



## **RECOMMENDATION OF ADVERTISING COMMITTEE**

On April 16, 2011, the Supreme Court of Iowa established a committee to study Iowa's lawyer advertising rules for the purpose of improving their effectiveness. In furtherance of the charge, the committee has held meetings, undertaken research, solicited public comment, and held public hearings. The committee now recommends new Iowa Rules of Professional Conduct and associated court rules concerning lawyer advertising.

The committee believes that the current advertising rules do not adequately address recent developments in the law and in advertising media. Of primary concern is the fact that the current restrictions likely cannot withstand constitutional scrutiny under First Amendment precedent. Furthermore, internet and new social media have truly globalized the practice of law. The current rules prevent the public from receiving relevant information about Iowa lawyers.

Close adherence to the American Bar Association's Model Rules of Professional Conduct is recommended for several reasons. First and foremost, the committee believes the Model Rules it recommends reflect the high ethical standards historically required of lawyers practicing in Iowa. Second, it is the committee's belief that uniformity with other jurisdictions carries several benefits. Common ethical obligations expressed in a uniform manner promote understanding and compliance by Iowa lawyers with Iowa's ethical rules as well as with similar rules in other jurisdictions in which Iowa lawyers practice. Uniformity also facilitates legal research of ethics and the interpretation of ethical obligations.

It is therefore the unanimous recommendation of the committee to adopt ABA Model Rules 7.1-7.6, and 1.18, with some notable changes.

- Rule 7.4 (d) ("Communication of Fields of Practice and Specialization") would be bolstered to specifically include a link back to the Rule 7.1 requirement that reference to the certification be truthful and verifiable, and not misleading. Also, a disclaimer would be added to the rule to make clear that the Supreme Court does not recognize certifications of specialty.
- Use of tradenames would be allowed under Rule 7.5, however registration would be required. It is recommended that the Court also create a new court rule that establishes the mechanism for

trade name registration. A copy of proposed new Iowa Court Rule 49.4 is attached.

- The Model Rules at issue are currently in flux. The ABA Commission on Ethics 20/20 was established in 2009 to address the ethical and regulatory issues relating to new technology and the evolution of the legal profession. On February 21, 2012, the Commission released the final revised drafts of the Commission's proposals regarding Technology and Client Development. The changes have not yet been approved by the House of Delegates or the Board of Governors of the American Bar Association. The proposals are scheduled to go to the ABA House of Delegates in August of 2012.

Attached is a copy showing proposed changes to the Model Rules (including the changed proposed by the 20/20 Commission), and also a copy showing the Model Rules in their current form with strike-outs and additions.

In making these recommendations, the committee is relying upon adoption of the Model Rules with changes proposed by the 20/20 Commission. If the draft Model Rules undergo significant change, the Court should take into consideration these changes before making any final rule changes.

The work of the Committee, including research, public comments, forum minutes, and final recommendation, can be found on the Judicial Branch website at [www.iowacourts.gov](http://www.iowacourts.gov). Additional helpful resources include the Annotated Model Rules of Professional Conduct (2009) and the Center for Professional responsibility of the American Bar Association's website, [https://www.americanbar.org/groups/professional\\_responsibility](https://www.americanbar.org/groups/professional_responsibility).

1 **Rule 32:1.18 DUTIES TO PROSPECTIVE CLIENT**

2 (a) A person who communicates with a lawyer about the possibility of  
3 forming a client-lawyer relationship and has a reasonable expectation that the  
4 lawyer is willing to consider forming a client-lawyer relationship with respect to  
5 a matter is a prospective client.

6 (b) Even when no client-lawyer relationship ensues, a lawyer who has  
7 learned information from a prospective client shall not use or reveal that  
8 information, except as rule 32: 1.9 would permit with respect to information of  
9 a former client.

10 (c) A lawyer subject to paragraph (b) shall not represent a client with  
11 interests materially adverse to those of a prospective client in the same or a  
12 substantially related matter if the lawyer received information from the  
13 prospective client that could be significantly harmful to that person in the  
14 matter, except as provided in paragraph (d). If a lawyer is disqualified from  
15 representation under this paragraph, no lawyer in a firm with which that  
16 lawyer is associated may knowingly undertake or continue representation in  
17 such a matter, except as provided in paragraph (d).

18 (d) When the lawyer has received disqualifying information as defined in  
19 paragraph (c), representation is permissible if:

20 (1) both the affected client and the prospective client have given informed  
21 consent, confirmed in writing, or:

22 (2) the lawyer who received the information took reasonable measures to  
23 avoid exposure to more disqualifying information than was reasonably  
24 necessary to determine whether to represent the prospective client; and

25 (i) the disqualified lawyer is timely screened from any participation in the  
26 matter and is apportioned no part of the fee therefrom; and

27 (ii) written notice is promptly given to the prospective client.

28 **Comment**

29 [1] Prospective clients, like clients, may disclose information to a lawyer,  
30 place documents or other property in the lawyer's custody, or rely on the  
31 lawyer's advice. A lawyer's communications with a prospective client usually  
32 are limited in time and depth and leave both the prospective client and the  
33 lawyer free (and sometimes required) to proceed no further. Hence, prospective  
34 clients should receive some but not all of the protection afforded clients.

35 [2] Not all persons who communicate information to a lawyer are entitled to  
36 protection under this rule. A person who communicates information

1 unilaterally to a lawyer, without any reasonable expectation that the lawyer is  
2 willing to discuss the possibility of forming a client-lawyer relationship, is not a  
3 "prospective client" within the meaning of paragraph (a). Moreover, a person  
4 who communicates with a lawyer for the purpose of disqualifying the lawyer is  
5 not a "prospective client."

6 [3] A person becomes a prospective client when that person communicates  
7 with a lawyer under circumstances where the person has a reasonable  
8 expectation that the lawyer is willing to consider forming a client-lawyer  
9 relationship. The reasonableness of the person's expectations may depend on  
10 a number of factors, including whether the lawyer encouraged or solicited  
11 inquiries about a proposed representation; whether the lawyer previously  
12 represented or declined to represent the person; whether the person, prior to  
13 communicating with the lawyer, encountered any warnings or cautionary  
14 statements that were intended to limit, condition, waive or disclaim the  
15 lawyer's obligations; whether those warnings or cautionary statements were  
16 clear and reasonably understandable; and whether the lawyer acted or  
17 communicated in a manner that was contrary to the warnings or cautionary  
18 statements. For example, if a lawyer's website encourages a website visitor to  
19 submit a personal inquiry about a proposed representation and the website  
20 fails to include any cautionary language, the person submitting the information  
21 could become a prospective client. In contrast, if a lawyer's website does not  
22 expressly encourage or solicit inquiries about a proposed representation and  
23 merely offers general information about legal topics or information about the  
24 lawyer or the lawyer's firm, such as the lawyer's contact information,  
25 experience, and areas of practice, this information alone is typically insufficient  
26 to create a reasonable expectation that the lawyer is willing to consider forming  
27 a client-lawyer relationship.

28 [4] It is often necessary for a prospective client to reveal information to the  
29 lawyer during an initial consultation prior to the decision about formation of a  
30 client-lawyer relationship. The lawyer often must learn such information to  
31 determine whether there is a conflict of interest with an existing client and  
32 whether the matter is one that the lawyer is willing to undertake. Paragraph  
33 (b) prohibits the lawyer from using or revealing that information, except as  
34 permitted by rule 32:1.9, even if the client or lawyer decides not to proceed  
35 with the representation. The duty exists regardless of how brief the initial  
36 conference may be.

37 [5] In order to avoid acquiring disqualifying information from a prospective  
38 client, a lawyer considering whether or not to undertake a new matter should  
39 limit initial communications to only such information as reasonably appears  
40 necessary for that purpose. Where the information indicates that a conflict of  
41 interest or other reason for non-representation exists, the lawyer should so  
42 inform the prospective client or decline the representation. If the prospective  
43 client wishes to retain the lawyer, and if consent is possible under rule 32:1.7,

1 then consent from all affected present or former clients must be obtained  
2 before accepting the representation.

3 [6] A lawyer may condition communications with a prospective client on the  
4 person's informed consent that no information disclosed during the  
5 communications will prohibit the lawyer from representing a different client in  
6 the matter. See rule 32:1.0(e) for the definition of informed consent. If the  
7 agreement expressly so provides, the prospective client may also consent to the  
8 lawyer's subsequent use of information received from the prospective client.

9 [7] Even in the absence of an agreement, under paragraph (c), the lawyer is  
10 not prohibited from representing a client with interests adverse to those of the  
11 prospective client in the same or a substantially related matter unless the  
12 lawyer has received from the prospective client information that could be  
13 significantly harmful if used in the matter.

14 [8] Under paragraph (c), the prohibition in this rule is imputed to other  
15 lawyers as provided in rule 32:1.10, but, under paragraph (d)(1), imputation  
16 may be avoided if the lawyer obtains the informed consent, confirmed in  
17 writing, of both the prospective and affected clients. In the alternative,  
18 imputation may be avoided if the conditions of paragraph (d)(2) are met and all  
19 disqualified lawyers are timely screened and written notice is promptly given to  
20 the prospective client. See rule 32:1.0(k) (requirements for screening  
21 procedures). Paragraph (d)(2)(i) does not prohibit the screened lawyer from  
22 receiving a salary or partnership share established by prior independent  
23 agreement, but that lawyer may not receive compensation directly related to  
24 the matter in which the lawyer is disqualified.

25 [9] Notice, including a general description of the subject matter about  
26 which the lawyer was consulted, and of the screening procedures employed,  
27 generally should be given as soon as practicable after the need for screening  
28 becomes apparent.

29 [10] For the duty of competence of a lawyer who gives assistance on the  
30 merits of a matter to a prospective client, see rule 32:1.1. For a lawyer's duties  
31 when a prospective client entrusts valuables or papers to the lawyer's care, see  
32 rule 32:1.15.

33

1 **Rule 32:7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**

2 A lawyer shall not make a false or misleading communication about the  
3 lawyer or the lawyer's services. A communication is false or misleading if it  
4 contains a material misrepresentation of fact or law, or omits a fact necessary  
5 to make the statement considered as a whole not materially misleading.

6 **Comment**

7 [1] This rule governs all communications about a lawyer's services,  
8 including advertising permitted by rule 32:7.2. Whatever means are used to  
9 make known a lawyer's services, statements about them must be truthful.

10 [2] Truthful statements that are misleading are also prohibited by this rule.  
11 A truthful statement is misleading if it omits a fact necessary to make the  
12 lawyer's communication considered as a whole not materially misleading. A  
13 truthful statement is also misleading if there is a substantial likelihood that it  
14 will lead a reasonable person to formulate a specific conclusion about the  
15 lawyer or the lawyer's services for which there is no reasonable factual  
16 foundation.

17 [3] An advertisement that truthfully reports a lawyer's achievements on  
18 behalf of clients or former clients may be misleading if presented so as to lead a  
19 reasonable person to form an unjustified expectation that the same results  
20 could be obtained for other clients in similar matters without reference to the  
21 specific factual and legal circumstances of each client's case. Similarly, an  
22 unsubstantiated comparison of the lawyer's services or fees with the services or  
23 fees of other lawyers may be misleading if presented with such specificity as  
24 would lead a reasonable person to conclude that the comparison can be  
25 substantiated. The inclusion of an appropriate disclaimer or qualifying  
26 language may preclude a finding that a statement is likely to create unjustified  
27 expectations or otherwise mislead the public.

28 [4] See also rule 32:8.4(e) for the prohibition against stating or implying an  
29 ability to influence improperly a government agency or official or to achieve  
30 results by means that violate the Iowa Rules of Professional Conduct or other  
31 law.

32

1 **Rule 32:7.2 ADVERTISING**

2 (a) Subject to the requirements of rules 32:7.1 and 32:7.3, a lawyer may  
3 advertise services through written, recorded, or electronic communication,  
4 including public media.

5 (b) A lawyer shall not give anything of value to a person for recommending  
6 the lawyer's services except that a lawyer may

7 (1) pay the reasonable costs of advertisements or communications permitted  
8 by this rule;

9 (2) pay the usual charges of a legal service plan or a not-for-profit or  
10 qualified lawyer referral service. A qualified lawyer referral service is a lawyer  
11 referral service that has been approved by an appropriate regulatory authority;

12 (3) pay for a law practice in accordance with rule 32:1.17; and

13 (4) refer clients to another lawyer or a nonlawyer professional pursuant to  
14 an agreement not otherwise prohibited under these rules that provides for the  
15 other person to refer clients or customers to the lawyer, if

16 (i) the reciprocal referral agreement is not exclusive, and

17 (ii) the client is informed of the existence and nature of the agreement.

18 (c) Any communication made pursuant to this rule shall include the name  
19 and office address of at least one lawyer or law firm responsible for its content.

20 **Comment**

21 [1] To assist the public in learning about and obtaining legal services,  
22 lawyers should be allowed to make known their services not only through  
23 reputation but also through organized information campaigns in the form of  
24 advertising. Advertising involves an active quest for clients, contrary to the  
25 tradition that a lawyer should not seek clientele. However, the public's need to  
26 know about legal services can be fulfilled in part through advertising. This  
27 need is particularly acute in the case of persons of moderate means who have  
28 not made extensive use of legal services. The interest in expanding public  
29 information about legal services ought to prevail over considerations of  
30 tradition. Nevertheless, advertising by lawyers entails the risk of practices that  
31 are misleading or overreaching.

32 [2] This rule permits public dissemination of information concerning a  
33 lawyer's name or firm name, address, email address, website, and telephone  
34 number; the kinds of services the lawyer will undertake; the basis on which the  
35 lawyer's fees are determined, including prices for specific services and payment

1 and credit arrangements; a lawyer's foreign language ability; names of  
2 references and, with their consent, names of clients regularly represented; and  
3 other information that might invite the attention of those seeking legal  
4 assistance.

5 [3] Questions of effectiveness and taste in advertising are matters of  
6 speculation and subjective judgment. Some jurisdictions have had extensive  
7 prohibitions against television and other forms of advertising, against  
8 advertising going beyond specified facts about a lawyer, or against "undignified"  
9 advertising. Television, the internet, and other forms of electronic  
10 communication are now among the most powerful media for getting  
11 information to the public, particularly persons of low and moderate income;  
12 prohibiting television, the internet, and other forms of electronic advertising,  
13 therefore, would impede the flow of information about legal services to many  
14 sectors of the public. Limiting the information that may be advertised has a  
15 similar effect and assumes that the bar can accurately forecast the kind of  
16 information that the public would regard as relevant. But see rule 32:7.3(a) for  
17 the prohibition against a solicitation through a real-time electronic exchange  
18 initiated by the lawyer.

19 [4] Neither this rule nor rule 32:7.3 prohibits communications authorized  
20 by law, such as notice to members of a class in class action litigation.

#### 21 *Paying Others to Recommend a Lawyer*

22 [5] Lawyers are not permitted to pay others for recommending the lawyer's  
23 services. A communication contains a recommendation if it endorses or  
24 vouches for a lawyer's credentials, abilities, competence, character, or other  
25 professional qualities. Paragraph (b)(1), however, allows a lawyer to pay for  
26 advertising and communications permitted by this rule, including the costs of  
27 print directory listings, on-line directory listings, newspaper ads, television and  
28 radio airtime, domain-name registrations, sponsorship fees, internet-based  
29 advertisements, and group advertising. A lawyer may compensate employees,  
30 agents and vendors who are engaged to provide marketing or client-  
31 development services, such as publicists, public-relations personnel, business-  
32 development staff and website designers. Moreover, a lawyer may pay others  
33 for generating client leads, such as internet-based client leads, as long as the  
34 lead generator affirmatively states that it does not recommend the lawyer, any  
35 payment to the lead generator is consistent with rules 32:1.5(e) (division of  
36 fees) and 32:5.4 (professional independence of the lawyer), and the lead  
37 generator's communications are consistent with rule 32:7.1 (communications  
38 concerning a lawyer's services). To comply with rule 32:7.1, the lawyer must  
39 ensure that the lead generator discloses that the lawyer has paid a fee in  
40 exchange for the lead and that the lead generator does not state or imply that it  
41 has analyzed a person's legal problems when determining which lawyer should

1 receive the referral. See also rule 32:5.3 for the duties of lawyers and law firms  
2 with respect to the conduct of nonlawyers.

3 [6] A lawyer may pay the usual charges of a legal service plan or a not-for-  
4 profit or qualified lawyer referral service. A legal service plan is a prepaid or  
5 group legal service plan or a similar delivery system that assists people who  
6 seek to secure legal representation. A lawyer referral service, on the other  
7 hand, is any organization that holds itself out to the public as a lawyer referral  
8 service. Such referral services are understood by laypersons to be consumer-  
9 oriented organizations that provide unbiased referrals to lawyers with  
10 appropriate experience in the subject matter of the representation and afford  
11 other client protections, such as complaint procedures or malpractice  
12 insurance requirements. Consequently, this rule only permits a lawyer to pay  
13 the usual charges of a not-for-profit or qualified lawyer referral service. A  
14 qualified lawyer referral service is one that is approved by an appropriate  
15 regulatory authority as affording adequate protections for the public. See, e.g.,  
16 the American Bar Association's Model Supreme Court Rules Governing Lawyer  
17 Referral Services and Model Lawyer Referral and Information Service Quality  
18 Assurance Act (requiring that organizations that are identified as lawyer  
19 referral services (i) permit the participation of all lawyers who are licensed and  
20 eligible to practice in the jurisdiction and who meet reasonable objective  
21 eligibility requirements as may be established by the referral service for the  
22 protection of the public; (ii) require each participating lawyer to carry  
23 reasonably adequate malpractice insurance; (iii) act reasonably to assess client  
24 satisfaction and address client complaints; and (iv) do not make referrals to  
25 lawyers who own, operate or are employed by the referral service.)

26 [7] A lawyer who accepts assignments or referrals from a legal service plan  
27 or referrals from a lawyer referral service must act reasonably to assure that  
28 the activities of the plan or service are compatible with the lawyer's  
29 professional obligations. See rule 32:5.3. Legal service plans and lawyer  
30 referral services may communicate with prospective clients, but such  
31 communication must be in conformity with these rules. Thus, advertising  
32 must not be false or misleading, as would be the case if the communications of  
33 a group advertising program or a group legal services plan would mislead  
34 laypersons to think that it was a lawyer referral service sponsored by a state  
35 agency or bar association. Nor could the lawyer allow in-person, telephonic, or  
36 real-time contacts that would violate rule 32:7.3.

37 [8] A lawyer also may agree to refer clients to another lawyer or a nonlawyer  
38 professional, in return for the undertaking of that person to refer clients or  
39 customers to the lawyer. Such reciprocal referral arrangements must not  
40 interfere with the lawyer's professional judgment as to making referrals or as to  
41 providing substantive legal services. See rules 32:2.1 and 32:5.4(c). Except as  
42 provided in rule 32:1.5(e), a lawyer who receives referrals from a lawyer or  
43 nonlawyer professional must not pay anything solely for the referral, but the

1 lawyer does not violate paragraph (b) of this rule by agreeing to refer clients to  
2 the other lawyer or nonlawyer professional, so long as the reciprocal referral  
3 agreement is not exclusive and the client is informed of the referral agreement.  
4 Conflicts of interest created by such arrangements are governed by rule 32:1.7.  
5 Reciprocal referral agreements should not be of indefinite duration and should  
6 be reviewed periodically to determine whether they comply with these rules.  
7 This rule does not restrict referrals or divisions of revenues or net income  
8 among lawyers within firms comprised of multiple entities.

9

1 **Rule 32:7.3 DIRECT CONTACT WITH POTENTIAL CLIENTS**

2 (a) A lawyer shall not by in-person, live telephone or real-time electronic  
3 contact solicit professional employment when a significant motive for the  
4 lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted:

5 (1) is a lawyer; or

6 (2) has a family, close personal, or prior professional relationship with the  
7 lawyer.

8 (b) A lawyer shall not solicit professional employment by written, recorded,  
9 or electronic communication or by in-person, telephone, or real-time electronic  
10 contact even when not otherwise prohibited by paragraph (a), if:

11 (1) the target of the solicitation has made known to the lawyer a desire not  
12 to be solicited by the lawyer; or

13 (2) the solicitation involves coercion, duress, or harassment.

14 (c) Every written, recorded or electronic communication from a lawyer  
15 soliciting professional employment from anyone known to be in need of legal  
16 services in a particular matter shall include the words "Advertising Material" on  
17 the outside envelope, if any, and at the beginning and ending of any recorded  
18 or electronic communication, unless the recipient of the communication is a  
19 person specified in paragraphs (a)(1) or (a)(2).

20 (d) Notwithstanding the prohibitions in paragraph (a), a lawyer may  
21 participate with a prepaid or group legal service plan operated by an  
22 organization not owned or directed by the lawyer that uses in-person or  
23 telephone contact to solicit memberships or subscriptions for the plan from  
24 persons who are not known to need legal services in a particular matter  
25 covered by the plan.

26 **Comment**

27 [1] A solicitation is a targeted communication initiated by the lawyer that is  
28 directed to a specific person and that offers to provide, or can reasonably be  
29 understood as offering to provide, legal services. In contrast, a lawyer's  
30 communication typically does not constitute a solicitation if it is directed to the  
31 general public, such as through a billboard, an internet banner advertisement,  
32 a website or a television commercial, or if it is in response to a request for  
33 information or is automatically generated in response to internet searches.

34 [2] There is a potential for abuse when a solicitation involves direct in-  
35 person, live telephone, or real-time electronic contact by a lawyer with someone  
36 known to need legal services. These forms of contact subject the layperson to

1 the private importuning of the trained advocate in a direct interpersonal  
2 encounter. The layperson, who may already feel overwhelmed by the  
3 circumstances giving rise to the need for legal services, may find it difficult fully  
4 to evaluate all available alternatives with reasoned judgment and appropriate  
5 self-interest in the face of the lawyer's presence and insistence upon being  
6 retained immediately. The situation is fraught with the possibility of undue  
7 influence, intimidation, and over-reaching.

8 [3] This potential for abuse inherent in direct in-person, live telephone, or  
9 real-time electronic solicitation justifies its prohibition, particularly since  
10 lawyers have alternative means of conveying necessary information to those  
11 who may be in need of legal services. In particular, communications can be  
12 mailed or transmitted by email or other electronic means that do not involve  
13 real-time contact and do not violate other law governing other solicitation.  
14 These forms of communications and solicitations make it possible for the  
15 public to be informed about the need for legal services, and about the  
16 qualifications of available lawyers and law firms, without subjecting a  
17 layperson to direct in-person, telephone, or real-time electronic persuasion that  
18 may overwhelm the layperson's judgment.

19 [4] The use of general advertising and written, recorded or electronic  
20 communications to transmit information from lawyer to the public, rather than  
21 direct in-person, live telephone, or real-time electronic contact, will help to  
22 assure that the information flows cleanly as well as freely. The contents of  
23 advertisements and communications permitted under rule 32:7.2 can be  
24 permanently recorded so that they cannot be disputed and may be shared with  
25 others who know the lawyer. This potential for informal review is itself likely to  
26 help guard against statements and claims that might constitute false and  
27 misleading communications, in violation of rule 32:7.1. The contents of direct  
28 in-person, live telephone, or real-time electronic contact can be disputed and  
29 may not be subject to third-party scrutiny. Consequently, they are much more  
30 likely to approach (and occasionally cross) the dividing line between accurate  
31 representations and those that are false and misleading.

32 [5] There is far less likelihood that a lawyer would engage in abusive  
33 practices against a former client, or with whom the lawyer has close personal  
34 or family relationship, or in situations in which the lawyer is motivated by  
35 considerations other than the lawyer's pecuniary gain. Nor is there a serious  
36 potential for abuse when the person contacted is a lawyer. Consequently, the  
37 general prohibition in rule 32:7.3(a) and the requirements of rule 32:7.3(c) are  
38 not applicable in those situations. Also, paragraph (a) is not intended to  
39 prohibit a lawyer from participating in constitutionally protected activities of  
40 public or charitable legal service organizations or bona fide political, social,  
41 civic, fraternal, employee, or trade organizations whose purposes include  
42 providing or recommending legal services to its members or beneficiaries.

1 [6] But even permitted forms of solicitation can be abused. Thus, any  
2 solicitation which contains information which is false or misleading within the  
3 meaning of rule 32:7.1, which involves coercion, duress, or harassment within  
4 the meaning of rule 32:7.3(b)(2), or which involves contact with someone who  
5 has made known to the lawyer a desire not to be solicited by the lawyer within  
6 the meaning of rule 32:7.3(b)(1) is prohibited. Moreover, if after sending a  
7 letter or other communication as permitted by rule 32:7.2 the lawyer receives  
8 no response, any further effort to communicate with the recipient of the  
9 communication may violate the provisions of rule 32:7.3(b).

10 [7] This rule is not intended to prohibit a lawyer from contacting  
11 representatives of organizations or groups that may be interested in  
12 establishing a group or prepaid legal plan for their members, insureds,  
13 beneficiaries, or other third parties for the purpose of informing such entities of  
14 the availability of and details concerning the plan or arrangement, which the  
15 lawyer or lawyer's firm is willing to offer. This form of communication is not  
16 directed to people who are seeking legal services for themselves. Rather, it is  
17 usually addressed to an individual acting in a fiduciary capacity seeking a  
18 supplier of legal services for others who may, if they choose, become  
19 prospective clients of the lawyer. Under these circumstances, the activity  
20 which the lawyer undertakes in communicating with such representatives and  
21 the type of information transmitted to the individual are functionally similar to  
22 and serve the same purpose as advertising permitted under rule 32:7.2.

23 [8] The requirement in rule 32:7.3(c) that certain communications be  
24 marked "Advertising Material" does not apply to communications sent in  
25 response to requests of potential clients or their spokespersons or sponsors.  
26 General announcements by lawyers, including changes in personnel or office  
27 location, do not constitute communications soliciting professional employment  
28 from a client known to be in need of legal services within the meaning of this  
29 rule.

30 [9] Paragraph (d) of this rule permits a lawyer to participate with an  
31 organization, which uses personal contact to solicit members for its group or  
32 prepaid legal service plan, provided that the personal contact is not undertaken  
33 by any lawyer who would be a provider of legal services through the plan. The  
34 organization must not be owned by or directed (whether as manager or  
35 otherwise) by any lawyer or law firm that participates in the plan. For example,  
36 paragraph (d) would not permit a lawyer to create an organization controlled  
37 directly or indirectly by the lawyer and use the organization for the in-person or  
38 telephone solicitation of legal employment of the lawyer through memberships  
39 in the plan or otherwise. The communication permitted by these organizations  
40 also must not be directed to a person known to need legal services in a  
41 particular matter, but is to be designed to inform potential plan members  
42 generally of another means of affordable legal services. Lawyers who  
43 participate in a legal service plan must reasonably assure that the plan

1 sponsors are in compliance with rules 32:7.1, 32:7.2 and 32:7.3(b). See  
2 32:8.4(a).

3

1 **Rule 32:7.4 COMMUNICATION OF FIELDS OF PRACTICE AND**  
2 **SPECIALIZATION**

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

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

8 (c) A lawyer engaged in Admiralty practice may use the designation  
9 "Admiralty," "Proctor in Admiralty" or a substantially similar designation.

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

12 (1) the lawyer has been certified as a specialist by an organization or state  
13 authority that the attorney can demonstrate is qualified to grant such  
14 certification to attorneys who meet objective and consistently applied standards  
15 relevant to practice in a particular area of law;

16 (2) the name of the certifying organization is clearly identified in the  
17 communication;

18 (3) the reference to the certification must be truthful and verifiable and may  
19 not be misleading in violation of rule 32:7.1; and

20 (4) the reference by the lawyer that he or she is certified as a specialist  
21 states that the Supreme Court of Iowa does not recognize certifications of  
22 specialty in the practice of law and that certification is not a requirement to  
23 practice law in the State of Iowa.

24 **Comment**

25 [1] Paragraph (a) of this rule permits a lawyer to indicate areas of practice  
26 in communications about the lawyer's services. If a lawyer practices only in  
27 certain fields, or will not accept matters except in a specified field or fields, the  
28 lawyer is permitted to so indicate. A lawyer is generally permitted to state that  
29 the lawyer is a "specialist," practices a "specialty," or "specializes in" particular  
30 fields, but such communications are subject to the "false and misleading"  
31 standard applied in rule 32:7.1 to communications concerning a lawyer's  
32 services.

33 [2] Paragraph (b) recognizes the long-established policy of the Patent and  
34 Trademark Office for the designation of lawyers practicing before the Office.  
35 Paragraph (c) recognizes that designation of Admiralty practice has a long  
36 historical tradition associated with maritime commerce and the federal courts.

1 [3] Paragraph (d) permits a lawyer to state that the lawyer is certified as a  
2 specialist in a field of law if such certification is granted by an organization or  
3 state authority that uses objective and consistently applied standards relevant  
4 to practice in a particular area of law. Certification signifies that an objective  
5 entity has recognized an advanced degree of knowledge and experience in the  
6 specialty area greater than is suggested by general licensure to practice law.  
7 Certifying organizations may be expected to apply standards of experience,  
8 knowledge and proficiency to insure that a lawyer's recognition as a specialist  
9 is meaningful and reliable. In order to insure that consumers can obtain  
10 access to useful information about an organization granting certification, the  
11 name of the certifying organization must be included in any communication  
12 regarding the certification. Any reference that the lawyer is certified as a  
13 specialist must be verifiable, meet the requirements of rule 32:7.1, and include  
14 the disclaimer as required by paragraph (d)(4) of this rule.

15

1 **Rule 32:7.5 FIRM NAMES AND LETTERHEADS**

2 (a) A lawyer shall not use a firm name, letterhead or other professional  
3 designation that violates rule 32:7.1. A trade name or uniform resource locator  
4 (URL) may be used by a lawyer in private practice if it does not imply a  
5 connection with a government agency or with a public or charitable legal  
6 services organization and is not otherwise in violation of rule 32:7.1. Lawyers  
7 who use certain trade names or URLs, must register the trade name or URL  
8 with the office of professional regulation. See Iowa Ct. R. 49.4.

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

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

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

18 (e) A lawyer, law firm, or an organization required to register a trade name  
19 or URL under Iowa Court Rule 49.4, shall display the name or names of one or  
20 more of its principally responsible attorneys, licensed to practice in Iowa, in all  
21 letterheads, signs, advertisements, cards, or other places where the trade name  
22 or URL is communicated to the public.

23 **Comment**

24 [1] A firm may be designated by the names of all or some of its members, by  
25 the names of deceased or retired members where there has been a continuing  
26 succession in the firm's identity, by the name as it appears on a lawyer's  
27 current license to practice, or by a trade name such as the "ABC Legal Clinic."  
28 A lawyer or law firm may also be designated by a distinctive website address or  
29 comparable professional designation. Use of trade names in law practice is  
30 acceptable so long as it is not misleading. If a private firm uses a trade name  
31 that includes a geographical name such as "Springfield Legal Clinic," an  
32 express disclaimer that it is a public legal aid agency may be required to avoid  
33 a misleading implication. It may be observed that any firm name including the  
34 name of a deceased partner is, strictly speaking, a trade name. The use of  
35 such names to designate law firms has proven a useful means of identification.  
36 However, it is misleading to use the name of a lawyer not associated with the  
37 firm or a predecessor of the firm, or the name of a nonlawyer.

38 [2] With regard to paragraph (d), lawyers sharing office facilities, but who  
39 are not in fact associated with each other in a law firm, may not denominate

1 themselves as, for example, "Smith and Jones," for that title suggests that they  
2 are practicing law together in a firm.

3 [3] Not all trade names and URLs must be registered with the office of  
4 professional regulation. Iowa Court Rule 49.4 specifies the trade names and  
5 URLs that must be registered. To register a trade name or URL, a lawyer must  
6 complete and submit an application for trade name registration to the office of  
7 professional regulation as set forth in Iowa Court Rule 49.4, and file a trade  
8 name report with the office of professional regulation each year thereafter.

9

1 **Rule 32:7.6 POLITICAL CONTRIBUTIONS TO OBTAIN LEGAL**  
2 **ENGAGEMENTS OR APPOINTMENTS BY JUDGES**

3 A lawyer or law firm shall not accept a government legal engagement or an  
4 appointment by a judge if the lawyer or law firm makes a political contribution  
5 or solicits political contributions for the purpose of obtaining or being  
6 considered for that type of legal engagement or appointment.

7 **Comment**

8 [1] Lawyers have a right to participate fully in the political process, which  
9 includes making and soliciting political contributions for judicial retention  
10 election and other public office. Nevertheless, when lawyers make or solicit  
11 political contributions in order to obtain an engagement for legal work awarded  
12 by a government agency, or to obtain appointment by a judge, the public may  
13 legitimately question whether the lawyers engaged to perform the work are  
14 selected on the basis of competence and merit. In such a circumstance, the  
15 integrity of the profession is undermined.

16 [2] The term "political contribution" denotes any gift, subscription, loan,  
17 advance, or deposit of anything of value made directly or indirectly to a  
18 candidate, incumbent, political party, or campaign committee to influence or  
19 provide financial support for retention in a judicial election or election to other  
20 government office. Political contributions in initiative and referendum elections  
21 are not included. For purposes of this rule, the term "political contribution"  
22 does not include uncompensated services.

23 [3] Subject to the exceptions below, (i) the term "government legal  
24 engagement" denotes any engagement to provide legal services that a public  
25 official has the direct or indirect power to award; and (ii) the term "appointment  
26 by a judge" denotes an appointment to a position such as referee,  
27 commissioner, special master, receiver, guardian or other similar position that  
28 is made by a judge. Those terms do not, however, include (a) substantially  
29 uncompensated services; (b) engagements or appointments made on the basis  
30 of experience, expertise, professional qualifications and cost following a request  
31 for proposal or other process that is free from influence based upon political  
32 contributions; and (c) engagements or appointments made on a rotational basis  
33 from a list compiled without regard to political contributions.

34 [4] The term "lawyer or law firm" includes a political action committee or  
35 other entity owned or controlled by a lawyer or law firm.

36 [5] Political contributions are for the purpose of obtaining or being  
37 considered for a government legal engagement or appointment by a judge if,  
38 but for the desire to be considered for the legal engagement or appointment,  
39 the lawyer or law firm would not have made or solicited the contributions. The  
40 purpose may be determined by an examination of the circumstances in which

1 the contributions occur. For example, one or more contributions that in the  
2 aggregate are substantial in relation to other contributions by lawyers or law  
3 firms, made for the benefit of an official in a position to influence award of a  
4 government legal engagement, and followed by an award of the legal  
5 engagement to the contributing or soliciting lawyer or the lawyer's firm would  
6 support an inference that the purpose of the contributions was to obtain the  
7 engagement, absent other factors that weigh against existence of the proscribed  
8 purpose. Those factors may include among others that the contribution or  
9 solicitation was made to further a political, social, or economic interest or  
10 because of an existing personal, family, or professional relationship with a  
11 candidate.

12 [6] If a lawyer makes or solicits a political contribution under  
13 circumstances that constitute bribery or another crime, rule 32:8.4(b) is  
14 implicated.

15

1 **Rule 49.4 Trade Name Application And Registration**

2 **49.4(1)** Every trade name used by a lawyer, law firm, or an organization of  
3 lawyers shall be registered with the office of professional regulation prior to use  
4 and annually thereafter. If a uniform resource locator (URL) for a lawyer's, law  
5 firm's, or organization's web site is more than a minor variation on the official  
6 name of the lawyer, firm, or organization, it must be registered as a separate  
7 trade name. The following exceptions to registration shall apply:

8 a. use in law firm names, whether practicing as a partnership, corporation,  
9 or other recognized business association, of the name or names of one or more  
10 deceased or retired members of a firm or a predecessor firm in a continuing  
11 line of succession.

12 b. lawyers practicing in the name listed on the lawyer's current license to  
13 practice law in Iowa.

14 c. non-profit organizations and state agencies providing legal services.

15 **49.4(2)** Each lawyer, law firm, or organization required to register a trade  
16 name or URL must first apply for use of the trade name or URL with the office  
17 of professional regulation. On or before April 1 of each year thereafter, the  
18 lawyer, law firm or organization shall file an annual report regarding that trade  
19 name or URL with the office of professional regulation. The office of  
20 professional regulation may prescribe electronic forms for the application and  
21 annual report and require submission of the application and report in those  
22 forms.

23 **49.4(3)** Each application for use of a trade name and each annual report of a  
24 trade name shall list the name and Iowa Court Information Systems (ICIS)  
25 personal identification number (PIN) of each lawyer admitted in Iowa and  
26 practicing under that trade name.

27 **49.4(4)** The lawyer, law firm, or organization filing an application or annual  
28 report shall pay to the office of professional regulation a fee prescribed by the  
29 supreme court for the cost of administering this rule.

30 **49.4(5)** The director of the office of professional regulation shall deny an  
31 application for approval of a trade name or URL which is duplicative of a trade  
32 name or URL previously registered. A denial may be appealed by petition to the  
33 supreme court. The applicant's notice of appeal must be filed with the clerk of  
34 the supreme court within fifteen days after mailing the denial to the applicant.

35 **49.4(6)** The office of professional regulation shall make available to the public  
36 each approved trade name or URL and the names of each lawyer admitted in  
37 Iowa and practicing under that trade name or URL.

1 **49.4(7)** The purpose of registration with the office of professional regulation is  
2 to provide the public with a list of trade names and URLs together with the  
3 lawyer, law firm, or organization associated with those trade names and URLs.  
4 Registration or rejection of registration of a trade name or URL with the office of  
5 professional regulation does not mean that the trade name or URL is  
6 recognized as the property of the person registering the trade name or URL.  
7 The ownership and right to use a trade name or URL is to be governed by  
8 intellectual property law or other laws pertaining to the use and ownership of  
9 trade names or URLs.



1 **Rule 32:1.18 DUTIES TO PROSPECTIVE CLIENT**

2 \_\_\_(a) A person who ~~discusses~~communicates with a lawyer about the  
3 possibility of forming a client-lawyer relationship and has a reasonable  
4 expectation that the lawyer is willing to consider forming a client-lawyer  
5 relationship with respect to a matter is a prospective client.

6 \_\_\_(b) Even when no client-lawyer relationship ensues, a lawyer who has ~~had~~  
7 ~~discussions with~~learned information from a prospective client shall not use or  
8 reveal that information learned in the consultation, except as ~~Rule~~rule 32: 1.9  
9 would permit with respect to information of a former client.

10 \_\_\_(c) A lawyer subject to paragraph (b) shall not represent a client with  
11 interests materially adverse to those of a prospective client in the same or a  
12 substantially related matter if the lawyer received information from the  
13 prospective client that could be significantly harmful to that person in the  
14 matter, except as provided in paragraph (d). If a lawyer is disqualified from  
15 representation under this paragraph, no lawyer in a firm with which that  
16 lawyer is associated may knowingly undertake or continue representation in  
17 such a matter, except as provided in paragraph (d).

18 \_\_\_(d) When the lawyer has received disqualifying information as defined in  
19 paragraph (c), representation is permissible if:

20 \_\_\_(1) both the affected client and the prospective client have given informed  
21 consent, confirmed in writing, or:

22 \_\_\_(2) the lawyer who received the information took reasonable measures to  
23 avoid exposure to more disqualifying information than was reasonably  
24 necessary to determine whether to represent the prospective client; and

25 \_\_\_(i) the disqualified lawyer is timely screened from any participation in the  
26 matter and is apportioned no part of the fee therefrom; and

27 \_\_\_(ii) written notice is promptly given to the prospective client.

28 **Comment**

29 \_\_\_[1] Prospective clients, like clients, may disclose information to a lawyer,  
30 place documents or other property in the lawyer's custody, or rely on the  
31 lawyer's advice. A lawyer's ~~discussions~~communications with a prospective  
32 client usually are limited in time and depth and leave both the prospective  
33 client and the lawyer free (and sometimes required) to proceed no further.  
34 Hence, prospective clients should receive some but not all of the protection  
35 afforded clients.

1 \_\_\_[2] \_\_\_Not all persons who communicate information to a lawyer are entitled to  
2 protection under this ~~Rule~~rule. \_\_\_A person who communicates information  
3 unilaterally to a lawyer, without any reasonable expectation that the lawyer is  
4 willing to discuss the possibility of forming a client-lawyer relationship, is not a  
5 "prospective client" within the meaning of paragraph (a). Moreover, a person  
6 who communicates with a lawyer for the purpose of disqualifying the lawyer is  
7 not a "prospective client."

8 \_\_\_[3] A person becomes a prospective client when that person communicates  
9 with a lawyer under circumstances where the person has a reasonable  
10 expectation that the lawyer is willing to consider forming a client-lawyer  
11 relationship. The reasonableness of the person's expectations may depend on  
12 a number of factors, including whether the lawyer encouraged or solicited  
13 inquiries about a proposed representation; whether the lawyer previously  
14 represented or declined to represent the person; whether the person, prior to  
15 communicating with the lawyer, encountered any warnings or cautionary  
16 statements that were intended to limit, condition, waive or disclaim the  
17 lawyer's obligations; whether those warnings or cautionary statements were  
18 clear and reasonably understandable; and whether the lawyer acted or  
19 communicated in a manner that was contrary to the warnings or cautionary  
20 statements. For example, if a lawyer's website encourages a website visitor to  
21 submit a personal inquiry about a proposed representation and the website  
22 fails to include any cautionary language, the person submitting the information  
23 could become a prospective client. In contrast, if a lawyer's website does not  
24 expressly encourage or solicit inquiries about a proposed representation and  
25 merely offers general information about legal topics or information about the  
26 lawyer or the lawyer's firm, such as the lawyer's contact information,  
27 experience, and areas of practice, this information alone is typically insufficient  
28 to create a reasonable expectation that the lawyer is willing to consider forming  
29 a client-lawyer relationship.

30 \_\_\_[34] \_\_\_It is often necessary for a prospective client to reveal information to the  
31 lawyer during an initial consultation prior to the decision about formation of a  
32 client-lawyer relationship. \_\_\_The lawyer often must learn such information to  
33 determine whether there is a conflict of interest with an existing client and  
34 whether the matter is one that the lawyer is willing to undertake. \_\_\_Paragraph  
35 (b) prohibits the lawyer from using or revealing that information, except as  
36 permitted by ~~Rule~~rule 32:1.9, even if the client or lawyer decides not to  
37 proceed with the representation. \_\_\_The duty exists regardless of how brief the  
38 initial conference may be.

39 \_\_\_[45] \_\_\_In order to avoid acquiring disqualifying information from a prospective  
40 client, a lawyer considering whether or not to undertake a new matter should  
41 limit the ~~initial interview~~initial communications to only such information as  
42 reasonably appears necessary for that purpose. \_\_\_Where the information  
43 indicates that a conflict of interest or other reason for non-representation

1 exists, the lawyer should so inform the prospective client or decline the  
2 representation. If the prospective client wishes to retain the lawyer, and if  
3 consent is possible under ~~Rule~~rule 32:1.7, then consent from all affected  
4 present or former clients must be obtained before accepting the representation.

5 ~~\_\_\_[56]~~ \_\_\_[56] A lawyer may condition ~~conversations~~communications with a  
6 prospective client on the person's informed consent that no information  
7 disclosed during the ~~consultation~~communications will prohibit the lawyer from  
8 representing a different client in the matter. See ~~Rule~~rule 32:1.0(e) for the  
9 definition of informed consent. If the agreement expressly so provides, the  
10 prospective client may also consent to the lawyer's subsequent use of  
11 information received from the prospective client.

12 ~~\_\_\_[67]~~ \_\_\_[67] Even in the absence of an agreement, under paragraph (c), the lawyer  
13 is not prohibited from representing a client with interests adverse to those of  
14 the prospective client in the same or a substantially related matter unless the  
15 lawyer has received from the prospective client information that could be  
16 significantly harmful if used in the matter.

17 ~~\_\_\_[78]~~ \_\_\_[78] Under paragraph (c), the prohibition in this ~~Rule~~rule is imputed to  
18 other lawyers as provided in ~~Rule~~rule 32:1.10, but, under paragraph (d)(1),  
19 imputation may be avoided if the lawyer obtains the informed consent,  
20 confirmed in writing, of both the prospective and affected clients. In the  
21 alternative, imputation may be avoided if the conditions of paragraph (d)(2) are  
22 met and all disqualified lawyers are timely screened and written notice is  
23 promptly given to the prospective client. See ~~Rule~~rule 32:1.0(k) (requirements  
24 for screening procedures). Paragraph (d)(2)(i) does not prohibit the screened  
25 lawyer from receiving a salary or partnership share established by prior  
26 independent agreement, but that lawyer may not receive compensation directly  
27 related to the matter in which the lawyer is disqualified.

28 ~~\_\_\_[89]~~ \_\_\_[89] Notice, including a general description of the subject matter about  
29 which the lawyer was consulted, and of the screening procedures employed,  
30 generally should be given as soon as practicable after the need for screening  
31 becomes apparent.

32 ~~\_\_\_[910]~~ \_\_\_[910] For the duty of competence of a lawyer who gives assistance on the  
33 merits of a matter to a prospective client, see ~~Rule~~rule 32:1.1. For a lawyer's  
34 duties when a prospective client entrusts valuables or papers to the lawyer's  
35 care, see ~~Rule~~rule 32:1.15.

36

1 | **Rule 32:7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES**

2 | \_\_\_A lawyer shall not make a false or misleading communication about the  
3 | lawyer or the lawyer's services. A communication is false or misleading if it  
4 | contains a material misrepresentation of fact or law, or omits a fact necessary  
5 | to make the statement considered as a whole not materially misleading.

6 | **Comment**

7 | \_\_\_[1] ~~This Rule~~ rule governs all communications about a lawyer's services,  
8 | including advertising permitted by ~~Rule~~ rule 32:7.2. ~~Whatever means~~ are used  
9 | to make known a lawyer's services, statements about them must be truthful.

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

17 | \_\_\_[3] An advertisement that truthfully reports a lawyer's achievements on  
18 | behalf of clients or former clients may be misleading if presented so as to lead a  
19 | reasonable person to form an unjustified expectation that the same results  
20 | could be obtained for other clients in similar matters without reference to the  
21 | specific factual and legal circumstances of each client's case. Similarly, an  
22 | unsubstantiated comparison of the lawyer's services or fees with the services or  
23 | fees of other lawyers may be misleading if presented with such specificity as  
24 | would lead a reasonable person to conclude that the comparison can be  
25 | substantiated. The inclusion of an appropriate disclaimer or qualifying  
26 | language may preclude a finding that a statement is likely to create unjustified  
27 | expectations or otherwise mislead ~~a prospective client~~ the public.

28 | \_\_\_[4] See also ~~Rule~~ rule 32:8.4(e) for the prohibition against stating or  
29 | implying an ability to influence improperly a government agency or official or to  
30 | achieve results by means that violate the Iowa Rules of Professional Conduct or  
31 | other law.

32 |

1 **Rule 32:7.2 ADVERTISING**

2 \_\_\_(a) Subject to the requirements of ~~Rules~~rules 32:7.1 and 32:7.3, a lawyer  
3 may advertise services through written, recorded, or electronic communication,  
4 including public media.

5 \_\_\_(b) A lawyer shall not give anything of value to a person for recommending  
6 the lawyer's services except that a lawyer may

7 \_\_\_(1) pay the reasonable costs of advertisements or communications permitted  
8 by this ~~Rule~~rule;

9 \_\_\_(2) pay the usual charges of a legal service plan or a not-for-profit or  
10 qualified lawyer referral service. A qualified lawyer referral service is a lawyer  
11 referral service that has been approved by an appropriate regulatory authority;

12 \_\_\_(3) pay for a law practice in accordance with ~~Rule~~rule 32:1.17; and

13 \_\_\_(4) refer clients to another lawyer or a nonlawyer professional pursuant to  
14 an agreement not otherwise prohibited under these ~~Rules~~rules that provides  
15 for the other person to refer clients or customers to the lawyer, if

16 \_\_\_(i) the reciprocal referral agreement is not exclusive, and

17 \_\_\_(ii) the client is informed of the existence and nature of the agreement.

18 \_\_\_(c) Any communication made pursuant to this rule shall include the name  
19 and office address of at least one lawyer or law firm responsible for its content.

20 **Comment**

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

32 \_\_\_[2] This ~~Rule~~rule permits public dissemination of information concerning a  
33 lawyer's name or firm name, address, email address, website, and telephone  
34 number; the kinds of services the lawyer will undertake; the basis on which the  
35 lawyer's fees are determined, including prices for specific services and payment

1 and credit arrangements; a lawyer's foreign language ability; names of  
2 references and, with their consent, names of clients regularly represented; and  
3 other information that might invite the attention of those seeking legal  
4 assistance.

5 [3] Questions of effectiveness and taste in advertising are matters of  
6 speculation and subjective judgment. Some jurisdictions have had extensive  
7 prohibitions against television and other forms of advertising, against  
8 advertising going beyond specified facts about a lawyer, or against "undignified"  
9 advertising. ~~Television, the internet, and other forms of electronic~~  
10 communication are is now one of among the most powerful media for getting  
11 information to the public, particularly persons of low and moderate income;  
12 prohibiting television-, the internet, and other forms of electronic advertising,  
13 therefore, would impede the flow of information about legal services to many  
14 sectors of the public. Limiting the information that may be advertised has a  
15 similar effect and assumes that the bar can accurately forecast the kind of  
16 information that the public would regard as relevant. Similarly, electronic  
17 media, such as the Internet, can be an important source of information about  
18 legal services, and lawful communication by electronic mail is permitted by this  
19 Rule. But see Rule ~~rule~~ 32:7.3(a) for the prohibition against the a solicitation of  
20 a prospective client through a real-time electronic exchange initiated by the  
21 lawyer that is not initiated by the prospective client.

22 [4] Neither this ~~Rule~~ rule nor ~~Rule~~ rule 32:7.3 prohibits communications  
23 authorized by law, such as notice to members of a class in class action  
24 litigation.

#### 25 *Paying Others to Recommend a Lawyer*

26 [5] ~~Lawyers are not permitted to pay others for channeling professional~~  
27 work recommending the lawyer's services. A communication contains a  
28 recommendation if it endorses or vouches for a lawyer's credentials, abilities,  
29 competence, character, or other professional qualities. Paragraph (b)(1),  
30 however, allows a lawyer to pay for advertising and communications permitted  
31 by this ~~Rule~~ rule, including the costs of print directory listings, on-line directory  
32 listings, newspaper ads, television and radio airtime, domain-name  
33 registrations, sponsorship fees, ~~banner ads,~~ internet-based advertisements, and  
34 group advertising. A lawyer may compensate employees, agents and vendors  
35 who are engaged to provide marketing or client-development services, such as  
36 publicists, public-relations personnel, business-development staff and website  
37 designers. Moreover, a lawyer may pay others for generating client leads, such  
38 as internet-based client leads, as long as the lead generator affirmatively states  
39 that it does not recommend the lawyer, any payment to the lead generator is  
40 consistent with rules 32:1.5(e) (division of fees) and 32:5.4 (professional  
41 independence of the lawyer), and the lead generator's communications are  
42 consistent with rule 32:7.1 (communications concerning a lawyer's services).

1 To comply with rule 32:7.1, the lawyer must ensure that the lead generator  
2 discloses that the lawyer has paid a fee in exchange for the lead and that the  
3 lead generator does not state or imply that it has analyzed a person's legal  
4 problems when determining which lawyer should receive the referral. See also  
5 ~~Rule-rule 32:5.3~~ for the duties of lawyers and law firms with respect to the  
6 conduct of nonlawyers ~~who prepare marketing materials for them.~~

7 \_\_\_[6] A lawyer may pay the usual charges of a legal service plan or a not-for-  
8 profit or qualified lawyer referral service. A legal service plan is a prepaid or  
9 group legal service plan or a similar delivery system that assists ~~prospective~~  
10 ~~clients~~people who seek to secure legal representation. A lawyer referral service,  
11 on the other hand, is any organization that holds itself out to the public as a  
12 lawyer referral service. Such referral services are understood by laypersons to  
13 be consumer-oriented organizations that provide unbiased referrals to lawyers  
14 with appropriate experience in the subject matter of the representation and  
15 afford other client protections, such as complaint procedures or malpractice  
16 insurance requirements. Consequently, this ~~Rule-rule~~ only permits a lawyer to  
17 pay the usual charges of a not-for-profit or qualified lawyer referral service. A  
18 qualified lawyer referral service is one that is approved by an appropriate  
19 regulatory authority as affording adequate protections for ~~prospective~~  
20 ~~clients~~the public. See, e.g., the American Bar Association's Model Supreme  
21 Court Rules Governing Lawyer Referral Services and Model Lawyer Referral and  
22 Information Service Quality Assurance Act (requiring that organizations that  
23 are identified as lawyer referral services (i) permit the participation of all  
24 lawyers who are licensed and eligible to practice in the jurisdiction and who  
25 meet reasonable objective eligibility requirements as may be established by the  
26 referral service for the protection of ~~prospective clients~~the public; (ii) require  
27 each participating lawyer to carry reasonably adequate malpractice insurance;  
28 (iii) act reasonably to assess client satisfaction and address client complaints;  
29 and (iv) do not make referrals ~~prospective clients~~ to lawyers who own, operate  
30 or are employed by the referral service.)

31 \_\_\_[7] A lawyer who accepts assignments or referrals from a legal service plan  
32 or referrals from a lawyer referral service must act reasonably to assure that  
33 the activities of the plan or service are compatible with the lawyer's  
34 professional obligations. See ~~Rule-rule~~ 32:5.3. Legal service plans and lawyer  
35 referral services may communicate with prospective clients, but such  
36 communication must be in conformity with these ~~Rules~~rules. Thus,  
37 advertising must not be false or misleading, as would be the case if the  
38 communications of a group advertising program or a group legal services plan  
39 would mislead ~~prospective clients~~laypersons to think that it was a lawyer  
40 referral service sponsored by a state agency or bar association. Nor could the  
41 lawyer allow in-person, telephonic, or real-time contacts that would violate  
42 ~~Rule-rule~~ 32:7.3.

1 | \_\_\_[8] A lawyer also may agree to refer clients to another lawyer or a nonlawyer  
2 | professional, in return for the undertaking of that person to refer clients or  
3 | customers to the lawyer. Such reciprocal referral arrangements must not  
4 | interfere with the lawyer's professional judgment as to making referrals or as to  
5 | providing substantive legal services. See ~~Rules~~ rules 32:2.1 and 32:5.4(c).  
6 | Except as provided in ~~Rule~~ rule 32:1.5(e), a lawyer who receives referrals from a  
7 | lawyer or nonlawyer professional must not pay anything solely for the referral,  
8 | but the lawyer does not violate paragraph (b) of this ~~Rule~~ rule by agreeing to  
9 | refer clients to the other lawyer or nonlawyer professional, so long as the  
10 | reciprocal referral agreement is not exclusive and the client is informed of the  
11 | referral agreement. Conflicts of interest created by such arrangements are  
12 | governed by ~~Rule~~ rule 32:1.7. Reciprocal referral agreements should not be of  
13 | indefinite duration and should be reviewed periodically to determine whether  
14 | they comply with these ~~Rules~~ rules. This ~~Rule~~ rule does not restrict referrals or  
15 | divisions of revenues or net income among lawyers within firms comprised of  
16 | multiple entities.

17 |

1 | **Rule 32:7.3 DIRECT CONTACT WITH PROSPECTIVE ~~POTENTIAL~~ CLIENTS**

2 | \_\_\_(a) A lawyer shall not by in-person, live telephone or real-time electronic  
3 | contact solicit professional employment ~~from a prospective client~~ when a  
4 | significant motive for the lawyer's doing so is the lawyer's pecuniary gain,  
5 | unless the person contacted:

6 | \_\_\_(1) is a lawyer; or

7 | \_\_\_(2) has a family, close personal, or prior professional relationship with the  
8 | lawyer.

9 | \_\_\_(b) A lawyer shall not solicit professional employment ~~from a prospective~~  
10 | ~~client~~ by written, recorded, or electronic communication or by in-person,  
11 | telephone, or real-time electronic contact even when not otherwise prohibited  
12 | by paragraph (a), if:

13 | \_\_\_(1) the ~~prospective client~~ target of the solicitation has made known to the  
14 | lawyer a desire not to be solicited by the lawyer; or

15 | \_\_\_(2) the solicitation involves coercion, duress, or harassment.

16 | \_\_\_(c) Every written, recorded or electronic communication from a lawyer  
17 | soliciting professional employment from a ~~prospective client~~ anyone known to  
18 | be in need of legal services in a particular matter shall include the words  
19 | "Advertising Material" on the outside envelope, if any, and at the beginning and  
20 | ending of any recorded or electronic communication, unless the recipient of the  
21 | communication is a person specified in paragraphs (a)(1) or (a)(2).

22 | \_\_\_(d) Notwithstanding the prohibitions in paragraph (a), a lawyer may  
23 | participate with a prepaid or group legal service plan operated by an  
24 | organization not owned or directed by the lawyer that uses in-person or  
25 | telephone contact to solicit memberships or subscriptions for the plan from  
26 | persons who are not known to need legal services in a particular matter  
27 | covered by the plan.

28 | **Comment**

29 | [1] A solicitation is a targeted communication initiated by the lawyer that is  
30 | directed to a specific person and that offers to provide, or can reasonably be  
31 | understood as offering to provide, legal services. In contrast, a lawyer's  
32 | communication typically does not constitute a solicitation if it is directed to the  
33 | general public, such as through a billboard, an internet banner advertisement,  
34 | a website or a television commercial, or if it is in response to a request for  
35 | information or is automatically generated in response to internet searches.

1 ~~\_\_\_[12]~~ There is a potential for abuse inherent in when a solicitation involves  
2 direct in-person, live telephone, or real-time electronic contact by a lawyer with  
3 a ~~prospective client~~ someone known to need legal services. ~~These forms of~~  
4 ~~contact between a lawyer and a prospective client~~ subject the layperson to the  
5 private importuning of the trained advocate in a direct interpersonal encounter.  
6 ~~The prospective client~~ layperson, who may already feel overwhelmed by the  
7 circumstances giving rise to the need for legal services, may find it difficult fully  
8 to evaluate all available alternatives with reasoned judgment and appropriate  
9 self-interest in the face of the lawyer's presence and insistence upon being  
10 retained immediately. The situation is fraught with the possibility of undue  
11 influence, intimidation, and over-reaching.

12 ~~\_\_\_[23]~~ This potential for abuse inherent in direct in-person, live telephone, or  
13 real-time electronic solicitation of ~~prospective clients~~ justifies its prohibition,  
14 particularly since lawyers have advertising and written and recorded  
15 communication permitted under Rule 7.2 offer alternative means of conveying  
16 necessary information to those who may be in need of legal services.  
17 ~~Advertising and written and recorded~~ In particular, communications which can  
18 may be mailed or auto dialed or transmitted by email or other electronic means  
19 that do not involve real-time contact and do not violate other law governing  
20 other solicitation. These forms of communications and solicitations make it  
21 possible for a ~~prospective client~~ the public to be informed about the need for  
22 legal services, and about the qualifications of available lawyers and law firms,  
23 without subjecting the ~~prospective client~~ a layperson to direct in-person,  
24 telephone, or real-time electronic persuasion that may overwhelm the client's  
25 layperson's judgment.

26 ~~\_\_\_[34]~~ The use of general advertising and written, recorded or electronic  
27 communications to transmit information from lawyer to ~~prospective client~~ the  
28 public, rather than direct in-person, live telephone, or real-time electronic  
29 contact, will help to assure that the information flows cleanly as well as freely.  
30 The contents of advertisements and communications permitted under Rule ~~rule~~  
31 32:7.2 can be permanently recorded so that they cannot be disputed and may  
32 be shared with others who know the lawyer. This potential for informal review  
33 is itself likely to help guard against statements and claims that might  
34 constitute false and misleading communications, in violation of Rule ~~rule~~  
35 32:7.1. The contents of direct in-person, live telephone, or real-time electronic  
36 conversations between a lawyer and a ~~prospective client~~ contact can be  
37 disputed and may not be subject to third-party scrutiny. Consequently, they  
38 are much more likely to approach (and occasionally cross) the dividing line  
39 between accurate representations and those that are false and misleading.

40 ~~\_\_\_[45]~~ There is far less likelihood that a lawyer would engage in abusive  
41 practices against an individual who is a former client, or with whom the lawyer  
42 has close personal or family relationship, or in situations in which the lawyer is  
43 motivated by considerations other than the lawyer's pecuniary gain. Nor is

1 | there a serious potential for abuse when the person contacted is a lawyer.  
2 | Consequently, the general prohibition in ~~Rule~~rule 32:7.3(a) and the  
3 | requirements of ~~Rule~~rule 32:7.3(c) are not applicable in those situations. Also,  
4 | paragraph (a) is not intended to prohibit a lawyer from participating in  
5 | constitutionally protected activities of public or charitable legal- service  
6 | organizations or bona fide political, social, civic, fraternal, employee, or trade  
7 | organizations whose purposes include providing or recommending legal  
8 | services to its members or beneficiaries.

9 | [56] But even permitted forms of solicitation can be abused. Thus, any  
10 | solicitation which contains information which is false or misleading within the  
11 | meaning of ~~Rule~~rule 32:7.1, which involves coercion, duress, or harassment  
12 | within the meaning of ~~Rule~~rule 32:7.3(b)(2), or which involves contact with a  
13 | ~~prospective client~~someone who has made known to the lawyer a desire not to  
14 | be solicited by the lawyer within the meaning of ~~Rule~~rule 32:7.3(b)(1) is  
15 | prohibited. Moreover, if after sending a letter or other communication ~~to a~~  
16 | ~~client~~ as permitted by ~~Rule~~rule 32:7.2 the lawyer receives no response, any  
17 | further effort to communicate with the ~~prospective client~~recipient of the  
18 | communication may violate the provisions of ~~Rule~~rule 32:7.3(b).

19 | [67] This ~~Rule~~rule is not intended to prohibit a lawyer from contacting  
20 | representatives of organizations or groups that may be interested in  
21 | establishing a group or prepaid legal plan for their members, insureds,  
22 | beneficiaries, or other third parties for the purpose of informing such entities of  
23 | the availability of and details concerning the plan or arrangement, which the  
24 | lawyer or lawyer's firm is willing to offer. This form of communication is not  
25 | directed to a ~~prospective client~~people who are seeking legal services for  
26 | themselves. Rather, it is usually addressed to an individual acting in a  
27 | fiduciary capacity seeking a supplier of legal services for others who may, if  
28 | they choose, become prospective clients of the lawyer. Under these  
29 | circumstances, the activity which the lawyer undertakes in communicating  
30 | with such representatives and the type of information transmitted to the  
31 | individual are functionally similar to and serve the same purpose as advertising  
32 | permitted under ~~Rule~~rule 32:7.2.

33 | [78] The requirement in ~~Rule~~rule 32:7.3(c) that certain communications be  
34 | marked "Advertising Material" does not apply to communications sent in  
35 | response to requests of potential clients or their spokespersons or sponsors.  
36 | General announcements by lawyers, including changes in personnel or office  
37 | location, do not constitute communications soliciting professional employment  
38 | from a client known to be in need of legal services within the meaning of this  
39 | ~~Rule~~rule.

40 | [89] Paragraph (d) of this ~~Rule~~rule permits a lawyer to participate with an  
41 | organization, which uses personal contact to solicit members for its group or  
42 | prepaid legal service plan, provided that the personal contact is not undertaken

1 | by any lawyer who would be a provider of legal services through the plan. \_The  
2 | organization must not be owned by or directed (whether as manager or  
3 | otherwise) by any lawyer or law firm that participates in the plan. \_For example,  
4 | paragraph (d) would not permit a lawyer to create an organization controlled  
5 | directly or indirectly by the lawyer and use the organization for the in-person or  
6 | telephone solicitation of legal employment of the lawyer through memberships  
7 | in the plan or otherwise. \_The communication permitted by these organizations  
8 | also must not be directed to a person known to need legal services in a  
9 | particular matter, but is to be designed to inform potential plan members  
10 | generally of another means of affordable legal services. \_Lawyers who  
11 | participate in a legal service plan must reasonably assure that the plan  
12 | sponsors are in compliance with ~~Rules~~rules 32:7.1, 32:7.2 and 32:7.3(b). \_See  
13 | 32:8.4(a).

14

1 | **Rule 32:7.4 COMMUNICATION OF FIELDS OF PRACTICE AND**  
2 | **SPECIALIZATION**

3 | \_\_\_(a) A lawyer may communicate the fact that the lawyer does or does not  
4 | practice in particular fields of law.

5 | \_\_\_(b) A lawyer admitted to engage in patent practice before the United States  
6 | Patent and Trademark Office may use the designation "Patent Attorney" or a  
7 | substantially similar designation.

8 | \_\_\_(c) A lawyer engaged in Admiralty practice may use the designation  
9 | "Admiralty," "Proctor in Admiralty" or a substantially similar designation.

10 | \_\_\_(d) A lawyer shall not state or imply that a lawyer is certified as a specialist  
11 | in a particular field of law, unless:

12 | \_\_\_(1) the lawyer has been certified as a specialist by an organization or state  
13 | authority that the attorney can demonstrate is qualified to grant such  
14 | certification to attorneys who meet objective and consistently applied standards  
15 | relevant to practice in a particular area of law that has been approved by an  
16 | appropriate state authority or that has been accredited by the American Bar  
17 | Association; and

18 | \_\_\_(2) the name of the certifying organization is clearly identified in the  
19 | communication;

20 | \_\_\_(3) the reference to the certification must be truthful and verifiable and may  
21 | not be misleading in violation of rule 32:7.1; and;

22 | \_\_\_(4) the reference by the lawyer that he or she is certified as a specialist  
23 | states that the Supreme Court of Iowa does not recognize certifications of  
24 | specialty in the practice of law and that certification is not a requirement to  
25 | practice law in the State of Iowa.

26 | **Comment**

27 | \_\_\_[1] Paragraph (a) of this ~~Rule~~ rule permits a lawyer to indicate areas of  
28 | practice in communications about the lawyer's services. If a lawyer practices  
29 | only in certain fields, or will not accept matters except in a specified field or  
30 | fields, the lawyer is permitted to so indicate. A lawyer is generally permitted to  
31 | state that the lawyer is a "specialist," practices a "specialty," or "specializes in"  
32 | particular fields, but such communications are subject to the "false and  
33 | misleading" standard applied in ~~Rule~~ rule 32:7.1 to communications  
34 | concerning a lawyer's services.

35 | \_\_\_[2] Paragraph (b) recognizes the long-established policy of the Patent and  
36 | Trademark Office for the designation of lawyers practicing before the Office.

1 Paragraph (c) recognizes that designation of Admiralty practice has a long  
2 historical tradition associated with maritime commerce and the federal courts.

3 ~~\_\_\_[3] Paragraph (d) permits a lawyer to state that the lawyer is certified as a~~  
4 ~~specialist in a field of law if such certification is granted by an organization or~~  
5 ~~state authority that uses objective and consistently applied standards relevant~~  
6 ~~to practice in a particular area of law. approved by an appropriate state~~  
7 ~~authority or accredited by the American Bar Association or another~~  
8 ~~organization, such as a state bar association, that has been approved by the~~  
9 ~~state authority to accredit organizations that certify lawyers as specialists.~~  
10 Certification signifies that an objective entity has recognized an advanced  
11 degree of knowledge and experience in the specialty area greater than is  
12 suggested by general licensure to practice law. Certifying organizations may be  
13 expected to apply standards of experience, knowledge and proficiency to insure  
14 that a lawyer's recognition as a specialist is meaningful and reliable. In order  
15 to insure that consumers can obtain access to useful information about an  
16 organization granting certification, the name of the certifying organization must  
17 be included in any communication regarding the certification. Any reference  
18 that the lawyer is certified as a specialist must be verifiable, meet the  
19 requirements of rule 32:7.1, and include the disclaimer as required by  
20 paragraph (d)(4) of this rule.

21

1 **Rule 32:7.5 FIRM NAMES AND LETTERHEADS**

2 (a) A lawyer shall not use a firm name, letterhead or other professional  
3 designation that violates ~~Rule~~ rule 32:7.1. A trade name or uniform resource  
4 locator (URL) may be used by a lawyer in private practice if it does not imply a  
5 connection with a government agency or with a public or charitable legal  
6 services organization and is not otherwise in violation of ~~Rule~~ rule 32:7.1.  
7 Lawyers who use certain trade names or URLs, must register the trade name  
8 or URL with the office of professional regulation. See Iowa Ct. R. 49.4.

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

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

16 \_\_\_(d) Lawyers may state or imply that they practice in a partnership or other  
17 organization only when that is the fact.

18 (e) A lawyer, law firm, or an organization required to register a trade name  
19 or URL under Iowa Court Rule 49.4, shall display the name or names of one or  
20 more of its principally responsible attorneys, licensed to practice in Iowa, in all  
21 letterheads, signs, advertisements, cards, or other places where the trade name  
22 or URL is communicated to the public.

23 **Comment**

24 \_\_\_[1] A firm may be designated by the names of all or some of its members, by  
25 the names of deceased or retired members where there has been a continuing  
26 succession in the firm's identity, by the name as it appears on a lawyer's  
27 current license to practice, or by a trade name such as the "ABC Legal Clinic."  
28 A lawyer or law firm may also be designated by a distinctive website address or  
29 comparable professional designation. ~~Although the United States Supreme~~  
30 ~~Court has held that legislation may prohibit the use~~ Use of trade names in  
31 ~~professional practice, use of such names in law practice is acceptable so long~~  
32 ~~as it is not misleading. If a private firm uses a trade name that includes a~~  
33 ~~geographical name such as "Springfield Legal Clinic," an express disclaimer~~  
34 ~~that it is a public legal aid agency may be required to avoid a misleading~~  
35 ~~implication. It may be observed that any firm name including the name of a~~  
36 ~~deceased partner is, strictly speaking, a trade name. The use of such names to~~  
37 ~~designate law firms has proven a useful means of identification. However, it is~~  
38 ~~misleading to use the name of a lawyer not associated with the firm or a~~  
39 ~~predecessor of the firm, or the name of a nonlawyer.~~

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

5 | [3] Not all trade names and URLs must be registered with the office of  
6 | professional regulation. Iowa Court Rule 49.4 specifies the trade names and  
7 | URLs that must be registered. To register a trade name or URL, a lawyer must  
8 | complete and submit an application for trade name registration to the office of  
9 | professional regulation as set forth in Iowa Court Rule 49.4, and file a trade  
10 | name report with the office of professional regulation each year thereafter.

11

1 | **Rule 32:7.6 POLITICAL CONTRIBUTIONS TO OBTAIN LEGAL**  
2 | **ENGAGEMENTS OR APPOINTMENTS BY JUDGES**

3 | \_\_\_A lawyer or law firm shall not accept a government legal engagement or an  
4 | appointment by a judge if the lawyer or law firm makes a political contribution  
5 | or solicits political contributions for the purpose of obtaining or being  
6 | considered for that type of legal engagement or appointment.

7 | **Comment**

8 | \_\_\_[1] \_\_\_Lawyers have a right to participate fully in the political process, which  
9 | includes making and soliciting political contributions ~~to candidates for judicial~~  
10 | retention election and other public office. \_\_\_ Nevertheless, when lawyers make or  
11 | solicit political contributions in order to obtain an engagement for legal work  
12 | awarded by a government agency, or to obtain appointment by a judge, the  
13 | public may legitimately question whether the lawyers engaged to perform the  
14 | work are selected on the basis of competence and merit. \_\_\_ In such a  
15 | circumstance, the integrity of the profession is undermined.

16 | \_\_\_[2] \_\_\_The term "political contribution" denotes any gift, subscription, loan,  
17 | advance, or deposit of anything of value made directly or indirectly to a  
18 | candidate, incumbent, political party, or campaign committee to influence or  
19 | provide financial support for ~~election to or retention in a~~ judicial election or  
20 | election to other government office. \_\_\_ Political contributions in initiative and  
21 | referendum elections are not included. \_\_\_ For purposes of this ~~Rule~~ rule, the term  
22 | "political contribution" does not include uncompensated services.

23 | \_\_\_[3] \_\_\_Subject to the exceptions below, (i) the term "government legal  
24 | engagement" denotes any engagement to provide legal services that a public  
25 | official has the direct or indirect power to award; and (ii) the term "appointment  
26 | by a judge" denotes an appointment to a position such as referee,  
27 | commissioner, special master, receiver, guardian or other similar position that  
28 | is made by a judge. \_\_\_ Those terms do not, however, include (a) substantially  
29 | uncompensated services; (b) engagements or appointments made on the basis  
30 | of experience, expertise, professional qualifications and cost following a request  
31 | for proposal or other process that is free from influence based upon political  
32 | contributions; and (c) engagements or appointments made on a rotational basis  
33 | from a list compiled without regard to political contributions.

34 | \_\_\_[4] \_\_\_The term "lawyer or law firm" includes a political action committee or  
35 | other entity owned or controlled by a lawyer or law firm.

36 | \_\_\_[5]\_\_\_ Political contributions are for the purpose of obtaining or being  
37 | considered for a government legal engagement or appointment by a judge if,  
38 | but for the desire to be considered for the legal engagement or appointment,  
39 | the lawyer or law firm would not have made or solicited the contributions. \_\_\_ The  
40 | purpose may be determined by an examination of the circumstances in which

1 | the contributions occur. For example, one or more contributions that in the  
2 | aggregate are substantial in relation to other contributions by lawyers or law  
3 | firms, made for the benefit of an official in a position to influence award of a  
4 | government legal engagement, and followed by an award of the legal  
5 | engagement to the contributing or soliciting lawyer or the lawyer's firm would  
6 | support an inference that the purpose of the contributions was to obtain the  
7 | engagement, absent other factors that weigh against existence of the proscribed  
8 | purpose. Those factors may include among others that the contribution or  
9 | solicitation was made to further a political, social, or economic interest or  
10 | because of an existing personal, family, or professional relationship with a  
11 | candidate.

12 | [6] If a lawyer makes or solicits a political contribution under  
13 | circumstances that constitute bribery or another crime, ~~Rule~~ rule 32:8.4(b) is  
14 | implicated.

15

1 **Rule 49.4 Trade Name Application And Registration**

2 **49.4(1)** Every trade name used by a lawyer, law firm, or an organization of  
3 lawyers shall be registered with the office of professional regulation prior to use  
4 and annually thereafter. If a uniform resource locator (URL) for a lawyer's, law  
5 firm's, or organization's web site is more than a minor variation on the official  
6 name of the lawyer, firm, or organization, it must be registered as a separate  
7 trade name. The following exceptions to registration shall apply:

8 a. use in law firm names, whether practicing as a partnership, corporation,  
9 or other recognized business association, of the name or names of one or more  
10 deceased or retired members of a firm or a predecessor firm in a continuing  
11 line of succession.

12 b. lawyers practicing in the name listed on the lawyer's current license to  
13 practice law in Iowa.

14 c. non-profit organizations and state agencies providing legal services.

15 **49.4(2)** Each lawyer, law firm, or organization required to register a trade  
16 name or URL must first apply for use of the trade name or URL with the office  
17 of professional regulation. On or before April 1 of each year thereafter, the  
18 lawyer, law firm or organization shall file an annual report regarding that trade  
19 name or URL with the office of professional regulation. The office of  
20 professional regulation may prescribe electronic forms for the application and  
21 annual report and require submission of the application and report in those  
22 forms.

23 **49.4(3)** Each application for use of a trade name and each annual report of a  
24 trade name shall list the name and Iowa Court Information Systems (ICIS)  
25 personal identification number (PIN) of each lawyer admitted in Iowa and  
26 practicing under that trade name.

27 **49.4(4)** The lawyer, law firm, or organization filing an application or annual  
28 report shall pay to the office of professional regulation a fee prescribed by the  
29 supreme court for the cost of administering this rule.

30 **49.4(5)** The director of the office of professional regulation shall deny an  
31 application for approval of a trade name or URL which is duplicative of a trade  
32 name or URL previously registered. A denial may be appealed by petition to the  
33 supreme court. The applicant's notice of appeal must be filed with the clerk of  
34 the supreme court within fifteen days after mailing the denial to the applicant.

35 **49.4(6)** The office of professional regulation shall make available to the public  
36 each approved trade name or URL and the names of each lawyer admitted in  
37 Iowa and practicing under that trade name or URL.

1 49.4(7) The purpose of registration with the office of professional regulation is  
2 to provide the public with a list of trade names and URLs together with the  
3 lawyer, law firm, or organization associated with those trade names and URLs.  
4 Registration or rejection of registration of a trade name or URL with the office of  
5 professional regulation does not mean that the trade name or URL is  
6 recognized as the property of the person registering the trade name or URL.  
7 The ownership and right to use a trade name or URL is to be governed by  
8 intellectual property law or other laws pertaining to the use and ownership of  
9 trade names or URLs.