THE LAW OFFICE OF
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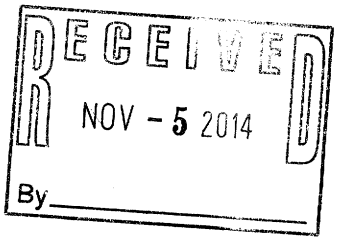

November 3, 2014

James Hivner, Clerk
Re: Rule 8, RPC 7.3
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: In Re Rule 8, RPC 7.3(b)(3), Rules of the Tennessee Supreme Court No. ADM2014-01954

Dear Mr. Hivner,

I am writing to express my support for the proposed amendment to Rule 8 pertaining to divorce or legal separation. My practice includes family law matters, and I have had one instance recently of a spouse notified via a solicitation letter of the divorce filing prior to being advised of or served with the complaint. Even in a divorce situation that does not include allegations of violence, a spouse's notification of divorce via a solicitation letter may unnecessarily create an environment of distrust and hostility. I agree that a thirty day prohibition against contacting the to-be-served spouse would allow for a more controlled presentation of a divorce or legal separation complaint, would adequately address safety needs in potentially violent situations, and would not unreasonably restrict solicitation of potential clients.

Yours very truly,

CYNTHIA C. CHAPPELL

Helen Sfikas Rogers*†
Lawrence J. Kamm
Siew-Ling Shea†
Katie Mathews Zipper
George D. Spanos

*Certified
Civil Trial & Pretrial
Practice Specialist
†Rule 31
Mediator

Rogers, Kamm & Shea

ATTORNEYS AT LAW

Paralegal Staff:
Alan Gentry
Nancy Hardt
Kathleen Marcotte
Renee Brown
Laura Blum

November 3, 2014

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Nashville, TN 37219-1407

RECEIVED
NOV - 4 2014
By

Re: No. ADM2014-01954

Dear Mr. Hivner:

I am writing in support of amending Tenn. Sup. Ct. R. 8, RPC 7.3 as set forth in Docket No. ADM2014-01954. I practice in the area of family law and have had several clients who have had grave concern as to whether they should file or not, specifically due to the reaction that their spouse may have. These situations do not always include physical abuse, but even psychological and financial abuse. These situations are very delicate and should not be blindly interfered with by an attorney who simply scours new court filings to contact potential clients. When a client files for divorce in any type of abusive situation, they should not have to suffer additional distress from the possibility of someone with no knowledge of their situation informing their abuser that a divorce has been filed.

There is no way to delineate a case where abuse is alleged or not as every case has its own strategy and may not set out specific averments of abuse. The rule change has only one goal:to protect a class of people, abuse victims, that the law has set out specific measures to protect. If someone is arrested on domestic assault charges, they are restrained from returning home and the victim is notified of how long the person will be detained. I feel that we would be promoting the opposite by not approving this rule change. Abuse victims should have security in knowing that if they file for divorce, proper safeguards are in place to prevent their spouse from finding out about the divorce and being vulnerable to potential harm.

This is not only a very realistic fear that clients have, but a situation that my office has recently seen. Luckily, our client was not harmed, but underwent a significant amount of verbal/psychological abuse from their spouse. In addition to going through this, they felt betrayed by our office as they could not understand how someone could simply find out about the filing and contact their spouse for no reason. It significantly impacted our relationship with the client and a lack of trust between both sides was needed, due to the acts of the spouse. Our

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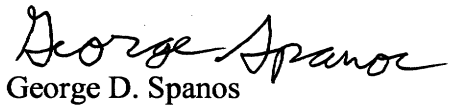
The Winchester Wills and Estates

concern is that this situation will arise again, whether it is our client or someone else's, but will result in much more dire consequences.

Please approve this rule change.

With best wishes I remain,

Very truly yours,



George D. Spanos

TENNESSEE ASSOCIATION FOR JUSTICE

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Tuesday, November 4, 2014

James Hivner, Clerk
Re: Rule 8, RPC 7.3
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: No. ADM2014-01954

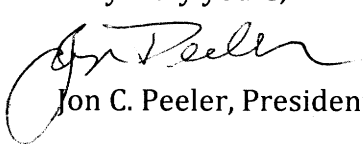
Dear Mr. Hivner:

The Tennessee Association for Justice (TAJ) endorses the proposed change to Tenn. Sup. Ct. R. 7.3.

It is common practice, in representing victims of domestic violence, to withhold service of a complaint against a person charged with abuse until the victim or victims – many of these cases involve wholly innocent children – can be moved to a safe place. Our members have encountered instances in which persons charged with abuse have received, from lawyer solicitations, notice of a pending complaint prior to a move to safety having been accomplished. These instances have endangered victims.

TAJ hesitates to endorse any proposal that limits the fundamental constitutional right of access to courts, as this proposal and current Rule 7.3 both do. But TAJ is dedicated to preserving the safety of clients. Its members are practical people whose views of the law are shaped by their daily experiences in courtrooms throughout the state. Their experience indicates that this proposal addresses a problem that exists, appears to be growing, and endangers the lives of victims of domestic violence. The rationale supporting this amendment to Rule 7.3 is much more powerful than the rationale supporting the Rule's existing prohibitions on solicitation. We find the proposed amendment within the narrow bounds drawn in *Florida Bar v. Went for It, Inc.*, 515 U.S. 618 (1994), and suggest that its quick adoption is warranted.

Very truly yours,



Jon C. Peeler, President

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November 3, 2014

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Tennessee Appellate Courts
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401 7th Avenue North
Nashville, TN 37219-1407

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NOV - 4 2014
By

RE: Rule 8, RPC 7.3, No. ADM2014-01954

Dear Mr. Hivner:

I am a domestic attorney practicing in Nashville and middle Tennessee. I am writing to express my support of the proposed amendment to Tenn. Sup. Ct. R. 8, RPC 7.3.

There are several attorneys in middle Tennessee who check the court filings daily to solicit business from domestic defendants, mainly in divorce cases. This practice has to stop (at least for a certain time period) to protect the plaintiffs in these sensitive and often dangerous situations.

I recently had one client who, for various reasons, needed to file for divorce prior to telling her husband that she planned to file. We filed her Complaint on a Thursday. She asked if we could wait to serve her husband until Monday so that she could tell him face-to-face over the weekend that she had filed for divorce. I told her that was fine with me, but warned her that her husband could possibly receive a solicitation from an attorney after we filed the Complaint. Sure enough, the husband received a letter from an attorney the following Saturday, before the wife had an opportunity to tell him herself. The husband was quite upset to learn that his wife had filed for divorce by receiving a letter from an attorney soliciting his business. The husband became angry with the wife. Thankfully, his anger was only expressed verbally and not physically, but the situation could have been much worse.

I have heard of other similar situations with much more serious and dangerous consequences. This rule needs to change so that plaintiff spouses have an opportunity to file for divorce then make any necessary arrangements to ensure their safety. That might mean telling the other spouse face-to-face, moving out of the home, and/or asking the court to enter a restraining order.

I appreciate your time and consideration of this letter, and I hope you will make this important amendment to Tenn. Sup. Ct. R. 8, RPC 7.3.

Best regards,

Katie M. Zipper

Katie Mathews Zipper

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HELEN SFIKAS ROGERS*
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ROGERS, KAMM & SHEA

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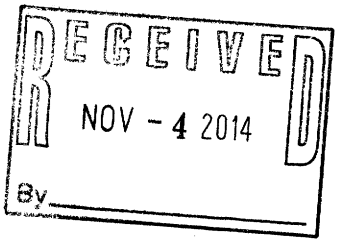
RENEE BROWN

November 3, 2014
Via U.S.P.S. 1st Class Mail



James Hivner, Clerk
Re: Rule 8, RPC 7.3
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, Tennessee 37219-1407

Re: In the Supreme Court of Tennessee at Nashville; In re Rule 8, RPC 7.3(b)(3); Docket No.ADM2014-01954

Dear Mr. Hivner:

I am writing to comment on the proposed change to Tennessee Supreme Court Rule 8, Rule of Professional Conduct 7.3(b)(c), and to state that I am wholeheartedly in favor of the requested modification.

At the inception of divorces and/or legal separations that stem from domestic violence and/or abuse, timing is everything – particularly when restraining orders are involved. As the plaintiff spouse's attorney in a domestic violence case one must: a) develop a plan for keeping the plaintiff and other family members safe during the divorce process; b) file a complaint containing a request for a restraining order; c) wait for the restraining order to be signed by a Judge – usually a period of one or two days; d) pick up the service packet (the summons, complaint, and restraining order) from the Clerk of the Court; d) implement the safety plan; and e) serve the summons, complaint, and restraining order on the defendant.

Generally, in these types of cases the defendant is served at a pre-arranged time, or the process server immediately notifies the plaintiff when the divorce packet has been served upon the defendant. Under either scenario the plaintiff knows exactly when the defendant is made aware of the divorce action, and the pre-determined safety measures are put into place contemporaneously with the service of the complaint and restraining order.

All of the carefully-crafted protective measures can be short-circuited, however, by the delivery of an attorney's solicitation letter to the would-be defendant before he or she has been served. Essentially, the solicitation letter completely eradicates the safety plan and converts the plaintiff into a sitting duck at ground zero. I have seen enough of this to know that sooner or later one of these solicitation letters is going to get someone severely injured or dead.

In all honesty, I have often wondered why the crafters of RPC 7.03 thought it was necessary to protect injured workers and accident victims from immediate solicitation by attorneys. To me it seems like it would be helpful for such persons to have timely access to representation before they unknowingly release or otherwise relinquish rights.

On the other hand, it has never made sense to me that we impose a 30-day stay of solicitation in worker's compensation and personal injury cases, but divorce and legal separation matters – in which people can be physically injured or killed as a result of untimely solicitation letters – have no such stay in place.

It is my hope that our Supreme Court will see modify Rule 7.3(b)(3) as proposed in the Appendix to its Order of October 9, 2014.

With best wishes, I remain

Very truly yours,

Lawrence J. Kamm

LJK/rb

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ROBERT L. JACKSON

EUGENE D. JACKSON (1895-1958)
EUGENE D. JACKSON, JR. (1915-1979)

November 3, 2014

ADM 2014-01954

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By

James Hivner, Clerk
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Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

Re: <u>Rule 8, RPC 7.3</u>

Dear Mr. Hivner:

I am writing you to endorse and support the proposed amendment of RFP 7.3(b)(3) as relates to solicitation by attorneys of newly filed divorce or legal separation cases.

I have been a duly licensed attorney in Tennessee since 1965, practicing in Nashville and Middle Tennessee. My practice is concentrated in domestic relations. I have mediated more than 800 divorce/domestic relations matters in the past eight (8) years.

This solicitation by attorneys and law firms often leads to domestic violence or a spouse transferring, secreting or concealing assets before the statutory injunction is in place. We need this amendment.

If I can be of further service, please feel free to call on me.

With kind regards, I am,

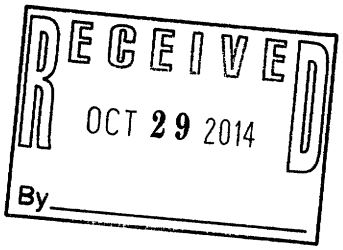
Yours truly,

Robert L. Jackson

RLJ/cws

James H. Drescher J.D.
Attorney at Law

October 28, 2014



James Hivner, Clerk
Re: Rule 8, RPC 7.3
Tennessee Appellate Courts
100 Supreme Court Bldg.
401 7th Avenue North
Nashville, TN 37219-1407

Re: ADM2014-01954

Dear Mr. Hivner:

Please add my concerns to those expressed in the attached. My law practice is predominantly family law. I have been licensed since 1982. I joined a Nashville firm in 1991 when I left the Marine Corps. I was a judge advocate for nine years.

If it were up to me, lawyer solicitation of potential clients in divorces would be completely forbidden.

Several years ago, I was retained to represent the wife of a very wealthy businessman. The parties had been married for over twenty years and had several minor children. At that time in Davidson County, it was generally accepted that filing first had potential advantages. My client was unsure about wanting to end the marriage but I advised her that filing first could be beneficial. Thus, she opted to file but we had no immediate intention of serving the complaint. My client clung to the hope that she and her husband might reconcile. A few days later, my client called me in a breathless panic. Her husband had received a form solicitation letter in the mail which essentially said "we see you have been sued for divorce, you need to hire a lawyer right away". Naturally, the husband was demanding to know what was afoot.

I was furious. My client was, in turn, furious with me.

I knew the lawyer who sent the letter. I spoke to several colleagues about my concerns. What if my client had been beaten or murdered? These things do happen. I spoke privately to the family law judges in Davidson County, wondering, perhaps, if a local rule might be implemented to halt this dangerous practice. More particularly, I confronted the lawyer who sent the letter. I firmly explained to him the dangers posed by his letters. I sternly warned him to refrain from doing this in any future case I might file. In the midst of these conversations, I learned that he was not the only one who routinely sent these letters to divorce defendants. As it turns out, the lawyer who sent the letter agreed not to send future correspondence in cases I filed

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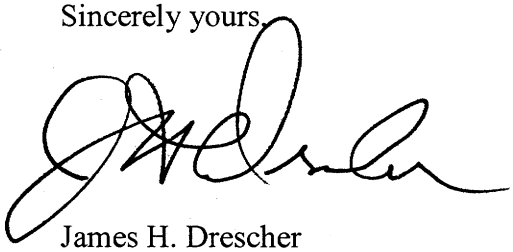
(how he might assure an exception for me made me skeptical at best). Perhaps most importantly, my client and her husband sought counseling and were able to avoid divorce.

Should the Supreme Court declined to bar these letters in domestic cases, it is still my strong view that a waiting period be imposed and the longer the better. Thirty days would seem to be a minimum. I truly believe that these letters pose a palpable threat to the safety of litigants and their children. The manner and timing of telling an emotional, angry and violent person that a divorce action has been filed should be solely left to the plaintiff and his or her lawyer, not to someone trolling for business.

Sincerely yours,



James H. Drescher

Enclosure