



**New York State Bar Association  
Committee on Professional Ethics**

**Opinion 1294 (03/11/2026)**

**Topic:** Solicitation; Advertisement; Lead Generators

**Digest:** Where an on-line platform collects information from users about workplace experiences and the platform then shares that information in anonymized form with employment lawyers, who pay to have the user’s identifying information disclosed if the user consents to such disclosure, the resulting communication between the lawyer and the user is neither a solicitation nor an advertisement within the meaning of the Rules, as long as the user consents to disclosure of the anonymized information and consents to disclosure of the user’s contact information. The lawyer’s payment for the opportunity to make the contact is not a prohibited payment to obtain employment, but rather a permissible payment to a lead generator, as long as (i) the platform does not recommend the lawyer, (ii) the platform uses neutral, disclosed criteria to select the lawyer making the contact, and (iii) the payment by the lawyer does not vary depending on whether a retention results or on the amount of any resulting fee.

**Rules:** 1.0(a) & (j), 1.6, 1.9, 1.18, 7.1, 7.2, 7.3

**FACTS:**

1. The inquirer is in-house counsel for a platform that offers members of the public a place to record their personal work experiences. The platform also provides users access to various support services, including legal support. Users—aided by prompts from the platform—can record information about their work experiences, such as accomplishments, challenges, and time off. As disclosed to the user and with the consent of the user, the platform uses an algorithm that monitors the user’s log entries, scores those entries based on elements that the user has input into the logs, and identifies matters that might be of interest to counsel, such as potential employment discrimination claims. Lawyers using the platform may purchase “credits” that they may use to gain access to an anonymized potential client’s contact information.

2. The platform shares both the log information (in anonymized form) and the results of the algorithm’s scoring with employment lawyers who may be interested in advising on the problem presented. (The platform does not share the algorithm’s scoring of the log entries with the user.) A lawyer may then spend credits that the lawyer has purchased to ask to contact the user.

3. The platform then informs the user that, based on the information the user has logged on the platform, an employment attorney has requested permission to speak with the user. The platform advises the user that no personal details have been shared, and asks whether the user consents to have his or her identity and contact information disclosed to the lawyer. If the user consents, the platform shares the user’s identifying details with the lawyer. Only one lawyer—generally the first to respond—will be put in contact with the user at any given time. The user is fully advised how the lawyer who has reached out to the user was selected. The platform advises the user that it does not endorse or recommend any specific attorney.

4. If a retention results from the contact, the lawyer and user (now client) negotiate a fee—generally a contingent fee—outside of the platform. The amount of credits that the lawyer spends does not vary depending on the algorithm’s scoring of the problem, or on whether the user consents to release of identifying information, or on whether a retention results, or on the amount of any resulting fee.

**QUESTION:**

5. Is the operation of the platform in connecting users with attorneys prohibited solicitation or otherwise impermissible?

**OPINION:**

6. Rule 7.3 of the New York Rules of Professional Conduct (the “Rules”) regulates “solicitation,” including by barring lawyers from engaging in in-person or telephone solicitation and requiring that all solicitations be filed with the attorney disciplinary committee of the judicial district or department where the lawyer or law firm maintains its principal office. *See* Rules 7.3(a)(1) and 7.3(c). The Rule defines a “solicitation” as a communication “initiated by or on behalf of a lawyer or law firm” and excludes proposals or other writings “in response to a specific request of a prospective client.” Specifically Rule 7.3(b) states:

For purposes of this Rule, “solicitation” means any advertisement initiated by or on behalf of a lawyer or law firm that is directed to, or targeted at, a specific recipient or group of recipients, or their family members or legal representatives, the primary purpose of which is the retention of the lawyer or law firm, and a significant motive for which is pecuniary gain. It does not include a proposal or other writing prepared and delivered in response to a specific request of a prospective client.

7. Rule 1.0(a) defines the term “advertisement,” which is used in the above definition, as follows:

[A]ny public or private communication made by or on behalf of a lawyer or law firm about that lawyer or law firm’s services, the primary purpose of which is for the retention of the lawyer or law firm. It does not include communications to existing clients or other lawyers.

8. Here, while the inquirer has not shared with us the specific disclosures that the platform makes to platform users who are potential clients, we assume that each user is informed that information that the user enters into logs on the platform will be shared, in anonymized form, with lawyers on the platform who may be interested in advising on the user’s legal problem. We further assume that the consent the platform obtains through that process is “informed” consent. Rule 1.0(j) defines “informed consent” as follows:

“Informed consent” denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated information adequate for the person to make an informed decision, and after the lawyer has adequately explained to the person the material risks of the

proposed course of conduct and reasonably available alternatives.”<sup>1</sup>

In the present circumstances, an informed consent could not be obtained based solely on a disclosure buried in terms and conditions; rather, the disclosure must be “adequate for the person to make an informed decision,” meaning that it must be a clear and conspicuous disclosure to the user, *before* the user provides confidential information, that the information will be disclosed in anonymized form to a wide array of lawyers and that a lawyer may be following up with the user. The disclosure must also explain the process the platform will use to select the lawyers who receive the user’s information (*i.e.*, how the platform decides which lawyers can obtain a user’s contact information).

9. If a lawyer expresses interest in contacting a user, the platform asks the user whether the user’s platform may share the user’s contact information with that specific lawyer. Thus, the particular communication from the platform to the user about the lawyer or law firm’s services is not initiated by or on behalf of the law firm; it is initiated by the user of the service, who has in effect requested a communication from one of the lawyers involved in the platform, and has further requested that the particular lawyer who requested the contact information contact the user. Thus, the lawyer’s communication with the client is not a “solicitation” within the meaning of Rule 7.3. We have previously determined that similar communications instigated by the potential client are not solicitations. *See, e.g.*, N.Y. State 1049 ¶ 10 (2015) (lawyer’s contact in response to an individual’s post on an internet forum asking to be contacted by a lawyer about a problem is not a solicitation); N.Y. State 1014 (2014) (lawyer’s telephone call to a potential client who had asked a current client of the lawyer to have the lawyer call the potential client was not a solicitation).<sup>2</sup>

10. The question nevertheless arises whether the communication by the lawyer with the potential client in response to such a request is an “advertisement” that needs to comply with the requirements of Rule 7.1. Those requirements include that: (i) the communication must include the words “Attorney Advertising” in the subject line or first line of the communication, per Rule 7.1(f); (ii) the communication must include the lawyer’s name, principal law office address, and telephone number, per Rule 7.1(h); and the lawyer must retain a copy of the communication for at least three years, per Rule 7.1(k). In N.Y. State 1049, we observed that “[i]n a strict sense, every communication between a lawyer and a potential client prior to actual retention is for the ‘primary purpose’ of being retained,” but that the definition “must be applied with a measure of common sense.” N.Y. State 1049 ¶ 13. We held that a response to a broadly disseminated request for a lawyer to contact the potential client would not be an advertisement if it merely discussed the client’s legal problem but would be an advertisement if it “went on to describe the services of the lawyer or his or her law firm for the purposes of securing retention.” *Id.* ¶ 12.

11. Here, where the lawyer is responding to a request via the platform that the particular lawyer

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<sup>1</sup> This definition of “informed consent” applies because, in gathering information from users, the platform is effectively acting as the agent for the lawyer who ultimately reaches out to the user. The user is thus a “prospective client” under Rule 1.18, and that Rule bars a lawyer from using or revealing information learned in the course of a consultation about the possibility of forming a client-lawyer relationship except as Rule 1.9 would permit with respect to information of a former client. Rule 1.9(c), in turn, bars a lawyer from revealing confidential information of a former client except as the Rules would permit or require with respect to a current client. Rule 1.6 permits a lawyer of a current client to disclose confidential information if the client gives “informed consent, as defined in Rule 1.0(j).”

<sup>2</sup> We note that this Committee cannot answer questions of law. Accordingly, we cannot determine whether the private response to a layperson’s specific request would violate Section 479 of the New York Judiciary Law, which prohibits solicitation by attorneys. Nor can we determine whether Section 479 or the Rules regulating advertising and solicitation are constitutional in light of *Bates v. State Bar of Arizona*, 433 U.S. 350 (1977), and its progeny.

contact the potential client, we do not believe the communication should be deemed an “advertisement.” Appending the “Attorney Advertising” label to such a communication would be surprising and confusing to most people who have requested such a communication and thus would not serve, but rather would work against, the purposes for which the “Attorney Advertising” label is designed. As Comment [7] to Rule 7.1 states, “Communications, such as proposed retainer agreements or ordinary correspondence with a prospective client who has expressed interest in, and requested information about, a lawyer’s services, are not advertising.” We conclude that the potential client’s request that a particular lawyer contact the potential client is impliedly a request for information about the lawyer’s services as set forth in Comment [7], and therefore is not an “advertisement” and need not be labeled as such.

12. Another question to consider is whether the fact that the lawyer has paid a fee to the platform to obtain the client’s contract information violates Rule 7.2. With exceptions not applicable here, Rule 7.2, provides that a “lawyer shall not compensate or give anything of value to a person or organization to recommend or obtain employment by a client.” The Comments to Rule 7.2 and our opinions distinguish between impermissible payments “to obtain employment by a client” and permissible payments to “lead generators.” Comment [1] to Rule 7.2 explains the circumstances in which payments to lead generators are permitted under the Rules:

... [A] lawyer may pay others for generating clients leads, such as Internet-based client leads, as long as (i) the lead generator does not recommend the lawyers, (ii) any payment to the lead generator is consistent with Rules 1.5(g) (division of fees) and 5.4 (professional independence of the lawyer), (iii) the lawyer complies with Rule 1.8(f) (prohibiting interference with a lawyer’s independent professional judgment by a person who recommends the lawyer’s services), and (iv) the lead generator’s communications are consistent with Rules 7.1 (Advertising) and 7.3 (Solicitation and Recommendation of Professional Employment). To comply with Rule 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person’s legal problems when determining which lawyer should receive the referral. *See also* Rule 5.3 (Lawyer’s Responsibility for Conduct of Nonlawyers).

13. In N.Y. State 1131 (2017), we held that lawyers could pay a service that identified lawyers to clients seeking lawyers in a certain geographic locale and practice area, as long as (among other things) the service made clear that it was not recommending the lawyer and that the lawyers using the service were selected based on “neutral (mechanical) criteria” that were clearly described to potential clients. N.Y. State 1131 ¶ 1. In Opinion 1131 we noted that the participating lawyer might pay either a fixed monthly fee or, as here, “a fee for each such potential client,” as long as “the fee [did] not vary depending on whether the lead results in retention of the lawyer or the amount of the fee the lawyer charges the client if retained.” *Id.* ¶ 2.

14. We conclude that the payments to the service here are permissible payments for lead generation, not prohibited payments to obtain employment, as long as (a) the manner in which the service selects lawyers who are put in contact with the user is based on “neutral (mechanical) criteria” that are clearly explained to users, (b) the platform expressly states to users that it is not endorsing or recommending any lawyer, and (c) the fee paid by the lawyer to the service does not depend on whether the user ends up retaining the lawyer or the amount of any resulting fee. *Cf.*

N.Y. State 1271 ¶¶ 17-18 (2024) (providing examples of statements regarding attorneys participating in online referral services that constitute impermissible recommendations).

15. We note that under the structure of the platform, a client may reveal a great deal of information about the legal problem before the lawyer has a chance to do a conflict check. This creates a risk for the lawyer, but the Rules appropriately place the burden of such risks on the lawyer, who is in a position to steer clear of expressing interest in any matter that might conceivably give rise to a conflict with an existing client. Under Rule 1.18(c), if the lawyer learns information from the prospective client that could be “significantly harmful” to the prospective client in the matter giving rise to the conflict, the lawyer may be unable to continue to represent a pre-existing client in a conflicting matter. *See* N.Y. State 1067 ¶¶ 22-26 (2015) (where prospective client revealed such information to lawyer before lawyer undertook a conflict check, the law firm might be barred from continuing to represent client in an ongoing matter).

## **CONCLUSION:**

16. Where an on-line platform collects information from users about workplace experiences and the platform then shares that information in anonymized form with employment lawyers, who pay to have the user’s identifying information disclosed if the user consents to such disclosure, the resulting communication between the lawyer and the user is neither a solicitation nor an advertisement within the meaning of the Rules, as long as the user consents to the disclosure of the anonymized information and consents to the disclosure of the user’s contact information. The lawyer’s payment for the opportunity to make the contact is not a prohibited payment to obtain employment, but rather a permissible payment to a lead generator, as long as (i) the platform does not recommend the lawyer, (ii) the platform uses neutral, disclosed criteria to select the lawyer making the contact, and (iii) the payment by the lawyer does not vary depending on whether a retention results or on the amount of any resulting fee.

(15-25)