

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE
RULES REGULATING THE
FLORIDA BAR – CHAPTER 23
REGISTERED ONLINE SERVICE
PROVIDER PROGRAM

CASE NO. SC19-2077

**COMMENT ON THE FLORIDA BAR’S DANGEROUS AND RECKLESS
PROPOSAL (CHAPTER 23)**

I submit this comment on behalf of myself as a long-standing member of The Florida Bar and a former county court judge. Traditionally, the Florida Bar has been very exclusive, rejecting calls to have reciprocity with other State Bars. This policy has kept the Florida Bar both ethically and financially strong. Unfortunately, the Florida Bar’s Board of Governors is now attempting to destroy the practice of law in Florida by allowing “Law Brokers” to enter the profession. If the Bar’s position was to reject licensed Attorneys from other States, how can it justify allowing criminals, corporations, and other unsavory characters to enter the profession?

**THE FLORIDA BAR’S METHOD OF DESCRIBING A REFERRAL IS
DECEPTIVE**

The proposed rule is deceptive in that it states it pertains to “referring the consumer to, or matching a consumer with a lawyer”. Proposed Rule 23-2.1(a)(3). This seems to imply a simple referral that has long been approved by the Bar for its

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members. For example, up to now, a Florida Bar approved referral agency would refer a case to a Florida Bar Attorney and charge a small fee for the referral. Fee-splitting between lawyers and non-lawyers was not allowed and referral companies did not collect fees or accept clients. This all changes under the proposed rule.

Under the new proposed rule, non-lawyers would be allowed to accept the client, collect and retain the large majority of fee (justified under the advertising cost), and pay the lawyer a small amount. Moreover, the non-lawyer “law brokers” can charge the attorney a fee even if it turns out there is no viable case from the referral.

It is very disturbing that The Florida Bar is using a term of art (“referring”) that we have all been accustomed to for decades, to mean something that is completely different and severely adverse to practicing attorneys.

THE PROPOSED RULE CHANGE PLACES FLORIDA ADVERTISING BAR MEMBERS AT A DISADVANTAGE AND HARMS THE PUBLIC

The proposed rule change allows non-lawyers to have a competitive advantage over Florida Bar members. Although the proposal discusses oversight, it is clear The Florida Bar will not be involved in reviewing advertisements of the non-lawyers. If the new rule passes, look forward to referral companies making the following types of unverifiable claims:

- 1) “We don’t lose – hire us!”
- 2) “Florida’s best Attorneys work for us!”

Unregulated advertising would be a travesty to our members and the citizens of Florida.

**PROPOSED RULE CHANGE IS BAD FOR FLORIDA BAR
MEMBERS AND THE PUBLIC**

In sum, the rationale behind this proposal is suspect at best. Why does Florida, with a long history of protecting its members and the public, need to make such a drastic change? The suggested rationale that the public needs to have greater access to attorney services just doesn't pass muster. There is no shortage of advertising attorneys in Florida or lack of access to Florida Bar members.

The magnitude and consequences of this proposal cannot be understated. If the change is permitted, The Florida Bar would be negatively altered now and forever. Those of us who cherish our profession for ourselves, our colleagues, our families, and the public must stand up now and overwhelmingly reject this proposal.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been filed on this 8th day of January 2020, via the statewide e-portal and true and correct copies were furnished via email using the statewide e-portal to:

Joshua E. Doyle
Executive Director, The Florida Bar

John M. Stewart
President, The Florida Bar

Dori Foster-Morales
President-Elect, The Florida Bar

Lori S. Holcomb
Ethics and Consumer Protection,
The Florida Bar

Elizabeth Clark Tarbert
Ethics Counsel, The Florida Bar

CERTIFICATE OF COMPLIANCE WITH FLA. R. APP. P. 9.210

Undersigned counsel hereby certifies that this comment is typed in 14-point (proportionately spaced) Times New Roman and otherwise meets the requirements of Florida Rule of Appellate Procedure 9.210.

/s/ Eric M. Beller
Attorney