

Lawyering on the Web Ethical Considerations

Class Two
Digital Law

Surfing for Clients

- What is a 'website'?
- What are the rules?
- Where can I go for information?

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What is a 'website'?

- Basic Definition: A website is a collection of web pages that represent a collection of information about, concerning, or related to a particular group, organization, or business.
- A web page is a HTML representation of information, both textual and graphical.

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Examples of 'websites'

- **http://www.chescobar.org/**
CCBA's website, using a domainname of www.chescobar.org to pull together the organization's information.
- **http://www.hmcnet.com/glazier/**
An attorney's website, but using a web hoster's domain. However same effect as a collection of information.

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What are the rules?

- Rule 7.1, regarding false or misleading communications.
- Rule 7.2, governing advertising.
- Rule 7.3, solicitation.
- Rule 7.4, regarding fields of practice.
- Rule 7.5, covering firm names and letterhead.
- Rule 7.6, regarding certifications.

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Rule 7.1

- A lawyer shall not make false or misleading communications about the lawyer or the lawyer's services.
- Is such if, contains material misrepresentation or omission of facts or law; creates unjustified expectation as to results; compares services; contains subjective claims.

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Rule 7.1, key points

- Same rules for website as apply for standard print and other media advertising.
- However, what about the linking pages?
- What responsibility does attorney have?

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Rule 7.1, key points

- The rule specifically related to the attorney's services.
- As long as the links do not provide statements as to attorney's services, probably does not violate rule.
- However, even so, care must be taken with regard to 7.1(b) and that the links do not create a unjustified expectation.

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Rule 7.2

- Lawyer may advertise, subject to 7.1, in any public media, unless subject to 7.3.
- Copy of ad must be kept for 2 years.
- No value transferred for recommendation, but payment for ad.
- No endorsements from public figures and paid endorsements disclosed.
- Non-lawyer may not portray lawyer.

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Rule 7.2, (cont')

- No portrayal of client by non-client, unless disclosed that ad is dramatization.
- If speaking about fees, (1) if ad states no fee if no recovery, must disclose if client is responsible for expenses if so,

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Rule 7.2 (cont')

- (2) if rate advertised, attorney must honor for 90 days (1 year for annual publications)
- Disclosure of geographical location.
- No cost sharing without disclosure.

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Rule 7.2 (cont')

- No advertisement of limited case acceptance unless attorney handles all aspects of case from intake through trial.

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Rule 7.2, key points

- Website fits as a public media (keeping in mind Rule 7.3)
- Must keep copy of website for two (2) years.
- Be careful about endorsements. Could include links from other sites.

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Rule 7.2, key points

- Be very sure to disclose geographical location, not only for advertising purposes, but also so clients can find you.

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Rule 7.3

- A lawyer may not solicit in-person.
- However, solicit includes in-person and by-telephone, but does not include written communications.
- But, limitations on written communications, (1) lawyer knows person cannot make reasonable decision,

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Rule 7.3 (cont')

- (2) person does not wish to receive
- (3) coercion involved.

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Rule 7.3, key points

- Website is 'written' communication, however, different aspects of the web perform in different ways.
- For example, web chat area may be governed by Rule 7.3 if it is more like in-person or by-telephone solicitation.
- Where advertising links appear may conflict with 7.3(a).

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Rule 7.4

- A lawyer may communicate that he or she does or does not practice in particular fields of law.
- No stating of specialty except
 - patent law or admiralty
 - certification is not false or misleading and certification granted by Supreme Court

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Rule 7.4, key points

- Very similar rules to apply with respect to written advertisement.
- Care must be taken that links to areas are not showing a specialty, but more likely the links merely demonstrate focus of firm.

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Rule 7.5

- Firm name, letterhead, or designation cannot violate Rule 7.1 or imply connection with government, government agency, or legal services organization.
- With regard to multiple offices, must disclose which attorneys are licensed to practice where.

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Rule 7.5 (cont')

- Cannot use name of attorney in public office unless regularly practicing in the firm.
- Can imply or state partnership unless it is the fact.

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Rule 7.5, key points

- The 'domainname' can be similar to letterhead. Must be careful that the domainname does not violate 7.5.
- This seems to imply that a firm cannot use all of the generic top level domains, such as .org and .gov.

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Rule 7.5, key points

- Also, seems clear that must disclosure in which jurisdiction(s) firm is licenses, even if one office.
- Care must be taken, if sharing a website because of partnership rule.

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