

May 6, 2010

Ms. Audrey Hollins  
Office of Professional Competence, Planning and Development  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105

<b>Re:</b>	<b>TITLE</b>
<b>RULE</b>	
Rule 1.0	Purpose and Scope of the Rules of Professional Conduct
Rule 1.0.1	Terminology *BATCH 6*
Rule 1.1	Competence
Rule 1.2	Scope of Representation and Allocation of Authority Between Client and Lawyer
Rule 1.4	Communication
Rule 1.4.1	Disclosure of Professional Liability Insurance *BATCH 6*
Rule 1.5	Fee for Legal Services
Rule 1.5.1	Financial Arrangements Among Lawyers
Rule 1.6	Confidential Information of a Client
Rule 1.7	Conflict of Interests: Current Clients
Rule 1.8.1	Business Transactions with a Client and Acquiring Interests Adverse to the Client
Rule 1.8.2	Use of a Current Client's Confidential Information
Rule 1.8.3	Gifts from Client
Rule 1.8.5	Payment of Personal or Business Expenses Incurred by or for a Client
Rule 1.8.6	Payments Not From Client
Rule 1.8.7	Aggregate Settlements
Rule 1.8.8	Limiting Liability to Client
Rule 1.8.9	Purchasing Property at a Foreclosure Sale or a Sale Subject to Judicial Review
Rule 1.8.10	Sexual Relations with Client
Rule 1.8.11	Imputation of Personal Conflicts (Rules 1.8.1 to 1.8.9)
Rule 1.9	Duties to Former Clients
Rule 1.11	Special Conflicts for Former and Current Government Officers and Employees *BATCH 6*
Rule 1.12	Former Judge, Arbitrator, Mediator or Other Third-Party Neutral
Rule 1.13	Organization as Client
Rule 1.14	Client with Diminished Capacity
Rule 1.15	Handling Funds and Property of Clients and Other Persons
Rule 1.16	Declining or Terminating Representation
Rule 1.17	Purchase and Sale of a Law Practice *BATCH 6*
Rule 1.18	Duties to Prospective Clients *BATCH 6*
Rule 2.1	Advisor
Rule 2.4	Lawyer as a Third-Party Neutral
Rule 2.4.1	Lawyer as a Temporary Judge
Rule 3.1	Meritorious Claims
Rule 3.3	Candor Toward the Tribunal
Rule 3.4	Fairness to Opposing Party and Counsel
Rule 3.5	Impartiality and Decorum of the Tribunal
Rule 3.6	Trial Publicity
Rule 3.7	Lawyer As A Witness

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Rule 3.8	Special Responsibilities of a Prosecutor
Rule 3.9	Advocate in Non-adjudicative Proceedings *BATCH 6*
Rule 3.10	Threatening Criminal, Administrative, or Disciplinary Charges
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Rule 7.1	Communications Concerning the Availability of Legal Services
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Rule 7.4	Communication of Fields of Practice and Specialization
Rule 7.5	Firm Names and Letterheads
Rule 8.1	False Statement Regarding Application for Admission to Practice
Rule 8.1.1	Compliance with Conditions of Discipline and Agreements in Lieu of Discipline
Rule 8.2	Judicial and Legal Officials; Lawyer as a Candidate or Applicant for Judicial Office *BATCH 6*
Rule 8.3	Reporting Professional Misconduct
Rule 8.4	Misconduct
Rule 8.4.1	Prohibited Discrimination in Law Practice Management and Operation
Rule 8.5	Disciplinary Authority; Choice of Law

Dear Ms. Hollins:

This letter constitutes the San Diego County Bar Association's response to The State Bar of California's Request for Public Comment on the foregoing proposed rules of Professional Conduct.

The SDCBA reconfirms previous responses to each of the foregoing proposed rules.

Very truly yours,



Patrick L. Hosey, President  
San Diego County Bar Association

October 10, 2006

Audry Hollins  
Office of Professional Competence,  
Planning and Development  
State Bar of California  
180 Howard Street  
San Francisco, CA 94105-1639

Re: Response to Request for Comments  
Discussion Draft: Proposed Amendments to the Rules of  
Professional Conduct of the State Bar of California

Dear Ms. Hollins:

On behalf of the San Diego County Bar Association, I respectfully submit the enclosed with respect to the pending Twenty-Seven (27) Proposed New or Amended Rules of Professional Conduct of the State Bar of California, developed by the State Bar's Special Commission for the Revision of the Rules of Professional Conduct. We have also included separate comments (approvals) of the proposed Global Changes related thereto. This is in response to the State Bar of California's request for comments thereon distributed in June, 2006.

Please note that although the comments reflect the position of the San Diego County Bar Association, we have also included dissenting views offered by members of its Legal Ethics Committee. Given the tentative state of the proposed new and amended rules, we wished to provide as much input to the Special Commission as possible, with which to assist them in their efforts.

Thank you for providing our Association the opportunity to participate in this process.

Respectfully Submitted,



Andrew S. Albert, President  
San Diego County Bar Association

Enclosures

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Lilys D. McCoy

## MEMORANDUM

Date: October 16, 2006

To: Special Commission for the Revision of the Rules of Professional Conduct  
The State Bar of California

From: San Diego County Bar Association ("SDCBA")

Re: "1<sup>st</sup> PC Batch," Proposed New or Amended Rules of Professional Conduct of the  
State Bar of California

**Subj: Proposed Rule 7.3: Direct Contact with Prospective Clients**

Founded in 1899 and comprised of over 8,000 members, the SDCBA is its region's oldest and largest law-related organization. Its response herein, as adopted by the SDCBA Board of Directors, followed extensive review and consideration by its selectively-constituted Legal Ethics Committee, the advisory body charged by the SDCBA bylaws with providing its members guidance in the areas of ethics and ethical considerations.

The SDCBA respectfully submits the following concerning the subject proposed Rule 7.3:

\* \* \* \* \*

Comment 1:

The changes in the new rule regarding streamlining and modernizing the standards result in greater clarity.

Rationale For Comment 1:

The new rule deals only with "solicitations," whereas the old rule also dealt with "communications" and the number of standards promulgated to carry out the rule is reduced from sixteen (16) to one (1). There are also changes to accommodate technological advances in methods of communication (from in person or by telephone to now include real-time electronic contact or electronic communications).

Comment 2:

The proposed changes regarding the specifics of acceptable "Advertising Material" on attorney promotional material may promote misleading advertisements.

Rationale For Comment 2:

The standards of former Rule 1-400 required that the word "Advertisement", "Newsletter" "or words of similar import" be in 12 point font on the first page of the document. This has been deleted in the new rule and all that remains is the requirement that the words "Advertising Material" or "words of similar import" be on the outside envelope, "if any . . . unless it is apparent from the context that the communication is an advertisement." This change may cause attorney advertising to be misleading and deceptive to the public regarding whether the recipient is actually receiving an official document or one that is a solicitation. Further, it leaves open to interpretation what is an "apparent" advertising communication.



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June 11, 2010

Ms. Audrey Hollins  
Office of Professional Competence, Planning and Development  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105

Re: Proposed New or Amended Rules of Professional Conduct

Dear Ms. Hollins:

The Orange County Bar Association is submitting comments on the following proposed new or amended rules of professional conduct:

- 1.2 Scope of Representation
- 1.5 Fees for Legal Services
- 1.13 Organization as a Client
- 1.18 Duties to Prospective Client
- 5.3.1 Employment of Disbarred, Suspended, Resigned, or Involuntarily Inactive Member
- 6.2 Accepting Appointments
- 7.1 Communications Concerning the Availability of Legal Services
- 7.3 Direct Contact with Prospective Clients
- 7.5 Firm Names and Letterheads
- 8.3 Reporting Professional Misconduct

The enclosed comments were drafted by the OCBA Professionalism and Ethics Committee and approved by the Board of Directors. Please let us know if you have any questions or require additional information.

Sincerely,

ORANGE COUNTY BAR ASSOCIATION

Lei Lei Wang Ekvall  
2010 President

Enc.

## MEMORANDUM

Date: May 26, 2010

To: Commission for the Revision of the Rules of Professional Conduct of the State Bar of California

From: Orange County Bar Association ("OCBA")

Re: **Proposed Rule 7.3 – Direct Contact with Prospective Clients**

Founded over 100 years ago, the Orange County Bar Association has over 7,000 members, making it one of the largest voluntary bar associations in California. The OCBA Board of Directors, made up of practitioners from large and small law firms, with varied civil and criminal practices, and of differing ethnic backgrounds and political leanings, has approved this comment prepared by the Professionalism and Ethics Committee.

The OCBA respectfully submits the following comments concerning the subject proposed Rule:

In short, proposed Rule 7.3(b)(2) prohibits a lawyer from soliciting professional employment from a prospective client where the solicitation "is transmitted in any manner which involves *intrusion*, compulsion, intimidation, threats, or vexatious or harassing conduct" (emphasis added). The OCBA concurs with the minority comments of the Commission that the word "intrusion," which is not included in the corresponding ABA Model Rule, should be stricken from the rule because arguably any manner in which a lawyer solicits professional employment from a prospective client may be perceived as intrusive, and thus unfairly may subject that lawyer to unnecessary and unwarranted discipline.



# THE STATE BAR OF CALIFORNIA

## PROPOSED RULES OF PROFESSIONAL CONDUCT

### PUBLIC COMMENT FORM

**INSTRUCTIONS:** This form allows you to submit your comments by entering them into the text box below and/or by uploading files as attachments. We ask that you comment on **one** Rule per form submission and that you choose the proposed Rule from the drop-down box below.

*All information submitted is regarded as public record.*

Updated on May 17, 2010 to implement the Batch 6 Rules and one Batch 5 Rule (Rule 1.10) conditionally adopted by the Board of Governors at its meeting on May 15, 2010.

**DEADLINE TO SUBMIT COMMENT IS: JUNE 15, 2010**

## Your Information

Professional Affiliation

Commenting on behalf of an organization

Yes

No

\* Name

\* City

\* State

\* Email address   
(You will receive a copy of your comment submission.)

The following proposed rules can be viewed by clicking on the following link: [Proposed Rules of Professional Conduct](#).

\* Select the Proposed Rule that you would like to comment on from the drop down list. Rules not listed in the drop-down box below are rules that are not being recommended for adoption. To submit comments on the rules not recommended please submit your comment by using the form at this link: [Rules Not Recommended Public Comment Form](#).

Rule 7.3 Direct Contact with Prospective Clients

From the choices below, we ask that you indicate your position on the Proposed rule. This is not required and you may type a comment below or provide an attachment regardless of whether you indicate your position from the choices.

AGREE with this proposed Rule

DISAGREE with this proposed Rule

AGREE ONLY IF MODIFIED

**ENTER COMMENTS HERE. To upload files proceed to the ATTACHMENTS section below.**

Please see attached 6 page .pdf.



## LAW PRACTICE MANAGEMENT AND TECHNOLOGY SECTION

THE STATE BAR OF CALIFORNIA

### **PROPOSED RULE 7.3 [RPC 1-400] "DIRECT CONTACT WITH PROSPECTIVE CLIENTS" (DRAFT #8, 10/2/09)**

#### ***INTRODUCTION***

The Law Practice Management & Technology (LPMT) Section's comment on Proposed Rule 7.3 concerns paragraph (a):

"(a) A lawyer shall not by in person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for doing so is the lawyer's pecuniary gain, unless the communication is protected from abridgment by the Constitution of the United States or by the Constitution of the State of California, or unless the person contacted:

"(1) is a lawyer; or

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

We are disappointed that the State Bar still wants to muzzle lawyers from telling the truth directly to potential clients and from explaining how a lawyer's services might be of value to a particular member of the public.

#### ***ANALYSIS***

##### **I. Chilling Effect on First Amendment Rights**

No longer do we live in an age when in-person or real-time electronic communication is the exception. Thus, in the twenty-first century, we cannot think

of any other professional or tradesperson who must be prohibited from offering services to the public. One would think the opposite more virtuous: that lawyers be fully engaged in informing citizens of their rights as opposed to the State Bar's position, which appears to find the First Amendment suitable only for accountants and the Police Athletic League.

The gift of the First Amendment is its insight that the remedy for speech that some would disallow is not censorship but more speech. Yet Proposed Rule 7.3 would continue "to inhibit the free flow of commercial information and to keep the public in ignorance," *Bates v. State Bar of Arizona*, 433 U.S. 350, 365 (1977).

Rule 7.3(a)'s putative "savings clause" saves nothing: A lawyer may not directly offer his or her services "unless the communication is protected from abridgment by the Constitution of the United States or by the Constitution of the State of California . . ." We should hope the Bill of Rights supersedes the CRPC. Of course, such would be the case even if the "savings clause" were omitted.

Rather than offer the illusion of liberty, the State Bar has the opportunity to go beyond what is minimally required by the First Amendment. It would benefit all if the State Bar at least would list which types of speech are in and which are out. As the rule now stands, a lawyer can only guess at where the State Bar believes the line should be drawn – unless, as appears from 7.3(a), we should understand that the State Bar would not affirmatively permit any such speech.

We respectfully urge the Commission to reconsider promulgating such an outright ban on direct conversations between a lawyer and a member of the public who might benefit from legal services.

## **II. The Proposed Rule Overreaches and is Superfluous**

Nor need the State Bar worry that uninformed clients will be signed up willy-nilly given the plethora of protections provided to potential clients by other disciplinary rules, including many requiring written disclosure and formal, informed assent. Once again, we speak only of allowing statements that are:

- truthful and not misleading; and
- that involve no intrusion, coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct.

The language of the Comments is loaded with intimations of deception and coercion, even though that kind of communication is clearly prohibited by the existing California Rules of Professional Conduct (CRPC). Examples of such insinuations include:

- the “overwhelmed” prospective client;
- “subject the lay person to the private importuning of the trained advocate”; and
- a situation “fraught with the possibility of undue influence, intimidation, and over reaching”.

Such a hyperbolic approach seems unwarranted.

In considering the potential for abuse, *compare*, for example, Proposed Rule 7.3 with Proposed Rule 1.15 Handling Funds and Property of Clients and Other Persons. When it comes to a client’s money, the potential for abuse, one would think, is even greater: A dollar in the hand is worth the hope of two on the phone. Yet the State Bar does not prohibit a lawyer from handling client funds. Rather it prohibits certain acts that we all may agree are unethical, as does Rule 7.3. Talking on the phone is not one of them.<sup>1</sup>

The proposed rule implies that, among “respectable lawyers,” certain things are just not done, and seeking to help a specific person with her or his legal problems for money is beneath the dignity of the pillars of the profession. The various state bars of the Union do not have the cleanest of hands or the most impartial judgment when it comes to regulating attorney speech. They have resisted practically every attempt to enlarge attorney speech rights. We are part of the most prominent of those state bars. Let us lead the way.

We should not assume that most lawyers are crooks. For those that are, the CRPC and the Penal Code are there.

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<sup>1</sup> We also do not agree with Comment [2]’s endorsement of “recorded communications which may be mailed or autodialed” – better known as SPAM and junk calls. We prefer live conversations with human beings.

**CONCLUSION – AND SUGGESTED EDITS TO THE PROPOSED RULE**

**ALTERNATIVE # 1 (PREFERRED):**

For the foregoing reasons, we recommend that Proposed Rule 7.3(a) be amended as set forth below. If the Commission adopts our proposed amended version, we also recommend the deletion of Comments [1] through [4]. [Indeed, the apparent necessity for 469 words to justify 79 might also lead one to question the defensibility of Proposed Rule 7.3(a).]

(a) A lawyer ~~shall not~~ **may** by in person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for doing so is the lawyer's pecuniary gain, unless the communication is **dishonest or misleading, or it involves intrusion, coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct.** ~~protected from abridgment by the Constitution of the United States or by the Constitution of the State of California, or unless the person contacted:~~

~~(1) is a lawyer; or~~

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

Clean version of amended Proposed Rule 7.3(a):

(a) A lawyer may by in person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for doing so is the lawyer's pecuniary gain, unless the communication is dishonest or misleading, or it involves intrusion, coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct.

*(c't'd)*

## ALTERNATIVE # 2 (MUCH LESS DESIRABLE):

To the extent the Commission retains the prohibitions on a lawyer's speech, we recommend two specific circumstances that should still be addressed.

The first is the circumstance in which a prospective client is the one who initiates the contact with the attorney, regardless of medium. A potential client seeking legal assistance cannot be said to have been intruded upon by the lawyer with whom he seeks to communicate.

The second is the circumstance in which a prospective client is a business, at least one over a certain size. The president of a company is hardly the sort of vulnerable person likely to be "overwhelmed by the circumstances giving rise to the need for legal services" (Comment [1] at 18). Yet, a lawyer should be able to speak as one business person to another. The CEO or CFO can call a lawyer. Why shouldn't a lawyer be able to call the CEO or the CFO?

If the Commission chooses to adopt only these last two considerations, we recommend that Proposed Rule 7.3(a) be amended as follows:

(a) A lawyer shall not by in person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for doing so is the lawyer's pecuniary gain, unless the communication is protected from abridgment by the Constitution of the United States or by the Constitution of the State of California, or unless the person contacted:

(1) is a lawyer; ~~or~~

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

(3) has first contacted the lawyer; or

(4) is an executive or senior manager of a prospective client.

*(c't'd)*

**ALTERNATIVE # 2 (MUCH LESS DESIRABLE) (c't'd):**

Clean version of amended (as limited) Proposed Rule 7.3(a):

(a) A lawyer shall not by in person, live telephone or real-time electronic contact solicit professional employment from a prospective client when a significant motive for doing so is the lawyer's pecuniary gain, unless the communication is protected from abridgment by the Constitution of the United States or by the Constitution of the State of California, or unless the person contacted:

(1) is a lawyer;

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

(3) has first contacted the lawyer; or

(4) is an executive or senior manager of a prospective client.



**THE STATE BAR OF  
CALIFORNIA**

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June 15, 2010

Audrey Hollins, Director  
Office of Professional Competence, Planning &  
Development  
State Bar of California  
180 Howard Street  
San Francisco, California 94105

re: Comments of the Office of the Chief Trial Counsel to Proposed  
Amendments to the Rules of Professional Conduct

Dear Ms. Hollins:

Preliminarily, the Office of the Chief Trial Counsel (OCTC) would like to thank Harry B. Sondheim, Chair, Mark L. Tuft and Paul W. Vapnek, Co-Vice-Chairs, and the members of the Commission for the Revision of the Rules of Professional Conduct, for the opportunity to submit comments to the proposed amendments to the Rules of Professional Conduct, as released for public comment by the Board of Governors. We appreciate the Commission's considerable efforts in crafting rules of conduct for California attorneys relevant to our contemporary legal environment. While we concur with many of the Commission's recommendations, we raise some points of disagreement. Our disagreement is offered in the spirit of aiding in the adoption of rules which can be practically and fairly understood by the attorneys in this state and applied in a uniform fashion by both this Office and the State Bar Court. While OCTC has submitted comments in the past to some of these rules as they were initially submitted,<sup>1</sup> we welcome this opportunity to comment on the entire set of rules and in context. Further, there have been changes to the proposed rules since our original comments.<sup>2</sup> We hope you find our thoughts helpful.

**SUMMARY**

We summarize our main concerns as follows:

- Some of the rules are becoming too complicated and long, making them difficult to understand and enforce;
- There are way too many Comments to the Rules, making the rules unwieldy, confusing, and

<sup>1</sup> OCTC refers the Commission to its previous comments and recommendations.

<sup>2</sup> We are not commenting on the rules that were not recommended or tentatively adopted by the Board of Governors (BOG).

difficult to read, understand, and enforce. Many of the Comments are more appropriate for treatises, law review articles, and ethics opinions. The Comments clutter and overwhelm the rules. We recommend that most of the Comments be stricken or that the Rules be adopted without the Comments;

- Many of the Comments are too large and thus bury the information sought to be presented;
- Several of the Comments are in our opinion legally incorrect (i.e. Comment 9 of Rule 1.8.1 and Comment 5 of rule 1.9);
- One of the Comments invades OCTC's prosecutory discretion (i.e. Comment 6 of Rule 8.4);
- Some of the rules are confusing and inconsistent with the State Bar Act (i.e. that an attorney's misrepresentation to a court cannot be based on gross negligence);
- Some of the rules attempt to define and limit provisions adopted by the Legislature in the State Bar Act (i.e. Rule 1.6's defining the scope of confidentiality in Business & Professions Code section 6068(e)); and
- Some of the proposed rules deviate unnecessarily from the ABA Model Rules (i.e. proposed rules 3.9, 4.4 and 8.4).<sup>3</sup>

## GENERAL COMMENTS

OCTC finds many of the proposed rules too lengthy and complicated, often making them difficult to understand and enforce. There are way too many Comments to the Rules, making the rules unwieldy, confusing, and difficult to read, understand, and enforce. We would strongly suggest that the rules be simplified and the Comments either be significantly reduced or entirely eliminated. Otherwise, it is hard to imagine the attorneys of this state reading and understanding the entirety of the rules and official Comments. Further, we believe that some of the Comments are legally incorrect.

The Rules and Comments are not meant to be annotated rules, a treatise on the rules, a series of ethics opinions, a law review article, or musings and discussions about the rules and best practices. There are other more appropriate vehicles for such discussions and expositions.

Every attorney is required to know and understand the Rules of Professional Conduct. This is why ignorance of a rule is no defense in a State Bar proceeding. (See *Zitny v. State Bar* (1966) 64 Cal.2d 787, 793.) Yet, the proposed rules (including Comments) are 99 pages; contain 68 rules; and almost 500 Comments. One rule alone has 38 Comments.<sup>4</sup>

In contrast, the current rules are 30 pages; contain 46 rules; and 94 comments.<sup>5</sup> The 1974 rules were 13 pages; contained 25 rules; and 6 comments.<sup>6</sup> The original 1928 rules were 4 pages long; contained 17 rules; and had no comments.

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<sup>3</sup> Unless stated otherwise, all future references to section are to a section of the Business & Professions Code; all references to rule are to the current Rules of Professional Conduct; all references to proposed rule is to the Commission's proposed Rule of Professional Conduct; and all references to the Model Rules are to the ABA's current Model Rules of Professional Conduct.

<sup>4</sup> See proposed rule 1.7. Another rule has 26 comments. (See proposed rule 1.6.)

<sup>5</sup> The current rules list them as Discussion paragraphs; most are unnumbered, but OCTC estimates there are 94 paragraphs of discussion and will refer to them as comments so that there is a standard reference.

<sup>6</sup> The 1974 rules had 6 footnotes (\*), four simply reference another rule and two contain a short substantive discussion.

Letter from OCTC  
To Randall Difuntorum  
June 15, 2010

Many of the proposed Comments appear to be nothing more than a rephrasing of the rule or an annotated version of the rule. If the rule is ambiguous or not clear enough, the solution should not be a Comment rephrasing the rule, but a redrafting of the rule so it is clear and understandable. Likewise, discussing the purpose of the rule, best practices, or the limits of the rule are not proper Comments to the rules. There are other better vehicles for such discussions. Lawyers can read and conduct legal research when needed.

In addition, the rules and Comments make too much use of references to other rules and Comments, making it hard to understand the rules. Some of the Comments are too long and, thus, bury information in a very long Comment. Other Comments appear to be legally incorrect. We would recommend that most of the Comments be stricken or that the Rules be adopted without the Comments. It is our understanding that about seven states have not adopted the ABA's Comments, although two of those still provide the ABA's comments as guidance.

We are also concerned that there are too many separate conflicts rules (see rules 1.7, 1.8, 1.9, 1.10, 1.11, 1.12, 1.13(g), and 1.18) and they often incorporate each other, making it difficult to comprehend, understand, and enforce them.<sup>7</sup>

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<sup>7</sup> There is actually no Rule 1.8, but several separate rules, going from 1.8.1 through 1.8.11.

Letter from OCTC  
To Randall Difuntorum  
June 15, 2010

**Rule 7.3. Direct Contact with Prospective Clients.**

1. OCTC supports this rule, but finds most of the Comments more appropriate for treatises, law review articles, and ethics opinions. We support the last two sentences of Comment 8.