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January 26, 1993

OFFICE OF  
APPELLATE COURTS

JAN 28 1993

FILED

Mr. Frederick K. Grittner  
Clerk of Appellate Courts  
Minnesota Judicial Center  
25 Constitution Avenue  
St. Paul, MN 55155-6102

Dear Mr. Grittner:

I am enclosing the original and ten copies of the Petition of the Minnesota State Bar Association in this matter. I am also enclosing for the Court's convenience a copy of the petition on disk. The disk was created in WordPerfect Version 5.0 on a MS/DOS machine.

If you have any questions regarding this Petition, please feel free to contact me.

Yours very truly,



David F. Herr

DFH:ls  
Enclosures

cc: Mr. Robert A. Guzy  
Mr. R. Bertram Greener  
Ms. Mary Jo Ruff, MSBA

STATE OF MINNESOTA  
IN SUPREME COURT

JAN 28 1993

10:10 AM

In re:

File No. C8-84-1650

Petition of Minnesota State  
Bar Association to Amend the Minnesota  
Rules of Professional Conduct.

**PETITION OF MINNESOTA STATE BAR ASSOCIATION**

1. Petitioner Minnesota State Bar Association ("MSBA") is a not-for-profit corporation of attorneys authorized to practice before this Honorable Court and the other courts of this state.

2. This Honorable Court has the exclusive and inherent power and duty to administer justice and to adopt rules of practice and procedure before the courts of this state and to establish the standards for regulating the legal profession. This power has been expressly recognized by the Legislature. See Minn. Stat. § 480.05 (1992).

3. This Honorable Court has adopted the Minnesota Rules of Professional Conduct ("Rules") governing attorneys-at-law practicing in the State of Minnesota.

4. In 1991 the MSBA established a committee to consider issues and problems arising under the existing Rules. That committee studied the issues, reviewed communications from lawyers, judges, and members of the public, and issued recommendations in the form of a Final Report.

5. The MSBA accepted the Final Report in part and adopted certain resolutions relating to amendment of the Minnesota Rules of Professional Conduct by action of its House of Delegates on June 27, 1992, at its annual convention held in Rochester. This Petition to this Court was authorized and endorsed at that time.

6. The MSBA has considered numerous complaints about misleading advertisements to the public where the existing Rules were inadequate and ill-suited for the protection of the public. The amendments proposed in this Petition are those deemed necessary and appropriate, and do not include various changes recommended but deemed unnecessary or inappropriate limitations on advertising.

7. The MSBA respectfully recommends and requests this Court to amend the Minnesota Rules of Professional Conduct, and specifically Rules 7.2 and 7.3, as follows:

**Rule 7.2 Advertising and Written Communication**

(a) Subject to the requirements of Rule 7.1, a lawyer may advertise services through public media, ~~such as a telephone directory, legal directory, newspaper or other periodical, outdoor advertising, radio or television,~~ or through written communication.

\* \* \*

(f) ~~A lawyer may not advertise for or solicit clients by any means for the purpose of referring those clients to another lawyer who is not a partner, associate, or employee of the advertising or soliciting lawyer without disclosing in the advertisement or solicitation that such a referral may or will be made. The disclosure must be worded substantially as follows: "You are advised that your case may be referred to another firm or attorney not directly associated with this law firm. You are further advised that this firm will receive a portion of any fee you ultimately pay to the firm doing the actual legal work on your behalf. The specifics of this fee arrangements will be disclosed to you in detail in the retainer agreement this firm will provide for you to sign."~~

(g) ~~Advertisements and written communications indicating that the charging of a fee is contingent on outcome must disclose that the client will be liable for expenses regardless of outcome, if the lawyer so intends to hold the client liable.~~

(h) ~~Advertisements and written communications indicating that the fee will be a percentage of the recovery must disclose that the percentage will be computed before expenses are deducted from the recovery, if the lawyer so intends to compute the fee.~~

(i) ~~The word "ADVERTISEMENT" must appear clearly and conspicuously at the beginning of, and upon any envelope containing, any written solicitation to a prospective client with whom the lawyer has no family or prior professional relationship and who may be in need of specific legal services because of a condition or occurrence that is known to the soliciting lawyer.~~

~~(c)~~ Every lawyer associated with or employed by a law firm which causes or makes a communication in violation of this Rule may be subject to discipline for failure to make reasonable remedial efforts to bring the communication into compliance with this Rule.

**Rule 7.3 ~~Direct In-Person and Telephone~~ Contact with Prospective Clients**  
[Change only to title of rule].

8. The requested change is justified and appropriate to establish more explicit standards relating to lawyer advertising and to remove confusion that occurs under the rules as now articulated.

9. Petitioner would like to have an opportunity to respond to any comments,

**CONCLUSION**

WHEREFORE, Petitioner respectfully requests this Honorable Court to adopt the recommendations of the MSBA by:

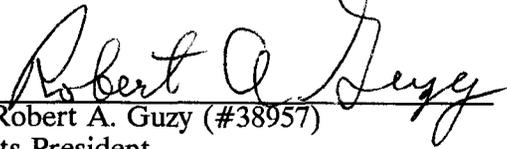
1. Amending Rules 7.2 and 7.3 of the Minnesota Rules of Professional Conduct as set forth above;
2. Allowing Petitioner an opportunity to file a supplemental memorandum in response to any submissions made by any persons in response to the publication of this Petition and any Order for public hearing; and

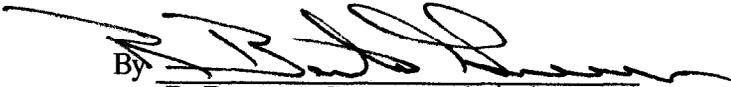
3. Allowing Petitioner time at any public hearing ordered on this Petition to address the court on behalf of its positions.

Dated: This 25th day of January, 1993.

Respectfully submitted,

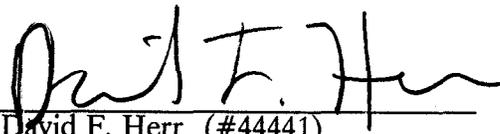
MINNESOTA STATE BAR ASSOCIATION

By   
Robert A. Guzy (#38957)  
Its President

By   
R. Bertram Greener, Chair (#37503)  
MSBA Lawyer Advertising Committee  
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Petitioner

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