

The Florida Supreme Court, on its own motion, proposes amendments to Rule 4-7.1(General) and Rule 4-7.2 (Communications Concerning a Lawyer's Services) of the Rules Regulating the Florida Bar. These amendments are intended to preclude former or retired judges, currently engaged in the practice of law, from using the title "Judge" associated with their practice.

The Court sent a letter to The Florida Bar requesting that it study whether the Rules Regulating the Florida Bar should be amended to preclude former or retired judges currently practicing law from using the title "Judge" in their letterhead, pleadings, advertising, business cards, and other materials related to their practice.¹ The Bar has recommended no action. Thus, the Court proposes its own amendments to the Bar Rules.

As set forth below, the Court proposes amendments to rule 4-7.2(c)(1) to add new subdivision (K), which states that a communication will be considered "false, misleading, or deceptive" if it uses the title "Judge," with or without modifiers, in reference to a former or retired judge currently engaged in the practice of law. This prohibition includes, but is not limited to, use of the title in advertisements and written communications, computer-accessed communications, letterhead, and business cards. The Court also proposes amendments to rule 4-7.1(g) in order to reflect that the rule prohibiting use of the title "Judge" applies to all communications made by a lawyer, whether or not subchapter 4-7 applies to the communication.

The Court invites The Florida Bar, and all other interested persons, to comment on the proposed amendments, which are reproduced in full below, as well as online at <http://www.floridasupremecourt.org/decisions/proposed.shtml>. An original and nine paper copies of all comments must be filed with the Court on or before May 17, 2010, with a certificate of service verifying that a copy has been served on John F. Harkness, Jr., Executive Director, The Florida Bar, 651 East Jefferson Street, Tallahassee, Florida 32399-2300, as well as a separate request for oral argument if the person filing the comment wishes to participate in oral

1. The Court also separately directed the Supreme Court Committee on Alternative Dispute Resolution Rules and Policy (Committee) to study the issue as it relates to former judges acting as mediators. In In re: Amendments to the Florida Rules for Certified and Court-Appointed Mediators, No. SC09-1384 (Fla. report filed July 29, 2009), the Committee has proposed revisions to the Florida Rules for Certified and Court-Appointed Mediators addressing this practice.

argument, which may be scheduled in this case. The Florida Bar has until June 7, 2010, to file a response to any comments filed with the Court. Electronic copies of all comments also must be filed in accordance with the Court's administrative order In re Mandatory Submission of Electronic Copies of Documents, Fla. Admin. Order No. AOSC04-84 (Sept. 13, 2004).

IN THE SUPREME COURT OF FLORIDA

IN RE: AMENDMENTS TO THE RULES REGULATING THE FLORIDA BAR
– RULES 4-7.1 AND 4-7.2, CASE NO. SC10-437

4-7.1. GENERAL

(a) – (f) [No Change]

(g) Application of General Misconduct Rule and Rule Governing Use of the Title “Judge.” The general rule prohibiting a lawyer from engaging in conduct involving dishonesty, deceit, or misrepresentation, and the rule prohibiting former judges from using the title “Judge” associated with their practice of law, applies to all communications by a lawyer, whether or not subchapter 4-7 applies to that communication.

4-7.2. COMMUNICATIONS CONCERNING A LAWYER’S SERVICES

The following shall apply to any communication conveying information about a lawyer's or a law firm's services except as provided in subdivisions (e) and (f) of rule 4-7.1:

(a) – (b) [No Change]

(c) Prohibitions and General Regulations Governing Content of Advertisements and Unsolicited Written Communications.

(1) *Statements About Legal Services.* A lawyer shall not make or permit to be made a false, misleading, or deceptive communication about the lawyer or the lawyer's services. A communication violates this rule if it:

(A) – (H) [No Change]

(I) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated; or

(J) contains a testimonial; or

(K) uses the title "Judge," with or without modifiers, in reference to a former or retired judge currently engaged in the practice of law. This includes, but is not limited to, use of the title in advertisements and written communications, computer-accessed communications, letterhead, and business cards. However, an accurate representation of one's judicial experience is permitted in reference to background and experience in bios and resumes.