

Rule 7.1. Communications Concerning a Lawyer's Services.

(a) A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

(ai) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(bii) is likely to create an unjustified or unreasonable expectation about results the lawyer can achieve or has achieved; or

(eiii) contains a testimonial or endorsement that violates any portion of this Rule.

(b) A lawyer shall not interact with a prospective client in a manner that involves coercion, duress, or harassment.

Comments

[1] This Rule governs all communications about a lawyer's services, ~~including advertising permitted by Rule 7.2.~~ Whatever means are used to make known a lawyer's services, statements about them must be truthful.

[2] Truthful statements that are misleading are also prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading. A truthful statement is also misleading if there is a substantial likelihood that it will lead a reasonable person to formulate a specific conclusion about the lawyer or the lawyer's services for which there is no reasonable factual foundation.

[3] By way of example, this Rule permits the following, so long as they are not false or misleading: public dissemination of information concerning a lawyer's name or firm name, address, email address, website, and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; the use of actors or dramatizations to portray the lawyer, law firm, client, or events; the courts or jurisdictions where the lawyer is permitted to practice, and other information that might invite the attention of those seeking legal assistance.

[4] An advertisement that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case. Similarly, an unsubstantiated comparison of the lawyer's services or fees with the services or fees of other

32 lawyers may be misleading if presented with such specificity as would lead a reasonable person
33 to conclude that the comparison can be substantiated. The inclusion of an appropriate disclaimer
34 or qualifying language may preclude a finding that a statement is likely to create unjustified
35 expectations or otherwise mislead the public.

36 ~~[4] See also Rule 8.4(e) for the prohibition against stating or implying an ability to influence~~
37 ~~improperly a government agency or official or to achieve results by means that violate the Rules~~
38 ~~of Professional Conduct or other law.~~ 5] A lawyer can communicate practice areas and can state
39 that he or she “specializes” in a field based on experience, training, and education, subject to the
40 “false or misleading” standard set forth in this Rule. A lawyer shall not state or imply that the
41 lawyer is certified as a specialist in a particular field unless the lawyer has been certified as a
42 specialist by an objective entity and the name of the entity is clearly identified in the
43 communication.

44 [6] In order to avoid coercion, duress, or harassment, a lawyer should proceed with caution
45 when initiating contact with someone in need of legal services, especially when the contact is
46 “live,” whether that be in-person, face-to-face, live telephone and other real-time visual or
47 auditory person-to-person communications, where the person is subject to a direct personal
48 encounter without time for reflection.

49 [7] Firm names, letterhead and professional designations are communications concerning a
50 lawyer’s services. A firm may be designated by the names of all or some of its current members,
51 by the names of deceased or retired members where there has been a succession in the firm’s
52 identity or by a trade name if it is not false or misleading. A lawyer or law firm also may be
53 designated by a distinctive website address, social media username or comparable professional
54 designation that is not misleading. A law firm name or designation is misleading if it implies a
55 connection with a government agency, with a deceased lawyer who was not a former member of
56 the firm, with a lawyer not associated with the firm or a predecessor firm, with a nonlawyer or
57 with a public or charitable legal services organization. If a firm uses a trade name that includes a
58 geographical name such as “Springfield Legal Clinic,” an express statement explaining that it is
59 not a public legal aid organization may be required to avoid a misleading implication.

60 [8] A law firm with offices in more than one jurisdiction may use the same name or other
61 professional designation in each jurisdiction.

62 [9] Lawyers may not imply or hold themselves out as practicing together in one firm when
63 they are not a firm, as defined in Rule 1.0(d), because to do so would be false and misleading.

64 [10] It is misleading to use the name of a lawyer holding public office in the name of a law
65 firm, or in communications on the law firm's behalf, during any substantial period in which the
66 lawyer is not practicing with the firm. A firm may continue to use in its firm name the name of a
67 lawyer who is serving in Utah's part-time legislature as long as that lawyer is still associated
68 with the firm.

69 [11] See Rules 5.3 (duties of lawyers and law firms with respect to the conduct of non-
70 lawyers); Rule 8.4(a) (duty to avoid violating the Rules through the acts of another); and Rule
71 8.4(e) (prohibition against stating or implying an ability to influence improperly a government
72 agency or official or to achieve results by means that violate the Rules of Professional Conduct
73 or other law).

74 [4a12] The Utah Rule is different. This Rule differs from the ABA Model Rule. Subsections
75 (b), (c), and (d) are added to the Rule to give further guidance as to which
76 communications are false or misleading. Additional changes have been made to the comments.

77 Rule 7.2. Advertising.

78 lawyer may pay the reasonable cost of advertising permitted by these Rules and may pay
79 the usual charges of a lawyer referral service or other legal service plan.

80 Comment

81 [1] To assist the public in learning about and obtaining legal services, lawyers should be
82 allowed to make known their services not only through reputation but also through organized
83 information campaigns in the form of advertising. Advertising involves an active quest for
84 clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's
85 need to know about legal services can be fulfilled in part through advertising. This need is
86 particularly acute in the case of persons of moderate means who have not made extensive use
87 of legal services. The interest in expanding public information about legal services ought to
88 prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk
89 of practices that are misleading or overreaching.

90 [2] This Rule permits public dissemination of information concerning a lawyer's name or
91 firm name, address, email address, website and telephone number; the kinds of services the
92 lawyer will undertake; the basis on which the lawyer's fees are determined, including prices
93 for specific services and payment and credit arrangements; a lawyer's foreign language
94 ability; names of references and, with their consent, names of clients regularly represented;
95 and other information that might invite the attention of those seeking legal assistance.

96 [3] Questions of effectiveness and taste in advertising are matters of speculation and
97 subjective judgment. Some jurisdictions have had extensive prohibitions against
98 television and other forms of advertising, against advertising going beyond specified facts
99 about a lawyer or against "undignified" advertising. Television, the Internet and other forms
100 of electronic communication are now among the most powerful media for getting
101 information to the public, particularly persons of low and moderate income; prohibiting
102 television, Internet, and other forms of electronic advertising, therefore, would impede the
103 flow of information about legal services to many sectors of the public. Limiting the
104 information that may be advertised has a similar effect and assumes that the Bar can
105 accurately forecast the kind of information that the public would regard as relevant. But see
106 Rule 7.3(a) for the prohibition against a solicitation through a real-time electronic exchange
107 initiated by the lawyer.

108 ~~[4] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as~~
109 ~~notice to members of a class in class action litigation.~~

110 ~~Paying Others to Recommend a Lawyer~~

111 ~~[5] Except as permitted by Paragraph (f), lawyers are not permitted to pay others~~
112 ~~for recommending the lawyer's services or for channeling professional work~~
113 ~~in a manner that violates Rule 7.3. A communication contains a recommendation if it~~
114 ~~endorses or vouches for a lawyer's credentials, abilities, competence, character, or other~~
115 ~~professional qualities. Paragraph (f), however, allows a lawyer to pay for advertising and~~
116 ~~communications permitted by this Rule, including the costs of print directory listings, on-line~~
117 ~~directory listings, newspaper ads, television and radio airtime, domain name registrations,~~
118 ~~sponsorship fees, Internet based advertisements and group advertising. A lawyer may~~
119 ~~compensate employees, agents and vendors who are engaged to provide marketing or client-~~
120 ~~development services, such as publicists, public relations personnel, business development~~
121 ~~staff and website designers. Moreover, a lawyer may pay others for generating client leads,~~
122 ~~such as Internet based client leads, as long as the lead generator does not recommend the~~
123 ~~lawyer, and any payment to the lead generator is consistent with the lawyer's obligations~~
124 ~~under these rules. To comply with Rule 7.1, a lawyer must not pay a lead generator that~~
125 ~~states, implies, or creates a reasonable impression that it is recommending the lawyer, is~~
126 ~~making the referral without payment from the lawyer, or has analyzed a person's legal~~
127 ~~problems when determining which lawyer should receive the referral. See Rule 5.3 (duties of~~
128 ~~lawyers and law firms with respect to the conduct of non-lawyers); Rule 8.4(a) (duty to avoid~~
129 ~~violating the Rules through the acts of another).~~

130 ~~[6] A lawyer may pay the usual charges of a legal service plan or a lawyer referral~~
131 ~~service. A legal service plan is a prepaid or group legal service plan or a similar delivery~~
132 ~~system that assists prospective clients to secure legal representation. A lawyer referral~~
133 ~~service, on the other hand, is an organization that holds itself out to the public to provide~~
134 ~~referrals to lawyers with appropriate experience in the subject matter of the~~
135 ~~representation. No fee generating referral may be made to any lawyer or firm that has an~~
136 ~~ownership interest in, or who operates or is employed by, the lawyer referral service, or who~~
137 ~~is associated with a firm that has an ownership interest in, or operates or is employed by, the~~
138 ~~lawyer referral service.~~

139 ~~[7] A lawyer who accepts assignments or referral from a legal service plan or referrals~~
140 ~~from a lawyer referral service must act reasonably to assure that the activities of the plan or~~
141 ~~service are compatible with the lawyer's professional obligations. See Rule 5.3. Legal service~~
142 ~~plans and lawyer referral services may communicate with the public, but such~~
143 ~~communication must be in conformity with these Rules. Thus, advertising must not be false~~
144 ~~or misleading, as would be the case if the communications of a group advertising program or~~
145 ~~a group legal services plan would mislead the public to think that it was a lawyer referral~~
146 ~~service sponsored by a state agency or bar association. Nor could the lawyer allow in person,~~
147 ~~telephonic, or real-time contacts that would violate Rule 7.3.~~

148 ~~[8] For the disciplinary authority and choice of law provisions applicable to advertising,~~
149 ~~see Rule 8.5.~~

150 ~~[8a] This Rule differs from the ABA Model Rule in that it defines "advertisement" and~~
151 ~~places some limitations on advertisements. Utah Rule 7.2(b)(2) also differs from the ABA~~
152 ~~Model Rule by permitting a lawyer to pay the usual charges of any lawyer referral service.~~
153 ~~This is not limited to not for profit services. Comment [6] to the Utah rule is modified~~
154 ~~accordingly.~~

155 Reserved.

156

157 **Rule 7.3. Solicitation of Clients.**

158 ~~(a) A lawyer shall not by in person, live telephone or real time electronic contact solicit~~
159 ~~professional employment from a prospective client when a significant motive for the lawyer's~~
160 ~~doing so is the lawyer's pecuniary gain, unless the person contacted:~~

161 ~~(a)(1) is a lawyer;~~

162 ~~(a)(2) has a family, close personal, or prior professional relationship with the lawyer, or~~

163 ~~(a)(3) is unable to make personal contact with a lawyer and the lawyer's contact with the~~
164 ~~prospective client has been initiated by a third party on behalf of the prospective client.~~

165 ~~(b) A lawyer shall not solicit professional employment by written, recorded or electronic~~
166 ~~communication or by in person, live telephone or real time electronic contact even when not~~
167 ~~otherwise prohibited by paragraph (a), if:~~

168 ~~(b)(1) the target of the solicitation has made known to the lawyer a desire not to be solicited~~
169 ~~by the lawyer; or~~

170 ~~(b)(2) the solicitation involves coercion, duress or harassment.~~

171 ~~(c) Every written, recorded or electronic communication from a lawyer soliciting~~
172 ~~professional employment from anyone known to be in need of legal services in a particular~~
173 ~~matter shall include the words "Advertising Material" on the outside envelope, if any, and at the~~
174 ~~beginning of any recorded or electronic communication, unless the recipient of the~~
175 ~~communication is a person specified in paragraphs (a)(1) or (a)(2). For the purposes of this~~
176 ~~subsection, "written communication" does not include advertisement through public media,~~
177 ~~including but not limited to a telephone directory, legal directory, newspaper or other periodical,~~
178 ~~outdoor advertising, radio, television or webpage.~~

179 ~~(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a~~
180 ~~prepaid or group legal service plan operated by an organization not owned or directed by the~~
181 ~~lawyer that uses in person or other real time communication to solicit memberships or~~
182 ~~subscriptions for the plan from persons who are not known to need legal services in a particular~~
183 ~~matter covered by the plan.~~

184 **Comment**

185 [1] ~~A solicitation is a targeted communication initiated by the lawyer that is directed to a~~
186 ~~specific person and that offers to provide, or can reasonably be understood as offering to provide,~~
187 ~~legal services. In contrast, a lawyer's communication typically does not constitute a solicitation~~

188 if it is directed to the general public, such as through a billboard, an Internet banner
189 advertisement, a website or a television commercial, or if it is in response to a request for
190 information or is automatically generated in response to Internet searches.

191 [2] There is a potential for abuse when a solicitation involves direct in person, live telephone
192 or real-time electronic contact by a lawyer with someone known to need legal services. These
193 forms of contact subject a person to the private importuning of the trained advocate in a direct
194 interpersonal encounter. The person, who may already feel overwhelmed by the circumstances
195 giving rise to the need for legal services, may find it difficult fully to evaluate all available
196 alternatives with reasoned judgment and appropriate self-interest in the face of the lawyer's
197 presence and insistence upon being retained immediately. The situation is fraught with the
198 possibility of undue influence, intimidation, and over-reaching.

199 [3] This potential for abuse inherent in direct in person, live telephone or real-time electronic
200 solicitation justifies its prohibition, particularly since lawyers have alternative means of
201 conveying necessary information to those who may be in need of legal services. In particular,
202 communications can be mailed or transmitted by email or other electronic means that do not
203 involve real-time contact and do not violate other laws governing solicitations. These forms of
204 communications and solicitations make it possible for the public to be informed about the need
205 for legal services, and about the qualifications of available lawyers and law firms, without
206 subjecting the public to direct in person, live telephone or real-time electronic persuasion that
207 may overwhelm a person's judgment.

208 [4] The use of general advertising and written, recorded or electronic communications to
209 transmit information from lawyer to the public, rather than direct in person or other real-time
210 communications, will help to ensure that the information flows cleanly as well as freely. The
211 contents of advertisements and communications permitted under Rule 7.2 can be permanently
212 recorded so that they cannot be disputed and may be shared with others who know the lawyer.
213 This potential for informal review is itself likely to help guard against statements and claims that
214 might constitute false and misleading communications in violation of Rule 7.1. The contents of
215 direct in person, live telephone or real-time electronic contact can be disputed and may not be
216 subject to third-party scrutiny. Consequently, they are much more likely to approach (and
217 occasionally cross) the dividing line between accurate representations and those that are false
218 and misleading.

219 ~~[5] There is far less likelihood that a lawyer would engage in abusive practices against a~~
220 ~~former client, or a person with whom the lawyer has a close personal or family relationship, or~~
221 ~~where the lawyer has been asked by a third party to contact a prospective client who is unable to~~
222 ~~contact a lawyer, for example when the prospective client is incarcerated and is unable to place a~~
223 ~~call, or is mentally incapacitated and unable to appreciate the need for legal counsel. Nor is there~~
224 ~~a serious potential for abuse in situations where the lawyer is motivated by considerations other~~
225 ~~than the lawyer's pecuniary gain, or when the person contacted is also a lawyer. This rule is not~~
226 ~~intended to prohibit a lawyer from applying for employment with an entity, for example, as in-~~
227 ~~house counsel. Consequently, the general prohibition in Rule 7.3(a) and the requirements of~~
228 ~~Rule 7.3(e) are not applicable in those situations. Also, paragraph (a) is not intended to prohibit a~~
229 ~~lawyer from participating in constitutionally protected activities of public or charitable legal-~~
230 ~~service organizations or bona fide political, social, civic, fraternal, employee or trade~~
231 ~~organizations whose purposes include providing or recommending legal services to their~~
232 ~~members or beneficiaries.~~

233 ~~[5a] Utah's Rule 7.3(a) differs from the ABA Model Rule by authorizing in-person or other~~
234 ~~real-time contact by a lawyer with a prospective client when that prospective client is unable to~~
235 ~~make personal contact with a lawyer, but a third party initiates contact with a lawyer on behalf of~~
236 ~~the prospective client and the lawyer then contacts the prospective client.~~

237 ~~[6] But even permitted forms of solicitation can be abused. Thus, any solicitation which~~
238 ~~contains information that is false or misleading within the meaning of Rule 7.1, that involves~~
239 ~~coercion, duress or harassment within the meaning of Rule 7.3(b)(2), or that involves contact~~
240 ~~with someone who has made known to the lawyer a desire not to be solicited by the lawyer~~
241 ~~within the meaning of Rule 7.3(b)(1) is prohibited. Moreover, if after sending a letter or other~~
242 ~~communication as permitted by Rule 7.2 the lawyer receives no response, any further effort to~~
243 ~~communicate with the recipient of the communication may violate the provisions of Rule 7.3(b).~~

244 ~~[7] This Rule is not intended to prohibit a lawyer from contacting representatives of~~
245 ~~organizations or groups that may be interested in establishing a group or prepaid legal plan for~~
246 ~~their members, insureds, beneficiaries or other third parties for the purpose of informing such~~
247 ~~entities of the availability of and the details concerning the plan or arrangement which the lawyer~~
248 ~~or lawyer's firm is willing to offer. This form of communication is not directed to people who~~
249 ~~are seeking legal services for themselves. Rather, it is usually addressed to an individual acting~~

250 in a fiduciary capacity seeking a supplier of legal services for others who may, if they choose,
251 become prospective clients of the lawyer. Under these circumstances, the activity which the
252 lawyer undertakes in communicating with such representatives and the type of information
253 transmitted to the individual are functionally similar to and serve the same purpose as advertising
254 permitted under Rule 7.2.

255 [8] The requirement in Rule 7.3(c) that certain communications be marked "Advertising
256 Material" does not apply to communications sent in response to requests of potential clients or
257 their spokespersons or sponsors. General announcements by lawyers, including changes in
258 personnel or office location, do not constitute communications soliciting professional
259 employment from a client known to be in need of legal services within the meaning of this Rule.

260 [8a] Utah Rule 7.3(c) requires the words "Advertising Material" to be marked on the outside
261 of an envelope, if any, and at the beginning of any recorded or electronic communication, but not
262 at the end as the ABA Model Rule requires. Lawyer solicitations in public media that regularly
263 contain advertisements do not need the "Advertising Material" notice because persons who view
264 or hear such media usually recognize the nature of the communications.

265 [9] Paragraph (d) of this Rule permits a lawyer to participate with an organization that uses
266 personal contact to solicit members for its group or prepaid legal service plan, provided that the
267 personal contact is not undertaken by any lawyer who would be a provider of legal services
268 through the plan. The organization must not be owned by or directed (whether as manager or
269 otherwise) by any lawyer or law firm that participates in the plan. For example, paragraph (d)
270 would not permit a lawyer to create an organization controlled directly or indirectly by the
271 lawyer and use the organization for the in person or telephone, live person to person contacts or
272 other real time electronic solicitation of legal employment of the lawyer through memberships in
273 the plan or otherwise. The communication permitted by these organizations also must not be
274 directed to a person known to need legal services in a particular matter, but is to be designed to
275 inform potential plan members generally of another means of affordable legal services. Lawyers
276 who participate in a legal service plan must reasonably assure that the plan sponsors are in
277 compliance with Rules 7.1, 7.2 and 7.3(b). See Rule 8.4(a). Reserved.

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280 **Rule 7.4. Communication of Fields of Practice.**

281 ~~(a) A lawyer may communicate the fact that the lawyer does or does not practice in particular~~
282 ~~fields of law.~~

283 ~~(b) A lawyer admitted to engage in patent practice before the United States Patent and~~
284 ~~Trademark Office may use the designation "Patent Attorney" or a substantially similar~~
285 ~~designation.~~

286 ~~(c) A lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in~~
287 ~~Admiralty" or substantially similar designation.~~

288 ~~(d) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular~~
289 ~~field of law, unless:~~

290 ~~(d)(1) the lawyer has been certified as a specialist by an organization that has been approved~~
291 ~~by an appropriate state authority or that has been accredited by the American Bar Association;~~
292 ~~and~~

293 ~~(d)(2) the name of the certifying organization is clearly identified in the communication.~~

294 **Comment**

295 ~~[1] Paragraph (a) of this Rule permits a lawyer to indicate areas of practice in~~
296 ~~communications about the lawyer's services. If a lawyer practices only in certain fields or will~~
297 ~~not accept matters except in a specified field or fields, the lawyer is permitted to so indicate. A~~
298 ~~lawyer is generally permitted to state that the lawyer is a "specialist," practices a "specialty" or~~
299 ~~"specializes in" particular fields, but such communications are subject to the "false and~~
300 ~~misleading" standard applied in Rule 7.1 to communications concerning a lawyer's services.~~

301 ~~[2] Paragraph (b) recognizes the long established policy of the Patent and Trademark Office~~
302 ~~for the designation of lawyers practicing before the Office. Paragraph (c) recognizes that~~
303 ~~designation of Admiralty practice has a long historical tradition associated with maritime~~
304 ~~commerce and the federal courts.~~

305 ~~[3] Paragraph (d) permits a lawyer to state that the lawyer is certified as a specialist in a field~~
306 ~~of law if such certification is granted by an organization approved by an appropriate state~~
307 ~~authority or accredited by the American Bar Association or another organization, such as a state~~
308 ~~bar association, that has been approved by the state authority to accredit organizations that~~
309 ~~certify lawyers as specialists. Certification signifies that an objective entity has recognized an~~
310 ~~advanced degree of knowledge and experience in the specialty area greater than is suggested by~~

311 ~~general licensure to practice law. Certifying organizations may be expected to apply standards of~~
312 ~~experience, knowledge and proficiency to insure that a lawyer's recognition as a specialist is~~
313 ~~meaningful and reliable. In order to insure that consumers can obtain access to useful~~
314 ~~information about an organization granting certification, the name of the certifying organization~~
315 ~~must be included in any communication regarding the certification.~~Reserved.

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317 **Rule 7.5. Firm Names and Letterheads.**

318 (a) A lawyer shall not use a firm name, letterhead or other professional designation that
319 violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a
320 connection with a government agency or with a public or charitable legal services organization
321 and is not otherwise in violation of Rule 7.1.

322 (b) A law firm with offices in more than one jurisdiction may use the same name or other
323 professional designation in each jurisdiction, but identification of the lawyers in an office of the
324 firm shall indicate the jurisdictional limitations on those not licensed to practice in the
325 jurisdiction where the office is located. Reserved.

326 (c) The name of a lawyer holding a public office shall not be used in the name of a law firm,
327 or in communications on its behalf, during any substantial period in which the lawyer is not
328 actively and regularly practicing with the firm.

329 (d) Lawyers may state or imply that they practice in a partnership or other organization only
330 when that is the fact.

331 **Comment**

332 [1] A firm may be designated by the names of all or some of its members, by the names of
333 deceased or retired members where there has been a continuing succession in the firm's identity
334 or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated
335 by a distinctive website address or comparable professional designation. Although the United
336 States Supreme Court has held that legislation may prohibit the use of trade names in
337 professional practice, use of such names in law practice is acceptable so long as it is not
338 misleading. If a private firm uses a trade name that includes a geographical name such as
339 "Springfield Legal Clinic," an express disclaimer that it is not a public legal aid agency may be
340 required to avoid a misleading implication. It may be observed that any firm name including the
341 name of a deceased or retired partner is, strictly speaking, a trade name. The use of such names
342 to designate law firms has proven a useful means of identification. However, it is misleading to
343 use the name of a lawyer who has not been associated with the firm or a predecessor of the firm,
344 or the name of a nonlawyer.

345 [2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact
346 associated with each other in a law firm, may not denominate themselves as, for example, "Smith
347 and Jones," for that title suggests that they are practicing law together in a firm.

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