

**BAR ASSOCIATION OF ERIE COUNTY  
COMMITTEE ON PROFESSIONAL ETHICS**

Opinion No. 13-05

Topic:	Attorney Referral Websites
Digest:	Attorneys may not utilize a web-based referral service if such a service performs any analysis of the issue, in order to provide results.
Rules:	7.2

**QUESTION**

May a lawyer join and pay a monthly membership fee to a website that analyzes information provided by prospective clients and recommends attorneys based on this analysis?

**FACTS**

A lawyer is presented with an opportunity to join a legal website that acted as a legal match-maker between attorneys and prospective clients. Once joining the site and completing a site profile, the lawyer would be placed into the site's attorney database.

Prospective clients visit the site seeking legal representation. These individuals complete a series of questions based upon needs with the goal of narrowing their search for an attorney.

Information such as geographical location and nature of the issue is provided by the individual. A system then matches this information to attorney profiles. The attorney is then sent information about the issues. Based upon the user's preferences, the information would be sent anonymously or with contact information included.

Attorneys respond to the inquiry with information about the firm, their expertise, and possibly fees.

Attorney responses are provided to the prospective clients and the prospective client is able to pick the attorney they want to work with. The prospective client has the option of allowing the attorney to contact them or the prospective client can call the attorney.

**APPLICABLE RULES**

The issue presented here may be addressed utilizing rule 7.2 of the Rules of Professional Conduct (the "Rules"). Rule 7.2 bars an attorney from paying or providing anything of value in exchange for a recommendation or work in general.

## OPINION

### *Summary*

An attorney may not become a member of a website and pay a monthly fee to be matched with potential clients based upon an analysis of the potential client's issue.

### *Website Membership*

Rule 7.2 states that attorneys:

... shall not compensate or give anything of value to a person or organization to recommend or obtain employment by a client, or as a reward for having made a recommendation resulting in employment by a client ...

The question was addressed in N.Y. State 799 (2006) which stated that a lawyer *may* use such a service as long as the service is strictly providing a directory of attorneys that may be of use and not recommending a particular attorney.

N.Y. State 799 analogized that use of such a site was no different than the use of traditional advertising:

For example, an online yellow pages that provides tools by which a potential client can filter a list of attorneys by geography and/or practice area (*e.g.*, to create a list of attorneys in "Albany" who do "personal injury" work) does not violate the rule.

However, if the site is recommending one attorney, or even a list of attorneys, over another based upon any analysis of the issue, the rule is violated:

We find that the line is crossed, however, when a website purports to recommend a particular lawyer or lawyers for the prospective client's problem, *based on an analysis of that problem*. For example, if a potential client describes a slip-and-fall incident on an intake form and the website determines that the problem calls for a personal injury lawyer and then recommends one or more attorneys in that area, the website is "recommending" those lawyers. **This conclusion applies whether the website's selection of counsel is the result of human intelligence or a computer program designed to respond to certain key words (*e.g.*, if the potential client uses the words "injury", "doctor" or "fell" on an intake form, the program would characterize the problem as one of "personal injury" in order to recommend lawyers).**

[Emphasis added.]

It is clear that even if the selection is based upon a computer-based key word sort or filtering that provides blind results, the use is impermissible and violates the rule.

### **CONCLUSION**

A lawyer may not be a paying member of a legal listing or directory service unless the service employs only generic filters to sort results. Any results based on key word filter or analysis of the issues is impermissible and violates Rule 7.2.