

MENTORMATCH PROGRAM
WORKSHEET BB
INTRODUCTION TO CLIENT DEVELOPMENT

Worksheet BB is intended to facilitate a discussion about methods of client development that have been successful for the mentor and other techniques for business development, including any relevant ethical concerns and the most professional practices in this regard.

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- Share with the new lawyer methods of client development that have been successful for you. Share methods which have been unsuccessful and discuss the reasons you believe said methods failed.
- Discuss the importance of professionalism in client development.
- Discuss the client-development tips suggested in the attached outline. Ann-Marie Ahern, *A Young Lawyer's Guide to Client Development: Building a Law Practice in a Small Firm*.
- Discuss how such satisfaction adds to the successfulness of your overall practice. Share specific tips for creating client satisfaction. Read and discuss the attached article. Mark Merenda, *How to Really Set Yourself Apart From the Competition*, LAW.COM, June 13, 2005.
- Discuss the role your billing statements play in marketing your services. Read the attached article. Bob Weiss, *Your Most Important Marketing Copy – What Your Bill Says*, LAW PRACTICE TODAY, Sept. 2005. Share tips for creating professional and descriptive bills.
- Discuss ethical constraints on advertising and marketing your law firm if the new lawyer takes part in these aspects of firm promotion. See Prof. Cond. Rules 7.1 – 7.4.

RESOURCES

INDIANA RULES OF PROFESSIONAL CONDUCT INFORMATION ABOUT LEGAL SERVICES

Rule 7.2. Publicity and Advertising

- (a) Subject to the requirements of this rule, a lawyer may advertise services through public media, such as a telephone directory, legal directory, newspaper or other periodical, radio or television or through other public communication.
- (b) A lawyer shall not, on behalf of himself, his partner or associate or any other lawyer affiliated with him or his firm, use, or participate in the use of, any form of public communication

containing a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim.

In order to facilitate the process of informed selection of a lawyer by potential consumers of legal service, a lawyer may advertise so long as said advertising is done in a dignified manner. The following constitute examples of permissible areas in which a lawyer may advertise:

- (1) name, including name of law firm and names of professional associates; addresses and telephone numbers;
- (2) one or more fields of law in which the lawyer or law firm practices, using commonly accepted and understood definitions and designations;
- (3) date and place of birth;
- (4) date and place of admission to the bar of state and federal courts;
- (5) schools attended, with dates of graduation, degrees and other scholastic distinctions;
- (6) public or quasi-public offices;
- (7) military service;
- (8) legal authorships;
- (9) legal teaching position;
- (10) memberships, offices, and committee assignments, in bar associations;
- (11) membership and offices in legal fraternities and legal societies;
- (12) technical and professional licenses;
- (13) memberships in scientific, technical and professional associations and societies;
- (14) foreign language ability;
- (15) names and addresses of bank references;
- (16) prepaid or group legal services programs in which the lawyer participates;
- (17) whether credit cards or other credit arrangements are accepted;
- (18) office and telephone answering service hours;
- (19) the following information:
 - (a) fee for an initial consultation;
 - (b) availability upon request of a written schedule of fees and/or an estimate of the fee to be charged for specific services;
 - (c) contingent fee rates provided that the statement discloses whether percentages are computed before or after deduction of costs;
 - (d) range of fees for services, provided that the statement discloses that the specific fee within the range which will be charged will vary depending upon the particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee within the range likely to be charged, in print size equivalent to the largest print used in setting forth the fee information;
 - (e) hourly rate, provided that the statement discloses that the total fee charged will depend upon the number of hours which must be devoted to the particular matter to be handled for each client and the client is entitled without obligation to an estimate of the fee likely to be charged, in print size at least equivalent to the largest print used in setting forth the fee information; and
 - (f) fixed fees for specific legal services, the description of which would not be understood or be deceptive, provided that the statement discloses that the quoted fee will be

available only to clients whose matters fall into the services described and that the client is entitled without obligation to a specific estimate of the fee likely to be charged in print size at least equivalent to the largest print used in setting forth the fee information.

- (c) Without limitation a false, fraudulent, misleading, deceptive, self-laudatory or unfair statement or claim includes a statement or claim which:
 - (1) contains a material misrepresentation of fact;
 - (2) omits to state any material fact necessary to make the statement, in the light of all circumstances, not misleading;
 - (3) is intended or is likely to create an unjustified expectation;
 - (4) states or implies that a lawyer is a certified or recognized specialist other than as permitted by Rule 7.4;
 - (5) is intended or is likely to convey the impression that the lawyer is in a position to influence improperly any court, tribunal, or other public body or official;
 - (6) contains a representation or implication that is likely to cause an ordinary prudent person to misunderstand or be deceived or fails to contain reasonable warnings or disclaimers necessary to make a representation of implication not deceptive.
- (d) A lawyer shall not, on behalf of himself, his partner or associate, or any other lawyer affiliated with him or his firm, use or participate in the use of any form of public communication which:
 - (1) is intended or is likely to result in a legal action or a legal position being asserted merely to harass or maliciously injure another;
 - (2) contains statistical data or other information based on past performance or prediction of future success;
 - (3) contains a testimonial about or endorsement of a lawyer;
 - (4) contains a statement or opinion as to the quality of the services or contains a representation or implication regarding the quality of legal services;
 - (5) appeals primarily to a lay person's fear, greed, desire for revenge, or similar emotion; or
 - (6) is prohibited by Rule 7.3.
- (e) A lawyer shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item. An advertisement must be identified as such unless it is apparent from the context that it is an advertisement. A copy or recording of an advertisement shall be approved by the lawyer and shall be kept for six years after its dissemination along with a record of when and where it was used.

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Rule 7.3. Recommendation or Solicitation of Professional Employment

- (a) A lawyer shall not seek or recommend by in-person contact (either in the physical presence of, or by telephone, or by real-time electronic contact), the employment, as a private practitioner, of the lawyer, the lawyer's partner, associate, or the lawyer's firm, to a nonlawyer who has not sought advice regarding the employment of a lawyer, or assist another person in so doing unless the contacted non-lawyer has a family or prior professional relationship with the lawyer.

- (b) A lawyer shall not solicit professional employment from a prospective client by written or recorded communication or by in-person or telephone, or by real-time electronic contact even when not otherwise prohibited by paragraph (a) if:
- (1) the prospective client has made known to the lawyer a desire not to be solicited by the lawyer; or
 - (2) the solicitation involves coercion, duress or harassment.
- (c) Every written, recorded, or electronic communication from a lawyer soliciting professional employment from a prospective client potentially in need of legal services in a particular matter, and with whom the lawyer has no family or prior professional relationship, shall include the words "Advertising Material" conspicuously placed both on the face of any outside envelope and at the beginning of any written communication, and both at the beginning and ending of any recorded communication. A copy of each such communication shall be filed with the Indiana Supreme Court Disciplinary Commission at or prior to its dissemination to the prospective client. A filing fee in the amount of fifty dollars (\$50.00) payable to the "Supreme Court Disciplinary Commission Fund" shall accompany each such filing. In the event a written, recorded or electronic communication is distributed to multiple prospective clients, a single copy of the mailing less information specific to the intended recipients, such as name, address (including email address) and date of mailing, may be filed with the Commission. Each time any such communication is changed or altered, a copy of the new or modified communication shall be filed with the Disciplinary Commission at or prior to the time of its mailing or distribution. The lawyer shall retain a list containing the names and addresses, including email addresses, of all persons or entities to whom each communication has been mailed or distributed for a period of not less than one (1) year following the last date of mailing or distribution. Communications filed pursuant to this subdivision shall be open to public inspection.
- (d) If success in asserting rights or defenses of his clients in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept employment from those he is permitted under applicable law to contact for the purpose of obtaining their joinder.
- (e) A lawyer shall not accept referrals from any lawyer referral service unless such service falls within subparts 1-4 of this Rule 7.3(e). A lawyer or his partner or associates or any other lawyer affiliated with him or his firm may be recommended, employed or paid by, or may cooperate with, one of the following offices or organizations that promote the use of his services or those of his partner or associates or any other lawyer affiliated with him or his firm, if there is no interference with the exercise of independent professional judgment on behalf of his client:
- (1) A legal office or public defender office:
 - (a) operated or sponsored on a not-for-profit basis by a law school accredited by the American Bar Association Section on Legal Education and Admissions to the Bar;
 - (b) operated or sponsored on a not-for-profit basis by a bona fide non-profit community organization;
 - (c) operated or sponsored on a not-for-profit basis by a governmental agency; and
 - (d) operated, sponsored, or approved in writing by the Indiana State Bar Association, the Indiana Trial Lawyers Association, the Indiana Defense Lawyers Association, any bona fide county or city bar association within the State of Indiana, or any other bar association whose lawyer referral service has been sanctioned for operation in Indiana by the Indiana Disciplinary Commission.
 - (2) A military legal assistance office
 - (3) A lawyer referral service operated, sponsored, or approved by any organization listed in Rule 7.3(e)(1)(D)
 - (4) Any other non-profit organization that recommends, furnishes, or pays for legal services to its members or beneficiaries, but only if the following conditions are met:

- (a) The primary purposes of such organization do not include the rendition of legal services;
 - (b) The recommending, furnishing, or paying for legal services to its members is incidental and reasonably related to the primary purpose of such organization;
 - (c) Such organization does not derive a financial benefit from the rendition of legal services by the lawyer; and
 - (d) The member or beneficiary for whom the legal services are rendered, and not such organization, is recognized as the client of the lawyer in the matter.
- (f) A lawyer shall not compensate or give anything of value to a person or organization to recommend or secure his employment by a client, or as a reward for having made a recommendation resulting in his employment by a client, except that he may pay for public communication permitted by Rule 7. 2 and the usual and reasonable fees or dues charged by a lawyer referral service falling within the provisions of Rule 7.3(e).
- (g) A lawyer shall not accept employment when he knows or it is obvious that the person who seeks

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Rule 7.4. Communication of Specialty Practice

When the communication otherwise meets the requirements of Rules, 7.2, 7.3, and 7.5, a lawyer may:

- (a) communicate the fact that the lawyer does or does not practice in particular fields of law, but may not express or imply any particular expertise except as otherwise provided in Rule 7.4(b);
- (b) communicate that the lawyer is certified as a specialist in a field of practice when the certification and communication are authorized under Admission and Discipline Rule 30.
- (c) Notwithstanding subsection (b), a lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation “Patent Attorney” or a substantially similar designation, and a lawyer engaged in Admiralty practice may use the designation “Admiralty,” “Proctor in Admiralty” or a designation.

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