

Report on Public Policy Position

Name of section:

Negligence Law

Contact person:

Madelyne Lawry

E-mail:

neglawsection@comcast.net

Proposed Court Rule or Administrative Order Number:

[2002-24 - Proposed Amendment of Rule 7.3 of the Michigan Rules of Professional Conduct](#)

The proposed addition of subrule (c) of MRPC 7.3 would require a lawyer who seeks professional employment from a prospective client to designate the writing as an advertisement by prominently displaying the words "Advertising Materials" on the outside envelope (or brochure, pamphlet, or postcard) and at the beginning and end of every written, recorded, or electronic communication.

Date position was adopted:

September 28, 2010

Process used to take the ideological position:

Position adopted after an electronic discussion and vote

Number of members in the decision-making body:

14

Number who voted in favor and opposed to the position:

14 Voted for position

0 Voted against position

0 Abstained from vote

0 Did not vote

Position:

The Negligence Law Section Council of the SBM urges the Supreme Court to reject the proposed amendment to Rule 7.3 of the MRPC and consider the adoption of Rule 7.3 of the American Bar Association Model Rules of Professional Conduct covering direct contact with prospective clients.

Explanation of the position, including any recommended amendments:

Unlike the proposed amendment to Rule 7.3 of the MRPC, Rule 7.3 of the ABA Model Rules of Professional Conduct solely addresses direct contact with prospective clients. An additional benefit of Rule 7.3 of the ABA Model Rules of Professional Conduct is the fact that it does not include the problematic inclusion, and resulting task of interpretation/enforcement, of the term "prominently featured" which is included in the proposed amendment. Rule 7.3 of the ABA Model Rules of Professional Conduct states: " (c) Every written, recorded or

electronic communication from a lawyer soliciting professional employment from a prospective client known to be in need of legal services in a particular matter shall include the words "Advertising Material" on the outside envelope, if any, and at the beginning and ending of any recorded or electronic communication, unless the recipient of the communication is a person specific in paragraphs (a)(1) or (a)(2)."

The text of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report.

<http://courts.michigan.gov/supremecourt/Resources/Administrative/2002-24.pdf>