

**THE PROFESSIONAL ETHICS COMMITTEE
FOR THE STATE BAR OF TEXAS
Opinion No. 629**

May 2013

QUESTION PRESENTED

Is it permissible under the Texas Disciplinary Rules of Professional Conduct for a personal injury lawyer to agree to refer all criminal cases to another lawyer in exchange for the other lawyer's agreement to refer all personal injury cases to the personal injury lawyer?

STATEMENT OF FACTS

Lawyer A, whose practice is focused on personal injury cases, frequently receives telephone and other communications from individuals with legal problems involving other areas of law. Lawyer B's practice is focused on criminal defense. Lawyer A and Lawyer B propose to agree that Lawyer A will refer to Lawyer B all prospective criminal defense clients who contact Lawyer A and Lawyer B will refer to Lawyer A all prospective personal injury clients who contact Lawyer B. Under the proposed agreement, no fees on referred cases will be shared and neither lawyer will receive any compensation from the other for the referral of prospective clients under this agreement.

DISCUSSION

Rule 7.03(c) of the Texas Disciplinary Rules of Professional Conduct provides as follows:

“A lawyer, in order to solicit professional employment, shall not pay, give, advance, or offer to pay, give, or advance anything of value, other than actual litigation expenses and other financial assistance as permitted by Rule 1.08(d), to a prospective client or any other person; provided however, this provision does not prohibit the payment of legitimate referral fees as permitted by Rule 1.04(f) or by paragraph (b) of this Rule.”

Thus Rule 7.03(c) prohibits a lawyer from paying or otherwise transferring anything of value to any other person, including a lawyer, for the purpose of soliciting professional employment, subject to exceptions that are not involved here. In the circumstances considered, Lawyer A is undertaking to refer all criminal cases to Lawyer B in exchange for an undertaking from Lawyer B to refer all personal injury cases to Lawyer A. An undertaking by one lawyer to refer cases to another lawyer is an item of value to the other lawyer. Here, Lawyer A and Lawyer B are exchanging these valuable undertakings for the purpose in each case of soliciting professional employment. Hence this arrangement, in which each lawyer gives something of

value to the other lawyer in order to solicit professional employment, constitutes a violation by each lawyer of Rule 7.03(c). Moreover, if one of the lawyers obtains professional employment as a result of the agreement with the other lawyer, the lawyer obtaining employment will violate Rule 7.03(d) by charging or collecting a professional fee resulting from the prohibited solicitation and will violate Rule 7.06(a) by accepting or continuing professional employment obtained as a result of the solicitation arrangement.

CONCLUSION

It is not permissible under the Texas Disciplinary Rules of Professional Conduct for a personal injury lawyer to agree to refer all criminal cases to another lawyer in exchange for the other lawyer's agreement to refer all personal injury cases to the personal injury lawyer.