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April 28, 2022

Ms. Elizabeth Fite, President
State Bar of Georgia
104 Marietta St. NW, Suite 100
Atlanta, GA 30303

Submitted via email to: elf@rogersfite.com

Re: Revision of Disciplinary Rules 7.1, 7.2, and 7.3

Dear President Fite,

The Georgia Association of Criminal Defense Lawyers (GACDL) thanks the State Bar for the opportunity to comment on the proposed changes to Rules 7.1, 7.2, and 7.3 of the Disciplinary Rules and writes to offer that feedback. GACDL's key concerns relate to Rules 7.1 and 7.2; there are no concerns currently regarding Rule 7.3. The page numbers, comments, and line numbers, listed below, refer to the redlined version you provided and is attached here for reference.

1. Rule 7.1: Comment 5, Page 4, & Line 105

If a firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

This sentence directly addresses geographical references in trade names but then seems to conflate the use of such references with the use of terms connoting that an organization offers public legal aid. If the concern this comment intends to address is the potentially misleading use of terms in a trade name that typically identify a legal aid organization, GACDL respectfully suggests a slight modification to this proposed language:

If a firm uses a trade name that includes a geographical name **or other language which suggests that it is a public aid organization** such as "Springfield Legal Clinic" or "Smith's Legal Center," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

or

If a firm uses a trade name that includes a geographical name **language which suggests that it is a public aid organization** such as "Springfield Legal Clinic," an express statement explaining that it is not a public legal aid organization may be required to avoid a misleading implication.

2. Rule 7.1: Comment 8, Page 4, Line 112

[8] It is misleading to use the name of a lawyer holding a public office in the name of a law firm, or in communications on the law firm's behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

GACDL is concerned that Comment 8 to Rule 7.1 could discourage attorneys from holding elected office, which would be to the detriment of our electorate given the dearth of lawyers currently crafting, vetting, and passing legislation in the General Assembly. Coupled with this Comment, the fact that legislative leave is available to lawyer-legislators for the duration of each legislative session arguably means that it would be deemed misleading to maintain a lawyer-legislator's name in her law firm name, or even on firm letterhead, during a legislative session. Unfortunately, GACDL has no alternative language to suggest due to its direct opposition to the very concept proposed.

3. Rule 7.2(b)(3)(iv): Page 7; line 87

a lawyer who is a member of the qualified lawyer referral service must maintain in force a policy of errors and omissions insurance in an amount no less than \$100,000 per occurrence and \$300,000 in the aggregate

GACDL objects to this provision. Requiring errors and omissions insurance contravenes the recent Board of Governors' decision rejecting mandatory professional liability insurance for Bar members. Moreover, GACDL questions the efficacy of mandating an attorney secure insurance when she is a member of a qualified referral source but not when receiving referrals in any other fashion. GACDL recognizes and would support increased client/consumer protections when non-regulated lawyer-originating marketing and referral services are interacting with licensed Bar members; however, the onus of that protection ought to be born by such services rather than the Bar member. GACDL can conceive of several ways such protections could be secured (e.g., the service providing insurance for its lawyer-members, regulation of such services, etc.) and would welcome an opportunity to engage in a larger conversation about the changing dynamics of legal marketing and the impact on client/consumers because the status quo is troubling.

I welcome any further discussion that would be helpful to you as the process for finalizing a modified version of Rules 7.1, 7.2, and 7.3 continues. You can reach me by phone (404-218-4590) or email (jasonsheffieldattorney@gmail.com). Thank you, again, for your engagement and consideration.

Sincerely yours,



Jason B. Sheffield
President

cc: Kim Dymecki, Immediate Past President, GACDL (dymecki@bellsouth.net)
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Enclosure (1) Ad Rules - Part 7--Redline[100][26].pdf (as provided to GACDL by Ms. Fite)