

Section 1200.8 [DR 2-103] Solicitation and recommendation of professional employment.

(a) A lawyer shall not solicit professional employment from a prospective client **engage in solicitation**:

(1) by in-person or telephone contact, ~~except that a lawyer may solicit professional employment from~~ **or by real-time or interactive computer-accessed communication unless the recipient is** a close friend, relative, former client or current client;

(2) by ~~written or recorded~~ **any form of** communication if:

(i) the communication or contact violates sections 1200.6(a), **1200.8(e) or 1200.41-a(a)** of this Part;

(ii) the ~~prospective client~~ **recipient** has made known to the lawyer a desire not to be solicited by the lawyer;

(iii) the ~~solicitation~~ **communication** involves coercion, duress or harassment;

(iv) the lawyer knows or reasonably should know that the age or the physical, emotional or mental state of the recipient makes **it** unlikely that the recipient will be able to exercise reasonable judgment in retaining ~~an attorney~~ **lawyer**; or

(v) the lawyer intends or expects, but does not disclose, that the legal services necessary to handle the matter competently will be performed primarily by another lawyer who is not affiliated with the soliciting lawyer as a partner, associate or of counsel.

(b) A lawyer shall not compensate or give anything of value to a person or organization to recommend or obtain employment by a client, or as a reward for having made a recommendation resulting in employment by a client, except that:

(1) a lawyer or law firm may refer clients to a nonlegal professional or nonlegal professional service firm pursuant to a contractual relationship with such nonlegal professional or nonlegal professional service firm to provide legal and other professional services on a systematic and continuing basis as permitted by section 1200.5-c of this Part, provided however that such referral shall not otherwise include any monetary or other tangible consideration or reward for such, or the sharing of legal fees; or

(2) a lawyer may pay the usual and reasonable fees or dues charged by a qualified legal assistance organization or referral fees to another lawyer as permitted by section 1200.12 of this Part.

(c) ~~No~~ **A** written solicitation shall **only** be sent by a method that **does not** requires the recipient to travel to a location other than that at which the recipient ordinarily receives business or personal mail **and that does not require a signature on the part of the recipient.**

(d) A lawyer or the lawyer's partner or associate or any other affiliated lawyer may be recommended, employed or paid by, or may cooperate with one of the following offices or organizations which promote the use of the lawyer's services or those of a partner or associate or any other affiliated lawyer, or request one of the following offices or organizations to recommend or promote the use of the lawyer's services or those of the lawyer's partner or associate, or any other affiliated lawyer as a private practitioner, if there is no interference with the exercise of independent professional judgment on behalf of the client:

(1) a legal aid office or public defender office:

(i) operated or sponsored by a duly accredited law school;

(ii) operated or sponsored by a bona fide, non-profit community organization;

(iii) operated or sponsored by a governmental agency; or

(iv) operated, sponsored, or approved by a bar association;

(2) a military legal assistance office;

(3) a lawyer referral service operated, sponsored or approved by a bar association or authorized by law or court rule;

(4) any bona fide organization which recommends, furnishes or pays for legal services to its members or beneficiaries provided the following conditions are satisfied:

(i) Neither the lawyer, nor the lawyer's partner, nor associate, nor any other affiliated lawyer nor any nonlawyer, shall have initiated or promoted such organization for the primary purpose of providing financial or other benefit to such lawyer, partner, associate or affiliated lawyer.

(ii) Such organization is not operated for the purpose of procuring legal work or financial benefit for any lawyer as a private practitioner outside of the legal services program of the organization.

(iii) The member or beneficiary to whom the legal services are furnished, and not such organization, is recognized as the client of the lawyer in the matter.

(iv) The legal service plan of such organization provides appropriate relief for any member or beneficiary who asserts a claim that representation by counsel furnished, selected or approved by the organization for the particular matter involved would be unethical, improper or inadequate under the circumstances of the matter involved; and the plan provides an appropriate procedure for seeking such relief.

(v) The lawyer does not know or have cause to know that such organization is in violation of applicable laws, rules of court or other legal requirements that govern its legal service operations.

(vi) Such organization has filed with the appropriate disciplinary authority, to the extent required by such authority, at least annually a report with respect to its legal service plan, if any, showing its terms, its schedule of benefits, its subscription charges, agreements with counsel and financial results of its legal service activities or, if it has failed to do so, the lawyer does not know or have cause to know of such failure.

~~(e) A lawyer shall not accept employment when the lawyer knows or it is obvious that the person who seeks services does so as a result of conduct prohibited under this disciplinary rule.~~

~~(f) Advertising not proscribed under section 1200.6 of this Part shall not be deemed in violation of any provision of this disciplinary rule.~~

(e) No advertisement or solicitation relating to a specific incident involving potential claims for personal injury or wrongful death shall be disseminated before the 30th day after the date of the incident, unless a filing must be made within 30 days of the incident as a legal prerequisite to the particular claim, in which case no unsolicited communication shall be made before the 15th day after the date of the incident.

(f) Any solicitation made in writing or by computer-accessed communication, if prompted by a specific occurrence involving or affecting a recipient, shall disclose how the lawyer obtained the identity of the recipient and learned of the recipient's potential legal need.

(g) If a retainer agreement is provided with any solicitation, the top of each page shall be marked "SAMPLE" in red ink in a type size equal to the largest type size used in the agreement and the words "DO NOT SIGN" shall appear on the client signature line.