

IN THE SUPREME COURT OF THE STATE OF OREGON

In the Matter of Amendment ) AMENDED  
of the OREGON RULES OF ) ORDER NO. 18-005  
PROFESSIONAL CONDUCT )  
)  
) AMENDED ORDER AMENDING  
) OREGON RULES OF PROFESSIONAL  
) CONDUCT 7.3 and 8.3  
)

At its public meeting on January 9, 2018, the court considered and approved amendments to Oregon Rules of Professional Conduct 7.3 and 8.3. The amendment to Rule 7.3 would allow lawyers to solicit clients in-person or by live telephone or real-time electronic mediums but would retain prohibitions on lawyers that prevent overreaching and harm to clients. The amendment to Rule 8.3 clarifies the rule requiring reporting knowledge of misconduct.

At its public meeting on February 6, 2018, the court approved issuing an amended Supreme Court Order 18-005, for the purpose of updating the paragraph numbering scheme in Rule 7.3, in light of the textual amendments approved on January 9, 2018. The purpose of this amended order is to approve updating numbering for Rule 7.3. Rule 8.3 remains unchanged, from the amendments approved on January 9, 2018.

The rules changes approved on January 9, 2018, with renumbering amendments to Rule 7.3 approved on February 6, 2018, are set out as follows (deleted text is in italics and brackets and new text is underlined).

**RULE 7.3 SOLICITATION OF CLIENTS**

[(a)] A lawyer shall not [*by in-person, live telephone or real-time electronic contact*] solicit professional employment by any means when [*a significant motive for the lawyer's doing so is the lawyer's pecuniary gain, unless the person contacted*]:

[(1) *is a lawyer; or*

(2) *has a family, close personal, or prior professional relationship with the lawyer.*

(b) *A lawyer shall not solicit professional employment by written, recorded or electronic communication or by in-person, telephone or real-time electronic contact even when not otherwise prohibited by paragraph (a), if:*

[(1)a] the lawyer knows or reasonably should know that the physical, emotional or mental state of the subject [*target*] of the solicitation is such that the person could not exercise reasonable judgment in employing a lawyer;

[(2)b] the person who is the subject [target] of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or

[(3)c] the solicitation involves coercion, duress or harassment.

*[(c) Notwithstanding the prohibitions in paragraph (a), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular matter covered by the plan.]*

### **RULE 8.3 REPORTING PROFESSIONAL MISCONDUCT**

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects shall inform the Oregon State Bar Client Assistance Office.

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

(c) This rule does not require disclosure of information otherwise protected by Rule 1.6 or ORS 9.460(3), or apply to lawyers who obtain such knowledge or evidence while:

(1) acting as a member, investigator, agent, employee or as a designee of the State Lawyers Assistance Committee;

(2) acting as a board member, employee, investigator, agent or lawyer for or on behalf of the Professional Liability Fund or as a Board of Governors liaison to the Professional Liability Fund; or

(3) participating in the loss prevention programs of the Professional Liability Fund, including the Oregon Attorney Assistance Program.

(d) This rule does not require disclosure of mediation communications otherwise protected by ORS 36.220.

IT IS HEREBY ORDERED that Oregon Rules of Professional Conduct 7.3 and 8.3 be amended and that the amended rules, as set forth above, are declared effective January 11, 2018.

Dated this 7<sup>th</sup> day of February, 2018.

  
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Thomas A. Balmer  
Chief Justice