

# **Committee on Disciplinary Rules and Referenda**

## **Supplement for July 23, 2019, Meeting**

- Additional public comments received on the proposed lawyer advertising rules (covering a period from July 17, 2019, through July 21, 2019)

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: new advertising rules  
**Date:** Wednesday, July 17, 2019 2:19:06 PM

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**\* State Bar of Texas External Message \*** - Use Caution Before Responding or Opening Links/Attachments

| <b>Contact</b>    |            |
|-------------------|------------|
| <b>First Name</b> | barbara    |
| <b>Last Name</b>  | nunneley   |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 15141700   |

| <b>Feedback</b>   |                       |
|---|-----------------------|
| <b>Subject</b>  | new advertising rules |
| <b>Comments</b>   |                       |
| let's be sensible! there is and should be nothing wrong with a lawyer using his/her name followed by "Group" or "Family Law" trade names that are in good taste should be fine. |                       |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDOR Comment: Advertising Proposed Rules  
**Date:** Wednesday, July 17, 2019 2:29:25 PM

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| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | Linda      |
| <b>Last Name</b>  | Wilkins    |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 00974300   |

|  |                            |
|--|----------------------------|
| <b>Feedback</b>  |                            |
| <b>Subject</b>   | Advertising Proposed Rules |
| <b>Comments</b>  |                            |
| Law firms should not be permitted to practice using a trade name. Law firms' names should be required to consist only of the names of one or more lawyers in the firm. It is inevitable that a trade name will be misleading to consumers or will suggest special expertise. Many firms use URLs in their websites with trade names which are misleading as to the skills or expertise of the law firm. They should not be allowed to use these trade names as their law firm names. |                            |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Rule 7.07 Trade Name  
**Date:** Wednesday, July 17, 2019 2:30:56 PM

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| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | Anthony    |
| <b>Last Name</b>  | ChouEIFati |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 24050414   |

|   |                      |
|---|----------------------|
| <b>Feedback</b>   |                      |
| <b>Subject</b>  | Rule 7.07 Trade Name |
| <b>Comments</b>   |                      |
| What does it mean to be "substantially motivated by pecuniary gain" for purposes of this rule? That seems a bit ambiguous and open to subjective interpretation. Who judges whether the trade name is "substantially motivated by pecuniary gain"? And, how is it judged? |                      |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Proposed Rule Changes Under Part VII, Texas Disciplinary Rules of Professional Conduct.  
**Date:** Wednesday, July 17, 2019 3:02:22 PM

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|---|------------|
| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | John       |
| <b>Last Name</b>  | McDermott  |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | -13531700  |

|   |   |
|---|---|
| <b>Feedback</b>   |   |
| <b>Subject</b>  | Proposed Rule Changes Under Part VII, Texas Disciplinary Rules of Professional Conduct. |
| <b>Comments</b>   |   |
| <p>In the past two decades, lawyers have taken to advertising under the guise of providing "legal aid" or as "non-profit organizations and/or corporations" As such, they regularly violate all of the provisions of Part VII, but particularly Rules 7.02 (a) and 707. They do not list the names of the lawyers and operate under trade names. To date, even though I have regularly complained of this to the Chief Counsel of the State Bar of Texas, the committees for the Un-Authorized Practice of Law and the Advertising Committee, no successful action has been taken against these rogue lawyers and their rogue law firms. I was probably the first person to start addressing this issue around 15-20 years ago. The Houston Press published an article about this problem, and it can be found online at the following link: <a href="https://www.houstonpress.com/news/updated-america-family-law-centers-legal-aid-for-low-income-folks-is-sorta-expensive-6739155">https://www.houstonpress.com/news/updated-america-family-law-centers-legal-aid-for-low-income-folks-is-sorta-expensive-6739155</a>. Those who care about the Rule Changes should carefully read this article. I would suggest that Rule 707 be strengthened sufficient to state that a claim that an organization or firm is "not for profit" or "non-profit" does not exempt a LAWYER from this Rule. Rule 7.02 (a) states that an advertisement for legal services shall comply with the Rules, and as such, seems to cover all advertisements for legal services. Yet, the typical defense or mitigation offered is that if the advertisement for legal services is put forth by a "non-profit" organization, that the entirety of Part VII does not apply to those lawyers who operate behind the facade. I suggest that Rule 7.02 be strengthened to address this issue. The lawyers who operate these "non-profit" organizations violate the spirit of the State Bar's efforts at policing our profession in the worst possible way, and, seem to get away with it. You can contact me directly on my cell phone of [REDACTED]. I have been an avid complainer about the weaknesses in the Disciplinary Rules that result in the dishonesty of these practices.</p> |   |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Proposed Rule Changes  
**Date:** Wednesday, July 17, 2019 3:03:37 PM

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**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Robert     |
| <b>Last Name</b>  | Wachsmuth  |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 20626000   |

**Feedback**

|                |                       |
|----------------|-----------------------|
| <b>Subject</b> | Proposed Rule Changes |
|----------------|-----------------------|

**Comments**

I would like to see the rules explicitly require lawyer advertising to be professional and reflect a more dignified representation of the legal profession with appropriate review and the ability for the SBOT to enjoin and enforce violations.

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Attorney Advertising  
**Date:** Wednesday, July 17, 2019 3:40:07 PM

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| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | James      |
| <b>Last Name</b>  | Whalen     |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 21238880   |

|   |                      |
|---|----------------------|
| <b>Feedback</b>   |                      |
| <b>Subject</b>  | Attorney Advertising |
| <b>Comments</b>   |                      |
| I would like to see all attorney advertising ended. Between the cheesy personal injury ads and the seemingly never ending ads soliciting add on clients to class action suits based on everything from baby powder to asbestos, the integrity of the profession is being diminished. Either clean it up significantly or end it altogether. |                      |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Comment to proposed rules  
**Date:** Wednesday, July 17, 2019 4:37:01 PM

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| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | Megan      |
| <b>Last Name</b>  | Neel       |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 24102273   |

|                 |                           |
|-----------------|---------------------------|
| <b>Feedback</b> |                           |
| <b>Subject</b>  | Comment to proposed rules |

**Comments**

Comment to proposed rule 7.04 Attorneys should not have an advertising review fee to be paid at any point in time, unless there is a complaint by a member of the public or another attorney that the advertisement is misleading or otherwise against the ethical guidelines. The Bar appears to cater to larger firms, despite the fact that many attorneys in this state are increasingly in small or solo firms. Part of this is because of an abundance of attorneys and a lack of attorney positions available to newly-minted attorneys. Imposing a fee, no matter how small, in addition to bar dues, creates a barrier to entry for many. The alternative, simply put, is to not advertise at all. No website, no marketing materials, nothing. This is not a very feasible idea either. The websites have to be live in order for them to be reviewed, but the current rules state that approval must be given (with a fee, no less) prior to publishing the website. This is both counter-intuitive and impossible. The proposed rules state that the review request must be submitted within 10 days, along with the fee. This is more reasonable, but the mere fact a website has been published does not mean that it is being marketed or disseminated. I would suggest a 30 days from first publication/dissemination. For full disclosure, my website went live with the most basic information (my contact info and practice areas) but was not disseminated to anyone other than friends who were reviewing it for me on 5/31. On or about 6/1, I updated my contact information with the state bar. By 6/12 I had a CMRRR letter from the advertising committee, along with a late fee assessed for failure to submit prior to the website going live. How can I submit prior to the website's existence unless it exists? In addition, there are many attorneys who have had websites for years without ever having gone through advertising review. Some of these websites probably should be reviewed, but without these attorneys being compliant, paying the fees, or notifying the bar that their website exists, they fly under the radar. The compliant attorneys who do pay the fee and follow the procedures have burdensome requirements placed on them, and objectively absurd requests. The pre-approval review should be limited to print materials, mailings, and other non-electronic means of communication.

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Proposed Advertising Rules Comment  
**Date:** Wednesday, July 17, 2019 5:31:00 PM

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| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | Cole       |
| <b>Last Name</b>  | Combs      |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 24094595   |

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|--|------------------------------------|
| <b>Feedback</b>  |                                    |
| <b>Subject</b>   | Proposed Advertising Rules Comment |
| <b>Comments</b>  |                                    |
| Delete from Rule 7.04 the requirement to pre-submit advertisements. Instead there should be a process by which fraudulent or deceptive advertisements can be reported for investigation. |                                    |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: The proposed changes to lawyer advertising  
**Date:** Wednesday, July 17, 2019 8:10:04 PM

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| <b>* State Bar of Texas External Message *</b> - Use Caution Before Responding or Opening Links/Attachments |            |
| <b>Contact</b>  |            |
| <b>First Name</b>   | Brenda     |
| <b>Last Name</b>  | Hight      |
| <b>Email</b>  | [REDACTED] |
| <b>Member</b>   | Yes        |
| <b>Barcard</b>  | 09607400   |

|   |  |
|---|--|
| <b>Feedback</b>   |  |
| <b>Subject</b>  | The proposed changes to lawyer advertising |
| <b>Comments</b>   |  |
| It seems branding is going too far with this proposal. As such misleading to less informed public and harmful to small practices. As such so it could also be anticompetitive, causing confusions as to the nature and quality of services. Is this cheapening the profession ... "AAA PLUMBERS" , Acme Rotorooters? A-1, Aplus Family Services??? If put before the members it likely would fail. Let it fail. |  |

**From:** [REDACTED]  
**To:** [cdrr](#)  
**Subject:** CDRR Comment: Delete new proposed advertising rules  
**Date:** Thursday, July 18, 2019 7:54:47 AM

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**Contact**

|                   |            |
|-------------------|------------|
| <b>First Name</b> | Kerri      |
| <b>Last Name</b>  | Phillips   |
| <b>Email</b>      | [REDACTED] |
| <b>Member</b>     | Yes        |
| <b>Barcard</b>    | 24065906   |

**Feedback**

|                |                                       |
|----------------|---------------------------------------|
| <b>Subject</b> | Delete new proposed advertising rules |
|----------------|---------------------------------------|

**Comments**

The new proposed advertising rules she absolutely be deleted.