

Proposed Rule 7.5 [RPC 1-400] “Firm Names and Letterheads”

(Draft #7, 5/31/09)

Summary: Proposed Rule 7.5 is the fifth of five proposed rules regulating lawyer marketing that track the Model Rule structure. Rule 7.5 sets out basic rules governing the use of firm names and letterheads.

Comparison with ABA Counterpart	
Rule	Comment
<input checked="" type="checkbox"/> ABA Model Rule substantially adopted <input type="checkbox"/> ABA Model Rule substantially rejected <input type="checkbox"/> Some material additions to ABA Model Rule <input type="checkbox"/> Some material deletions from ABA Model Rule <input type="checkbox"/> No ABA Model Rule counterpart	<input checked="" type="checkbox"/> ABA Model Rule substantially adopted <input type="checkbox"/> ABA Model Rule substantially rejected <input checked="" type="checkbox"/> Some material additions to ABA Model Rule <input type="checkbox"/> Some material deletions from ABA Model Rule <input type="checkbox"/> No ABA Model Rule counterpart

Primary Factors Considered

Existing California Law

Rule	RPC 1-400.
Statute	Bus. & Prof. Code §§ 6157 et seq.
Case law	<i>People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc.</i> (1999) 20 Cal.4th 1135, [86 Cal.Rptr.2d 816]

State Rule(s) Variations (In addition, see provided excerpt of selected state variations.)

Other Primary Factor(s)

Rule Revision Commission Action/Vote to Recommend Rule Adoption

(14 Members Total – votes recorded may be less than 14 due to member absences)

Approved on 10-day Ballot, Less than Six Members Opposing Adoption

Vote (see tally below)

Favor Rule as Recommended for Adoption 11

Opposed Rule as Recommended for Adoption 0

Abstain/ 0

Approved on Consent Calendar

Approved by Consensus

Minority/Dissenting Position Included on Model Rule Comparison Chart Yes No

Stakeholders and Level of Controversy

No Known Stakeholders

The Following Stakeholders Are Known:

Very Controversial – Explanation:

Moderately Controversial – Explanation:

Not Controversial

COMMISSION FOR THE REVISION OF THE RULES OF PROFESSIONAL CONDUCT

Proposed^{*} Rule 7.5 Firm Names and Letterheads

October 2009

(Draft rule to following first round of public comment)

INTRODUCTION:

The Commission has determined that the ability of California lawyers and lawyers from other states to analyze issues concerning legal advertising and solicitation in this state would be enhanced by restating what is currently a single rule, California Rule 1-400, as five separate rules, numbered 7.1 through 7.5, that follow the organization of their ABA Model Rule counterparts. Nationally, there is marked variation among the jurisdictions in this area of lawyer regulation. The Commission believes that advertising of legal services and the solicitation of prospective clients is an area of lawyer regulation where greater national uniformity would be helpful to the public, practicing lawyers, and the courts in light of the current widespread use of the Internet by lawyers and law firms to market their services and the trend in many states toward allowing some form of multijurisdictional practice. However, the Commission has recommended departures from the Model Rules, in part to address Constitutional concerns.

Rule 7.1 sets out the general prohibition on a lawyer making false and misleading communications concerning the availability of legal services. Rule 7.2 specifically addresses advertising, a subset of communication, and typically involves communications directed at the general public. Rule 7.3 is concerned with regulating various means by which a lawyer seeking to market his or her services might make direct contact with a prospective client. Rule 7.4 sets out basic rules governing the communication of a lawyer's fields of practice and claims to specialization. **Rule 7.5 does the same as rule 7.4 for the use of firm names and letterheads.** The Commission, however, declines at this time to recommend Model Rule 7.6, which is intended to regulate political contributions made by lawyers to obtain legal work with government entities or to achieve an appointment as a judge. The Commission is still studying the feasibility of a rule analogous to Model Rule 7.6.

^{*} Proposed Rule 7.3, Draft 7 (5/31/09).

INTRODUCTION (Continued):

Proposed Rule 7.5 is identical to Model Rule 7.5 except that paragraph (d) has been revised to provide specific reference to the current regulatory framework in California.

The Model Rule comment has been revised to remove expository language and to add specific language the California Supreme Court has adopted in the Discussion to current rule 1-400.

Variation in Other Jurisdictions. There is a wide range of variation among jurisdictions in their approach to regulating lawyer advertising and solicitation. States that have diverged widely from the Model Rules include smaller jurisdictions such as the District of Columbia, Kentucky, Mississippi and Iowa, and larger states, such as Florida, New York, and Texas. Unlike these states that have either eliminated or added to marketing restrictions in the Model Rules, the Commission recommends keeping the same basic concepts found in the Model Rules, revised only to clarify or to address unique aspects of the California statutory and regulatory landscape.

<p align="center"><u>ABA Model Rule</u> Rule 7.5 Firm Names and Letterheads</p>	<p align="center"><u>Commission's Proposed Rule*</u> Rule 7.5 Firm Names and Letterheads</p>	<p align="center"><u>Explanation of Changes to the ABA Model Rule</u></p>
<p>(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.</p>	<p>(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.</p>	<p><u>Paragraph (a)</u> is identical to Model Rule 7.5(a). The closest counterpart to this provision in the current California Rules is Standard (6) to current rule 1-400, which provides that the following is a presumed violation of rule 1-400: "(6) A 'communication' in the form of a firm name, trade name, fictitious name, or other professional designation which states or implies a relationship between any member in private practice and a government agency or instrumentality or a public or non-profit legal services organization."</p>
<p>(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.</p>	<p>(b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.</p>	<p><u>Paragraph (b)</u> is identical to Model Rule 7.5(b). Currently, there is no similar provision in California.</p>
<p>(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.</p>	<p>(c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.</p>	<p><u>Paragraph (c)</u> is identical to Model Rule 7.5(c). Currently, there is no similar provision in California.</p>

* Proposed Rule 7.5, Draft 7 (5/31/09). Redline/strikeout showing changes to the ABA Model Rule

<p align="center"><u>ABA Model Rule</u> Rule 7.5 Firm Names and Letterheads</p>	<p align="center"><u>Commission's Proposed Rule*</u> Rule 7.5 Firm Names and Letterheads</p>	<p align="center"><u>Explanation of Changes to the ABA Model Rule</u></p>
<p>(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.</p>	<p>(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.</p>	<p><u>Paragraph (d)</u> is identical to Model Rule 7.5(d).</p>

<p align="center"><u>ABA Model Rule</u> Rule 7.5 Firm Names and Letterheads Comment</p>	<p align="center"><u>Commission's Proposed Rule*</u> Rule 7.5 Firm Names and Letterheads Comment</p>	<p align="center"><u>Explanation of Changes to the ABA Model Rule</u></p>
<p>[1] A firm may be designated by the names of all or some of its members, by the names of deceased members where there has been a continuing succession in the firm's identity or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use of such names in law practice is acceptable so long as it is not misleading. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer that it is a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm, or the name of a nonlawyer.</p>	<p>[1] A firm may be designated by the names of all or some of its members<u>lawyers</u>, by the names of deceased members<u>or retired lawyers</u> where there has been a continuing succession in the firm's identity, <u>by a distinctive website address</u>, or by a trade name such as the "ABC Legal Clinic." A lawyer or law firm may also be designated by a distinctive website address or comparable professional designation. Although the United States Supreme Court has held that legislation may prohibit the use of trade names in professional practice, use <u>Use</u> of such names in law practice is acceptable so long as it is not misleading <u>in violation of Rule 7.1</u>. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," an express disclaimer<u>the firm may have to expressly disclaim</u> that it is a public legal aid agency may be required to avoid a misleading implication. It may be observed that any firm name including the name of a deceased partner is, strictly speaking, a trade name. The use of such names to designate law firms has proven a useful means of identification. However, it is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm, or the name of a nonlawyer.</p>	<p>Comment [1] is based on Model Rule 7.5, cmt. [1]. Comment [1] elaborates upon the general prohibition in paragraph (a) of the Rule, and gives examples of firm names that violate or do not violate proposed Rule 7.1's proscription against false or misleading communications. The Model Rule language in what is now the next-to-last sentence was revised in response to public comment that the Model Rule syntax was confusing. See 12/1/2006 OCBA Memo to Commission.</p> <p>The two next-to-last sentences in Model Rule 7.5, cmt. [1], were deleted as unnecessary exposition.</p>

* Proposed Rule 7.5, Draft 7 (5/31/09). Redline/strikeout showing changes to the ABA Model Rule

<p align="center"><u>ABA Model Rule</u> Rule 7.5 Firm Names and Letterheads Comment</p>	<p align="center"><u>Commission's Proposed Rule*</u> Rule 7.5 Firm Names and Letterheads Comment</p>	<p align="center"><u>Explanation of Changes to the ABA Model Rule</u></p>
<p>[2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm..</p>	<p>[2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm. A lawyer may state or imply that the lawyer or lawyer's law firm is "of counsel" to another lawyer or a law firm only if the former has a relationship with the latter (other than as a partner or associate, or officer or shareholder pursuant to Business and professions Code sections 6160-6172) which is close, personal, continuous, and regular.</p>	<p>The first sentence of comment [2] is identical to Model Rule 7.5, cmt. [2]. The second sentence of comment [2] has no counterpart in the Model Rule but is instead derived from Standard (8) to current rule 1-400. The "close, personal, continuous, and regular" standard has been adopted by the California Supreme Court in the conflicts of interest context. See, e.g., <i>People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc.</i> (1999) 20 Cal.4th 1135, 1139-40, 86 Cal.Rptr.2d 816.</p>

Rule 7.5 Firm Names and Letterheads

(Comparison of the Current Proposed Rule to the initial Public Comment Draft)

- (a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.
- (b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.
- (c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.
- (d) ~~A lawyer~~Lawyers may state or imply that ~~the lawyer has~~they practice in a ~~relationship to any other lawyer~~partnership or a law firm as a partner or associate, or officer or shareholder pursuant to Business and Professions Code sections 6160-6172 ~~other organization~~only when such relationship in ~~that is the fact exists.~~

COMMENT

- [1] A firm may be designated by the names of all or some of its lawyers, by the names of deceased or retired lawyers where there has been a continuing succession in the firm's identity, by a distinctive website address, or by a trade name such as the "ABC Legal Clinic." Use of such names in law practice is acceptable so long as it is not misleading in violation of Rule 7.1. If a private firm uses a trade name that includes a geographical name such as "Springfield Legal Clinic," ~~an~~ express disclaimer~~the firm may have to expressly disclaim~~ that it is a public legal aid agency ~~may be required~~ to avoid a misleading implication. It is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm, or the name of a nonlawyer.
- [2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, "Smith and Jones," for that title suggests that they are practicing law together in a firm. A lawyer may state or imply that the lawyer or lawyer's law firm is "of counsel" to another lawyer or a law firm only if the former has a relationship with the latter (other than as a partner or associate, or officer or shareholder pursuant to Business and professions Code sections 6160-6172) which is close, personal, continuous, and regular.

Rule 7.5 Firm Names and Letterheads
(Commission’s Proposed Rule – Clean Version)

- (a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.
- (b) A law firm with offices in more than one jurisdiction may use the same name or other professional designation in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.
- (c) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.
- (d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

COMMENT

- [1] A firm may be designated by the names of all or some of its lawyers, by the names of deceased or retired lawyers where there has been a continuing succession in the firm’s identity, by a distinctive website address, or by a trade name such as the “ABC Legal Clinic.” Use of such names in law practice is acceptable so long as it is not misleading in violation of Rule 7.1. If a private firm uses a trade name that includes a geographical name such as “Springfield Legal Clinic,” the firm may have to expressly disclaim that it is a public legal aid agency to avoid a misleading implication. It is misleading to use the name of a lawyer not associated with the firm or a predecessor of the firm, or the name of a nonlawyer.
- [2] With regard to paragraph (d), lawyers sharing office facilities, but who are not in fact associated with each other in a law firm, may not denominate themselves as, for example, “Smith and Jones,” for that title suggests that they are practicing law together in a firm. A lawyer may state or imply that the lawyer or lawyer’s law firm is “of counsel” to another lawyer or a law firm only if the former has a relationship with the latter (other than as a partner or associate, or officer or shareholder pursuant to Business and Professions Code sections 6160-6172) which is close, personal, continuous, and regular.

Rule 7.5: Firm Names and Letterheads

STATE VARIATIONS

(The following is an excerpt from Regulation of Lawyers: Statutes and Standards (2009 Ed.)
by Steven Gillers, Roy D. Simon and Andrew M. Perlman.)

Alaska adds the following paragraph (e): “The term ‘of counsel’ shall be used only to refer to a lawyer who has a close continuing relationship with the firm.”

Arizona deletes the qualification in the second sentence of subparagraph (a) beginning, if it does not imply a connection with a government agency....”

California: Compare Standards 6 through 9 following Rule 1-400. In addition, §16952 of the California Corporations Law, entitled “Requirements for Name,” provides that the name of a registered limited liability partnership must contain the words “Registered Limited Liability Partnership” or “Limited Liability Partnership” or one of the abbreviations “L.L.P.,” “LLP,” “R.L.L.P.,” or “RLLP” as the last words or letters of its name.

Florida: Rule 4-7.9(b) permits a lawyer to practice under a trade name if the name is “not deceptive” and “does not imply that the firm is something other than a private law firm.” The same rule permits a lawyer to use the term “legal clinic” or “legal services” in conjunction with the lawyer’s own name “if the lawyer’s practice is devoted to providing routine legal services for fees that are lower than the prevailing rate in the community for those services.”

Under Rule 4-7.9(c) a lawyer may not advertise under a trade or fictitious name “unless the same name is the law firm name that appears on the lawyer’s letterhead, business cards, office sign, and fee contracts, and appears with the lawyer’s signature on pleadings and other legal documents.” The Comment to Rule 4-7.9 notes that a lawyer may not advertise under “a nonsense name designed to obtain an advantageous position for the lawyer in alphabetical directory listings unless the lawyer actually practices under that nonsense name.”

Georgia adds Rule 7.5(e)(1), which permits a lawyer in private practice to use a trade name if it “includes the name of at least one of the lawyers practicing under said name. A law firm name consisting solely of the name or names of deceased or retired members of the firm does not have to include the name of an active member of the firm.”

Illinois: Rule 7.5(a) retains the language of DR 2-102(B) of the ABA Model Code of Professional Responsibility relating to lawyers who assume a “Judicial, legislative, or public executive or administrative post or office.”

Iowa: Rule 7.5 provides in paragraph (f) that a “lawyer who is engaged both in the practice of law and in another profession or business shall not so indicate on the lawyer’s letterhead, office sign, or professional card, and shall not be

identified as a lawyer in any publication in connection with the lawyer's other profession or business."

Massachusetts adds to ABA Comment 2 that the term "associates" implies practice in either a partnership or sale proprietorship form and "may not be used by a group in which the individual members disclaim the joint or vicarious responsibility inherent in such forms of business in the absence of an effective disclaimer of such responsibility."

Nevada: Rule 7.5(b) provides that a law firm with offices in more than one jurisdiction "that has registered with the State Bar of Nevada under Rule 7.5A" may use the same name in each jurisdiction. Rule 7.5A(a) provides: "All law firms having an office in Nevada and in one or more other jurisdictions shall register with the State Bar of Nevada and shall pay an annual fee of \$500 for such registration." The remainder of the rule sets out lengthy, detailed disclosure requirements such as: "(1) The names and addresses of all lawyers employed by the firm, the jurisdictions in which each lawyer is licensed, and verification that each lawyer is in good standing in the jurisdictions in which each lawyer is licensed; (2) Any pending disciplinary action or investigation against a lawyer employed by the firm;" and (5) a certification that:

(i) The firm will maintain a permanent office in Nevada with a resident member of the firm who is also an active member in good standing of the State Bar of Nevada at all times the firm is practicing in Nevada... [and]

(ii) The firm agrees to disclose in writing to its Nevada clients whether all of its lawyers are licensed to practice in Nevada and, if any of its lawyers are not so licensed, to disclose what legal work will be performed by lawyers not admitted to practice in this state. Upon

request of the State Bar of Nevada, the firm shall provide documentation evidencing its compliance with these disclosure requirements....

New Jersey: Rule 7.5(b) permits a law firm with offices in more than one jurisdiction to use the same name in each jurisdiction, but all advertisements, letterheads or "anywhere else that the firm name is used," must indicate the jurisdictional limitations on those not licensed to practice in New Jersey. If a firm name includes the name of any lawyer not licensed in New Jersey, then any advertisement, letterhead or other communication containing the firm name "must include the name of at least one licensed New Jersey attorney who is responsible for the firm's New Jersey practice or the local office thereof..." Rule 7.5(d) permits lawyers to state or imply that they practice in a partnership "only if the persons designated in the firm name and the principal members of the firm share in the responsibility and liability for the firm's performance of legal services." Rule 7.5(e) provides as follows:

(e) A law firm name may include additional identifying language such as "& Associates" only when such language is accurate and descriptive of the firm. Any firm name including additional identifying language such as "Legal Services" or other similar phrases shall inform all prospective clients in the retainer agreement or other writing that the law firm is not affiliated or associated with a public, quasi-public or charitable organization. However, no firm shall use the phrase "legal aid" in its name or in any additional identifying language.

New York: DR 2-102(A) sets forth detailed regulations regarding "internet websites, professional cards, professional announcements, office signs, letterheads or similar professional notices or devices." DR 2-102(B) provides as follows:

A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm name containing names other than those of one or more of the lawyers in the firm, except that... a firm may use as, or continue to include in its name, the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.... A lawyer or law firm may not include the name of a nonlawyer in its firm name....

(The last sentence of DR 2-102(B) is equivalent to ABA Model Rule 7.5(c.) DR 2-102(C), equivalent to ABA Model Rule 7.5(d), provides that a lawyer shall not hold himself or herself out as having a partnership with one or more other lawyers” “unless they are in fact partners.” DR 2-102(E) and (F) address domain names and firm names as follows:

(E) A lawyer or law firm may utilize a domain name for an internet web site that does not include the name of the lawyer or law firm provided:

- (1) all pages of the web site clearly and conspicuously include the actual name of the lawyer or law firm;
- (2) the lawyer or law firm in no way attempts to engage in the practice of law using the domain name;
- (3) the domain name does not imply an ability to obtain results in a matter; and
- (4) the domain name does not otherwise violate a disciplinary rule.

(F) A lawyer or law firm may utilize a telephone number which contains a domain name, nickname,

moniker or motto that does not otherwise violate a disciplinary rule.

North Carolina: Rule 7.5(a) adds the following: “Every trade name used by a law firm shall be registered with the North Carolina State Bar for a determination of whether the name is misleading.” Rule 7.5(d) ends with the words “whether or not the lawyer is precluded from practicing law.”

Ohio: Rule 7.5(a) expressly provides that a lawyer in private practice “shall not practice under a trade name,” and generally permits a law firm to “use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession.” Rule 7.5(b) provides that a law firm with offices in more than one jurisdiction that lists attorneys associated with the firm 44 shall indicate the jurisdictional limitations on those not licensed to practice in Ohio.”

Oregon: Rule 7.5(d) forbids a lawyer to “permit his or her name to remain in the name of a law firm or to be used by the firm during the time the lawyer is not actively and regularly practicing law as a member of the firm” and forbids members of the firm to use the lawyer’s name. The rule does not apply for absences of one year or less during which the lawyer is not actively practicing law if the lawyer plans to return to the firm. The rule also does not apply to the names of retiring, deceased, or retired members of the firm or a predecessor law firm in a continuing line of succession.”

Virginia: The first sentence of Rule 7.5(a) permits a lawyer or law firm to use “a professional card, professional announcement, card, office sign, letterheads, telephone directory listing, law list, legal directory listing, website, or a similar professional notice or device unless it includes a statement or claim that is false, fraudulent, misleading, or

deceptive.” Rule 7.5(b) prohibits lawyers licensed in different jurisdictions from forming or continuing a law firm “unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings make clear the jurisdictional limitations of those members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction.”

TOTAL = 3 Agree = 1
 Disagree = 0
 Modify = 2
 NI = 0

Rule 7.5. Firm Names and Letterheads.
[Sorted by Commenter]

No.	Commenter	Position ¹	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
1	COPRAC (Steven Lewis)	M	Y	Cmt. [1]	COPRAC requests that the word "retired" be added to modify the word "partners" in the first sentence of comment [1].	The Commission agreed with, and made the change. The requested change reflects the law and removes any doubt that a retired partner's name may be used in a firm name.
2	Orange County Bar Association (Julie McCoy)	M	Y	Cmt. [1]	OCBA suggests there is a typo in the next-to-last sentence of comment [1], i.e., a "not" was inadvertently left out. They request that the last sentence be changed as follows: "If a private firm uses a trade name that includes a geographical name such as 'Springfield Legal Clinic,' an express disclaimer that it <u>not</u> is a public legal aid agency may be required to avoid a misleading implication."	The Commission did not make change because there is no typo. The sentence is identical to the Model Rule (and the rule as adopted in most other states). The Model Rule uses the word "disclaimer" in its narrow sense, i.e., a "disavowal" or "denial" vs. the broader meaning of "disclaimer" when used in the context of "web disclaimer," which can mean either a "denial" or an "explanation." The confusion results because OCBA apparently read "disclaim" to mean "claim" that it is a public legal aid agency. To avoid a future misapprehension, the Commission made the following revision: If a private firm uses a trade name that includes a geographical name such as 'Springfield Legal Clinic,' the firm may have to expressly disclaim that it is a public legal aid agency to avoid a misleading implication.
3	San Diego County Bar Association (Andrew S. Albert)	A	Y	Misc.	Approve proposed Rule in its entirety.	No response necessary.

¹ A = AGREE with proposed Rule D = DISAGREE with proposed Rule M = AGREE ONLY IF MODIFIED NI = NOT INDICATED