

IN THE SUPREME COURT OF ALABAMA
February 19, 2009

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ORDER

IT IS ORDERED that Rule 7.3(b)(1), Alabama Rules of Professional Conduct, is amended to read in accordance with the appendix attached to this order;

IT IS FURTHER ORDERED that this amendment is effective immediately;

IT IS FURTHER ORDERED that the following note from the reporter of decisions be added to follow Rule 7.3:

"Note from the reporter of decisions: The order amending Rule 7.3(b)(1), effective February 19, 2009, is published in that volume of Alabama Reporter that contains Alabama cases from ___ So. 2d."

Cobb, C.J., and Lyons, Stuart, Smith, Bolin, Parker, Murdock, and Shaw, JJ., concur.

Woodall, J., dissents.

I Robert G. Esdale, Sr., as Clerk of the Supreme Court of Alabama, do hereby certify that the foregoing is a full, true and correct copy of the instrument(s) herewith set out as same appear(s) of record in said Court.

Witness my hand this 19th day of February, 2009

Robert G. Esdale, Sr.
Clerk, Supreme Court of Alabama

APPENDIX

Rule 7.3(b)(1), Alabama Rules of Professional Conduct

(b) Written Communication

(1) A lawyer shall not send, or knowingly permit to be sent, on the lawyer's behalf or on behalf of the lawyer's firm or on behalf of a partner, an associate, or any other lawyer affiliated with the lawyer or the lawyer's firm, a written communication to a prospective client for the purpose of obtaining professional employment if:

(i) the written communication concerns an action for personal injury or wrongful death arising out of, or otherwise related to, an accident or disaster involving the person to whom the communication is addressed or a relative of that person, unless the accident or disaster giving rise to the cause of action occurred more than thirty (30) days prior to the mailing of the communication;

(ii) the written communication concerns a civil proceeding pending in a state or federal court, unless service of process was obtained on the defendant or other potential client more than seven (7) days prior to the mailing of the communication;

(iii) the written communication concerns a criminal proceeding pending in a state or federal court, unless the defendant or other potential client was served with a warrant or information more than seven (7) days prior to the mailing of the communication;

(iv) the written communication concerns a specific matter, and the lawyer knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter;

(v) it has been made known to the lawyer that the person to whom the communication is addressed does not want to receive the communication;

(vi) the communication involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence by the lawyer;

(vii) the communication contains a false, fraudulent, misleading, deceptive, or unfair statement or claim or is improper under Rule 7.1; or

(viii) the lawyer knows or reasonably should know that the person to whom the communication is addressed is a minor or is incompetent, or that the person's physical, emotional, or mental state makes it unlikely that the person would exercise reasonable judgment in employing a lawyer.