawyer is more capable of maximizing the client's recovery.
- \* Business conflict.
- \* Case calls for greater financial commitment than the firm can make.
- \* Close friends or relatives in criminal cases. (2)
- \* Conflict of interests. (3)
- \* Cost of pursuing matter was high.
- \* Costs of case are too high.
- \* Currently in house counsel.
- \* Defense practice.
- \* Do defense work only.
- \* Economic.
- \* Expense of litigation was more than I could handle.
- \* For any dollar amount.
- \* Government lawyer--limited on outside matters I can take.
- \* Help the other lawyer.
- \* I am a defense lawyer.
- \* I am governmental employee -- I am prohibited from taking on most outside work.
- \* I am not practicing.
- \* I have a transactional practice, but I get inquires about P-I suits, often from existing clients.
- \* I know the attorney I refer to and I am confident they will keep my referral happy.
- \* I lack necessary funds to try a real mal. case.
- \* I refer family and law and criminal matters to others within my firm.
- \* In-House counsel.
- \* I've only referred one case.
- \* Leverage to be gained from getting attorneys involved who are very experienced and known in the practice area.
- \* May have less info on defendants than other firm.
- \* May not have had the financial resources to fund a case.
- \* Not set up for paperwork required in P.I.
- \* Personal injury case in which recovery is not usually tied to amount of work lawyer does on the case.
- \* Plaintiff case.
- \* Potential conflict.
- \* Sometimes even with the case being in the field, the expense associated with the development is very high, so I co-counsel with another firm.
- \* To assist young, struggling lawyers who need cases.
- \* To team up against multiple defense firms.
- \* I handle only the portion of the case involving the probate and/or estate planning needs of the client(s).

**17. How do you choose the attorney to refer the client to? Please rate each of the following factors in terms of their importance to you in deciding which attorney to refer a case to. Remember to think **ONLY** about cases for which you expect to receive a referral fee.**

[Answered by 386, who responded ‘Yes’ to ‘Make formal referrals’].

Factor	Average and Number Responding		Percent Indicating per Category				
	Mean	Number Responding	Not at All Important 1	2	3	4	Very Important 5
The size (amount/percentage) of the referral fee I will receive from that attorney	2.2	374	37.4%	28.1%	21.1%	8.6%	4.8%
The attorney’s reputation in his/her practice area	4.8	382	0.3%	0.3%	2.9%	14.1%	82.5%
Reciprocity: whether or not I expect that the particular attorney will refer cases to me in the future	2.1	371	44.7%	19.9%	18.3%	12.1%	4.9%
Personal compatibility/fit between the client and the attorney	3.6	366	6.6%	11.2%	24.9%	32.2%	25.1%
Other (specify)	3.9	51	21.6%	0%	7.8%	9.8%	60.8%

## **17b. Listing of *Other* factors**

- \* Ability & competence.
- \* Attorney expertise and skill to assure proper representation.
- \* Attorney is a friend.
- \* Attorney known experience & expertise.
- \* Attorney's ability to handle a case by size and demands.
- \* Attorney's ability to maximize damages.
- \* Best interests of clients.
- \* Case specific issues for which the attorney has exceptional experience handling.
- \* Competency of attorney.
- \* Coverage of legal mal-practice insurance.
- \* Ethics of attorney.
- \* Fee charged.
- \* Financial stability of attorney/firm.
- \* Fluent in Spanish.
- \* Friend or someone I think is best for the case.
- \* Friendship with attorney.
- \* Geographical location of client or prospective litigation.
- \* Honesty & integrity.
- \* How well I know the attorney.
- \* I have a group of attorneys I know do good work and are honest people. I always recommend these attorneys first.
- \* I refer cases but expect to be involved.
- \* I refer on occasion to increase value of case.
- \* I try to refer cases of this type to an attorney who I feel is best suited for the client and the case. I always stay involved and help in the areas that I can.
- \* If all factors are equal I refer to attorney that pays highest referral.
- \* In complex cases making sure the attorney can afford the cost of litigation and experts.
- \* My assessment of ability in area.
- \* My confidence in the attorney's competence & honor.
- \* My personal knowledge of the attorney's competence.
- \* My personal, professional relationship with the other attorney.
- \* My referral choice will continue my client's confidence in me for future use of my services and advice.
- \* My relationship with the attorney and whether I feel the attorney will competently represent the client.
- \* Not the size or percentage of referral fee, but the fact of a referral fee makes some difference.
- \* Past experience with attorney.
- \* Personal acquaintance.
- \* Personal knowledge of attorney.
- \* Personal relationship with other attorney & knowledge of his ability.
- \* Prior Agreement with attorney.
- \* Reasonable Fees.
- \* Referral within the firm.
- \* Reputation of attorney as an honest and ethical practitioner.
- \* Skill, competence.
- \* The referral attorney's past history of keeping me informed about the progress of the case.
- \* Whether firm will allow me to be second chair in case.
- \* Whether the other attorney will do a better job for the client.

## **CONTRACTS/POWERS OF ATTORNEY**

### **18. Does your standard client contract or power of attorney have a provision for you to refer cases to other attorneys?**

[Answered by 377, who responded 'Yes' to 'Make formal referrals'].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
Yes	52.0%	196
No	48.0%	181

## CONTRACTS/POWERS OF ATTORNEY

**19. Does your standard client contract or power of attorney state the size (amount or percentage) of the referral fee that you will receive in the event of a referral?**

[Answered by 373, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
Yes	7.5%	28
No	92.5%	345

## CONTRACTS/POWERS OF ATTORNEY

**20. Do you verbally disclose to the client, at or about the time of the referral, the size (amount or percent) of the referral fee you will receive?**

[Answered by 376, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
Yes	54.8%	206
No	45.2%	170

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## CONTRACTS/POWERS OF ATTORNEY

### 20b. If answer 'No', why not?

- \* Amount unknown at that time.
- \* Amount is unknown.
- \* Unaware of any obligation to do so.
- \* Attorney referring to needs to evaluate case and then we discuss whether there will be a referral fee.
- \* Because fee may be reduced if case develops problems.
- \* Because I continue to participate in the case as a consulting attorney.
- \* Because I do not know.
- \* Because I do not know what it will be.
- \* Because I never know if I will get a fee.
- \* Because it has only happened two times in the last 15 years.
- \* Because it would not effect the amount of recovery by the client.
- \* Because the receiving attorney should do it.
- \* Because the referral fee does not affect the amount the client pays.
- \* Between me & attorney referred to.
- \* Client is not affected by the amount of referral paid.
- \* Client is told there will be no additional charge or fee.
- \* Client's attorney fee not impacted by the referral.
- \* Clients are paying the same fee, so how the attorney's split the fee is not relevant to them.
- \* Depends on case.
- \* Depends on the amount of probate and/or estate planning work I am to do.
- \* Disclosed to client when the attorney accepts the referred case and a referral fee is arranged with the attorney accepting the case.
- \* Do not consider that important because clients' cases are typically on contingency.
- \* Do not know the size at the time.
- \* Does not affect client.
- \* Does not affect client's percentage.
- \* Does not affect recovery to client.
- \* Doesn't effect client's interests.
- \* Doesn't matter to client.
- \* Doesn't seem important as long as client adequately represented.
- \* Don't believe relevant to total amount of attorney fees charged.
- \* Don't know.
- \* Don't know at time.
- \* Don't know how much it will be – that is left up to the attorney to whom the case is referred.
- \* Don't know if the attorney will take the case or not or even if there is a case.
- \* Don't know if will get one at all.
- \* Don't know when or if it will be paid.
- \* Don't sign client to a contract.
- \* Don't think it matters to client.
- \* Don't think it will effect any of their monetary interest.
- \* Explained by receiving attorney.
- \* Fee is same to client no matter what my cut.
- \* Fee remains constant with client.
- \* Generally N/A.
- \* Generally unknown at that time.
- \* Haven't been asked, however, probably should.
- \* I assume the fee comes out of the second attorney's fee.
- \* I did not, because I did not expect one.
- \* I do not accept cases expecting to refer them.
- \* I do not believe the client is interested.
- \* I don't know if the other attorney will accept the case. However, all attorneys that I work with disclose the referral fee.
- \* I don't know of that time. My first concern is to get them to best attorney in the field. In many fields, there is no referral fee. In some fields there are fees but only if the case ends up being a financially beneficial one and then each. \* I don't know what it will be.
- \* I don't think that it matters.
- \* I explain to my clients that if the case is referred, then he/she does not have to pay any additional attorneys fees. He/she is only paying the one contingency fee no matter how many attorneys are associated to work on the file.
- \* I generally disclose this in writing.

## CONTRACTS/POWERS OF ATTORNEY

### 20b. If answer 'No', why not?

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* I may or may not receive a referral fee - most references are without expectation of referral fee.
- \* I refer to an attorney that I feel can truly help the client. The referral fee does not decrease the client's recovery any, so I feel it's just between me and the attorney. If I tell the client about the referral fee, the client might.
- \* I send the client to the other attorney and allow them to decide whether they want that lawyer to represent them. If they do, they sign a contract with the new attorney and address referral fees at that time. I never pick up the file.
- \* I tell them I might receive a fee but it is paid from the fee paid the other lawyer not from client proceeds.
- \* I tell them the total attorney fees.
- \* I usually don't even know myself. I do not generally have an agreement up front with the other attorney but instead rely on them to pay a fee based on the results, amount of work required, etc, based on their judgment.
- \* I write & obtain permission & decrease percentage of referral.
- \* If fee is set-referral fee should make no difference.
- \* If the percentage of the client's portion does not change, then I really don't think it matters. If the client's percentage does change then we talk about it. Usually I will adjust my fee so that the client's percentage doesn't change.
- \* Immaterial.
- \* Impossible to project whether any referral fee will be paid at all. Lawyers seldom pay this firm a referral fee. Payment of referral fees isn't rampant, in my practice.
- \* In general terms yes, but not the specific detail. I make sure they agree and that they understand that there is no additional fee to them, also explained in my contract for association of the counsel.
- \* Irrelevant.
- \* Is dealings with other attorney.
- \* Is not an important issue. Will disclose if asked.
- \* It doesn't affect them financially.
- \* It doesn't effect the client's payment. (2)
- \* It doesn't matter, client's percentage doesn't vary.
- \* It has no effect on the fee they ultimately pay.
- \* It is in a non-standard contract.
- \* It is not relevant to their representation.
- \* It is unknown at that time
- \* It is usually discussed later depending on the outcome, the size of the referral fee is not important to me.
- \* It may be unknown or vague.
- \* It varies.
- \* It's entirely up to the referral attorney if a referral fee is given and, if so, how much it will be.
- \* Most of my referrals will probably not result in the other attorney taking the case and thus I will not receive any fee.
- \* Most of the time the referral fee has not been worked out yet.
- \* My business.
- \* My contract states what percentage of recovery will go to attorneys-my referral fee will come out of that percentage.
- \* My fee will not increase the fee they pay.
- \* N/A - only one case; didn't get that far.
- \* Never came up.
- \* Never thought about it.
- \* No need because it doesn't affect the fee paid by the client (but I specifically tell the client that I will be paid one.)
- \* No reason.
- \* None of their business - cut deal with other attorney first.
- \* Not an issue - attorney fee remains the same.
- \* Not certain as to final agreement with the attorney which I referred the case.
- \* Not important.
- \* Not important as to representation.
- \* Not important because they would get charged the same if they went to these attorneys directly.
- \* Not necessary.
- \* Not Relevant. (2)
- \* Not relevant if I stay involved
- \* Not relevant, none of their business.
- \* Not requested.
- \* Not required. (3)
- \* Not sure if I will refer case.
- \* Not their business.
- \* Not yet negotiated. (2)

## CONTRACTS/POWERS OF ATTORNEY

### 20b. If answer 'No', why not?

- \* Possibly.
- \* Rarely have a referral fee. When I do the referred counsel makes the disclosure.
- \* Rarely know what fee attorney might pay to me and how much he will have me involved in case.
- \* Referral fee is not worked out until the case is fully evaluated by new attorney.
- \* Referral fee percentage isn't a set percentage. It depends on who the case is referred to.
- \* See response to 21.
- \* Sometimes.
- \* Sometimes I end up NOT taking a fee, so it would get confusing.
- \* Tell him other attorney will handle this.
- \* Tends to cause confusion for client on what contingent fee will be charged.
- \* That is between myself and the other attorney.
- \* That is bet ween the other lawyer and myself, and has no effect on the quality of the service the client will receive, and stays between the lawyers.
- \* That is matter between me and the referral attorney; but I do advise the client that the referral will not cost them any more than what the contract provides for.
- \* The amount is something the client does not care about. They just don't find it important.
- \* The amount of attorney's fees on the case will be the same regardless of whether the case is referred to another attorney.
- \* The amount of referral, if any, is irrelevant; it has nothing to do with their recovery.
- \* The answer I would have chosen is "sometimes". I can tell some clients do not care, so I do not bring up the exact amount to be shared.
- \* The answer is sometimes; I've never been asked when I didn't tell already.
- \* The attorneys involved may adjust the amount as the case develops, depends on the work and results.
- \* The client is not going to have to bear the cost or lose his or her expectation of what is expected.
- \* The client pays nothing extra for the referral process.
- \* The fee they pay does not change whether I get a referral fee or not. I have never had a client ask about how much I would get, but I have had several be concerned that I was going to get something because I spend so much time with it.
- \* The fee will be paid by the referring attorney from his/her fee.
- \* The last referral fee I received was about 35 years ago, and I helped with the case and at trial. I tell the client that some plaintiff's attorney's pay referral fees out of their percentage.
- \* The other attorney discloses.
- \* The percentage does not impact clients' recovery.
- \* The referral fee is not a consideration. If there is no referral fee, that's fine. Important thing is to get client referred to best attorney to handle the particular case. I do not know ahead of time that I will receive a referral fee.
- \* Their fee does not change.
- \* There is never a formal agreement with the other attorney.
- \* Total fee charged to client is not affected.
- \* Typically it is being negotiated & is dependent on my level of participation.
- \* Unknown.
- \* Unknown at that time.
- \* Unknown to me at that time.
- \* Usually do not refer cases.
- \* Usually not known at that time. (3)
- \* Very rare-expect PI attorney will.
- \* Will not affect amount of fee client pays.
- \* Within the same firm. Our fee splitting is on a cases by case basis.
- \* Notify client that fees will be settled between the attorneys.
- \* I leave it to the referred whether to pay any referral fee and the amount.
- \* I may not refer.

## CONTRACTS/POWERS OF ATTORNEY

### 21. NATURE OF THE REFERRAL FEE When you receive a fee for referring a case, do you typically

[Answered by 368, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
Negotiate the amount of the referral fee	27.4%	101
Request a standard fee	25.8%	95
Accept whatever the handling lawyer pays me	46.7%	172

## CONTRACTS/POWERS OF ATTORNEY

### 22. TYPE OF REFERRAL FEE Describe the typical referral fee you receive

[Answered by 363, who responded 'Yes' to 'Make formal referrals'].

Typical Referral Fee Received	Percent	Number Responding
A percent of attorney fee recovered	67.5%	245
A flat fee	0%	0
I accept whatever the handling lawyer pays me	32.5%	118

Referral fee recovered	Mean	Median	Low	High	Number Responding
Percent of attorney fee recovered fee	30.3	33	5	50	233
Flat fee	-	-	-	-	0

## CONTRACTS/POWERS OF ATTORNEY

### 23. AMOUNT OF REFERRAL FEE Please estimate the typical dollar amount of the fee you receive for referring a client to another attorney

[Answered by 351, who responded 'Yes' to 'Make formal referrals'].

Response of typical dollar amount received	Percent	Number Responding
\$5,000 or less	54.1%	190
\$5,001 to \$25,000	30.5%	107
\$25,001 to \$45,000	7.1%	25
\$45,001 to \$65,000	2.8%	10
\$65,001 to \$85,000	1.4%	5
\$85,001 to \$105,000	0.9%	3
\$105,001 to \$125,000	2.0%	7
More than \$125,000	1.1%	4

## CONTINUED INVOLVEMENT WITH CLIENT

**24. When you refer a case to another lawyer and receive a referral fee, approximately what percentage of the time do you continue to perform services of any sort for the client after the referral?**

[Answered by 361, who responded 'Yes' to 'Make formal referrals'].

	Mean	Median	Low	High
Percent of time services continued after referral	37.3	25	0	100

## CONTINUED INVOLVEMENT WITH CLIENT

**25. When you refer a case to another lawyer and receive a referral fee, which of the following services, if any, do you typically perform for the client following the referral? (Check all that apply)**  
*(Because more than one response can be made, the percents will not add to 100%).*

[Answered by 379, who responded ‘Yes’ to ‘Make formal referrals’].

Response	Percent	Number Responding
None	15.6%	59
Handle communications or correspondence with the client	47.0%	178
Act as a liaison between client and handling attorney	67.0%	254
Provide information to the handling lawyer about the client	71.5%	271
Serve as a resource for or provide support to the client	70.7%	268
Prepare responses to discovery	13.7%	52
Attend depositions	19.0%	72
Attend hearings	20.8%	79
Attend Trial	21.9%	83
Other	15.0%	57

## CONTINUED INVOLVEMENT WITH CLIENT

### 25b. Listing of *Other* types of services performed

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* Advise other lawyer.
- \* All of the above.
- \* Anything client asks within reason.
- \* As needed / requested. (3)
- \* Assist referred to lawyer.
- \* Attend mediation. (4)
- \* Attend mediation, meet with referral attorney at periodic intervals.
- \* Attend, and sometimes conduct, mediation presentations.
- \* Client & handling attorney meet at my office & I am involved in entire case.
- \* Depends on case.
- \* Depends on circumstances of case. I ask to be involved & participate if referred for litigation.
- \* Depends on client and attorney.
- \* Do final prove-up.
- \* Each referral is case specific. Amount of involvement varies from case to case.
- \* Handholding / explain procedures.
- \* Handle other legal matters not directly related to the PI suit referred.
- \* Handle related matters, probate.
- \* Have not had one in years.
- \* Helped collect settlement in bankruptcy court. Also ask to be included on the certificate of revenue, pleadings, notices, etc.
- \* I do a little of all the listed and usually handle other matters within my area of expertise.
- \* I do legal work for the client in my area of specialty.
- \* I generally stay out of the way so that the handling lawyer can do his job. I am always willing to assist if necessary.
- \* I usually do voir dire, some witnesses and jury argument in the event of trial.
- \* Investigation / Research. (6)
- \* May assist with discovery.
- \* Mediation.
- \* Mediations.
- \* Miscellaneous.
- \* Monitor, etc.
- \* Only if I am still working on the client's SS case; I do not provide my services regarding the referred matter.
- \* Participate and/or assist as accepting attorney may request.
- \* Pay some expenses.
- \* Perform legal research and provide funding for the case.
- \* Provide information about the case from preliminary investigation and legal research.
- \* Provide lead in mediation.
- \* Provide litigation support and translation of language if necessary.
- \* Set up probate matter and prepare estate-planning documents for client.
- \* Sometimes advise & represent client on other matters.
- \* Sometimes joint venture contingent fee cases.
- \* Whatever I was retained originally to do - e.g. administer state, etc.
- \* Whatever other attorney asks.
- \* Whatever they ask for.
- \* Will handle work within my practice area.
- \* Work with attorney and client regarding strategy - procedural and substantives.

## CONTRACTS/POWERS OF ATTORNEY

**26. When you refer a case to another lawyer and receive a referral fee, do you document in the referral agreement or elsewhere the services you agree to perform for the client after the referral?**

[Answered by 369, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
Yes	27.4%	101
No	72.6%	268

## CONTRACTS/POWERS OF ATTORNEY

**27. Do you verbally disclose to the client, at or about the time of the referral, the services you agree to perform for the client after the referral?**

[Answered by 375, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
Yes	67.5%	253
No	32.5%	122

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## CONTINUED INVOLVEMENT WITH CLIENT

### 27b. Responses to “If answer ‘No,’ why not?”

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* A referring attorney remains responsible for the client/matter.
- \* As long as the client's percentage does not change then it doesn't matter. If the client's interests are best served by the referral then my service to the client is getting her to the best lawyer for that particular case.
- \* Because I'm probably already doing other work for the client in my area of expertise (corporate).
- \* Because it differs per case, I may not know at time of referral.
- \* Because it is just my practice to just do those services.
- \* Because it is unknown at the time. We certainly let the client know that their percent will not change.
- \* Depends on needs of attorney to whom referred.
- \* Do not feel obligated to do so.
- \* Does not affect amount of fee client is charged.
- \* Does not affect client's percentage.
- \* Done by receiving attorney in my office.
- \* Don't know.
- \* Don't know if the attorney will accept the case or even if there is an actionable case.
- \* Don't perform any services thereafter.
- \* Don't usually agree to perform any additional services once the case is referred.
- \* Generally don't perform additional services.
- \* Generally N/A or very minor role.
- \* Generally I am not obligated to perform services, but do so to help the client and my firm.
- \* Handling lawyer does.
- \* Haven't in the past, but should.
- \* I am not certain what the referral lawyer wants me to do.
- \* I believe they do not care.
- \* I do not agree to perform any services after the referral. I simply do in some cases especially where I have a pre-existing relationship with the client.
- \* I do not agree to perform any, but I usually do if they ask.
- \* I do not believe the client is interested.
- \* I do not know what I will end up doing in each case. Clients are told that I am here for anything they need.
- \* I do not work on referral cases.
- \* I do what the handling attorney requests.
- \* I don't agree to perform any services.
- \* I don't do anything after referral.
- \* I don't know what I will need to do.
- \* I don't perform any additional services.
- \* I don't perform services.
- \* I explain that I will be available to do x, y or z for other lawyer if requested.
- \* I have not yet had a referral to an attorney who desires my help.
- \* I just let them know that I'm available to help if they need it.
- \* I leave it up to the primary counsel to determine the exact need for my [illegible] services.
- \* I let client know I'm still there if he/she needs me.
- \* I normally do not perform any.
- \* I offer an open line of communication and expect them to contact me if they need something.
- \* I provide no services.
- \* I provided no services, just the referral. I am a prosecutor.
- \* I remain available to assist as called upon to do so.
- \* I still consider myself their attorney subject to an engagement letter.
- \* I tell client attorney will handle case and I will be available for whatever he needs done.
- \* I tell him the other attorney will do all.
- \* I tell the client that I will do whatever he wants, but that he is agreeing to hire the other lawyer.
- \* I tell them I would like to keep in touch and be a resource to assure their satisfaction.
- \* I tell them that I am available any time they have a question, or concern, and that I will be at trial if it gets that far. I have a small town practice and my clients are typically my friends and neighbors.
- \* I tell them the other attorney will handle the case. I help when needed.
- \* I usually do not perform any services.
- \* I very rarely see/speak to the client again after the referral is made.

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## CONTINUED INVOLVEMENT WITH CLIENT

### 27b. Responses to “If answer ‘No,’ why not?” (*Continued*)

- \* I view it as a partial assignment of contract. I'm still responsible for seeing client is well represented.
- \* I will do whatever is asked.
- \* I will protect my client & do whatever necessary for successful conclusion.
- \* I'm either still involved in the case or it's clear to the client I'm not.
- \* I'm not going to perform any services. I send the client to the other attorney.
- \* It is cases specific and depends on a number of factors.
- \* It is not that neat & clean cut.
- \* It is understood he will be represented by 2 firms.
- \* It is usually a transfer function in the initial stages of the referral.
- \* It varies from case to case.
- \* It varies.
- \* It's entirely up to the referral lawyer and the client what, if any, services I perform.
- \* It's too broad, it could be anything, see # 25 above. I do whatever is needed.
- \* Just isn't necessary.
- \* My assistance may not be anticipated at time of referral.
- \* My client contract states that I may refer or use other attorneys and that the legal fee for services will be 30% (no trial) 40% if trial needed. Referred attorney accepts those percentages.
- \* My continued legal representation, minor as it is, is mainly a courtesy to the other lawyer and the client.
- \* My involvement depends on desires of client and/or other attorney.
- \* My involvement ends.
- \* N/A.
- \* Never came up.
- \* New attorney handles matter, and any work is conducted on behalf of the attorney.
- \* Not necessary for client to get concerned about what capacity I may be able to handle. The bar should trust lawyers more to determine this. You are wasting our time pandering to TORT REFORM WHORES or those who are work for TORT REFORM.
- \* Not relevant, none of their business.
- \* Not requested.
- \* Not required
- \* Not their business
- \* Not usually any communication.
- \* Not usually necessary.
- \* Out of my practice area.
- \* Services may not be known. Depends on what handling lawyer needs.
- \* Services unknown at that time.
- \* Sometimes no; other times, Yes, I do disclose; if the answer is "no" is because the handling lawyer may want me to take a less active role once the file is over there so I do.
- \* The [illegible] is with the other attorney.
- \* The lawyer handling is paying out of his agreed upon fee and does not take anything from the client's share.
- \* The services to be rendered are unknown at that time.
- \* The services will depend on the attorney to which the case is being referred and his communications with the client.
- \* There are none.
- \* There will be none.
- \* These services will vary and hard to know extent of involvement post referral.
- \* Those services can and will vary from case to case.
- \* Those services depend on the case & the handling attorney.
- \* Typically, once the case is referred I remain involved so I am in communication with the client and this issue does not become an issue.
- \* Unknown at that time.
- \* Usually the engagement is ongoing already.
- \* Usually, not specifically know.
- \* Varies on case-by-case basis.
- \* We envision the referral as an associate of another attorney so all service are available to the client.
- \* We work with these clients on a daily basis on other matters and they call us with any questions in any event. This is completely unnecessary.

## CONTRACTS/POWERS OF ATTORNEY

### 28. Does your referral documentation disclaim responsibility to the client following a referral?

[Answered by 360, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
Yes	9.7%	35
No	90.3%	325

**29. CLIENTS FIND ME THROUGH... Most of the clients I refer to other attorneys and receive a referral fee for heard about me through: (*Check only one*)**

[Answered by 245, who responded ‘Yes’ to ‘Make formal referrals’, and made *one* selection to question].

Response	Percent	Number Responding
Recommendations from former clients	45.3%	111
Recommendations from client’s friends, acquaintances, etc.	24.5%	60
Other	11.0%	27
Referrals from another lawyer	9.8%	24
Yellow Pages display ad	4.1%	10
Don’t know	3.3%	8
Firm website	1.2%	3
Television	0.4%	1
Radio	0.4%	1
Newspaper	0%	0
Direct mail to other lawyers	0%	0
Direct mail to consumers	0%	0
Paid Internet subscription service	0%	0
Billboards	0%	0

**29a. Listing of *Other* responses**

(Numbers in parentheses denote number of respondents, if more than one).

- \* About 6 of the above.
- \* Bar referred.
- \* Existing client. (2)
- \* Existing clients and friends.
- \* Existing clients or friends.
- \* Existing clients, family or friends.
- \* Friend.
- \* I am handling their SS cases.
- \* I handle collection cases for them already but they need someone in another state or area of TX.
- \* Know me.
- \* Law Lists .
- \* N/A
- \* Personal acquaintance.
- \* Personal knowledge of me.
- \* Personal professional relationship developed over time.
- \* Personal relationships with referring lawyers.
- \* Referral service.
- \* Referrals from another lawyer where that lawyer does not want a referral fee or the referral fee is protected, if they want such fee.
- \* Reputation. (2)
- \* Reputation of my firm and client base.
- \* Some of the above.
- \* They are acquainted with me.
- \* They are present or former clients.
- \* They know me. (2)

## 29b. These respondents made multiple selections to Question 29.

[Answered by 133, who responded ‘Yes’ to ‘Make formal referrals’, and made *multiple* selections to question].

Response	Percent	Number Responding
Recommendations from former clients	97.0%	129
Recommendations from client’s friends, acquaintances, etc.	92.5%	123
Referrals from another lawyer	70.7%	94
Yellow Pages display ad	15.8%	21
Other	8.3%	11
Firm website	7.5%	10
Radio	2.3%	3
Newspaper	1.5%	2
Television	1.5%	2
Don’t know	1.5%	2
Direct mail to consumers	0.8%	1
Paid Internet subscription service	0.8%	1
Billboards	0.8%	1
Direct mail to other lawyers	0%	0

## 29b. Listing of *Other* responses

(Numbers in parentheses denote number of respondents, if more than one).

- \* Church Contacts.
- \* Clients I’ve had before who get a case that I’d consider of major importance.
- \* Community Involvement.
- \* Friends out of practice area.
- \* I’m a member of the Houston Lawyer Referral List.
- \* Internet
- \* Lawyer referral service/client service
- \* Longevity in the community.
- \* Office locations
- \* Seminar and Radio Talk Show

## REGARDING POSSIBLE CHANGES TO THE LAW

**30. If I were required by law to be jointly responsible for cases I referred to another lawyer and received a referral fee for, I would:**

[Answered by 369, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
No longer accept referral fees for the cases I refer	11.9%	44
No longer refer any cases to other attorneys	13.8%	51
Refer fewer cases than I do now	30.1%	111
Continue to refer cases at the same rate as I do now	43.4%	160
Refer more cases than I do now	0.8%	3

## REGARDING POSSIBLE CHANGES TO THE LAW

**31. If the amount of the referral fee I received must, by law, be based on the proportion of services I performed, I would:**

[Answered by 370, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
No longer accept referral fees for the cases I refer	11.1%	41
No longer refer any cases to other attorneys	14.1%	52
Refer fewer cases than I do now	43.8%	162
Continue to refer cases at the same rate as I do now	30.3%	112
Refer more cases than I do now	0.8%	3

## REGARDING POSSIBLE CHANGES TO THE LAW

### 32. If referral fees are capped at 15% of amount recovered by the client or \$50,000, whichever is less, I would:

[Answered by 371, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
No longer accept referral fees for the cases I refer	3.5%	13
No longer refer any cases to other attorneys	13.2%	49
Refer fewer cases than I do now	40.2%	149
Continue to refer cases at the same rate as I do now	42.0%	156
Refer more cases than I do now	1.1%	4

## REGARDING POSSIBLE CHANGES TO THE LAW

**33. If I knew that, by law, the size and the amount of the referral fee would be disclosed in the pleadings to the court, I would:**

[Answered by 374, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
No longer accept referral fees for the cases I refer	4.5%	17
No longer refer any cases to other attorneys	11.5%	43
Refer fewer cases than I do now	27.0%	101
Continue to refer cases at the same rate as I do now	56.7%	212
Refer more cases than I do now	0.3%	1

## REGARDING POSSIBLE CHANGES TO THE LAW

**34. RECENT LEGISLATION** I expect that recent tort reform legislation, like House Bill 4, passed in the last legislative session will:

[Answered by 372, who responded 'Yes' to 'Make formal referrals'].

Response	Percent	Number Responding
Decrease the number of cases I refer to other attorneys	49.7%	185
Have no impact on the number of cases I refer to other attorneys	44.6%	166
Increase the number of cases I refer to other attorneys	5.6%	21

**35a. ACCEPTING REFERRALS Do you accept referrals for which you expect to pay a referral fee?**

[Answered by 446, who responded ‘Yes’ to ‘Make or receive formal referrals’].

The first table below shows in the **solid shaded** section the percents of *all respondents*. This answers the question “what proportion of all attorneys accept referrals from other attorneys involving some expectation of financial compensation?”. Some 21% of all respondents answered ‘Yes’ to the question “Do you *accept* formal referrals?”. The **gridded** section shows the percents of those who already answered yes to the earlier question ‘Do you *make or receive* formal referrals?’. The percents shown for this group are different because they are about a subset of the population, those who already have been identified to ‘Make or receive formal referrals’.

Response to “Do you <i>make or receive</i> formal referrals”	Response to “Do you <i>accept</i> formal referrals”	Number Responding	Percent (of all respondents, n = 1,215)	Percent (of those who make or receive formal referrals, n = 446)
Yes	Yes	258	21.2%	57.8%
	No	188	15.5%	42.2%
No	N/A	769	N/A	N/A

### 35b. ACCEPTING REFERRALS Do you accept referrals for which you expect to pay a referral fee? *(Continued)*

[Answered by 446, who responded ‘Yes’ to ‘Make or receive formal referrals’].

The next table, below, shows the same type of information separately for two groups, private practitioners and attorneys not private practitioners. The **solid shaded** section shows the percents of *all respondents in each of these two groups*. This answers the question “what proportion of private practitioners, and what proportion of attorneys not private practitioners accept referrals from other attorneys involving some expectation of financial compensation?”. Shown is 29% of private practitioners indicating they accept formal referrals. Among attorneys not private practitioners, less than 1% accept formal referrals. The **gridded** section shows the percents of those who already answered yes to the earlier question ‘Do you *make or receive* formal referrals?’. As stated previously, the percents shown for this group are different because they are about a subset of the population, those who already have been identified to ‘Make or receive formal referrals’.

**Private Practitioners and Attorneys Not Private Practitioners**

Response to “Do you make or receive formal referrals”	Response to “Do you make formal referrals”	Private Practitioners (n=413)			Not Private Practitioners (n=22)		
		Number Responding	Percent (of all private practitioners, n = 861)	Percent (of private practitioners who make or receive formal referrals, n = 412)	Number Responding	Percent (of all not private practitioners, n = 320)	Percent (of not private practitioners who make or receive formal referrals, n = 22)
Yes	Yes	250	29.0%	60.7%	2	0.6%	9.1%
	No	162	18.8%	39.3%	20	6.3%	90.9%
No	N/A	449	52.1%	N/A	298	93.1%	N/A

## Accepting Formal Referrals CONTRACTS/POWERS OF ATTORNEY

**36. When a case is referred to you and you accept it, and expect to pay a referral fee, do you typically have the client:  
(Check all that apply)**

*(Because more than one response can be made, the percents will not add to 100%).*

[Answered by 247, who responded 'Yes' to 'Accept formal referrals'].

Response	Percent	Number Responding
Sign your standard power of attorney/client contract	85.4%	211
Sign a separate consent to referral document	19.4%	48
Other (please specify)	11.7%	29

### **36b. Listing of *Other* responses**

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* Attempt to get client to sign contract.
- \* Both.
- \* None. (2)
- \* Combined engagement and consent to referral document.
- \* Depending upon each case.
- \* Depends on circumstance.
- \* Depends on client and attorney referring.
- \* Depends on client's relationship with referring attorney.
- \* Depends on the case.
- \* Disclose to clients that referral will be paid.
- \* Follow whatever contract referring attorney has with client.
- \* Handled case by case.
- \* Have a written agreement with the referring attorney.
- \* I discuss any referral I would pay from my fee. No additional cost to client.
- \* It varies with the case.
- \* It's in referral attorney's contract.
- \* Neither.
- \* No set pattern.
- \* Notify client in writing.
- \* Rely on referring lawyers contract and consent forms.
- \* Sign a letter confirming the referral.
- \* Sign approval of distribution of proceeds of settlement/judgment, showing all distribution.
- \* Sign contract acknowledging referral.
- \* Sign ordinary contract with provision regarding paying the specific referral fee to the specific referring attorney.
- \* Standard contract with inclusion of new disclosing referral fee paid and to whom.
- \* These are transactional/doc prep.
- \* Varies depending on the fee agreement in place at time of referral.

**Accepting Formal Referrals**  
**CONTRACTS/POWERS OF ATTORNEY**

**37. Does your standard power of attorney/client contract or consent-to-referral state the size (amount or percentage) of the referral fee that will be paid to the referring attorney?**  
*(Check only one)*

[Answered by 248, who responded ‘Yes’ to ‘Accept formal referrals’].

Response	Percent	Number Responding
Yes, my standard power of attorney/client contract does	7.3%	18
Yes, my consent-to-referral form does	11.3%	28
Yes, BOTH my standard power of attorney/client contract AND my consent-to-referral form do	6.5%	16
No, neither form states the amount	75.0%	186

## Accepting Formal Referrals CONTRACTS/POWERS OF ATTORNEY

**38. Do you verbally disclose to the client, at or about the time of the referral the size (amount or percentage) of the referral fee that will be paid to the referring attorney?**

[Answered by 246, who responded ‘Yes’ to ‘Accept formal referrals’].

Response	Percent	Number Responding
Yes	55.7%	137
No	44.3%	109

### **38b. Responses to “If answer ‘no,’ why not?”**

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* Amount may not be set at that time.
- \* As the client’s fee was not affected by the referral, it doesn’t seem relevant to me.
- \* Because I am not always sure what the fee will be.
- \* Because I do not charge the client more to cover a referral, so it shouldn’t matter what I do with part of my fee.
- \* Because if it comes out of my fee so it’s not their business. It has no effect on services rendered or received.
- \* Because it depends on the case and degree of involvement of referring attorney.
- \* Because it does not affect the total that client pays or receives.
- \* Because it doesn’t effect the amount of the client’s recovery.
- \* Because it’s unknown at the time.
- \* Because the fee is not affected by the amount of the referral fee.
- \* Because they don’t care.
- \* Because this is done by referring attorney in all cases I am involved in.
- \* Between me & other attorney.
- \* Client doesn’t care - just wants the best lawyer.
- \* Client doesn’t care about size, just that it is not coming from his share.
- \* Client doesn’t care about that. Not important to client.
- \* Client gets same amount of money. The split in fees is between the lawyers and doesn’t affect the client’s recovery.
- \* Client is told there will not be any additional fee charged.
- \* Client may perceive that as unprofessional.
- \* Client not affected by amount of referral fee paid.
- \* Client’s fee doesn’t change.
- \* Confused client.
- \* Contract of employment states attorney percentage of recovery. Referring attorney is paid out of recovery.
- \* Do not disclose unless fees are affected.
- \* Do not receive referral fees unless I participate in matter, then I disclose.
- \* Does not affect client.
- \* Does not affect client’s financial obligation or possible judgment
- \* Does not affect client’s recovery
- \* Does not affect fee I charge the client
- \* Does not affect the client
- \* Does not affect the quality of services I provide.
- \* Does not effect client because I pay it from the fee the client already agreed to.
- \* Doesn’t effect client’s interests.
- \* Don’t believe it is necessary.
- \* Don’t think it matters.

### **38b. Responses to “If answer ‘no,’ why not?”**

- \* Fees are typically worked out later. Also, clients' attorney fees are never increased, therefore it is a non-issue to them.
- \* Haven't in the past, but should.
- \* I do if the client asks.
- \* I do not believe the client is interested.
- \* I normally disclose by letter.
- \* If asked.
- \* If the client's percentage does not change then I don't think it matters. I do not charge more to make up for referral fee.
- \* Immaterial.
- \* Irrelevant-doesn't effect the recovery by the client.
- \* Is related to dealings with other attorney.
- \* Issue has never been raised and it does not affect the manner in which I will handle the case.
- \* It does not affect the total fee that the client is obligated to pay.
- \* It does not effect their recovery amount.
- \* It doesn't affect the percentage of client recovery.
- \* It is between me and the other lawyer.
- \* It is in the engagement letter.
- \* It is unknown at that time.
- \* It varies.
- \* It's generally discussed at the conclusion of the file.
- \* It's in the consent form.
- \* Loss of future referrals from referring attorney.
- \* Matter between me and attorney.
- \* My business.
- \* My fee is the same, I just make less on the case.
- \* Never came up.
- \* No formal agreement. I use own judgment to determine fee at end of case, depending on many factors.
- \* No particular reason.
- \* Not his business.
- \* Not important to client.
- \* Not known.
- \* Not necessary.
- \* Not relevant.
- \* Not relevant to representation.
- \* Not required. (2)
- \* Not their business.
- \* Past bad experience.
- \* Percentage is of fees, not client's share.
- \* Percentage to client doesn't change.
- \* Referrer is normally client.
- \* Same answer as issue on question relating to referring cases.
- \* See prior answer.
- \* Since the referral fee is paid from my fee do not see the need to inform the client.
- \* That amount has NO impact upon my handling of the case or the amount of the client's monetary recovery.
- \* That information is disclosed as soon as negotiated with referring attorney.
- \* That is a matter between me and referral attorney.
- \* That's between the lawyers, and has no effect on the service rendered for the client.
- \* The amount they pay will not be affected.
- \* The client has never seemed interested.
- \* The fee is a fee for service to the referring attorney. As my practice is limited to criminal matters, my referral fees paid are in proportion to the amount of fees I will generate on the case, whether the referring lawyer continues.
- \* The referral fee comes from the fee on contract.
- \* The referral fee comes out of any attorney fees made. If no attorney fees are made then there is no referral fee paid out.
- \* The total attorney's fees paid will be the same regardless of whether the case is referred to another attorney or not.
- \* They do not care since fee does not increase.
- \* They pay only one attorney's fee; they have told me they do not care who gets what.
- \* Typically it is dependent on amount of participation.
- \* Unaware of any obligation to do so.
- \* Usually unknown at that time; if known, usually discussed.

**Accepting Formal Referrals**

**CONTRACTS/POWERS OF ATTORNEY**

**39. NATURE OF REFERRAL FEE** When a case is referred to you and you accept it, and expect to pay a referral fee, do you typically: *(Check only one)*

[Answered by 247, who responded 'Yes' to 'Accept formal referrals'].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
Negotiate the amount of the referral fee	51.8%	128
Offer a standard fee	48.2%	119

## Accepting Formal Referrals

### CONTRACTS/POWERS OF ATTORNEY

#### 40. TYPE OF REFERRAL FEE What is the typical size (amount or percentage) of the referral fee you pay to the referring lawyer?

[Answered by 248, who responded 'Yes' to 'Accept formal referrals'].

Typical Referral Fee Paid	Percent	Number Responding
A percent of attorney fee recovered	66.5%	165
A flat fee	1.6%	4
The amount/percentage is negotiated on a case-by-case basis	31.9%	79

Referral fee recovered	Mean	Median	Low	High	Number Responding
Percent of attorney fee recovered fee	29.9%	33%	7%	50%	163*
Flat fee**	-	-	-	-	0

\*One attorney who checked "A percent of attorney fee recovered" did not enter a percent value.

\*\*Note that the four attorneys selecting "A flat fee" did not indicate the amount of the fee.

## **Accepting Formal Referrals**

### **CONTRACTS/POWERS OF ATTORNEY**

#### **41. COST OF REFERRAL FEE PASSED TO THE CLIENT**

**Do you typically increase the fee you charge clients referred to you in order to cover some or all of the costs of any referral fee that you pay?**

[Answered by 251, who responded 'Yes' to 'Accept formal referrals'].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
Yes	1.2%	3
No	92.4%	232
Depends on the type of case or other factors	6.4%	16

#### **41b. If yes, by how much?**

<b>*Type of increase to client fee</b>	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>	<b>Number Responding</b>
Percent	21.0%	7%	6%	50%	3
Dollar amount	-	-	-	-	0

## **Accepting Formal Referrals**

### **CONTINUED INVOLVEMENT WITH CLIENT**

**42. When you accept a referral from another lawyer and pay a referral fee, approximately what percentage of the time does the referring lawyer continue to perform services of any sort for the client after the referral?**

[Answered by 250, who responded 'Yes' to 'Accept formal referrals'].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
A percentage of the time	60.4%	151
Unknown	39.6%	99

<b>Percent of time referring lawyer performs continued services</b>	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>	<b>Number Responding</b>
Average percent of time	28.4%	20%	0%	100%	147*

\*Not everyone who checked a percentage of the time entered a percent value. Four who did not enter a percent value instead noted that the percent of time varied or depended on the nature of the case.

## Accepting Formal Referrals

### CONTINUED INVOLVEMENT WITH CLIENT

**43. When you accept a referral from another lawyer and pay a referral fee, which of the following services, if any, does the forwarding lawyer perform for the client following the referral? (Check all that apply)**

*(Because more than one response can be made, the percents will not add to 100%).*

[Answered by 251, who responded ‘Yes’ to ‘Accept formal referrals’].

Response	Percent	Number Responding
None	20.7%	52
Handle communications or correspondence with the client	40.6%	102
Act as a liaison between client and handling attorney	51.4%	129
Provide information to the handling lawyer about the client	63.7%	160
Serve as a resource for or provide support to the client	54.6%	137
Prepare responses to discovery	10.0%	25
Attend depositions	12.0%	30
Attend hearings	12.4%	31
Attend trial	15.5%	39
Unknown	8.8%	22
Other (Please Describe)	7.6%	19

### 43b. Listing of *Other* descriptions

- \* All of the above.
- \* Assist in discovery.
- \* Can do all of the above or just some, depending on client needs and wants and referral attorney’s desire to participate or not.
- \* Depends on the case, the clients and the attorney.
- \* Do not know all services they may or may not perform.
- \* Each case is different.
- \* Handle "local" issues such as setting up an estate in wrongful death cases; reviewing releases in out of state cases, etc.
- \* Help with research, drafting and problem solving.
- \* It varies greatly.
- \* Limited involvement in discovery trial.
- \* Matter in higher area of expertise.
- \* Monitor.
- \* Our firm practices in a very specialized area of real estate law. Typically the forwarding lawyer will continue to handle the clients general real estate needs and/or work with our firm.
- \* Participate in mediations.
- \* Sometimes all of them, sometimes none.
- \* Sometimes, only if the referring lawyer continues to handle a different matter for the client.
- \* Take a few witnesses at trial.
- \* Whatever is appropriate.
- \* Will help with any real estate transactional work (we do not do that -only eminent domain) in support of the eminent domain case. Also, any real estate document/instrument interpretative, etc.

## **Accepting Formal Referrals** **Regarding Possible Changes To The Law:**

**44. If the law required the attorney to whom I paid a referral fee remained jointly responsible for the case they referred to me, I would:**

[Answered by 250, who responded 'Yes' to 'Accept formal referrals'].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
No longer pay referral fees to attorneys who referred cases to me	5.2%	13
No longer accept any cases referred to me	4.8%	12
Accept fewer referrals than I do now	30.0%	75
Continue to accept referrals at the same rate as I do now	58.8%	147
Accept more referrals than I do now	1.2%	3

**Accepting Formal Referrals**  
**Regarding Possible Changes To The Law:**

**45. If the amount of referral fee I paid must, by law, be based on the proportion of services the forwarding lawyer performed for the client, I would:**

[Answered by 247, who responded ‘Yes’ to ‘Accept formal referrals’].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
No longer pay referral fees to attorneys who referred cases to me	5.7%	14
No longer accept any cases referred to me	6.5%	16
Accept fewer referrals than I do now	36.8%	91
Continue to accept referrals at the same rate as I do now	48.2%	119
Accept more referrals than I do now	2.8%	7

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## **Accepting Formal Referrals**

### **Regarding Possible Changes To The Law:**

**46. If I knew that by law, the size and amount of the referral fee would be disclosed in the pleadings to the court, I would:**

[Answered by 247, who responded 'Yes' to 'Accept formal referrals'].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
No longer pay referral fees to attorneys who referred cases to me	4.5%	11
No longer accept any cases referred to me	8.1%	20
Accept fewer referrals than I do now	27.5%	68
Continue to accept referrals at the same rate as I do now	59.1%	146
Accept more referrals than I do now	0.8%	2

**Accepting Formal Referrals**

**Regarding Possible Changes To The Law:**

**47. RECENT LEGISLATION** I expect that recent tort reform legislation, like House Bill 4, passed in the last legislative session will:

[Answered by 246, who responded ‘Yes’ to ‘Accept formal referrals’].

Response	Percent	Number Responding
Decrease the number of referrals I accept	58.5%	144
Have no impact on the number of referrals I accept	39.0%	96
Increase the number of referrals I accept	2.4%	6

## 48. Additional Comments. Please make any additional comments that you feel would help us understand your *formal* referral practices.

- \* With the caps and limits suggested, not only would I refer fewer cases, but I would likely not take the time with the clients to explain their rights. I simply do not have the time.
- \* Client receives credit on other work for referral fee I receive in most cases. Some I do estates, most of my referrals are wrongful death.
- \* In cases I refer and those I accept in referral, the client NEVER has had the a fee increase because of the referral. I have not even heard of.
- \* I absolutely do not want to keep a case from being accepted by another attorney because they feel a case would not be sufficiently profitable once they had to pay a referral fee.
- \* Transparency is the best policy. Disclosure is necessary especially in advertising.
- \* Leave the referral system alone. It works and the client is not harmed. In fact, the client benefits greatly. Changes will only hurt the client who can't afford a lawyer. That is not a trend we should continue.
- \* No need to modify current rules.
- \* I do not see a need for referral fee regulation.
- \* Referral fees do not need to be regulated.
- \* Most of my clients look to me to make referrals when the client needs expertise we cannot provide. Many are done informally. I make formal referrals rarely. Most are for larger personal injury type matters. When the referred work involves litigation such as in a personal injury context, my clients expect me to stay with them. My clients look to me to help them find an attorney who can help them with the special matter and who is a good fit for them. However, they would be disappointed in me if I just turned them over without standing by them. Many are.
- \* The referral arrangements attorneys employ make it possible for individuals to gain access to highly qualified attorneys. Without such arrangements, the public interest will suffer.
- \* The ability to refer cases to other attorneys, receive a fee, and not be held responsible for the referral should continue. I believe that most attorneys attempt to aid the client in locating the best attorney for their matter and by holding the referring attorney responsible for the actions/inactions of the accepting attorney, I believe the client would suffer by being inhibited from receiving an informed referral.
- \* I essentially refer out medical malpractice cases, which are outside my field of practice or personal injury cases that I cannot finance, or cover the litigation expenses, and with the expectation of a referral fee arrangement if the lawyer accepts the case. I accept some personal injury - auto accident and other accident cases- but only a few. Personal injury cases that I do not accept I do not refer to other lawyers and advise the client that they can consult with or seek the services of another lawyer willing to accept their case. The rest of my caseload are non-contingent.
- \* I am opposed to H.B. 4 because I believe that it will encourage attorneys to retain cases because it's financially beneficial to them to do so. I further believe that it will adversely affect minors who are bringing claims through a next friend and impose a greater burden and expense upon the legal system in the appointment of ad litem attorneys.
- \* I do not usually get many formal referrals. They are primarily divorce or criminal cases for which the referring lawyers sometimes ask for a fee but usually do not. I formally refer about one good personal injury case per year.
- \* I will not refer cases if I have any liability for the other attorney's performance. I will just tell the client NO & leave it at that. Clients will.
- \* It is difficult for me to answer this survey accurately as I am not currently practicing. If someone calls about a case they have, I will refer them to an attorney, and may request a referral fee, but this has not happened recently. Sorry I can't be of more help.
- \* I am upfront with clients about the reasons for referrals in and out. Referrals are important due to complexities that develop mid-case and the specialization of law practices.
- \* What the survey may not reveal, is that the proposed changes in the referral rules, will cause less cases to be referred by me, although I will still welcome referrals.
- \* I have only referred one case, which never went anywhere. The answers I have provided are regarding what I would do if I had an active referral practice.
- \* There is a nationwide company attempting to make referrals to attorneys in Texas. The name of this company is legal match.com. It is a boiler room scam. I would love to discuss this issue with an officer of the State Bar of Texas. I am not a member of legal match.com, however, they call me constantly. We need some laws in Texas to license these out companies that are trying to lure unsuspecting attorneys into buying referrals on a monthly basis that is very expensive. Further this particular company is making like it is an attorney when they contact the [illegible].
- \* If I give or receive a % only or attorneys fees charged there should be no law change. If I give or receive any other amount from client funds we should have some law.
- \* Questions 45-47 don't make sense. Limits of referral fees will decrease the number of cases available for me to select from. Referral of cases is in the client's best interest. Limits on referral fees do NOT benefit the client.
- \* Whatever happened to free enterprise? The present referral rules are good for our clients because they get clients the best attorneys possible. The legal market is efficient under the current system. But I guess that's the problem. The proposed rules will leave egregious negligence, malpractice and products cases in the hands of attorneys incapable of fighting the big firms, because there will no financial incentive to refer. The only purpose of the new rules is to protect big business, the insurances carriers, and the lobby. I wish the nine whores in [illegible].

## 48. Additional Comments (*Continued*)

- \* Rule 8a (the referral fee rule) is bad. It denies client's access to good lawyers. I get a lot of cases referred to me. I don't mind paying 1/3, 40% or 50% as a referral fee. My primary interest does not impact a case and I know that when I take one, I don't like the advertising sign & refer lawyers but restricting referrals to impact them is like throwing out the baby with the bath water. Don't adopt 8a. It is bad news & bad for the in [*illegible*].
- \* Formal Referrals are essential to the proper administration of justice. It assures clients get proper representation-and competent representation. It assures injured plaintiffs get the true value of their claim –and their claim is not settled by incompetent representation for a fast & easy fee. I even refer cases within my practice areas to attorneys I feel are more suited to handle the case. This better serves the client.
- \* The referral practice now in existence should remain the same. When lawyers are able to negotiate the referral fees and decide to whom they want to refer a case, all parties win. If I refer a case, I refer it to someone that I think will do a good job and be fair to the client. If they do a good job, then the fee I receive for the referral is likely to be higher than an attorney who does just an average job.
- \* As a lawyer I solve problems for clients. If it takes referring a case to solve a client's problem then that is what I will do.
- \* I am a bankruptcy attorney. I am prohibited from referring cases and sharing fees by law. So my answers may not be reflective of what state court practitioners do. My referral answers relate to personal injury type cases that I am contacted on that I refer to others.
- \* Capping referral fees and requiring court disclosure would limit the number of referrals and adversely affect injured parties.
- \* If you change the referral format you will allow bad lawyers to keep cases they should not handle.
- \* Just like the commission that allowed non-lawyers to prepare real estate documents was composed of people who could never understand how stupid that was. I question the competence of anyone on this State Bar commission who are proponents of disclosure and capping. While I am sure there are unscrupulous lawyers, what you could have is reporting to the state bar instead of an after the fact survey like this that does not capture real data. You at the Bar are lazy and have never done a statistically sound study or survey that I can recall. Please do not use this.
- \* The payment of referral fees and their lack of disclosure in no way reflect the quality of services that the client receives.
- \* Leave referral fees alone, bundling of cases for out of state referral should be prohibited.
- \* I think the whole issue is ridiculous and an imposition in the practice of law. I have seen no abuse.
- \* The tradition of referral is long standing and benefits both the client and the referring attorney. Referrals allow attorneys to retain clients and insure that they receive the best representation on the matter referred.
- \* I believe there would be 6th amendment concerns if referral fees or any other type of fee disclosures were required in the pleadings of criminal matters.
- \* Regarding item 31, note that people may differ as to what it means to say "the proportion of services I performed;" this is to my view a qualitative, subjective calculation. I might view my contribution as worth 33 1/3%, but others might argue it's for less, and I might disagree with them. If this were ever made a factor in how the law views referral compensation, there should be a thoughtful debate and discussion about it.
- \* I do very little referral work and mostly refer the cases I am asked to accept to others. I mainly work for commercial clients, not individuals.
- \* The current referral practices have worked very well for the type of cases that I refer to others and for those referred to me. The percentage of payment to the referring attorney is usually not discussed with the client, because the fee comes out of the sums received by the settling attorney, not as a separate fee that is added to any fee that the settling attorney receives. If referral percentages are mandated to be revealed in every case, and if the referring attorney remains partially liable, just because he has referred the case, many cases will be refused.
- \* I do not advertise. I get a lot of calls from potential clients saying that another lawyer told them to call me. Other times it is the lawyer that calls me. Referring lawyer gets 1/3 of fee, even if they never had contract with client. Client is told this in initial interview. Attorney's fees never increase because of referral fee paid to other lawyer. Client signs & gets a copy of my settlement document, which itemizes distribution of money recovery, including amount paid to referring attorney.
- \* Referral fees should remain, with little if any government interference, except perhaps for advertising attorneys who have no expectation of handling client's case.
- \* I refer cases to specialists in their fields whom I have known for some time and who have excellent reputations for integrity and success in the cases they file. I have no written agreements as to any referral fee. If they choose to pay a referral fee, I appreciate it. I will have thoroughly investigated the case BEFORE referring it and will NOT have a written contract with the client and will refer it orally only. I always am available to help in further work on the case as needed.
- \* I have referred cases and received a referral fee but it is very rare.
- \* Stop passing rules that only help the big civil law firms.
- \* Why is all of the attention paid to only side of the docket? Why doesn't the bar investigate business practices of the "" side, i.e. hunting fishing trips, kick backs to company officials and claims people for "" cases etc. The constant inquiry into one side of the docket is unseemly [*illegible*].
- \* The amount I pay to other lawyers to refer cases in my practice area to me is between me and the other lawyer. Once referred, the case is mine and I don't want the other lawyer's involvement. That increases cost and hassle. If I want to joint venture a case, then I do that. I don't want to joint venture all cases referred to me. That would kill my practice. I hate the proposed new rule.
- \* Eliminating referral fees would be unjust and leave many Texas citizens without proper legal representation.
- \* On every referral I handle, the referral fee comes out of the attorneys' fees and does not affect the client's recovery in any way. This is told to the client up front and in the contract. When the case is settled, the client is given a statement that shows exactly what the referring lawyer.

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## 48. Additional Comments *(Continued)*

- \* I think the whole "referral control" system is a violation of the constitutional safeguards relating to private contracts. The Bar should not try to regulate private agreements between lawyers because there is no compelling interest in protecting the consumer. In fact, the current referral system works just fine. Leave it alone.
- \* I have only referred three cases in 16 years for a fee. Limitation of personal injury referral fee does not help the client and limits my interest in referring someone outside my family to the best lawyer I can find. This sounds like one more way for the insurance industry to limit access to an attorney and the legal system by those persons who have little contact with the legal system. I normally work on a flat fee and do not have the margin to pay a referral fee. The Bankruptcy rules prohibit payment of referral fees.
- \* If the proposed legislation passes it will only hurt clients. As it stands now attorneys who are qualified to handle complex personal injury matters refer those cases to attorneys who can handle the legal issues and finance the cases through trial. Referral of cases actually provides better representation for clients in those cases where an attorney knows he is "in over his head". A capping of referral fees would most likely make most attorneys keep the file instead of referring it to a qualified attorney because they know their referral fee is capped. The bottom line [*illegible*].
- \* I think referral fees are acceptable because the law is specialized. It is a good idea to have the referring attorney do some work - but complicated accounting for percentages of time and liability of referring attorney (when he is not running the show) aren't such great ideas.
- \* I hope the law does not change regarding referral fees. I make a substantial amount of my income from referrals. I refer to mostly board certified, well-experienced lawyers, people I know and who come to me from personal relationships. The referral fee(s) comes out of the attorney's share of the case and does not impact the client's recovery, plus I am available and often facilitate the case.
- \* We simply don't have the kind of practice where people enough money is involved or the types of issues involved that would be conducive to referral fees.
- \* The few cases I have referred have been turned down. My only experience with a referral fee I received was over 30 years ago when an existing client was hit by a wrecker truck. A very good friend and plaintiff's lawyer handled the case in which I participated and paid me a fee which was disclosed to the client. I do not remember the amount of the fee, but I think the judgment was something like \$65,000. My practice in real estate litigation does not attract many injury cases, and this survey has little relevance to my practice.
- \* I have accepted cases on referral for over twenty years. The reason cases are referred to me is so that the client can get a better result. It benefits the referring lawyer because he is in business to both serve the client and make a living. I know of no situation where the client has been harmed or received less because of a referral. To the contrary, I can think of hundreds of cases where the client has benefited by the referral. That is the bottom line to me on whether referral agreements are good or bad.
- \* I receive only occasionally a referral fee. I practice within my area of concentration and only accept a referral if I am helping to provide the referred attorney with info I have that may be useful. I can remember receiving a referral fee only twice in my practice and the amount received was close to the time I expended in doing research, etc. Very small dollars.
- \* I don't think that it is a good idea to pass a rule prohibiting or inhibiting referring a case to another attorney. Why? Because we as attorneys know who is qualified to handle certain cases. We are doing a service to the community by sending the case to a good lawyer. Lots of times we cannot handle a case because of lack of financial resources or expertise. If this rule is passed I think most lawyers are going to try to work on the cases themselves and do a great disservice to the clients.
- \* I don't pay referral fees & turned down a case from an out-of-town attorney who wanted one.
- \* I charge very low fees and work in an area where there is no glamour.
- \* I believe that a lot of referral situations are beneficial to the client. You get a team of attorneys with a range of resources, both legal and monetary, a range of experience and the continued involvement of an attorney with whom the clients identify and feel comfortable, especially when the referring lawyer remains actively involved in the case and it's progress.
- \* If the amount of a referral fee is capped there is no doubt in my mind that referrals will decrease, thereby leaving plaintiffs without representation which leads to a decrease in lawsuits which is exactly what the Republicans would like to see & is the motivation behind all tort.
- \* Every case I formally refer, I stay involved in the case, through discovery, mediation, pre-trial & trial.
- \* Referral fees are important for consumer protection. I take significant time and responsibility to make sure I match the client need with a qualified attorney. I stay involved and keep in contact with the clients referred.
- \* I do not believe the insurance industry should dictate how lawyers practice law. The referral system in Texas is time tested. If you want clients represented by ineffective advocates, put limitations on referral fees. As a defense attorney for the past 26 plus years, I have seen terrible injustices when poorly trained and inexperienced attorneys attempt to handle complex personal injury or commercial claims. We should not change a practice that benefits the public.
- \* I will accept fewer referrals if forced to allow referring lawyers to actively participate because I believe most referrals I receive are because the referring lawyer is not competent to handle the case.
- \* I fail to see any perceived "problem" with the existing referral fee environment that warrants changing it in any way.
- \* This can't be determined- more regulations will reduce referrals & hurt clients. It's not necessary- what is the problem. If it aint broke - don't fix.
- \* I rarely pay out a referral fee.
- \* I believe that putting a cap on fees and requiring substantial involvement by the referring attorney in a referral may adversely impact the client because the referring attorney may keep a case that is not in their area of expertise, let alone competence, which could jeopardize the client's claims in how it is handled. Although, that would not be my practice, I am concerned as a lawyer in a specialized field that such event [*illegible*].
- \* Lawyers should be encouraged to refer cases to lawyers with expertise in the particular area of law in question. Otherwise they will be tempted to handle cases outside their area of expertise.

## 48. Additional Comments *(Continued)*

- \* The firm has paid and has received a referral fee in the past, but it is the rare exception and done only with full disclosure to the client.
- \* I accept referred criminal matters on a case-by-case basis, usually from attorneys who have a close relationship with the referred client.
- \* I have never paid a referral fee.
- \* I do not think the proposed changes to referral fees practices have any rational basis. No one has been able to, nor do I suspect they can, articulate a reason these changes are necessary; referral fees are a matter between counsel; they do not affect the client's net recovery.
- \* I may have missed this section, but I always put the referral arrangements in writing, usually a separate letter to the referring lawyer, confirming the fee percentage, a copy of which is also sent to the client(s). I also notice that in many areas (say family, commercial and criminal law) no referral fees are ever paid; yet when I am referred cases from those (and other) specialty areas, one is usually expected.
- \* I (and many others) will no longer accept medical referrals as a direct result of HB 4 - as desired by the bill's authors.
- \* A previous question asking about dollar amounts did not have enough options at the low end of the range. The first option was something like "\$5,000 or less", which I checked. Only every few years do my referral fees exceed \$5,000 in any one case. They seldom go above \$5,000, total, in any year! The question, as worded, assumed that exorbitant amounts were being paid in referral fees. Referral fees are more likely to be in much smaller amounts.
- \* My referral practices are very professional and require no interference from a Supreme Court hell bent on it for lawyers.
- \* The client is always informed of all arrangements between lawyers.
- \* I believe attorneys should be able to contract among themselves regarding a referral fee as long as the client is not harmed. I believe caps of any kind are unfair, but caps in such fee agreements infringe on the right of lawyers to contract. If less referrals are made, clients will suffer. The referral system allows an attorney like me to interview clients and help them obtain excellent legal assistance. With a referral fee possibility I might be paid for some of my time. There should be no changes made in the present law. Attorneys should be trusted just as much as doctors.
- \* I am opposed to limiting a referral fee to the lesser of \$50000.00 or 13% of the total take on a lawsuit. I am jointly responsible but do not share in an upside. That is unfair. Limiting it to 15% is fair, but not to whichever is less. What if the suit dealt w/ an issue involving millions of dollars. I do not think that I would accept professional responsibility for a matter of that nature when I am limited to \$50000.00 when normally a 13% referral fee would net a lot more. I think then I would be more inclined to take on a case that I may not have the competency to handle.
- \* Referral fees do not add costs to a client and often times result in a case getting to an attorney fully capable of handling the case. Referring attorneys typically know which attorney are most effective.
- \* In my field, fees are very small and referral fees I pay to other attorneys are mostly a courtesy.
- \* This is probably an effort to reduce the ability of lawyers to take on cases and is intended to help insurance companies and corporate.
- \* Most referrals are within my firm, but a substantial number I receive are from other attorneys. I pay 10% of hourly fees collected and 33% of contingent fees, usually.
- \* Referrals are such a very small part of my practice that the impact of any legislation would be minimal in my practice.
- \* The proposed legislation is regressive and harmful to the potential clients. It should never be enacted.
- \* Are we next going to set rates for specific services attorney's provide?
- \* I stay on the pleadings and stay very close to the client.
- \* They almost never happen. Most of the personal injury lawyers will pay a third or so, and I have received these referral fees on occasion, but they make up such a miniscule portion of my practice as to be insignificant. Now that torts have been completely outlawed, or will be shortly, such referral fees will undoubtedly cease altogether and we will have to start our own insurance companies, so that we can make lots of money by getting people to pay enormous premiums without ever having to pay any claims! Thanks Republicans!
- \* I usually refer medical malpractice cases that are too complex. If I accept a referral in a criminal case, the attorney referring the case.
- \* See response to #8. This questionnaire assumes every lawyer is a litigator. There are thousands of us who take great joy & pride in working to see that neither we or our clients ever see the inside of the courthouse.
- \* These answers reflect the fact that most of my referrals ARE NOT litigation matters.
- \* I don't believe in charging a referral fee. I never do. I believe, as professionals, this is just something proper you do if you are too busy to handle something yourself, if the problem is out of your area of practice or if it is too complex for your experience or infrastructure. There is enough business out there for everyone and free referrals help business for everyone and it enables the client to get the best possible representation. Because I do not believe in charging for referrals, I require anyone wanting a fee for referrals to participate in the work to varying [illegible].
- \* I welcome the referral continued work on the file. Most of my referral practice is more a joint venture rather than outright referral.
- \* I support the requirement that a referring attorney be paid a percentage referral fee based on the amount of services he or she continues to provide in support of the case and that referral fees be required to be disclosed to clients.
- \* If the attorney's contract [illegible] of attorney is specific as to the amount of attorney's fee paid by or from the client's recovery why should it be the concern of the client who I [illegible] pay intelligible] from my fees.
- \* I question the wisdom in restricting the right of contract as related to the constitution. The business world has brought many restrictions to the right of citizens to litigate their disputes.
- \* I have received referral fees in 2 cases years ago. I did not have a formal agreement. At the end of the case, the other attorney sent me a check for the referral. Since I am limiting my practice I informally refer most calls to other attorneys. I do not receive fees for that nor do I expect the attorneys to refer law clients to me.
- \* I do not think that the system as it exists now needs to be changed. If it ain't broke don't fix it!!

## 48. Additional Comments (*Continued*)

- \* I believe that the rules change will result in a deprivation of competent legal services for clients in need.
- \* The manner in which I practice enhances the clients' chances of success. I believe that this attempt to regulate referral practice is not at all about helping consumers. I believe the "tort reformers" are simply using this to prevent injured consumers from being represented by the best lawyers. I feel sure the next target will be contingent fees - which will simply bolt the courthouse doors closed to everyone who isn't extremely intelligible]
- \* Disclosure of referral fee to court is pleadings is A BAD IDEA! Reasons: Interferes with the privacy rights of the client & his lawyer; undermines attorney-client relationship; might give opposing attorney & court leverage over the attorney & the client & thus harm client's case and potentially affects trial tactics, strategy, and settlement prospects. I could envision scenarios in which such a disclosure would really create more mischief than it might supposedly solve. BAD IDEA!!
- \* State Bar offers no assistance to attorneys in fighting public perception that personal injury has become a disreputable field of law. I don't practice pi, but I'm disgusted with bar's refusal to fight back. The bar's officers should be publicly rebuking every time a politician makes a derogatory reference to "tasseled loafer trial lawyers." This survey is another bootlicking response of the state bar of Texas.
- \* My comments about the process to reform referral fees: Attacking referral fees is like attempting to cure a symptom instead of the disease itself. The real problem is the corrosive effect of lawyer advertising—which should be eliminated.
- \* I am a small-town attorney and I can tell you that I have seen other small-town attorneys keep cases because they wanted the entire attorney's fee rather than take a smaller percentage and due to their incompetence, neglect, workload, or inexperience, turn a case \$1,000,000 case into either nothing or into a \$50,000 case because they did not have the personnel or financial resources or expertise to handle the matter. If you limit the percentage of referral fee that can be paid you will only encourage more of this type of thing. My client's benefit by me finding *illegible*].
- \* Referral of cases has no adverse monetary impact on client's recovery. It does usually improve the quality of representation. I see no reason to change the current referral fee system.
- \* Referrals, done correctly, are a service to the public and to other attorneys & provide better legal services to the client.
- \* Referral fees help clients by encouraging referral to better qualified and more realized attorneys. Clients in other states suffer from less qualified lawyers being more reluctant to refer cases because of the money they could lose.
- \* On some contingent fee cases, our firm frequently has joint or local counsel who get a split of the fee. The work is shared, too, with fees split based on a negotiated agreement reflecting each lawyers contribution—which may not be synonymous with hours worked. These are business litigation cases, & clients are usually corporations & always sophisticated. Regulating this type of arrangement makes little sense & would only foreclose options for these clients.
- \* This survey obviously contemplates litigators referring cases to one another and ignores lawyers who refer matters to one another outside their area of expertise, which is a frequent occurrence with smaller firms.
- \* These answers reflect only my trial cases. I do mostly oil & gas work that does not go to court.
- \* Formal referrals produce tangible positive results for the client in virtually every case I've been involved in. I see no advantage to be gained by the client in prohibiting or restricting them of requiring public disclosure of the referral fee terms.
- \* If an attorney advertises he should have to handle the case. If he refers a case he advertised for he should be barred from accepting a referral fee. I get several calls a month from attorneys who want to refer cases. I question them as to advertising and then refuse the offer of.
- \* I refer based on clients need for legal services, not because of the expectations of *illegible*? *illegible*]. In situations where referral fees are customarily paid, i.e. personal injury, medical malpractice) I do expect to receive a market rate referral fee—typically 25-33.3 % of fees received.
- \* Again, my major concern is getting the client the best possible representation. When a client has a particularly lucrative case, I take advantage of the opportunity for a referral from well-known specialists who offer referral fees.
- \* The Supreme Court's proposed rule on referral fees is a bad ideal, not in the best interest of clients and the public in general, appears nakedly political, and does not address specifically any problem with attorneys advertising for the sole purpose of referring.
- \* Does it seem strange or calculated that NO inquiry herein is based on non-litigation referrals by mega large business orientated firms?
- \* My answers to the questions are related to experience as a practicing attorney prior to becoming a District Judge.
- \* It's a simple 10% referral of any fee or recovery. If an attorney wants to refer a case or take one of mine a second contract is sent out outlining the agreement and signed by the client. To have us sole practitioners record and stay on the case after the referral is crap.
- \* Formal referrals are VERY IMPORTANT to the CLIENT. They MUST get the best lawyer for their case. If referrals restricted - the client will *illegible*].
- \* I am afraid if referral fees are dictated, nonqualified attorneys will attempt to handle cases that should be referred. Further, if I am handling a case I don't want a referral attorney. trying to help because it usually takes more work to educate them and redo the work.
- \* HB4 will decrease referrals because business is tighter. Attorneys are more inclined to handle cases that normally they wouldn't dispute. In fact, that they don't have the resource & manpower and specialized knowledge to handle with care and settle for less than market value.
- \* If I think that a particular case is appropriate for a referral fee (usually if not always a contingent fee), I expect to pay a referral fee if recovering the case and if I refer the case.
- \* We don't have a standard formal referral practice. Usually, we offer a fee to certain lawyers who will not only continue to work with us/assist us with general real estate matters. There are only a few attorney's that we pay referral fees to; and usually they don't expect them when they initially refer us a case. The referring attorney stays involved as a liaison with the client.
- \* Tort reform will drastically reduce the number of cases my firm accepts and leave numerous injured parties without representation.
- \* As a solo practitioner - general practice - I refer cases that will require high expenses, i.e. expert witnesses - travel - normal(?) expenses.

## 48. Additional Comments *(Continued)*

- \* Referrals presents an alternative to the unqualified and assured adequate representation to client. It is best that a client have a good referral than be represented by an unqualified attorney. Solicitation and the referral is a different question and should not be tolerated.
- \* I think referral fees should not be capped at 15% or at \$50,000. Why would you do so? Let the pie be spread around. Share the wealth, it's better for the economy.
- \* I think this survey misses a HUGE point. I accept referrals from attorneys because it expands my client base. Many of the cases I accept on referral are smaller cases that many lawyers don't want to handle. If they didn't refer these cases, they would most likely drop the clients, leaving them to search for new representation. If the Bar limits referral fees as suggested, many of the "little people" would be stuck without ANY representation. I am strongly AGAINST the proposed changes. Thank you for the opportunity to be heard on this very important issue in [illegible].
- \* Cases I receive by referral are hourly fee cases.
- \* The bar mistakenly assumes that the only contingency type work that lawyers charge is personal injury. This is very mistaken. My entire practice is contingency fee, but involves eminent domain (almost all attorneys representing landowners work on a contingency basis). I am a young attorney, so the numbers in here only apply to me but my firm obtains at least 60% of its business (new clients) from referring attorneys who are usually real estate transaction attorneys, and who do not practice eminent domain.
- \* The change will destroy the way Texas attorney have practiced for decades. The legislation (HB) had required me to downsize.
- \* I do not like nor care for the legal implications of questions 44-46.
- \* The system has seemed to work well as is. The public is well served by the attorneys being encouraged to refer cases out of their regular practice or out of the size range of their regular practice.
- \* I do not believe that present practice and customer should be tampered with. The referral system, is, almost always, beneficial to clients on the contingency fee system and provides them with the opportunity to work with local, or sometimes, a family lawyer while deriving the benefit of experienced counsel in a specialized area. Where is the cry of the consumer? If it ain't broke. don't fix it!
- \* My area of practice is social security disability. Attorney fees are generally less than \$4000/per case, and are strictly requested by SSA regulations. It is a volume practice with very high fixed overhead expenses. We do advertise for new clients. When attorneys offer or refer cases for small referral fee percentage that is no greater than our advertising expense per new case, we accept them and pay the small referral.
- \* I receive less than \$2-3000 per year for referring cases which I don't do to an ex partner who does civil BK and divorces. The state bar and supreme court need to stay out of our business in the referral fee area - - it is a restraint on the service we provide.

## **SECTION III: Demographic Information**

### **49. OCCUPATION Primary occupation:**

[Answered by 1,181, of all respondents].

<b>Response</b>	<b>Percent</b>	<b>Number Responding</b>
Private practice	72.9%	861
Government attorney	12.1%	143
Corporate/house counsel: For-profit agency	7.2%	85
Corporate/house counsel: Nonprofit agency	1.4%	17
Judiciary	2.6%	31
Other law related	3.7%	44

### **49b. Private Practitioner firm size:**

[Answered by 828, of private practitioners\*].

<b>Firm Size</b>	<b>Percent</b>	<b>Number Responding</b>
(1) Solo	41.9%	347
2-5	23.4%	194
6-10	8.2%	68
11-24	5.9%	49
25-40	5.4%	45
41-60	2.1%	17
61-80	1.3%	11
81-100	1.1%	9
101-200	1.9%	16
201-300	1.1%	9
Over 300	7.6%	63

\*Not all private practitioners entered firm size.

**50a. Primary Practice Area (for those who made *one* selection of primary practice area):**

[Answered by 1,033, of all respondents].

Response	Percent	Number Responding
Other (please specify)	34.9%	361
General practice	13.8%	143
General Litigation	13.7%	142
Criminal Law	8.4%	87
Personal Injury-Plaintiff's Attorney	6.9%	71
Family Law	6.6%	68
Real Estate Law	5.8%	60
Personal Injury-Defendant's Attorney	5.4%	56
Probate Law	4.4%	45

**50b. Primary Practice Area (for those who made *multiple* selections of primary practice area):**

[Answered by 142, of all respondents].

Response	Percent	Number Responding
Family Law	39.4%	56
Probate Law	38.7%	55
General practice	33.8%	48
Criminal Law	33.8%	48
General Litigation	33.1%	47
Real Estate Law	30.3%	43
Other (please specify)	30.3%	43
Personal Injury-Plaintiff's Attorney	28.2%	40
Personal Injury-Defendant's Attorney	15.5%	22

## 50a. Listing of *Other* Primary Practice Areas (for those who made one selection)

(Numbers in parentheses denote number of respondents, if more than one).

- \* Ad Val Orem Taxation (2)
- \* Administrative Law - Food and Drug Law
- \* Administrative Law – Government
- \* Administrative Law - Health Law
- \* Administrative Law – Regulatory
- \* Administrative Law – Utility
- \* Administrative Law – Water
- \* Administrative Law (21)
- \* ADR (3)
- \* Advertising Law
- \* ALJ with Social Security Administration offering hearings and appeals
- \* Antitrust
- \* Appellate Judiciary (law clerk)
- \* Appellate Law (8)
- \* Appellate Law; Coverage
- \* Arbitrator; Law Teaching
- \* Banking (2)
- \* Banking; Consumer
- \* Banking; Financial
- \* Bankruptcy Law (15)
- \* Bankruptcy Law; Commercial Litigation
- \* Business Law (4)
- \* Business Law; Corporate
- \* Business Law; Health Care Law
- \* Charitable Gifts; Estate Planning; Taxation
- \* Civil Appellate Law (2)
- \* Civil Litigation
- \* Civil Recovery
- \* Civil Rights
- \* Civil Rights; Education; Disability Law
- \* Class action insurance and investment products
- \* Collections (2)
- \* Collections for Government Entities
- \* Commercial (3)
- \* Commercial Contract
- \* Commercial Litigation - Complex (2)
- \* Commercial Litigation (3)
- \* Commercial; Oil and Gas
- \* Commercial; Transactional
- \* Commercial Utility
- \* Construction Law (2)
- \* Construction Law and Immigration
- \* Construction Law and Insurance Defense
- \* Consumer Credit
- \* Consumer Law
- \* Consumer Protection
- \* Contract Law (2)
- \* Contract work outside of Texas
- \* Corporate and Partnership Law; Mineral Law; Contract Law
- \* Corporate Law (14)
- \* Corporate Law – Secured and Unsecured Public Financings
- \* Corporate Law; Business
- \* Corporate Law; Commercial
- \* Corporate Law; Construction Law
- \* Corporate Law; Securities (5)
- \* Corporate Law; Tax; Bankruptcy
- \* Corporate Law; Transactions
- \* Debt Collections and Commercial Litigation Law
- \* Don't practice.
- \* Education
- \* Electric utility
- \* Eminent Domain
- \* Eminent Domain Litigation
- \* Employed by a government- Civil Government Lawyer
- \* Employment and Labor Law
- \* Employment Defense
- \* Employment Hearing Officer
- \* Employment Law; Civil Rights
- \* Employment Law; Contracts; Administrative Law; Civil Rights; Long term case provides regulation
- \* Employment Law (15)
- \* Employment Law; Corporate Law
- \* Employment Law; Legal Aid
- \* Employment Litigation
- \* Employment; Constitutional
- \* Employment; Corporate
- \* Energy (3)
- \* Entertainment Law
- \* Environment and Natural Resources
- \* Environmental Law (8)
- \* Estate Planning (4)
- \* Estate Planning; Nonprofit Organizations
- \* Estate Planning; Tax
- \* Faculty UHLC
- \* Federal Administration
- \* Federal employment
- \* Federal Income Tax
- \* Federal Judicial Clerk
- \* Federal Judiciary
- \* Federal Practice
- \* Federal Tort Claims Act
- \* Finance
- \* Financial Advisor
- \* Financial institution
- \* Financing Corporation
- \* Government Lawyer – Contracts
- \* Government Contracts
- \* Government Law (4)
- \* Government Relations
- \* Governmental Receivables Collections
- \* Health Law (9)
- \* Healthcare
- \* I have been inactive for a long time.
- \* I teach criminal law, evidence, trial practice, ethics.
- \* Immigration (6)
- \* Insurance Defense
- \* Insurance Defense; Toxic Tort
- \* Insurance Law (2)
- \* Insurance Law; Corporate
- \* Intellectual Property Law (23)
- \* IT; Contracts
- \* Judiciary (2)
- \* Labor and Employment Law (5)
- \* Labor and Employment Litigation
- \* Labor Law
- \* Law Clerk (2)
- \* Law Professor and Associate Dean
- \* Lawyer Liability
- \* Legal Recruiter
- \* Legislative (2)
- \* Litigation
- \* Medical Malpractice
- \* Mediation (2)
- \* Mostly Legislative Counsel; Employment Law
- \* Municipal Law
- \* Municipal Law; I represent cities
- \* Natural Gas
- \* Natural Resources; Environmental Law
- \* No practice area; I was a law teacher
- \* None
- \* Non-practicing (2)
- \* Oil and Gas (25)
- \* Patent (2)
- \* Personal investments
- \* Plaintiff's Legal Malpractice
- \* Product Liability
- \* Public Law Finance
- \* Public Law; Water Law; Environmental Law
- \* Purchasing
- \* Red River Boundary Law
- \* Representation of political subdivisions
- \* Retired
- \* Retired Judge
- \* Safety Regulatory

**50a. Listing of *Other* Primary Practice Areas (for those who made *one* selection (*Continued*))**

- \* Securities
- \* Securities Litigation
- \* Semi-retired; Investor;  
Practically all legal work  
is pro bono
- \* Senior Judge
- \* Social Security
- \* Social Security Disability
- \* Sports and Entertainment
- \* State Taxes
- \* Subrogation
- \* Subrogation Recovery
- \* Tax and Corporate
- \* Tax and Estate Planning
- \* Tax and Controversy
- \* Taxation
- \* Technology
- \* Title Insurance
- \* Transaction and IP
- \* Trust Administration
- \* Unemployed
- \* Unemployment Insurance
- \* Utility
- \* Was commercial litigation
- \* White Collar
- \* Workers' Compensation –  
Claimant Attorney

**50b. Listing of *Other Primary Practice Areas* (for those who made *multiple selections*) (*Continued*)**

*(Numbers in parentheses denote number of respondents, if more than one).*

- \* Administrative Law
- \* Bankruptcy Law
- \* Business Law
- \* Business Law; Commercial Litigation
- \* Business Law; Contracts
  
- \* Business Law; Employment Law
- \* Business Transactions
- \* Commercial Lending
- \* Construction Law
- \* Contract Drafting and Review; Estate Planning ( 1)
- \* Contracts; Employment; Oil and Gas
- \* Corporate and Transactional Law
- \* Corporate/Admiralty
- \* Defense; Government Entity; Labor and Employment Law
- \* Employment Law
- \* Employment Law; Corporate Law
- \* Estate and Wealth Preservation Planning
  
- \* Estate Planning (4)
- \* Estate Planning; Corporate; Bankruptcy
- \* Government Contract
- \* Immigration
- \* Insurance Defense; Railroad Law; Construction Law; Business Law; Worker's Compensation
- \* Insurance Law
- \* Juvenile Law (3)
- \* Mediation
- \* Mediator/Arbitrator
- \* Oil and Gas (6)
- \* Social Security Disability (2)
- \* Tax and Bankruptcy
- \* White Collar
- \* Worker's Compensation – Claimant Attorney

## 51. AGE:

[Answered by 1,140, of all respondents].

	<b>Mean</b>	<b>Median</b>	<b>Low</b>	<b>High</b>
Age in years	47.3	47	24	91

**52. GENDER:**

[Answered by 1,187, of all respondents].

Gender	Percent	Number Responding
Male	69.6%	826
Female	30.4%	361

### 53. RACE/ETHNICITY:

[Answered by 1,168, of all respondents].

Response	Percent	Number Responding
Caucasian/White	87.0%	1,016
African American/Black	2.2%	26
Hispanic/Latino	7.5%	88
Asian/Pacific Islander	1.0%	12
Native American Indian	0.4%	5
Other	1.8%	21

#### 53b. Listing of *Other* race/ethnicity

- \* African
- \* African American/Black/Hispanic/Latino
- \* Carib-indian
- \* Caucasian/which, Hispanic Latino
- \* Cuban
- \* Does it matter for a referral survey?
- \* English/French
- \* Gaelic
- \* Greek American
- \* Hispanic Pac. Islander
- \* I hate this question.
- \* Mix
- \* Mixed
- \* Texan
- \* This allows us to be identified and I prefer not to answer these.
- \* White & Hispanic both
- \* White/Hispanic
- \* White/Native American Indian

## 54. YEARS LICENSED:

[Answered by 1,180, of all respondents].

Number of Years	Mean	Median	Low	High
	19.0	18	1	66

**55. COUNTY: In which county is your office located?**

[Answered by 1,173, of all respondents].

COUNTY	Number Responding	Percent	COUNTY	Number Responding	Percent	COUNTY	Number Responding	Percent
ANDERSON	2	0.2 %	GRIMES	1	0.1%	NOLAN	1	0.1%
ANGELINA	3	0.3%	HARDIN	2	0.2%	NUECES	12	1.0%
BANDERA	1	0.1%	HARRIS	308	26.3%	OCHILTREE	1	0.1%
BASTROP	2	0.2%	HARRISON	2	0.2%	PARKER	1	0.1%
BELL	6	0.5%	HAYS	3	0.3%	POTTER	12	1.0%
BEXAR	93	7.9%	HENDERSON	2	0.2%	RANDALL	2	0.2%
BLANCO	1	0.1%	HIDALGO	16	1.4%	REAL	1	0.1%
BOWIE	7	0.6%	HOCKLEY	1	0.1%	ROCKWALL	1	0.1%
BRAZORIA	6	0.5%	HOOD	1	0.1%	SAN JACINTO	1	0.1%
BRAZOS	9	0.8%	HOUSTON	1	0.1%	SAN PATRICIO	3	0.3%
BREWSTER	1	0.1%	HUNT	2	0.2%	SCHLEICHER	1	0.1%
BROWN	2	0.2%	HUTCHINSON	2	0.2%	SMITH	13	1.1%
CALDWELL	2	0.2%	JACK	2	0.2%	STEPHENS	1	0.1%
CAMERON	10	0.9%	JACKSON	1	0.1%	SUTTON	1	0.1%
CHEROKEE	1	0.1%	JEFFERSON	15	1.3%	TARRANT	63	5.4%
CHILDRESS	1	0.1%	JOHNSON	1	0.1%	TAYLOR	5	0.4%
COLLIN	19	1.6%	JONES	1	0.1%	TERRY	1	0.1%
COLORADO	1	0.1%	KENDALL	2	0.2%	TOM GREEN	7	0.6%
COMAL	3	0.3%	KERR	7	0.6%	TRAVIS	143	12.2%
COOKE	3	0.3%	LAMAR	1	0.1%	VAL VERDE	2	0.2%
DALLAS	211	18.0%	LAMB	1	0.1%	VICTORIA	4	0.3%
DENTON	5	0.4%	LAVACA	1	0.1%	WALKER	1	0.1%
EASTLAND	1	0.1%	LEE	1	0.1%	WASHINGTON	1	0.1%
ECTOR	1	0.1%	LIBERTY	1	0.1%	WEBB	3	0.3%
EL PASO	17	1.4%	LUBBOCK	19	1.6%	WHARTON	2	0.2%
ELLIS	6	0.5%	MADISON	1	0.1%	WICHITA	3	0.3%
ERATH	2	0.2%	MAVERICK	3	0.3%	WILBARGER	1	0.1%
FAYETTE	1	0.1%	MCLENNAN	10	0.9%	WILLIAMSON	6	0.5%
FORT BEND	11	0.9%	MIDLAND	1	0.1%	WILSON	1	0.1%
GALVESTON	11	0.9%	MONTGOMERY	8	0.7%	WOOD	2	0.2%
GONZALES	1	0.1%	MOORE	1	0.1%	OUT OF STATE	1	0.1%
GRAYSON	5	0.4%	NACOGDOCHES	3	0.3%			
GREGG	9	0.8%	NAVARRO	1	0.1%			

**56. CERTIFICATION:  
What areas, if any, are you Board Certified in?**

[Answered by 937, of all respondents].

<b>Reason</b>	<b>Percent</b>	<b>Number Responding</b>
I am not board certified in any areas.	79.6%	746
Administrative Law	0.9%	8
Bankruptcy	0.2%	2
Business Bankruptcy Law	0.1%	1
Civil Appellate Law	1.2%	11
Civil Trial Law	4.2%	39
Commercial Real Estate Law	1.4%	13
Consumer and Commercial Law	0.1%	1
Consumer Bankruptcy Law	0%	0
Criminal Law	1.3%	12
Estate Planning and Probate Law	2.5%	23
Family Law	2.2%	21
Farm and Ranch Real Estate Law	0.1%	1
Health Law	0.2%	2
Immigration and Nationality Law	0%	0
Juvenile Law	0.2%	2
Labor and Employment Law	1.4%	13
National Labor Relations	0%	0
Oil	1.1%	10
Personal Injury Trial Law	5.5%	52
Real Estate Law	0.3%	3
Residential Real Estate Law	1.0%	9
Tax Law	0.2%	2

**57. SECTION MEMBERSHIP:**

**What State Bar section, if any, are you a member of?**

[Answered by 1,021, of all respondents].

Membership	Number Responding	Percent	Membership	Number Responding	Percent
I do not belong to any Sections	394	38.6%	Hispanic Issues	4	0.4%
Administrative and Public Law	20	2.0%	Individual Rights & Responsibilities	3	0.3%
African-American Lawyers	2	0.2%	Insurance Law	23	2.3%
Alternative Dispute Resolution	20	2.0%	Intellectual Property Law	24	2.4%
American Indian Law	0	0%	International Law	6	0.6%
Animal Law	5	0.5%	James C. Watson Inn	1	0.1%
Antitrust/Business Litigation	7	0.7%	Judicial Section	11	1.1%
Appellate	33	3.2%	Justice of the Peace	0	0%
Asian Pacific Islander Interest	2	0.2%	Juvenile Law	18	1.8%
Aviation Law	1	0.1%	Labor & Employment Law	50	4.9%
Bankruptcy	19	1.9%	Law Students	0	0%
Business Law	46	4.5%	Legal Administrators	0	0%
Computer & Technology	7	0.7%	Legal Assistants	0	0%
Construction Law	22	2.2%	Litigation	178	17.4%
Consumer Law	22	2.2%	Military Law	1	0.1%
Corporate Counsel	33	3.2%	Municipal Judges	0	0%
Criminal Justice	33	3.2%	Oil, Gas and Energy	30	2.9%
Entertainment & Sports Law	7	0.7%	Public Utility Law	5	0.5%
Environmental & Natural Resources	13	1.3%	Real Estate, Probate and Trust	159	15.6%
Family Law	104	10.2%	School Law	6	0.6%
General Practice Solo & Small Firm	39	3.8%	Sexual Orientation and Gender Identity Issues	9	0.9%
Government Lawyers	16	1.6%	Taxation Law	18	1.8%
Health Law	18	1.8%	Women and the Law	7	0.7%

## ADVERTISING

### 58. Do you advertise?

[Answered by 1,182, of all respondents].

Response	Percent	Number Responding
No, I have never advertised	69.4%	820
Yes, I have advertised <u>occasionally</u>	21.2%	250
Yes, I have advertise <u>frequently</u>	4.5%	53
Yes, I advertise <u>most of the time</u>	5.0%	59

## ADVERTISING

**59. Please check all of the following advertising methods you have used or are currently using: (Check all that apply)**

*(Because more than one response can be made, the percents will not add to 100%).*

[Answered by 362, who responded 'Yes' to 'Do you advertise?'].

Response	Percent	Number Responding
Yellow pages display ad	53.6%	194
Newspaper	26.8%	97
Direct mail to other lawyers	7.5%	27
Direct mail to consumers	8.0%	29
Television	10.8%	39
Radio	8.0%	29
Firm web site	43.6%	158
Paid Internet subscription service	6.6%	24
Billboards	3.6%	13
Other (please specify)	20.2%	73

## ADVERTISING

### 59b. Listing of *Other* advertising methods

(Numbers in parentheses denote number of respondents, if more than one).

- \* Advertising in trade publications
- \* Alumni Newsletter
- \* Bar Journal and Business Journal
- \* Bar Newsletter
- \* Bulletins, localized publications
- \* Champion Christian Yellow Pages
- \* Christian/nonprofit pub
- \* Church Bulletin (3)
- \* Church or charitable organization pamphlets
- \* Community organization colanders, etc. church bulletin
- \* Yellow pgs, firm website, billboards
- \* Firm brochure
- \* Flyers
- \* Giving presentations to private groups and handing out brochures and business cards.
- \* I have made donations and placed my business card in event programs re: my donations.
- \* Internet Advertising
- \* Lawyer Referral Service
- \* Local Events/programs
- \* Magazine (3)
- \* Mail outs
- \* Martindale Hubbel
- \* Neighborhood quarterly newspaper
- \* Newsletter to current clients
- \* Only in support of civic events
- \* Programs for non-profits
- \* Referral Services
- \* School sports calendars
- \* Small ad in local non-profit newsletter - really just a contribution
- \* Specialty advertising
- \* Sponsor charity events, conduct HR seminars
- \* Trade association publication
- \* Trade publication, community event sponsorships
- \* Word of Mouth
- \* Yellow pgs, direct mail to consumers
- \* (1)-Bimonthly newsletters to 575 clients, referrers of business, potential clients;(2)-Checklist for Estate Planning [*illegible*] to 190-200 related professionals 1X/yr.
- \* Ads in programs & booster clubs, little league signs
- \* All Long ago (>7 yrs)
- \* Austin Lawyer
- \* Bar Journal; Texas Lawyer
- \* Boards at sports arenas
- \* Cards, support local groups
- \* Charitable groups
- \* Church & community magazines
- \* Church Bulletins and Community Newsletters
- \* Client Industry Publications
- \* Community Outreach
- \* Directory
- \* Firm web site & trade journals.
- \* Ft. Worth Magazine w/article as Tarrant Co. Lawyers, paid internet subscription service
- \* Rare tombstone in Fort Worth Business Press and once in the Tarrant County Attorney.Directory
- \* Industry trade journals
- \* Lawyer newspaper
- \* Legal magazines
- \* Local Publications
- \* Magazines (2)
- \* Martindale Hubbell/Bastr
- \* Martindale Hubbell
- \* Newsletter
- \* Non-profit programs/newsletters
- \* Phone book
- \* Green sheet (2)
- \* School fliers & magazines
- \* Senior guidance directory
- \* Small yellow pages ad
- \* Specialty yellow pages
- \* Texas Lawyer
- \* Trade magazines
- \* Webs sites for attorneys
- \* Yellow and White Pages of the Phone Book Plus a Shingle
- \* Direct mail to other lawyers, Direct mail to consumers, Church & Community Newsletters

## CASES

### 60. Approximately how many cases do you handle per year overall?

[Answered by 1,056, of all respondents].

Number of cases per year	Mean	Median	Low	High
	136.1	50	0	20,000*

\* Some 36 attorneys reported more than 500 cases handled per year. Of the 36, 25 were government attorneys reporting primary practice areas such as family law (including child support), employment law, administrative law, real estate law, and criminal law.

#### Private Practitioners and Attorneys Not Private Practitioners

Response	Private Practitioners (n = 783)				Not Private Practitioners (n = 248)			
Number of cases per year	Mean	Median	Low	High	Mean	Median	Low	High
	93.6	50	0	2,000	272.7	20	0	20,000

#### Analysis by category of "How many cases do you handle per year overall," by Private Practitioners and Attorneys Not Private Practitioners

Category of "How many cases do you handle per year overall?"	Private Practitioner (n = 783)		Not Private (n = 248)	
	Percent	Number Responding	Percent	Number Responding
0	3.3%	26	34.3%	85
1 - 5	5.2%	41	7.7%	19
6 - 10	6.5%	51	4.4%	11
11 - 20	13.3%	104	4.0%	10
21 - 30	10.7%	84	6.5%	16
31 - 40	5.7%	45	1.6%	4
41 - 50	11.4%	89	3.2%	8
51 - 60	5.0%	39	2.4%	6
61 - 70	1.5%	12	0.4%	1
71 - 80	2.7%	21	0.8%	2
81 - 90	1.0%	8	0.0%	0
91 - 100	13.0%	102	6.5%	16
101 - 125	2.3%	18	2.0%	5
126 - 150	4.3%	34	3.6%	9
151 - 200	4.9%	38	3.2%	8
201 - 300	4.7%	37	6.0%	15
301 - 400	1.8%	14	2.0%	5
401 - 500	1.1%	9	1.6%	4
501 - 1,000	1.0%	8	4.4%	11
1,001 - 1,500	0.0%	0	2.4%	6
1,501 - 2,000	0.4%	3	1.6%	4
2,001 - 3,000	0.0%	0	0.4%	1
3,001 - 4,000	0.0%	0	0.0%	0
4,001 - 5,000	0.0%	0	0.4%	1
5,001 - 10,000	0.0%	0	0.0%	0
10,000 - 20,000	0.0%	0	0.4%	1

## CASES

### 61. Approximately how many contingency fee cases do you handle per year?

[Answered by 1,110, of all respondents].

Number of contingency cases per year	Mean	Median	Low	High
	18.0	0	0	2,000

#### Statistics for private practitioners

Private Practitioners (n = 817)				
Number of contingency cases per year	Mean	Median	Low	High
	23.8	1	0	2,000

#### Analysis by category of "How many contingency fee cases do you handle per year," by Private Practitioners and Attorneys Not Private Practitioners

Category of "How many contingency fee cases do you handle per year?"	Private Practitioner (n = 817)		Not Private (n = 268)	
	Number Responding	Percent	Number Responding	Percent
0	396	48.5%	257	95.9%
1 - 5	202	24.7%	4	1.5%
6 - 10	62	7.6%	2	0.7%
11 - 20	44	5.4%	2	0.7%
21 - 30	24	2.9%	0	0.0%
31 - 40	16	2.0%	0	0.0%
41 - 50	21	2.6%	1	0.4%
51 - 60	3	0.4%	0	0.0%
61 - 70	0	0.0%	0	0.0%
71 - 80	6	0.7%	1	0.4%
81 - 90	1	0.1%	0	0.0%
91 - 100	14	1.7%	1	0.4%
101 - 125	2	0.2%	0	0.0%
126 - 150	2	0.2%	0	0.0%
151 - 200	8	1.0%	0	0.0%
201 - 300	4	0.5%	0	0.0%
301 - 400	4	0.5%	0	0.0%
401 - 500	2	0.2%	0	0.0%
501 - 1,000	4	0.5%	0	0.0%
1,001 - 1,500	0	0.0%	0	0.0%
1,501 - 2,000	2	0.2%	0	0.0%

## CASES

### 62. Please estimate the percentage of your cases that come from the following sources:

[Answered by 1,027, of all respondents].

Response	Mean	Median	Low	High	Number Responding
Advertising:	10.1	0	0	100	563
Recommendations from former clients	33.6	30	0	100	882
Recommendations from client's friends, acquaintances, etc.	23.9	20	0	100	843
Referrals from another lawyer	18.0	10	0	100	828
Other (please specify)	50.2	50	0	100	444

### 62b. Listing of *Other* factors

(Numbers in parentheses denote number of respondents, if more than one).

- \* "In-house corporate referrals"
- \* Additional Business from existing/former clients
- \* Advertisement by Firm
- \* All are cases originating as a result of governmental agency activities
- \* All litigation comes from main client
- \* Appeals
- \* Application to state agency
- \* Arresting agencies
- \* As in house practitioner for a government entity, all cases come from the business for the government entity.
- \* Assigned (2)
- \* Assigned (in house counsel)
- \* Assigned by court
- \* Assigned to me by my manager.
- \* Assignment by employer.
- \* Association members
- \* Banker, CPA, CLU, financial advisors
- \* Financial Planners/CPAs
- \* Bar association referral services
- \* Cases involving my employer.
- \* Chance
- \* Claims attorney for insurance company.
- \* Client contact
- \* Clients attracted by the reputation of the firm.
- \* Clients that continue to forward business.
- \* Contacts
- \* Contracts
- \* Corporate in-house counsel
- \* Court appointments (18)
- \* Court appointments - criminal work
- \* CPA and insurance agents
- \* AARP and other Legal Services Plans
- \* Additional worth for existing clients
- \* After 45 years in one spot, people just show up or return
- \* All cases filed w/clerk
- \* All my "cases" are from my employer, a state agency
- \* Appeals from District Court
- \* Appointments
- \* As in-house counsel, my employer assigns my cases
- \* As a government lawyer, I work exclusively for the government body, All my cases come from the government
- \* Assigned (Government Attorney)
- \* Assigned by agency
- \* Assigned to me as an associate of the firm.
- \* Assigned work only
- \* Assignments from partners at my firm.
- \* Attorneys I know ask me to do contract research.
- \* Bankruptcy trustees/courts
- \* Banks, CPA's, ,financial planners
- \* Cases are referred from law enforcement.
- \* Accountants, therapists
- \* Child Protective Services filed cases.
- \* Client
- \* Clients
- \* Clients employed by corporation
- \* Collection agencies
- \* Cocontacts made from speeches, publications
- \* Corporate
- \* Corporate/land work - no cases
- \* Court appointments - criminal defense, students at University where I teach.
- \* CPA & other professionals
- \* CPA, Financial Planner, etc.

## CASES

### 62b. Listing of *Other* factors (*Continued*)

- \* CPAs
- \* CPAs and financial advisors
- \* CPA's, Brokers, CFP's
- \* Creditors committee pitches
- \* Criminal prosecutor
- \* Criminal conduct
- \* Current / Existing clients and firm clients
- \* Current / Existing clients, repeat business
- \* Current / Existing clients; word of mouth
- \* Debt collection/commercial litigation
- \* Don't
- \* Employer (2)
- \* Employer's insured's
- \* Established corporate clients.
- \* Fair Defense Act
- \* Family connections
- \* Federal agents
- \* Firm has institutional/government clients
- \* Firm/my reputation
- \* Former employer
- \* Friends & acquaintances
- \* Friends & family recommendations
- \* Friends and associates(2)
- \* General Reputation; Referrals from Clients; Insurance profs; bank trust officers, stock brokers, etc.
- \* From neighbors, people who met me in civic activities
- \* General Reputation (2)
- \* Government agencies I represent
- \* Government attorney (2)
- \* Government practice
- \* Grand jury indictment
- \* Houston Volunteer Lawyers Program
- \* I am a government attorney - all my cases come via our statutory authority.
- \* I am a prosecutor, so all of my cases are assigned.
- \* I am an associate I get cases from the partners.
- \* I am in house so all come from my employer.
- \* I do not do litigation.
- \* I am staff litigation counsel for an insurance company.
- \* I am not currently in private practice, but those cases that I refer come from former clients
- \* I don't handle private cases, I'm a government lawyer in a defensive posture.
- \* I get my cases from the attorney I work for. He gets his cases from established clients and client and attorney referrals.
- \* I support other attorney's clients.
- \* I work in a litigation dept. and handle no cases personally.
- \* I work on existing cases with firm partners.
- \* I would like to suggest that the number of referrals to, and by an attorney be limited to a small annual number (say, 5).
- \* In House (3)
- \* In House counsel
- \* In House counsel for government agency
- \* In House litigation lawyer
- \* Institutional clients (2)
- \* Internet web site
- \* CPAs and Accountants
- \* CPAs and other non-lawyer professionals
- \* CPAs, business consultants.
- \* Crimes
- \* Criminals
- \* Current / Existing clients (47)
- \* Current / Existing clients, family, friends, church
- \* Current / Existing clients, tithing companies.
- \* Current clients and others who know me professionally.
- \* Doctor referrals
- \* Employee of DA's office
- \* Employer ( corp.)
- \* Established clients & specific client marketing efforts
- \* Established relationship with insurance company
- \* Family and friends
- \* FCA Realtor
- \* Firm
- \* Firm is general counsel in TX to large international trucking co.
- \* Former clients (4)
- \* Friends
- \* Friends & acquaintances
- \* Friends and acquaintances
- \* Friends, work colleagues and acquaintances
- \* From my performance in jury trials & from taking high profile cases which make the news.
- \* From partners within firm
- \* Friends/family/word of mouth
- \* Government Assignment
- \* Government lawyer
- \* Governmental client
- \* Hard work, reputation, aggressive efforts to get in the case
- \* I am a government attorney - I take all of the cases that come in my area.
- \* I am a law clerk.
- \* I am a state government attorney.
- \* I am associate; do not know from what sources clients come to firm.
- \* I am in house counsel.
- \* I am publicly known.
- \* I do contract work for several law firms in addition to private practice.
- \* I do primarily firm administration work for my firm and refer all cases to either other lawyers in my firm or to other lawyers in the community where I practice.
- \* I'm a government lawyer. Referrals are unethical for me and against my employment agreement.
- \* I don't think it counts, but all cases that I deal with are appeals from the courts below.
- \* I have clients not "cases". New clients come from recommendations of existing clients and my reputation is the field in which I practice.
- \* I teach a real estate course.
- \* I work on cases that are appealed from trial courts.
- \* I work with lawyers, recommendations from lawyers.
- \* I don't handle cases.
- \* In House attorney
- \* In House counsel for government agency
- \* In House counsel, provide legal support to employees and officers
- \* In House--these are corporate matters
- \* Insurance companies (4)

## CASES

### 62b. Listing of *Other* factors (*Continued*)

- \* Most of our clients must open a case with us because they accepting some form of state assistance, such as Medicaid or welfare. However, we don't have clients we have customers- we represent the state of TX
- \* Know me
- \* Lawyer referral (3)
- \* Legal Match Internet Service
- \* Local Gov. Contract
- \* Martindale or even yellow pages
- \* Misc. (doctors, internet, lawyer referral etc.)
- \* Judiciary--assigned cases
- \* My clients are governmental entities or officials or employees of those entities. My representation of them flows from statutory authority and
- \* My corporation
- \* My firm's client base
- \* My practice is in-house transactional.
- \* New Business
- \* No cases, not in private practice
- \* None because I am not currently in private practice.
- \* OAG child support
- \* Ongoing
- \* Other areas with firm
- \* Other firm clients.
- \* Outreach to homeless and to crime victims
- \* Partners and current client.
- \* People who attended a seminar or presentation I have given
- \* Personal friends and acquaintances
- \* Personal Knowledge of Client
- \* Police Department/ City [?]
- \* Preside over hearings scheduled before SOAH
- \* Prosecution
- \* Prosecutor
- \* Recommendations from accountants, bankers, and other third parties
- \* Recommendations from others
- \* Referral Group
- \* Saw lawyer or the firm in print media article (i.e. not paid for advert). Existing client with repeat cases
- \* Referrals from personal friends or personal friends that become clients
- \* Referred by claims office to in-house staff counsel
- \* Repeat business from existing client base
- \* Reputation in Community & Referrals from PPL
- \* Reputation, service
- \* Referrals from client agencies or self generated
- \* Social events, shopping, volunteer work
- \* Specialized practice
- \* State agency
- \* Supervising Attorney gives them to me
- \* Tend to keep clients and concentrate on them
- \* These questions are inapplicable to my practice.
- \* This survey is irrelevant for an in-house corporate attorney
- \* Too difficult to estimate request/recommendation of a former client.
- \* Unknown; had clients prior to my joining firm
- \* Understand that almost 100% of our work comes from carriers we work for, about 25% of the time, a case is sent to me based upon the
- \* Word of mouth
- \* In House counsel for a state agency - the work just comes!
- \* Insurance companies, governmental entities and corporations that we have represented for years.
- \* Law clerk
- \* Legal Clinics
- \* Lenders doc prep - one client
- \* LRS/Match
- \* Mediation
- \* Internal Assignments
- \* My client-- city
- \* Nat'l agreements w/major insurance cos. We receive all property claims over \$100K
- \* My employer, a non-profit corporation
- \* My personal acquaintances
- \* assignment by the commissioner's court and my office.
- \* Newspaper articles reporting our verdicts.
- \* No new clients
- \* Not known
- \* Off the street/reputation (3)
- \* Ongoing relationship with client
- \* Other attorneys within my firm
- \* Other professionals (CPAs, financial planners, etc.)
- \* Partners
- \* Partner's assignment
- \* People who know me and know what I do.
- \* Personal friends and acquaintances, referral service
- \* Phonebook (2)
- \* Police, social service agencies
- \* Pro bono referrals from non profit
- \* Prosecution of criminal cases as assigned
- \* Recommendation from current clients
- \* Recommendations from other non-attorney lobbyists
- \* Recommendations from personal friends
- \* Referral services, own networking efforts
- \* Referrals from friends, acquaintances, etc. with whom I have never had an attorney/client relationship
- \* Referrals with the law firm
- \* Regular temporary attorney in law firm
- \* Reputation (2)
- \* Reputation within industry
- \* SA Bar referral
- \* Seminar presentations
- \* Speaking (3)
- \* Standing relationships with various Ch 7 Trustees
- \* Statutory duties
- \* Tenants in a center that talk to other tenants I represent
- \* They just show up
- \* Title companies
- \* Walk-ins (3)
- \* Unknown (2)
- \* vls
- \* Yellow page Directory listings
- \* We need to stop attorney from advertising that mislead clients as to expectations from prior settlements. Some TV ads are disgraces.
- \* These are enforcement cases my agency takes against people who violate regulations/statutes.

# Appendix A

# Texas Referral Practices Survey

## Texas Referral Practices Survey

March 2004

**Instructions:** This survey is designed to help us get a general understanding of typical referral practices of attorneys in Texas. We recognize that each attorney's practice is different, and have tried to develop questions that will apply to most attorneys. Please answer the questions to the best of your ability, but remember that we are interested in *general* information; your best estimates are sufficient.

1. **INFORMAL REFERRALS** Do you *refer* or *accept* referrals for cases involving no expectation of financial compensation?  
 Yes                                       No

*If you answered "No", skip question 9.*

**Section I: Informal Referrals.**

Please answer the following questions regarding referrals involving NO expectation of financial compensation.

2. On average, approximately how many cases do you **refer** informally per year? Approximately \_\_\_\_ cases per year
3. On average, approximately how many cases are **referred to you** informally from other attorneys per year? Approximately \_\_\_\_ cases per year
4. On average, approximately how many of the cases referred to you informally from other attorneys **do you accept** per year? Approximately \_\_\_\_ cases per year
5. **TYPE OF CASE** Indicate the type(s) and approximate number(s) of cases you refer and are referred to you informally per year. (*Leave blank if zero*).

<u>(Type of Case)</u>	<u>Number You Refer</u>	<u>Number Referred to You and Accepted</u>
Personal injury-Medical Malpractice	____ cases per year	____ cases per year
Personal injury-Products liability	____ cases per year	____ cases per year
Personal injury-Auto accidents	____ cases per year	____ cases per year
Personal injury-Third-party actions	____ cases per year	____ cases per year
Personal injury-Other	____ cases per year	____ cases per year
Commercial litigation	____ cases per year	____ cases per year
Consumer protection	____ cases per year	____ cases per year
Criminal matter	____ cases per year	____ cases per year
Family law	____ cases per year	____ cases per year
Employment law	____ cases per year	____ cases per year
Worker's compensation	____ cases per year	____ cases per year
Probate law	____ cases per year	____ cases per year
Real Estate law	____ cases per year	____ cases per year
Other (specify) _____	____ cases per year	____ cases per year

6. **WHY DO YOU REFER?** When you refer a case informally, which of the following reasons explain why you refer that case? (*Check all that apply*)

- Case was out of my practice area
- Case was in my practice area but was too complex/technical
- Case was in another geographic area
- My caseload was too great to take on new cases
- Case dollar value was less than what I usually handle
- Case dollar value was more than what I usually handle
- Most or all of my cases are referred to other attorneys
- Other (please specify) \_\_\_\_\_

7. **HOW DO YOU CHOOSE THE ATTORNEY TO REFER THE CLIENT TO?** Please rate each of the following factors in terms of their importance to you in deciding which attorney to refer a case to. Remember to think only about referrals involving NO expectation of financial compensation.

	Not at All Important 1				Very Important 5
The attorney's reputation in his/her practice area.	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Reciprocity: whether or not I expect that the particular attorney will refer cases to me in the future.	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Personal compatibility/fit between the client and the attorney	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Other (please describe):	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5

8. **ADDITIONAL COMMENTS** Please make any additional comments that you feel would help us understand your *informal* referral practices below:

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9. **FORMAL REFERRALS** Do you *make* or *receive* referrals involving some expectation of financial compensation?

- Yes**       **No**

*If you answered "No", skip to Section III, question 49.*

**Section II: Formal Referrals.** Please answer the following questions about referrals involving some expectation of paying or receiving a referral fee.

10. On average, approximately how many cases do you **refer** formally per year? Approximately \_\_\_\_ cases per year
11. On average, approximately how many cases are **referred to you** formally from other attorneys per year? Approximately \_\_\_\_ cases per year
12. On average, approximately how many of the cases referred to you formally from other attorneys **do you accept** per year? Approximately \_\_\_\_ cases per year

13. **TYPE OF CASE** Indicate the type(s) and approximate number(s) of cases you refer and have referred to you formally per year. *(Leave blank if zero).*

<u>(Type of Case)</u>	<u>Number You Refer</u>	<u>Number Referred to You and Accepted</u>
Personal injury-Medical Malpractice	____ cases per year	____ cases per year
Personal injury-Products liability	____ cases per year	____ cases per year
Personal injury-Auto accidents	____ cases per year	____ cases per year
Personal injury-Third-party actions	____ cases per year	____ cases per year
Personal injury-Other	____ cases per year	____ cases per year
Commercial litigation	____ cases per year	____ cases per year
Consumer protection	____ cases per year	____ cases per year
Criminal matter	____ cases per year	____ cases per year
Family law	____ cases per year	____ cases per year
Employment law	____ cases per year	____ cases per year
Worker's compensation	____ cases per year	____ cases per year
Probate law	____ cases per year	____ cases per year
Real Estate law	____ cases per year	____ cases per year
Other (specify) _____	____ cases per year	____ cases per year

14. **MAKING FORMAL REFERRALS** Do you *make* referrals to other attorneys involving some expectation of financial compensation?

- Yes  No

*If you answered "No", skip to question 35.*

*Making Formal Referrals.* The following questions refer to formal referrals you have made involving some expectation of receiving a referral fee.

15. **AT WHAT POINT DO YOU REFER?** When I refer a client and expect to receive a referral fee, I most often make the referral: *(Check only one)*

- Shortly after an initial phone call with the client
- Shortly after an initial office visit with a client in which I do not obtain client's power of attorney
- Shortly after an initial office visit with a client in which I do obtain client's power of attorney
- After I've been working on the case for some time
- There is no set pattern, the timing of the referral varies
- Other (please describe) \_\_\_\_\_

16. **WHY DO YOU REFER?** When you refer a case to another attorney and expect to receive a referral fee, which of the following reasons best explains why you referred the case to the other attorney? (*Check all that apply*)

- Case was out of my practice area
- Case was in my practice area but was too complex/technical
- Case was in another geographic area
- My caseload was too great to take on new cases
- Case dollar value was less than what I usually handle
- Case dollar value was more than what I usually handle
- Most or all of my cases are referred to other attorneys
- Other (please specify) \_\_\_\_\_

17. **HOW DO YOU CHOOSE WHICH ATTORNEY TO REFER THE CLIENT TO?** Please rate each of the following factors in terms of their importance to you in deciding which attorney to refer the case to. Remember to think **ONLY** about cases for which you expect to receive a referral fee.

	Not at All Important 1				Very Important 5
The size (amount/percentage) of the referral fee I will receive from that attorney.	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
The attorney's reputation in his/her practice area.	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Reciprocity: whether or not I expect that the particular attorney will refer cases to me in the future.	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Personal compatibility/fit between the client and the attorney	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5
Other (please describe):	<input type="checkbox"/> 1	<input type="checkbox"/> 2	<input type="checkbox"/> 3	<input type="checkbox"/> 4	<input type="checkbox"/> 5

**CONTRACTS/POWERS OF ATTORNEY**

18. Does your standard client contract or power of attorney have a general provision for you to refer cases to other attorneys?

- Yes                       No

19. Does your standard client contract or power of attorney state the size (amount or percentage) of the referral fee that you will receive in the event of a referral?

- Yes                       No

20. Do you verbally disclose to the client, at or about the time of the referral, the size (amount or percent) of the referral fee you will receive?

- Yes  
 No Why not? \_\_\_\_\_

21. **NATURE OF REFERRAL FEE** When you receive a fee for referring a case, do you typically (*Check only one*):

- negotiate the amount of the referral fee
- request a standard fee
- accept whatever the handling lawyer pays me

22. **TYPE OF REFERRAL FEE** Describe the typical referral fee you receive:

- \_\_\_\_\_ % of attorney fee recovered
- Flat fee of \$\_\_\_\_\_
- I accept whatever the handling lawyer pays me

23. **AMOUNT OF REFERRAL FEE** Please estimate the typical dollar amount of the fee you receive for referring a client to another attorney.

- \$5,000 or less
- \$5,001 to \$25,000
- \$25,001 to \$45,000
- \$45,001 to \$65,000
- \$65,001 to \$85,000
- \$85,001 to \$105,000
- \$105,001 to \$125,000
- More than \$125,000

**CONTINUED INVOLVEMENT WITH CLIENT**

24. When you refer a case to another lawyer and receive a referral fee, approximately what percentage of the time do you continue to perform services of any sort for the client after the referral?

Approximately \_\_\_\_\_ % of the time

25. When you refer a case to another lawyer and receive a referral fee, which of the following services, if any, do you typically perform for the client following the referral? (*Check all that apply*).

- None
- Handle communications or correspondence with the client
- Act as liaison between client and handling attorney
- Provide information to the handling lawyer about the client
- Serve as a resource for or provide support to the client
- Prepare responses to discovery
- Attend depositions
- Attend hearings
- Attend trial
- Other (please describe) \_\_\_\_\_

**CONTRACTS/POWERS OF ATTORNEY**

26. When you refer a case to another lawyer and receive a referral fee, do you document in the referral agreement or elsewhere the services you agree to perform for the client after the referral?

- Yes
- No

27. Do you verbally disclose to the client, at or about the time of the referral, the services you agree to perform for the client after the referral?

- Yes
  - No Why not?
- 

28. Does your referral documentation disclaim responsibility to the client following a referral?

- Yes
  - No
- 
-

29. **CLIENTS FIND ME THROUGH...** Most of the clients I refer to other attorneys and receive a referral fee for heard about me through: (*Check only one*)

Advertising

- Yellow Pages display ad
- Newspaper
- Direct mail to other lawyers
- Direct mail to consumers
- Television
- Radio
- Firm web site
- Paid Internet subscription service
- Billboards

Word of Mouth

- Recommendations from former clients
- Recommendations from client's friends, acquaintances, etc.
- Referrals from another lawyer

Other

- Other (please specify) \_\_\_\_\_
- Don't know

**REGARDING POSSIBLE CHANGES TO THE LAW:**

30. If I were required by law to be jointly responsible for cases I referred to another lawyer and received a referral fee for, I would:

- No longer accept referral fees for the cases I refer
- No longer refer any cases to other attorneys
- Refer fewer cases than I do now
- Continue to refer cases at the same rate as I do now
- Refer more cases than I do now

31. If the amount of referral fee I received must, by law, be based on the proportion of services I performed, I would:

- No longer accept referral fees for the cases I refer
- No longer refer any cases to other attorneys
- Refer fewer cases than I do now
- Continue to refer cases at the same rate as I do now
- Refer more cases than I do now

32. If referral fees are capped at 15% of amount recovered by the client or \$50,000, whichever is less, I would:

- No longer accept referral fees for the cases I refer
- No longer refer any cases to other attorneys
- Refer fewer cases than I do now
- Continue to refer cases at the same rate as I do now
- Refer more cases than I do now

33. If I knew that by law, the size and the amount of the referral fee would be disclosed in the pleadings to the court, I would:

- No longer accept referral fees for the cases I refer
- No longer refer any cases to other attorneys
- Refer fewer cases than I do now
- Continue to refer cases at the same rate as I do now
- Refer more cases than I do now

34. **RECENT LEGISLATION** I expect that recent tort reform legislation, like House Bill 4 passed in the last legislative session will:
- decrease the number of cases I refer to other attorneys
  - have no impact on the number of cases I refer to other attorneys
  - increase the number of cases I refer to other attorneys

35. **ACCEPTING REFERRALS** Do you accept referrals for which you expect to pay a referral fee?
- Yes
  - No

*If you answered "No", please skip to question 48.*

Accepting Formal Referrals. The following questions refer to formal referrals you have accepted involving some expectation of receiving a referral fee.

**CONTRACTS/POWERS OF ATTORNEY**

36. When a case is referred to you and you accept it, and expect to pay a referral fee, do you typically have the client: *(Check all that apply)*
- Sign your standard power of attorney/client contract
  - Sign a separate consent to referral document
  - Other (please specify) \_\_\_\_\_
37. Does your standard power of attorney/client contract or consent-to-referral state the size (amount or percentage) of the referral fee that will be paid to the referring attorney? *(Check only one)*
- Yes, my standard power of attorney/client contract does
  - Yes, my consent-to-referral form does
  - Yes, BOTH my standard power of attorney/client contract AND my consent-to-referral form do
  - No, neither form states the amount
38. Do you verbally disclose to the client, at or about the time of the referral, the size (amount or percentage) of the referral fee that will be paid to the referring attorney? *(Check all that apply).*
- Yes
  - No Why not?
- \_\_\_\_\_

39. **NATURE OF REFERRAL FEE** When a case is referred to you and you accept it, and expect to pay a referral fee, do you typically: *(Check only one)*
- negotiate the amount of the referral fee
  - offer a standard fee

40. **TYPE OF REFERRAL FEE** What is the typical size (amount or percentage) of the referral fee you pay to the referring lawyer?
- \_\_\_\_\_ % of attorney fee recovered
  - Flat fee of \$ \_\_\_\_\_
  - The amount/percentage is negotiated on a case-by-case basis

41. **COST OF REFERRAL FEE PASSED TO THE CLIENT** Do you typically increase the fee you charge clients referred to you in order to cover some or all of the costs of any referral fee that you pay?
- Yes, by \_\_\_\_\_% or by \$ \_\_\_\_\_
  - No
  - Depends on the type of case or other factors

**CONTINUED INVOLVEMENT WITH CLIENT**

42. When you accept a referral from another lawyer and pay a referral fee, approximately what percentage of the time does the referring lawyer continue to perform services of any sort for the client after the referral?
- Approximately \_\_\_\_\_ % of the time
  - Unknown
43. When you accept a referral from another lawyer and pay a referral fee, which of the following services, if any, does the forwarding lawyer perform for the client following the referral? (*Check all that apply*).
- None
  - Handle communications or correspondence with the client
  - Act as liaison between client and handling attorney
  - Provide information to the handling lawyer about the client
  - Serve as a resource for or provide support to the client
  - Prepare responses to discovery
  - Attend depositions
  - Attend hearings
  - Attend trial
  - Unknown
  - Other (please describe) \_\_\_\_\_

**REGARDING POSSIBLE CHANGES TO THE LAW:**

44. If the law required that attorneys to whom I paid a referral fee remained jointly responsible for the cases they referred to me, I would:
- No longer pay referral fees to attorneys who referred cases to me
  - No longer accept any cases referred to me
  - Accept fewer referrals than I do now
  - Continue to accept referrals at the same rate as I do now
  - Accept more referrals than I do now
45. If the amount of referral fee I paid must, by law, be based on the proportion of services the forwarding lawyer performed for the client, I would:
- No longer pay referral fees to attorneys who referred cases to me
  - No longer accept any cases referred to me
  - Accept fewer referrals than I do now
  - Continue to accept referrals at the same rate as I do now
  - Accept more referrals than I do now
46. If I knew that by law, the size and the amount of the referral fee would be disclosed in the pleadings to the court, I would:
- No longer pay referral fees to attorneys who referred cases to me
  - No longer accept any cases referred to me
  - Accept fewer referrals than I do now
  - Continue to accept referrals at the same rate as I do now
  - Accept more referrals than I do now
47. **RECENT LEGISLATION** I expect that recent tort reform legislation, like House Bill 4 passed in the last legislative session will:
- decrease the number of referrals I accept
  - have no impact on the number of referrals I accept
  - increase the number of referrals I accept

48. **ADDITIONAL COMMENTS** Please make any additional comments that you feel would help us understand your *formal* referral practices below:

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**Section III: Demographic Information**

Please complete the section below so we can check the representativeness of our respondents.

49. **OCCUPATION** Primary occupation:
- Private practice.....Firm size: \_\_\_\_\_ lawyers
  - Government attorney
  - Corporate/house counsel
    - For-profit agency  Nonprofit agency
  - Judiciary
  - Other law-related

50. **PRIMARY PRACTICE AREA:**
- General Practice
  - Personal Injury -Plaintiff’s Attorney
  - Personal Injury -Defendant’s Attorney
  - Family Law
  - Criminal Law
  - General Litigation
  - Probate Law
  - Real Estate Law
  - Other (please specify) \_\_\_\_\_

51. **AGE:** \_\_\_\_\_ years

52. **GENDER:**  M  F

53. **RACE/ETHNICITY:**
- Caucasian/White
  - African American/Black
  - Hispanic/Latino
  - Asian/Pacific Islander
  - Native American Indian
  - Other \_\_\_\_\_

54. **YEARS LICENSED:** \_\_\_\_\_ years

55. **COUNTY** In which county is your office is located: \_\_\_\_\_

56. **CERTIFICATION** What areas, if any, are you board certified in?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

57. **SECTION MEMBERSHIP** What State Bar Sections, if any, are you a member of?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ADVERTISING**

58. Do you advertise?

- No, I have never advertised
- Yes, I have advertised occasionally
- Yes, I advertise frequently
- Yes, I advertise most of the time

*If you answered No, skip to question 60.*

59. Please check all of the following advertising methods you have used or are currently using:  
(Check all that apply).

- Yellow Pages display ad
- Newspaper
- Direct mail to other lawyers
- Direct mail to consumers
- Television
- Radio
- Firm web site
- Paid Internet subscription service
- Billboards
- Other (please specify) \_\_\_\_\_

**CASES**

60. Approximately how many cases do you handle per year overall? \_\_\_\_\_ cases

61. Approximately how many contingency fee cases do you handle per year? \_\_\_\_\_ cases

62. Please estimate the percentage of your cases that come from the following sources:

- |  |                       |
|--|-----------------------|
| Advertising:   | approximately _____ % |
| Recommendations from former clients                        | approximately _____ % |
| Recommendations from client's friends, acquaintances, etc. | approximately _____ % |
| Referrals from another lawyer                              | approximately _____ % |
| Other: (please specify) _____                              | approximately _____ % |

## Appendix B

# Supporting Documents for Conducting the Texas Referral Practices Survey

Eight documents used in conducting the survey are displayed:

1. First Email Invitation
2. First Email Reminder
3. Second Email Invitation
4. First Mail Cover Letter
5. First Mail Reminder
6. Second Mail Cover Letter
7. Second Mail Reminder
8. Online Information Page

## 1. First Email Invitation:

### **Email invitation to participate in the survey**

Subject line: The State Bar of Texas Needs Your Input

Dear Texas attorney:

Your input is needed! You have been randomly selected to complete this online survey regarding referral practices in Texas. By doing so you will be entered in a drawing to win one of 10 free one-year subscriptions to the TexasBarCLE Online Library (each a \$295 value).

This survey is easy to complete. It will take 15-20 minutes of your time but will provide important information for the legal profession in Texas. Please respond by Tuesday, March 30, 2004.

In October, the Supreme Court of Texas proposed Rule 8a of the Texas Rules of Civil Procedure, which would change permissible referral fee practices in Texas. After tremendous input from Texas lawyers, the Supreme Court authorized the appointment of a State Bar task force to further study the issue and then make recommendations regarding what changes, if any, should be made to the rules regarding referral fees.

There is no data available on attorneys' referral practices in Texas. This survey is being sent to a broad cross-section of Texas lawyers to help the task force better understand the realities of referral practices in Texas.

To access the survey, you may log in using your bar card number and State Bar PIN you used to check your MCLE status, complete your attorney profile, and change your address on the previous TexasBar.com website. If you have already visited the new TexasBar.com and chosen a password use that password to log in.

Once you log in, you will see a link that will take you to the survey. Your survey responses are stored separately from your identity and are thus anonymous.

If you need help logging in, please call (800)204-2222, Ext. 6828 or email [webmaster@texasbar.com](mailto:webmaster@texasbar.com)

CLICK THE FOLLOWING LINK TO LOG IN:

<https://www.texasbar.com/referralsurvey>

ONCE YOU ARE LOGGED IN YOU WILL SEE A LINK THAT WILL TAKE YOU TO THE SURVEY

Thank you for your participation.

The State Bar of Texas

## 2. First Email Reminder

### *Reminder Email Invitation to Participate in Online Survey*

Subject Line: Reminder: We Need Your Input on Referral Practices

Dear Texas attorney:

This is a friendly reminder that the State Bar of Texas needs your input on referral practices in Texas.

Our records show that you have not yet completed our online survey. **This survey is designed for all attorneys; please complete the survey even if you do not make or receive referrals.** Your response is needed by 5 PM on Tuesday March 30. Your responses will help a State Bar task force make informed recommendations to the Supreme Court of Texas regarding proposed changes to permissible referral fee practices.

Once you complete the survey, you will be entered in a drawing to win one of 10 free one-year subscriptions to the TexasBarCLE Online Library (each a \$295 value).

Click the following link to log in:

<https://www.texasbar.com/referralsurvey>

Once you log in, you will see your name and a link that says, "Click Here to Continue." Please click that link to begin.

IF YOU NEED HELP LOGGING IN, DO NOT HESITATE TO CALL (800)204-2222, EXT. 6828 OR EMAIL WEBMASTER@TEXASBAR.COM

If you are unable to complete the survey online, you will receive a paper copy of the survey early next month.

Thank you for your participation.

The State Bar of Texas

### 3. Second Email Invitation

Subject line: Official TX State Bar/Supreme Court Email

Dear Attorney,

The State Bar of Texas seeks your input on referral practices in Texas. The Supreme Court of Texas allowed the State Bar of Texas to appoint a task force to study referral fees after receiving numerous comments regarding its Oct. 11 order regarding Rule 8a of the Texas Rules of Civil Procedure.

It is important that you assist the Supreme Court of Texas and the State Bar of Texas in developing an accurate picture of referral practices in Texas.

**Even if you do not refer cases or accept referrals, your response to this survey is critical. Please respond to the survey by 5 p.m. Friday April 23, 2004.**

Please click the link below to log in. Then click the link that says "click here to continue."  
<https://www.texasbar.com/referralsurvey>

If you have already completed this survey, disregard this email.

If you have any questions, please contact the State Bar of Texas Research & Analysis Department at 1 800-204-2222 or [research@texasbar.com](mailto:research@texasbar.com). If you need help logging in, please call 1-800-204-2222 ext 6828.

#### 4. First Mail Cover Letter

### STATE BAR OF TEXAS



March 2004

Dear Texas attorney:

**Your input is needed! You have been randomly selected to complete this survey regarding referral practices in Texas. By doing so you will be entered in a drawing to win one of 10 free one-year subscriptions to the TexasBarCLE Online Library (each a \$295 value).**

This survey is easy to complete. It will take 15-20 minutes of your time but will provide important information for the legal profession in Texas.

In October, the Supreme Court of Texas proposed Rule 8a of the Texas Rules of Civil Procedure, which would change permissible referral fee practices in Texas. After tremendous input from Texas lawyers, the Supreme Court authorized the appointment of a State Bar task force to further study the issue and then make recommendations regarding what changes, if any, should be made to the rules regarding referral fees.

There is no data available on attorneys' referral practices in Texas. This survey is being sent to a broad cross-section of Texas lawyers to help the task force better understand the realities of referral practices in Texas.

Please return the survey in the enclosed postage-paid envelope and return the enclosed postcard *separately*. This postcard will let us know that you have returned your survey, yet maintain the anonymity of your responses.

Thank you for your cooperation in this effort. If you have any questions about the survey, please feel free to contact the State Bar's Department of Research and Analysis at 1-800-204-2222 ext. 2024, or via email at [research@texasbar.com](mailto:research@texasbar.com).

The State Bar of Texas  
Department of Research and Analysis

**PLEASE RETURN THE ENCLOSED SURVEY BY APRIL 9<sup>TH</sup>, 2004.**

## 5. First Mail Reminder

Our records indicate that you may not have yet returned the *Texas Referral Practices Survey* we recently mailed you. Your responses are important to us. Please complete the survey and return it to us as soon as possible. If your survey is already in the mail, please disregard this notice. To obtain another copy of the survey, or if you have any questions, please feel free to contact us. Your cooperation is greatly appreciated!

Department of Research and Analysis  
State Bar of Texas  
1-800-204-2222 ext. 2024  
*research@texasbar.com*

## 6. Second Mail Cover Letter

### STATE BAR OF TEXAS



March 2004

Dear Texas attorney:

**Your input is needed! You have been randomly selected to complete this survey regarding referral practices in Texas. By doing so you will be entered in a drawing to win one of 10 free one-year subscriptions to the TexasBarCLE Online Library (each a \$295 value).**

This survey is easy to complete. It will take 15-20 minutes of your time but will provide important information for the legal profession in Texas. **This survey is designed for all attorneys; please complete the survey even if you do not make or receive referrals.**

In October, the Supreme Court of Texas proposed Rule 8a of the Texas Rules of Civil Procedure, which would change permissible referral fee practices in Texas. After tremendous input from Texas lawyers, the Supreme Court authorized the appointment of a State Bar task force to further study the issue and then make recommendations regarding what changes, if any, should be made to the rules regarding referral fees.

There is no data available on attorneys' referral practices in Texas. This survey is being sent to a broad cross-section of Texas lawyers to help the task force better understand the realities of referral practices in Texas.

Please return the survey in the enclosed postage-paid envelope and return the enclosed postcard *separately*. This postcard will let us know that you have returned your survey, yet maintain the anonymity of your responses.

Thank you for your cooperation in this effort. If you have any questions about the survey, please feel free to contact the State Bar's Department of Research and Analysis at 1-800-204-2222 ext. 2024, or via email at [research@texasbar.com](mailto:research@texasbar.com).

The State Bar of Texas  
Department of Research and Analysis

**PLEASE RETURN THE ENCLOSED SURVEY BY APRIL 16<sup>TH</sup>, 2004.**

## 7. Second Mail Reminder

Our records indicate that you may not have yet returned the *Texas Referral Practices Survey* we recently mailed you. This survey is designed for all attorneys even those who not make or receive referrals. Your responses are important to us. Please complete the survey and return it to us by Friday April 16. If your survey is already in the mail, please disregard this notice. To obtain another copy of the survey, or if you have any questions, please feel free to contact us. Your cooperation is greatly appreciated!

Department of Research and Analysis  
State Bar of Texas  
1-800-204-2222 ext. 2024  
*research@texasbar.com*

## 8. Online Information Page

***This page is reached by the recipient of our blast email invitation, after clicking the link in the email which takes them directly to a log-in page, and after logging-in.***

About this Survey:

This survey is designed to provide general information concerning the types of cases referred, the circumstances under which referrals occur, the typical financial arrangements regarding the referral of cases, and information typically provided to clients by both the referring and handling attorneys. The survey is being sent to a broad cross section of Texas attorneys.

How long will it take to complete?

About 15-20 minutes. There are a total of 58 questions but depending on your answers, you may or may not be required to answer every question. Please answer the questions to the best of your ability, but remember that we are interested in general information; your best estimates are sufficient.

What's in it for me?

We know that your time is valuable! Therefore when you submit your survey, you will automatically be entered in a drawing to win a free subscription to the TexasBarCLE Online library (a \$295 value). Survey responses are recorded separately from your identity and are completely anonymous

Most importantly, you will have direct input in ensuring that the Supreme Court of Texas and State Bar of Texas have real data and research information about referral practices in Texas.

CLICK THE "NEXT" BUTTON BELOW TO GET STARTED....

## Appendix C

### **Comparison of Statistical Profiles of Selected Sample, Survey Respondents, Card Respondents, and Texas In-State Attorneys**

#### Demographics of Selected Sample, Survey Respondents, Card Respondents, and Texas In-State Attorneys

The following profile allows comparison of the survey respondents, the initial sample, and the relevant population—that of the active in-state State Bar of Texas attorney membership. Numbers and percents are given by key demographic variables including sex, race/ethnicity, years licensed in any jurisdiction, age, graduating law school, primary occupation, law firm size, section membership, and board certification. These variables are collected and verified annually by the State Bar of Texas’ membership department. Survey respondents’ demographic data was solicited by the survey (Respondents By Survey), but is also inferred by comparing a list of attorneys who returned a separately mailed response card to the State Bar of Texas membership records (Respondents By Card).

TEXAS REFERRAL PRACTICES SURVEY REPORT

	Sample (n=4,000)		Respondents By Survey (n=1,215)		Respondents By Card (n=1,210)		TX In-State Attorneys (N=66,358)	
Available Data for FY 03-04**	3,975		1,187		1,203		66,358	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Sex</b>								
Male	2,752	69%	826	70%	837	70%	47,080	71%
Female	1,212	31%	361	30%	365	30%	19,084	29%
<b>Race/Ethnicity</b>								
Caucasian/Anglo	3,234	86%	1,016	87%	1,007	88%	54,313	86%
African-American/Black	158	4%	26	2%	23	2%	2,418	4%
Hispanic/Latino	266	7%	88	8%	77	7%	4,350	7%
Asian/Pacific Islander	52	1%	12	1%	12	1%	912	1%
Native American Indian	11	<1%	5	<1%	2	<1%	175	<1%
Other Race	44	1%	21	2%	17	1%	688	1%
<b>Years Licensed</b>								
2 or less	405	10%	82	7%	114	9%	6,583	10%
3 to 6	487	12%	133	11%	129	11%	8,403	13%
7 to 10	492	12%	138	12%	136	11%	8,238	12%
11 to 15	570	14%	159	13%	166	14%	9,601	14%
16 to 20	522	13%	159	13%	156	13%	8,590	13%
21 to 25	518	13%	174	15%	177	15%	8,308	13%
Over 25	981	25%	335	28%	325	27%	16,633	25%
Median years licensed	16 yrs.		18 yrs.		17 yrs.		16 yrs.	
<b>Age</b>								
25 and under	24	1%	8	1%	9	1%	441	1%
26 to 30	346	9%	78	7%	85	7%	5,924	9%
31 to 35	552	14%	148	13%	156	13%	8,867	13%
36 to 40	507	13%	131	11%	137	11%	8,665	13%
41 to 45	577	15%	148	13%	153	13%	9,351	14%
46 to 50	571	14%	170	15%	179	15%	9,688	15%
51 to 55	529	13%	162	14%	171	14%	8,769	13%
56 to 60	423	11%	155	14%	163	14%	6,481	10%
61 to 65	181	5%	68	6%	73	6%	3,380	5%
More than 65	265	7%	72	6%	77	6%	4,787	7%
Median Age	45 yrs.		47 yrs.		47 yrs.		45 yrs.	

APPENDIX C: COMPARISON OF STATISTICAL PROFILES

TEXAS REFERRAL PRACTICES SURVEY REPORT

	Sample (n=4,000)		Respondents By Survey (n=1,215)		Respondents By Card (n=1,210)		TX In-State Attorneys (N=66,358)	
Available Data for FY 03-04**	3,975		1,181		1,203		66,358	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Law School Attended</b>								
Baylor	276	7%	N/A	N/A	93	8%	4,632	7%
St. Mary's	323	8%	N/A	N/A	103	9%	5,125	8%
South Texas	431	11%	N/A	N/A	140	12%	7,578	12%
Southern Methodist	348	9%	N/A	N/A	98	8%	5,778	9%
Texas Southern	117	3%	N/A	N/A	30	3%	1,907	3%
Texas Tech	249	6%	N/A	N/A	78	7%	4,341	7%
Texas Wesleyan	70	2%	N/A	N/A	19	2%	1,195	2%
University of Houston	468	12%	N/A	N/A	122	10%	7,558	12%
University of Texas	811	21%	N/A	N/A	268	23%	13,935	21%
Out-of-State Law School	829	21%	N/A	N/A	232	20%	13,485	21%
<b>Primary Occupation</b>								
Private law practice	2,495	69%	861	73%	797	71%	41,452	69%
Government Attorney	413	11%	143	12%	140	12%	6,431	11%
Full-time Judge	96	3%	31	3%	34	3%	1,444	2%
Law Faculty	25	1%	N/A	N/A	7	1%	346	1%
Corporate/In-house Counsel	313	9%	102	9%	83	7%	5,282	9%
Other Law related	107	3%	44	4%	28	2%	1,638	3%
Other Non-Law related	87	2%	N/A	N/A	19	2%	1,624	3%
Retired-not working	56	2%	N/A	N/A	11	1%	1,273	2%
Unemployed-looking	19	1%	N/A	N/A	5	<1%	381	1%
Unemployed-not looking	20	1%	N/A	N/A	5	<1%	398	1%
<b>Law Firm Size private practitioners only</b>								
Solo	916	38%	347	42%	329	42%	14,849	37%
2 to 5	533	22%	194	23%	195	25%	9,150	23%
6 to 10	194	8%	68	8%	68	9%	2,921	7%
11 to 24	178	7%	49	6%	53	7%	3,401	8%
25 to 40	106	4%	45	5%	31	4%	1,583	4%
41 to 60	60	2%	17	2%	14	2%	987	2%
Over 60	421	17%	108	13%	90	12%	7,134	18%
Median Firm Size	4 attys.		3 attys.		3 attys.		4 attys.	
<b>Members of State Bar Sections</b>								
No Sections	2,267	57%	394	39%	610	51%	38,105	57%
One Section	847	21%	354	35%	284	24%	13,773	21%
Two Sections	509	13%	188	18%	172	14%	8,287	12%
Three Sections	205	5%	59	6%	78	6%	3,563	5%
More than Three Sections	147	4%	26	3%	59	5%	2,630	4%
<b>Attorneys Board Certified In:</b>								
No Areas	3,533	89%	746	80%	1,014	84%	59,611	90%
One Area	366	9%	159	17%	156	13%	5,595	8%
Two Areas	66	2%	30	3%	30	2%	1,028	2%
More than Two Areas	10	<1%	2	<1%	3	<1%	124	<1%

APPENDIX C: COMPARISON OF STATISTICAL PROFILES

TEXAS REFERRAL PRACTICES SURVEY REPORT

	Sample (n=4,000)		Respondents By Survey (n=1,215)		Respondents By Card (n=1,210)		TX In-State Attorneys (N=66,358)	
Available Data for FY 03-04**	1,708*		627*		593*		28,253*	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Section Membership:</b>								
Administrative and Public Law	68	4%	20	3%	31	5%	1,026	4%
African-American Lawyers	9	1%	2	<1%	1	<1%	252	1%
Alternative Dispute Resolution	64	4%	20	3%	28	5%	1,068	4%
American Indian Law	5	<1%	0	0%	1	<1%	87	<1%
Animal Law	24	1%	5	1%	9	2%	256	1%
Antitrust and Business Litigation	62	4%	7	1%	19	3%	1,134	4%
Appellate	80	5%	33	5%	33	6%	1,584	6%
Asian Pacific Interest	8	<1%	2	<1%	2	<1%	149	1%
Aviation Law	15	1%	1	<1%	1	<1%	223	1%
Bankruptcy Law	46	3%	19	3%	19	3%	764	3%
Business Law	205	12%	46	7%	52	9%	3,477	12%
Computer and Technology	54	3%	7	1%	19	3%	881	3%
Construction Law	68	4%	22	4%	23	4%	1,350	5%
Consumer Law	71	4%	22	4%	38	6%	1,243	4%
Corporate Counsel	157	9%	33	5%	34	6%	2,625	9%
Criminal Justice	120	7%	33	5%	40	7%	1,856	7%
Entertainment and Sports Law	20	1%	7	1%	10	2%	418	1%
Environmental and Natural Resources	69	4%	13	2%	22	4%	1,195	4%
Family Law	258	15%	104	17%	109	18%	4,200	15%
General Practice, Solo, and Small Firm	145	8%	33	5%	57	10%	2,442	9%
Government Lawyers	34	2%	16	3%	17	3%	637	2%
Health Law	76	4%	18	3%	27	5%	1,214	4%
Hispanic Issues	25	1%	4	1%	8	1%	315	1%
Individual Rights and Responsibilities	8	<1%	3	<1%	2	<1%	162	1%
Insurance Law	68	4%	23	4%	24	4%	1,259	4%
Intellectual Property Law	97	6%	23	4%	37	6%	1,509	5%
International Law	36	2%	6	1%	6	1%	776	3%
James C. Watson Inn	6	<1%	1	<1%	5	1%	112	<1%
Judicial	0	0%	11	2%	0	0%	10	<1%
Justice of the Peace	5	<1%	0	0%	0	0%	51	<1%
Juvenile Law	52	3%	18	3%	18	3%	713	3%
Labor and Employment Law	140	8%	50	8%	53	9%	2,638	9%
Litigation	420	25%	178	28%	153	26%	7,086	25%
Military Law	7	<1%	1	<1%	2	<1%	174	1%

APPENDIX C: COMPARISON OF STATISTICAL PROFILES

TEXAS REFERRAL PRACTICES SURVEY REPORT

	Sample (n=4,000)		Respondents By Survey (n=1,215)		Respondents By Card (n=1,210)		TX In-State Attorneys (N=66,358)	
Available Data for FY 03-04**	1,708*		627*		593*		28,253*	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Section Membership <i>continued</i>:</b>								
Municipal Judges	15	1%	0	0%	6	1%	241	1%
Oil, Gas and Energy Resources Law	110	6%	30	5%	39	7%	1,906	7%
Public Utility Law	17	1%	5	1%	8	1%	376	1%
Real Estate, Probate and Trust Law	380	22%	88	14%	147	25%	6,272	22%
School Law	26	2%	6	1%	10	2%	552	2%
Sexual Orientation/Gender Identification	17	1%	9	1%	10	2%	179	1%
Taxation Law	91	5%	18	3%	27	5%	1,639	6%
Women and the Law	25	1%	7	1%	11	2%	397	1%

	Sample (n=4,000)		Respondents By Survey (n=1,215)		Respondents By Card (n=1,210)		TX In-State Attorneys (N=66,358)	
Available Data for FY 03-04**	442*		191*		189*		6,747*	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Attorneys Board Certified In:</b>								
Administrative Law	14	3%	8	4%	9	5%	179	3%
Bankruptcy Law: Business	5	1%	1	1%	2	1%	161	2%
Bankruptcy Law: Consumer	6	1%	2	1%	3	2%	151	2%
Civil Appellate Law	24	5%	11	6%	11	6%	399	6%
Civil Trial Law	79	18%	39	20%	36	19%	1,200	18%
Consumer and Commercial Law	3	1%	1	1%	2	1%	60	1%
Criminal Law	48	11%	12	6%	14	7%	796	12%
Estate Planning and Probate Law	41	9%	23	12%	20	11%	618	9%
Family Law	48	11%	21	11%	20	11%	681	10%
Health Law	4	1%	2	1%	2	1%	34	1%
Immigration and Nationality Law	4	1%	0	0%	0	0%	76	1%
Juvenile Law	5	1%	2	1%	2	1%	52	1%
Labor Law	38	9%	13	7%	13	7%	471	7%
Oil, Gas and Mineral Law	19	4%	9	5%	9	5%	264	4%
Personal Injury Trial Law	115	26%	51	27%	51	27%	1,753	26%
Real Estate Law: Commercial	33	7%	13	7%	15	8%	490	7%
Real Estate Law: Farm and Ranch	8	2%	0	0%	3	2%	99	1%
Real Estate Law: Residential	25	6%	9	5%	11	6%	326	5%

APPENDIX C: COMPARISON OF STATISTICAL PROFILES

TEXAS REFERRAL PRACTICES SURVEY REPORT

	Sample (n=4,000)		Respondents By Survey (n=1,215)		Respondents By Card (n=1,210)		TX In-State Attorneys (N=66,358)	
Available Data for FY 03-04**	442*		191*		189*		6,747*	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<b>Attorneys Board Certified In</b>								
<i>continued:</i>								
Tax Law	9	2%	2	1%	2	1%	224	3%

**Notes**

\*These numbers represent the total number of attorneys with section memberships or board certifications within each population.

\*\*Note that not all demographic data was known for all attorneys at the time of this survey.

N/A: Not Available. This was data was not solicited in the survey.