

1 **Rule 7.2. Advertising.**

2 (a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may
3 advertise services through written, recorded or electronic communication,
4 including public media.

5 (b) If the advertisement uses any actors to portray a lawyer, members of
6 the law firm, or clients or utilizes depictions of fictionalized events or scenes,
7 the same must be disclosed.

8 (c) All advertisement disseminated pursuant to these Rules shall include
9 the name and office address of at least one lawyer or law firm responsible for
10 their content.

11 (d) Every advertisement indicating that the charging of a fee is contingent
12 on outcome or that the fee will be a percentage of the recovery shall set forth
13 clearly the client's responsibility for the payment of costs and other expenses.

14 (e) A lawyer who advertises a specific fee or range of fees shall include all
15 relevant charges and fees, and the duration such fees are in effect.

16 (f) A lawyer shall not give anything of value to a person for recommending
17 the lawyer's services; except that a lawyer may: pay the reasonable cost of
18 advertising permitted by these Rules and may pay the usual charges of a
19 lawyer referral service or other legal service plan.

20 ~~(b)(1) pay the reasonable costs of advertisements or communications~~
21 ~~permitted by this Rule;~~

22 ~~(b)(2) pay the usual charges of a legal service plan or a lawyer referral~~
23 ~~service.~~

24 ~~(b)(3) pay for a law practice in accordance with Rule 1.17; or~~

25 ~~(b)(4) divide a fee with another lawyer as permitted by Rule 1.5(e).~~

26 ~~(c) Any communication made pursuant to this Rule shall include the name~~
27 ~~and office address of at least one lawyer of the firm responsible for its content.~~

28 Comment

29 [1] To assist the public in learning about and obtaining legal services,
30 lawyers should be allowed to make known their services not only through
31 reputation but also through organized information campaigns in the form of
32 advertising. Advertising involves an active quest for clients, contrary to the
33 tradition that a lawyer should not seek clientele. However, the public's need to
34 know about legal services can be fulfilled in part through advertising. This
35 need is particularly acute in the case of persons of moderate means who have
36 not made extensive use of legal services. The interest in expanding public
37 information about legal services ought to prevail over considerations of
38 tradition. Nevertheless, advertising by lawyers entails the risk of practices that
39 are misleading or overreaching.

40 [2] This Rule permits public dissemination of information concerning a
41 lawyer's name or firm name, address, email address, website and telephone
42 number; the kinds of services the lawyer will undertake; the basis on which
43 the lawyer's fees are determined, including prices for specific services and
44 payment and credit arrangements; a lawyer's foreign language ability; names
45 of references and, with their consent, names of clients regularly represented;
46 and other information that might invite the attention of those seeking legal
47 assistance.

48 [3] Questions of effectiveness and taste in advertising are matters of
49 speculation and subjective judgment. Some jurisdictions have had extensive
50 prohibitions against television and other forms of advertising, against
51 advertising going beyond specified facts about a lawyer or against
52 "undignified" advertising. Television is, the Internet and other forms of
53 electronic communication are now ~~one of~~ among the most powerful media for
54 getting information to the public, particularly persons of low and moderate

55 income; prohibiting television, Internet, and other forms of electronic
56 advertising, therefore, would impede the flow of information about legal
57 services to many sectors of the public. Limiting the information that may be
58 advertised has a similar effect and assumes that the Bar can accurately
59 forecast the kind of information that the public would regard as relevant.
60 ~~Similarly, electronic media, such as the Internet, can be an important source~~
61 ~~of information about legal services, and lawful communication by electronic~~
62 ~~mail is permitted by this Rule.~~ But see Rule 7.3(a) for the prohibition against
63 ~~the~~ solicitation of a prospective client through a real-time electronic
64 ~~exchange that is not initiated by the prospective client lawyer.~~

65 [4] Neither this Rule nor Rule 7.3 prohibits communications authorized by
66 law, such as notice to members of a class in class action litigation.

67 Paying Others to Recommend a Lawyer

68 [5] ~~Lawyers~~ Except as permitted by Paragraph (f), lawyers are not permitted
69 to pay others for recommending the lawyer's services or for channeling
70 professional work. ~~Paragraph (b)(1),~~ in a manner that violates Rule 7.3. A
71 communication contains a recommendation if it endorses or vouches for a
72 lawyer's credentials, abilities, competence, character, or other professional
73 qualities. Paragraph (f), however, allows a lawyer to pay for advertising and
74 communications permitted by this Rule, including the costs of print directory
75 listings, on-line directory listings, newspaper ads, television and radio airtime,
76 domain-name registrations, sponsorship fees, ~~banner ads~~ Internet-based
77 advertisements and group advertising. A lawyer may compensate
78 employees, agents and vendors who are engaged to provide marketing or
79 client-development services, such as publicists, public-relations personnel,
80 business-development staff and website designers. ~~See Rule 5.3 for the~~
81 ~~duties of lawyers and law firms with respect to the conduct of nonlawyers who~~

82 ~~prepare marketing materials for them.~~ Moreover, a lawyer may pay others for
83 generating client leads, such as Internet-based client leads, as long as the
84 lead generator does not recommend the lawyer, and any payment to the lead
85 generator is consistent with the lawyers obligations under these rules. To
86 comply with Rule 7.1, a lawyer must not pay a lead generator that states,
87 implies, or creates a reasonable impression that it is recommending the
88 lawyer, is making the referral without payment from the lawyer, or has
89 analyzed a person's legal problems when determining which lawyer should
90 receive the referral. See Rule 5.3 (duties of lawyers and law firms with respect
91 to the conduct of non-lawyers); Rules 8.4(a) (duty to avoid violating the Rules
92 through the acts of another).

93 [6] A lawyer may pay the usual charges of a legal service plan or a lawyer
94 referral service. A legal service plan is a prepaid or group legal service plan or
95 a similar delivery system that assists prospective clients to secure legal
96 representation. A lawyer referral service, on the other hand, is an organization
97 that holds itself out to the public to provide referrals to lawyers with
98 appropriate experience in the subject matter of the representation. No fee
99 generating referral may be made to any lawyer or firm that has an ownership
100 in, or who operates or is employed by, the lawyer referral service, or who is
101 associated with a firm that has an ownership in, or operates or is employed
102 by, the lawyer referral service.

103 [7] A lawyer who accepts assignments or referral from a legal service plan
104 or referrals from a lawyer referral service must act reasonably to assure that
105 the activities of the plan or service are compatible with the lawyer's
106 professional obligations. See Rule 5.3. Legal service plans and lawyer referral
107 services may communicate with ~~prospective clients~~ the public, but such
108 communication must be in conformity with these Rules. Thus, advertising

109 must not be false or misleading, as would be the case if the communications
110 of a group advertising program or a group legal services plan would mislead
111 ~~prospective clients~~ the public to think that it was a lawyer referral service
112 sponsored by a state agency or bar association. Nor could the lawyer allow in-
113 person, telephonic, or real-time contacts that would violate Rule 7.3.

114 [7a8] For the disciplinary authority and choice of law provisions applicable
115 to advertising, see Rule 8.5.

116 [8a] This rule differs from the ABA Model Rule in that it defines
117 “advertisement” and places some limitations on advertisements. Utah Rule
118 7.2(b)(2) also differs from the ABA Model Rule by permitting a lawyer to pay
119 the usual charges of any lawyer referral service. This is not limited to not-for-
120 profit services. Comment [6] to the Utah rule is modified accordingly.