

>> OKAY, THIS IS THE REFERRAL,
LAWYER REFERRAL SERVICES
AMENDMENT, CORRECT?

>> GOOD MORNING.

MY NAME IS CARL SCHWAIT, AND I
AM HERE TO REPRESENT THE FLORIDA
BAR IN REFERENCE TO THE
AMENDMENTS AND CHANGES IN RULE
4-722, LAWYER REFERRAL SERVICES.
GOOD MORNING, EVERYONE.

>> COULD WE-- LET'S LAY SOME
FOUNDATION OR PREDICATE.

>> YES.

>> WE ALREADY HAVE SOME RULES
WITH REGARD TO REFERRALS.

>> WE DO.

>> REFERRAL FEES.

>> WE DO.

>> AND THIS SEEMS TO BE THEN NOW
WE ARE CARVING OUT A SECTION
WITH REGARD TO FORMAL OR
BUSINESS, THE BUSINESS OF
REFERRAL.

IF THAT'S A CORRECT TERM.
IS THAT, IS THAT A FAIR
STATEMENT?

OR HOW WOULD YOU CHARACTERIZE
THE LANDSCAPE WITH WHICH WE ARE
BEGINNING.

>> IF WE COULD--

>> YEAH.

>>-- TO BEGIN OUR CONVERSATION,
LAWYER REFERRAL SERVICES ARE
TALKING ABOUT GROUP ADVERTISING.
AND UNLIKE ANY OTHER
ADVERTISING, THESE ADVERTISERS
ARE REALLY NONLAWYERS.
AND WHAT HAPPENS IS, IS THAT THE
LAWYERS HAVE MADE A
DETERMINATION.

THEIR CONDUCT IS-- AND THEY
HAVE EVERY RIGHT TO DO THIS
BECAUSE IF THE SUPREME COURT
SAYS SO, THEY GO FORWARD AND
THEY HIRE NONLAWYERS WHO ARE IN
THE BUSINESS FOR PROFIT OF
ADVERTISING.

AND THEY ALSO BRING IN THE
CLIENTS.

AND THEN THAT CLIENT IS GIVEN

THE NAME OF A LAWYER WHO IS PAID
A DAILY, MONTHLY, YEARLY FEE TO
GET THAT SPECIFIC REFERRAL IN
THAT SPECIFIC AREA.

SO I WOULD CALL IT, JUSTICE,
GROUP ADVERTISING.

>> WHAT IS THE-- OKAY.

SO THE EVIL IS THAT THE--
EXPLAIN THE EVIL THAT HAS TAKEN
THE FLORIDA BAR TO A LEVEL FROM
THIS IS JUST THE WAY ADVERTISING
IS GOING AND THE FUTURE OF THE
PROFESSION TO THIS IS SOMETHING
THAT NEEDS SPECIAL ATTENTION.

EXPLAIN WHAT THAT LAWYER
REFERRAL SERVICE IS.

IS IT OWNED BY A LAWYER, THE
LAWYER REFERRAL SERVICE?

>> NO, THE LAWYER--

>> OR IS IT OWNED BY A
NONLAWYER?

>> IT APPEARS THAT THE 42
COMPLIANT LAWYER REFERRAL
SERVICES AS OF YESTERDAY IN THE
STATE OF FLORIDA ARE OWNED BY
NONLAWYERS WHO ARE IN THE
BUSINESS OF ADVERTISING AND
REFERRALS FOR PROFIT.

>> SO THESE--

>> COULD BE PROFESSIONALS.
COULD BE LAWYERS DOING IT AS
WELL AS NONLAWYERS, RIGHT?

>> IT COULD BE.

>> SO THEY ARE, LIKE 411-PAIN OR
800-ASK-GARY ARE LAWYER REFERRAL
SERVICES AND, AGAIN, THAT ARE
OWNED BY NONLAWYERS.

>> YES.

AND YOU PERMITTED SINCE 1987 THE
EXISTENCE OF LAWYER REFERRAL
SERVICES.

>> ALL RIGHT.

SO NOW WHAT IS, WHAT PART
THEN-- THE LAWYER WHO IS ON THE
LIST OF 1-800-ASK-GARY, THEY PAY
A FEE TO 800-ASK-GARY.

>> CORRECT, TO GET THE SPECIFIC
CASES--

>> IS THAT, IS THAT ALLOWED?

>> IT'S PERMITTED.

>> OKAY.

SO WHAT PART OF IT IS NOW NOT ALLOWED?

UNDER THIS RULE?

>> WELL, THE RULES THAT WE HAVE ARE NOT TALKING ABOUT ANY EVIL, IF I COULD SAY THAT.

WHAT WE'RE TALKING ABOUT IS INSURING THAT THOSE LAWYERS WHO MAKE A DECISION TO DO THEIR ADVERTISING AND PROCUREMENT OF THEIR CLIENTS, THAT, IN FACT, THEY UNDERSTAND-- TO GO BACK TO JUSTICE LEWIS FOR A SECOND-- RATHER THAN HAVE AN ASK WALDO KIND OF THEORY WHERE WE HAVE TO LOOK FOR IF I WANT TO DO THIS KIND OF LAWYERING, WE HAVE PLACED ALL OUR RULES IN ONE AREA.

SUBSECTION A MEANS THAT'S WHAT THE LAWYER REFERRAL SERVICES HAVE TO DO.

BECAUSE, REMEMBER, THE FLORIDA BAR CAN'T REGULATE LAWYER REFERRAL SERVICES.

THAT'S YOUR DETERMINATION AS A SUPREME COURT.

WE CAN ONLY REGULATE OR MAKE SURE THAT LAWYERS FOLLOW THE SPECIFIC RULES.

>> SO WHAT IS IT THEY SPECIFICALLY HAVE TO DO THAT CAN BE PART OF THIS AND PAY A FEE -->> YES.

>> BUT WHAT IS IT THEY CAN'T DO?

>> WELL, THEY HAVE TO MAKE SURE THAT THEY WAIT FOR THE CLIENT, FOR INSTANCE, TO CALL THEM.

>> OKAY.

IN OTHER WORDS, SO THERE ARE INSTANCES THAT HAVE BEEN IN THE HEARINGS THAT YOU HAD WHERE THE LAWYER WHO WAS PART OF THIS LAWYER REFERRAL SERVICE HAS ACTUALLY AFFIRMATIVELY CONTACTED THE POTENTIAL CLIENT?

>> YES.

AND THE HEARINGS THAT WERE TAKING PLACE, YOU WILL SEE ON

PAGE 20 OF THE SPECIAL
COMMITTEE'S REPORT THAT THERE
WERE ANECDOTAL AS WELL AS
TESTIMONY GIVEN BY PEOPLE THAT
THEY FOUND THAT THEY WENT TO A
SPECIFIC LAWYER--

>> OKAY.

SO THERE, AND THAT'S PROHIBITED
UNDER OTHER RULES.

BUT YOU'RE SAYING THIS RULE IS
JUST CODIFYING THEY CAN'T DO IT.

>> THAT'S RIGHT.

>> NOW WHAT ABOUT THE PART
WHERE-- THIS IS, I THINK, THERE
WAS SOME TESTIMONY BY SOMEBODY
WHO CALLED ONE AT, LIKE--
AGAIN, I JUST WANT TO MAKE SURE
I GET THE NAME RIGHT--
1-800-411-PAIN, AND THOUGHT THEY
WERE CALLING FOR MEDICAL
SERVICES.

>> YES--

>> AND WHAT'S THE INVOLVEMENT OF
THE MEDICAL COMMUNITY IN THESE
LAWYER REFERRAL SERVICES WHERE
SOMEBODY ENDS UP GOING TO A,
LIKE, THINKING THEY'RE GOING TO
A DOCTOR, AND THEN THEY END UP
WITH A SPECIFIC DOCTOR AND A
LAWYER?

BECAUSE THAT SEEMS LIKE ONE OF
THE--

>> SOME LAWYER REFERRAL
SERVICES, AND I'M GOING TO
ANSWER YOUR QUESTION, BUT I HAVE
TO MAKE SURE THAT WE UNDERSTAND
WE'RE NOT ONLY TALKING ABOUT
LAWYER MEDICAL REFERRAL
SERVICES, THAT THE 42 COMPLIANT,
YOU KNOW, REFERRAL SERVICES
MIGHT INCLUDE REAL ESTATE AND
THEIR RELATIONSHIP WITH TITLE
COMPANIES, LOAN AND MORTGAGE AND
FORECLOSURE ISSUES.

LAWYER REFERRAL SERVICES COME IN
ALL DIFFERENT SIZES AND SHAPES.
I'M TALKING ABOUT THE 42
COMPLIANT.

WE KNOW OF MANY FLORIDA THAT ARE
NOT COMPLIANT.

BUT, JUSTICE PARIENTE, WHAT WE FOUND IS THAT THERE ARE SOME LAWYER REFERRAL SERVICES WHO ALSO MAY BE MEDICAL REFERRAL SERVICES.

SO WHEN THEY SEE A COMMERCIAL, THEY GO FOR A-- AND GET A DOCTOR, BUT AT THE SAME TIME, THAT REFERRAL SERVICE MAY ALSO HAVE THE ABILITY TO REFER THEM TO A LAWYER.

>> WELL, CAN'T WE-- WHY CAN'T WE REGULATE THAT AND SAY THAT THAT IS NOT-- YOU CANNOT HAVE A REFERRAL SERVICE THAT IS BOTH LAWYER, DOCTOR, ACCOUNTANT, MORTGAGE, FORECLOSURE THAT-- AND MAYBE, YOU KNOW, WE SAY THIS AT THE SAME TIME THE FLORIDA BAR MAY BE LOOKING AT THE FUTURE AND SAY, OH NO, YOU CAN DO ALL THIS STUFF.

WE'RE HEARING ON ONE HAND THAT WE'VE GOT, YOU KNOW, LEGAL ZOOM AND ALL THESE OTHER THINGS COMING IN.

MAYBE THIS IS THE WAVE OF THE FUTURE.

>> I HAVE A SPECIFIC ANSWER FOR YOU.

THE 14 MEN AND WOMEN WHO MADE UP THE SPECIAL COMMITTEE ON LAWYER REFERRAL SERVICES WHICH INCLUDED BOTH LAWYERS AND NONLAWYERS, IN FACT, THEIR NUMBER ONE RECOMMENDATION IS THAT THE FOLLOWING: A LAWYER SHALL NOT ACCEPT CLIENT REFERRALS FROM ANY PERSON, ENTITY OR SERVICE THAT ALSO REFERS OR ATTEMPTS TO REFER CLIENTS TO ANY OTHER TYPE OF PROFESSIONAL SERVICE FOR THE SAME INCIDENT, TRANSACTION OR CIRCUMSTANCE AND SHALL FURTHERMORE BE PROHIBITED FROM REFERRING A CLIENT TO ANY OTHER PROFESSIONAL SERVICE IN CONSIDERATION OF THE LAWYER'S RECEIPT OF REFERRALS FROM ANY LAWYER REFERRAL SERVICE.

UNANIMOUSLY PASSED.
UNFORTUNATELY, OR FORTUNATELY
FOR WHOEVER LOOKS AT IT, THE
BOARD OF GOVERNORS MADE A
DECISION TO MAKE IT LESS
RESTRICTIVE BECAUSE THE BOARD OF
GOVERNORS AND THE FLORIDA BAR
ALWAYS WANTS TO MAKE IT LESS
RESTRICTIVE TO INSURE THAT
ATTORNEYS HAVE FREEDOM OF SPEECH
AND FREEDOM OF RIGHT OF
COMMERCE, BUT AT THE SAME TIME,
IN YOUR WORDS, TO PROTECT THE
INTERESTS OF THE CLIENT.
AND BY INTEREST OF THE CLIENT,
WE WANT TO PROTECT OUR CLIENT
THROUGH ADVERTISING.

>> WELL, A LAWYER CAN'T --
SOMEONE COMES TO A LAWYER, A
LAWYER CAN'T SET UP SOMETHING,
HERE ARE MY DOCTORS, HERE ARE
MY-- CAN THEY DO THAT?

>> NO.

AND, IN FACT, IF I CAN SPEAK FOR
THE COMMITTEE--

>> SO YOU'RE WEARING TWO HATS
TODAY.

BECAUSE YOU'RE--

>> WELL, TO BE HONEST-- WHICH I
LIKE TO BE IN FRONT OF THE
FLORIDA SUPREME COURT-- I CAST
THE DISSENTING VOTE IN THE
COMMITTEE BECAUSE I SUPPORTED
THE PARTICULAR STATEMENT THAT
YOU'RE MAKING.

THAT, IN FACT, I BELIEVE THAT
THERE'S AN INHERENT CONFLICT
WHEN A LAWYER TAKES A CASE FROM
A REFERRAL SERVICE BUT ALSO
REPRESENTS A CLIENT WHO GOT
THEIR DOCTOR FROM A REFERRAL
SERVICE WHO'S OWNED BY THE SAME
ENTITY.

HOW DO THEY HANDLE IF THERE'S
POTENTIAL MALPRACTICE?
HOW DO THEY HANDLE FEE
REDUCTION?

BECAUSE WHEN THEY GO AND THEY
TRY TO REDUCE THE \$20,000 BILL,
THEY'RE ACTUALLY DEALING WITH A

DOCTOR WHO ALSO MAY HAVE A RELATIONSHIP WITH THE SAME LAWYER REFERRAL SERVICE THEY DO. HOWEVER, PUTTING ON THE OTHER HAT, THE FLORIDA BOARD OF GOVERNORS HAS NOT PASSED THAT. THEY PASSED SECTION 8 AND 9 OF SUBSECTION B WHERE THEY MERELY STATED THAT THE LAWYER SHOULD USE HIS OR HER OWN PROFESSIONAL JUDGMENT IN REPRESENTING CLIENTS.

NOW, IF YOU PUSH AS THE, OF COURSE, SUPREME COURT, YOU CAN HAVE THAT BAN BECAUSE WHEN YOU GO TO PAGE 26 OF THE LAWYER SERVICE, YOU KNOW, LAWYER REFERRAL SERVICE COMMITTEE RECOMMENDATION.

THAT'S WHAT THEY RECOMMENDED.

>> SO A LAWYER COULD BE A PART OF ONE OF THESE REFERRAL SERVICES AND STILL-- THE CLIENT THAT THEY GET FROM THAT SERVICE WOULD NOT NECESSARILY HAVE TO USE THE DOCTOR, FOR EXAMPLE, THAT THE SERVICE WANTS THE CLIENT TO USE?

I MEAN, IS THE LAWYER GOING TO STILL HAVE AN OPTION TO SAY YOU DON'T HAVE TO GO TO THEM, THERE ARE ALL THESE OTHER PEOPLE OUT THERE OR, YOU KNOW, WHATEVER ONE WOULD NORMALLY DO IF, IN FACT, THEY DID NOT GO THROUGH A--

>> WE HOPE SO, BUT THERE IS ANECDOTAL INFORMATION THAT, IN FACT, THERE HAVE BEEN LAWYERS WHO HAVE BEEN PRESSURED TO CONTINUE TO USE A CERTAIN EXPERT IN A FIELD AS A RESULT OF THE RELATIONSHIP BETWEEN A LAWYER REFERRAL SERVICE AND SOMEONE ELSE.

AND I DO NEED TO TELL YOU, JUSTICE QUINCE, THIS MAY NOT ONLY BE IN THE MEDICAL FIELD, BUT IF WE'RE CONCERNED THAT IT MAY BE IN REAL ESTATE WHERE SOMEONE GETS WORD THROUGH A REAL

ESTATE LAWYER REFERRAL SERVICE
BUT THEN IS TOLD THEY HAVE TO
USE A SPECIFIC TITLE COMPANY
THAT MAY ALSO BE OWNED BY THE
REFERRAL SERVICE.

IS THE REFERRAL SERVICE.

YOU SAY THE FEED IS PAID BY THE
LAWYER TO BECOME PART OF THE
LAWYER REFERRAL SERVICE?

>> YES.

>> THAT LAWYER REFERRAL SERVICE
CAN HAVE, AGAIN EITHER MEDICAL
TITLE, DO THOSE, DO MEDICAL
PROVIDERS PART OF THIS GROUP,
TITLE COMPANY, ARE PART OF THE
GROUP, DO THEY PAY A FEE TOO?

>> I DON'T BELIEVE, I BELIEVE
THEY COULD BE.

THAT IS WHAT THEY'RE CONCERNED
OF.

>> WHAT?

>> IF THEY'RE OWNED BY THE SAME
REFERRAL SERVICE THEMSELVES,
THAT IS WHERE THE SPECIAL
COMMITTEE BELIEVED THERE WAS A
CONFLICT.

>> I'M ASKING YOU, YOU SAY THERE
IS REFERRAL TO PARTICULAR TITLE
COMPANY.

>> YES.

>> OR A PARTICULAR MEDICAL
PROVIDER.

HERE IS YOUR MENU.

HERE IS THE LAWYER, WE'RE
REFERRING YOU TO HERE.

WHERE IS THE OR PARTICULAR TITLE
COMPANY.

WHERE, DID YOU FIND THAT THOSE
REFERRAL SERVICES GET THEIR
MONEY ALSO FROM FEES PAID BY
THESE OTHER NON-LAWYER, MISS
TALBOT HAS THE ANSWER FOR YOU,
OR?

>> THAT'S WHAT I WAS GOING TO
SAY.

WE FOUND THAT THE MEDICAL
PROVIDER WAS OWNED BY THE LAWYER
REFERRAL SERVICE THROUGH THE
COMMITTEE.

WHAT I MEAN IS THAT THE LAWYER

REFERRAL SERVICE WAS ALSO A
MEDICAL REFERRAL SERVICE.
SO IF I CALLED UP 1-800 CARL AND
I MADE THE TELEPHONE CALL FOR A
DOCTOR, I MIGHT GET A DOCTOR
THAT ACTUALLY WORKS IN A CLINIC
THAT IS OWNED BY THE MEDICAL
REFERRAL SERVICE.

WHEN I WENT TO A DOCTOR THAT
COULD BE, A LAWYER, THAT PERSON
WOULD ALSO BE, HAVE A
RELATIONSHIP AND WHAT--

>> IS THAT THE SAME FOR THE
TITLE COMPANIES THAT THEY--

>> WE HAVE NOT FOUND ANY
INFORMATION I BELIEVE.

>> SO THE OBVIOUSLY, THE LAWYER
IS GOING TO FEEL HOSTAGE IF IT
IS OWNED BY THE MEDICAL
SERVICES, TO USE, YOU KNOW, TO
MAKE SURE IF THEY'RE GOING TO
GET REFERRALS IN THE FUTURE,
THAT THEY BETTER USE THOSE
DOCTORS?

>> YOU MAY BE CORRECT.

>> LET ME ASK YOU--

>> THE ONLY REASON I'M
VACILLATING HERE ABOUT THAT
BECAUSE THERE WAS SOME
INFORMATION THAT CAME UP.
THAT IS WHY THERE WAS UNANIMOUS
DECISION TO HAVE THIS
PROHIBITION BY THE SPECIAL
COMMITTEE.

BY THE TIME IT GOT TO THE BOARD
OF GOVERNORS THEY CHOSE A LESS
RESTRICTIVE METHOD TRYING TO
SEPARATE THE TWO REFERRAL
SERVICES THE WAY YOU JUST
STATED.

>> THEY HAVE GONE TO A
REGISTRATION AND A DISCLOSURE
APPROACH, CORRECT?

>> YES.

>> WHAT, THIS MAY BE THE
PRECURSOR FOR SEARS OPERATING
LAWYERS IN FLORIDA, I DON'T
KNOW.

MAYBE THAT IS WHERE THIS IS
GOING.

THAT'S WHERE WE ARE NOW.
>> THE BAR WENT ON, I KEEP USING
TO A MUCH MORE LESS RESTRICTIVE,
WHEN I SAY THAT YOU HAD TO GIVE
A DISCLOSURE.
>> PLUS YOU HAVE TO REGISTER?
>> WELL--
>> REFERRAL SERVICE, RIGHT, THE
REFERRAL SERVICE HAS TO REGISTER
AND THERE HAS TO BE FULL
DISCLOSURE.
THAT IS THE WAY THE BAR HAS
GONE.
>> CORRECT.
AND THAT'S WHY WE HAVE TAKEN AND
CODIFIED ALL THOSE RULES INTO
THIS SPECIFIC AREA, NOT TO BE,
NOT TO DO IT TWICE, BUT TO
INSURE WHEN LAWYERS SAY I NEED A
LAWYER REFERRAL SERVICE, I HAVE
A RELATIONSHIP.
>> THERE IS IN THE COMMENTS
SECTION A PROHIBITIONS AGAINST
SPLITTING LEGAL FEES WITH A
REFERRAL SERVICE?
>> YES.
>> WHERE IS THAT PROVISION IN
THE RULE ITSELF?
>> OKAY.
I THINK WE HAVE A GENERALIZED
RULE THAT YOU MAY NOT SPLIT
FEES.
BUT AS I SAY IN THE MILLIONAIRE,
I WILL CALL A FRIEND AND--
>> [INAUDIBLE]
>> THERE YOU GO.
>> THAT HAS ALWAYS BEEN THE
RULE.
IT HAS NOT CHANGED.
>> THERE IS NO SEPARATE
PROVISION RELATING TO THIS
PARTICULAR REFERRAL SERVICE?
JUST A GENERAL RULE?
>> THERE IS-- [INAUDIBLE]
I'M SORRY.
>> RULE 4.54 LAWYERS DO NOT
DIVIDE FEES WITH ANY LAWYER.
A LAWYER CAN'T ACCEPT REFERRALS
FROM A LAWYER REFERRAL SERVICES
IF THAT SERVICE REQUIRES THE

LAWYER TO DIVIDE FEES WITH THE
NON-LAWYER.

>> THE IDEA, YOU'RE SUPPOSED TO
PUT ALL THE PROHIBITIONS IN ONE
PLACE.

WHY SHOULDN'T THAT ALSO BE IN
THE PLACE ON REFERRAL SERVICES?

>> IT IS.

IT IS ALREADY THERE.

IT IS ALREADY IN 4-7.22-A.

>> YOU HAVE USED UP ALL YOUR
TIME.

WE HAVE OF COURSE HELPED YOU.
WHAT I WILL DO, I WILL GIVE YOU
TWO MINUTES TO COME BACK AND
REBUT.

>> I APPRECIATE THAT, THANK YOU,
JUSTICE.

>> MAY IT PLEASE THE COURT.

MY NAME IS TIM CHINARIS, I
REPRESENT THE REFERRAL SERVICE,
1-800-411-PAIN.

HE OBJECTIONS TO THE RULES
UNNECESSARY, UNDULY BURDENSOME
UNJUSTIFIED BY THE FACTUAL
RECORD AND UNDER THIS COURT'S
PRECEDENT.

>> MR. SCHWAIT IS SAYING THIS IS
CODIFYING WHAT IS ALREADY EXISTS
AS PROHIBITIONS?

>> WELL, YOUR HONOR, THAT MAY BE
THE ATTEMPT BUT ACTUALLY WHEN
YOU LOOK AT THE LANGUAGE OF SOME
OF THESE RULES, THERE ARE
DIFFERENT TERMS USED, FOR
EXAMPLE, THINGS THAT AREN'T IN
THE OTHER RULES, LIKE, DIRECT OR
INDIRECT REQUIREMENTS TO MAKE
REFERRALS.

CONCERNS ABOUT THE ECONOMIC
PRESSURE OR INCENTIVES ON
LAWYERS.

THOSE TERMS ARE NOT DEFINED.
WE WOULD SUGGEST THAT THESE ARE
DISCIPLINARY RULES THAT ARE
SUPPOSED TO PUT LAWYERS ON CLEAR
NOTICE OF WHAT IS OR IS NOT
PERMITTED.

THESE NEW CONCERNS ARE--

>> SPEAK TO ME, WHAT I GUESS,

WHAT IS THIS?

800-411-PAIN, WHY ARE THEY INTERESTED, WHAT IS THEIR INTEREST IN, THESE ARE RULES REGULATING THE LAWYERS. THESE ARE NOT RULES THAT ARE REGULATING YOUR REFERRAL SERVICE NECESSARILY.

SO WHAT IS YOUR INTEREST IN THIS?

>> WELL OUR CONCERN THAT BURDEN, WE BELIEVE THESE ARE UNDULY BURDENSOME AND NOT REQUIRED, THE ADDITIONAL REQUIREMENTS, WILL, SCARE LAWYERS AWAY FROM PARTICIPATING IN A LAWFUL GROUP ADVERTISING PROGRAM.

AND, WE THINK THAT OUR, MY CLIENT, HAS THE RIGHT TO RUN A LAWFUL BUSINESS AND TO NOT HAVE THE BAR HAVE RULES THAT WOULD UNDULY DISINCENTIVIZE LAWYERS FROM PARTICIPATING IN IT.

>> WHO IS YOUR-- COULD YOU EXPLAIN YOUR CLIENT'S BUSINESS? AGAIN IT'S, YOU KNOW, FOUR 11-PAIN, SOUNDS LIKE A IT IS A PRETTY GOOD NAME.

IS IT A FLORIDA BUSINESS?

>> YES, YOUR HONOR.

>> WHO IS--

>> OWNED PRIMARILY BY DR. ROBERT LEWIN.

>> DOCTOR WHO?

>> DR. ROBERT LEWIN.

>> WHAT KIND OF DOCTOR IS HE?

>> HE IS A CHIROPRACTOR.

>> EXPLAIN HOW IT WORKS.

>> BRIEFLY, THE WAY THIS ALL CAME ABOUT, THERE WERE ADVERTISEMENTS UNDER 411-PAIN FOR MEDICAL CLINICS AND AS YOU--

>> MEDICAL CLIENTS?

>> ORIGINALLY MEDICAL CLIENTS OPERATED TO COME TO MEDICAL CLINICS OWNED BY MY CLIENT.

>> HE IS NOT, HE OWNS CLINICS AROUND THE STATE?

>> YES.

>> SO HE STARTED OUT WANTING TO ADVERTISE TO GET CLIENTS.

>> RIGHT, TO GET MEDICAL CLIENTS.

THEN WHAT HAPPENED WAS--

>> CHIROPRACTIC CLIENTS.

>> YES, YOUR HONOR.

WHAT WOULD HAPPEN, PEOPLE COME IN AND THEY WOULD BE IN A CAR ACCIDENT.

THEY WOULD HAVE LEGAL CONCERNS, THEY WOULD ASK, DO YOU KNOW A LAWYERS.

DOCTOR, AS ANY DOCTOR DOES WOULD GIVE NAMES OF LAWYERS.

>> I DIDN'T KNOW THAT ANY DOCTOR DID THAT?

>> ANY DOCTOR THAT WORKS IN PERSONAL INJURY FIELD, YES, YOUR HONOR, IF ASKED FOR RECOMMENDATION WOULD, WANT TO HELP THE CLIENT AND IF THEY KNEW A GOOD DOCTOR TO SEND THEM TO HERE ARE SOME NAMES YOU CAN CALL.

JUST LIKE IF SOMEBODY GOES TO A LAWYER AND NEED AS DOCTOR AND DOCTOR KNOWS MEDICAL PROFESSIONAL OR ANOTHER PROFESSIONAL, THEY WILL GIVE OUT REFERRAL NAMES.

IT IS COMMON PRACTICE.

SO WHAT HAPPENED WAS, THE BAR, MY CLIENT STARTED SAYING WE CAN ALSO PROVIDE YOU WITH RECOMMENDATIONS FOR A LAWYER. THE BAR, SAID YOU'RE A LAWYER REFERRAL SERVICE.

ORIGINALLY MY CLIENT DIDN'T AGREE.

OKAY, WE'LL COMPLY WITH THESE RULES.

THAT IS WHEN I GOT HIRED TO BRING THE ADVERTISING INTO THE COMPLIANCE.

>> IF YOU HAD, 411-PAIN AND YOU WERE A MEDICAL SERVICE RAPPED SEPARATE BUSINESS SET UP TO BE A LAWYER REFERRAL SERVICE?

SEEMS TO ME, WHY IS IT NOT

INHERENT PRESSURE WHEN THE
LAWYER IS, GOES THROUGH THIS
GROUP ADVERTISING FOR YOUR
CLIENT WHO OWNS THESE
CHIROPRACTIC CLINICS, ISN'T
THERE AN IMPLICIT IDEA THAT,
THAT THAT CLIENT IS GOING TO
CONTINUE TO GO TO THE CLINIC
OWNED BY YOUR CLIENT?

>> WELL, THAT'S WHAT THE
REFERRAL SERVICE COMMITTEE TRIED
TO SUGGEST.

RESPECTFULLY WE DID NOT THINK
THERE WAS ANY REALLY ANY
EVIDENCE OF THAT.

THERE IS NO REQUIREMENT THAT--

>> I GUESS THERE IS JUST COMMON
SENSE, LIKE IMPOSSIBLE THAT
ISN'T WHAT IS IN FACT GOING ON.
AND I'M, THE CHIROPRACTORS,
FROM, DAY ONE, HAVE HAD
RELATIONSHIPS WITH LAWYERS AND
THERE HAS BEEN, MAYBE AN UNDULY
COZY RELATIONSHIP, YOU KNOW, PIP
CLAIMS GET EATEN UP BY, YOU KNOW
CHIROPRACTORS AND THERE IS A LOT
OF ABUSES IN THIS AREA.

YOUR CLIENT MAY NOT BE PART OF
THE ABUSE BUT IT SURE SHOULD
CAUSE US CONCERN.

>> WE WOULD NOT DISAGREE THERE
CAN BE A I ABUSES IN THIS AREA
BUT WE THINK THE EXISTING RULES
ALREADY COVER THEM.

THERE ARE RULES AGAINST TRADING
REFERRALS, PAYING ANYTHING IN
EXCHANGE FOR A REFERRALS.

THERE ARE RULES AGAINST
CONFLICTS.

IF A LAWYER IS SENDING A CLIENT
TO SOMEONE PAUSE OF THE--
BECAUSE OF THE LAWYER'S INTEREST
THAT IS ALREADY PROHIBITED BY
THE RULES.

>> SO WHEN THE, WHEN THE CLIENT
COMES TO, AS A MEDICAL CLIENT,
THEN THEY SAY, AND WE NEED A
LAWYER, THEN 1-800, YOUR CLIENT,
GIVES THEM A LIST OF LAWYERS OR
IS THERE A WHEEL THEY GET THE

NEXT LAWYER?

HOW DOES THAT GO.

>> REALLY BASED ON GEOGRAPHY.
IF CASE IS COMPLEX VERSUS
GARDEN-VARIETY CASE THEY WILL BE
REFERRED TO MORE EXPERIENCED
LAWYER IN THAT GEOGRAPHICAL
AREA.

IT IS KIND OF A ROTATING BASIS.

>> IT HAS BEEN A WHILE SINCE I
PRACTICED IN THIS AREA.

THINGS HAVE GOTTEN AWAY.

HOW DOES A LAWYER GET ON, HOW
DOES HE GET THE CALL?

DOES THE LAWYER PAY A FEE TO BE
ON THE 411, WHATEVER?

>> ALL THE SERVICES ARE
DIFFERENT.

THEY MAY CHARGE BY GEOGRAPHIC
AREA.

TYPICALLY IT'S A MONTHLY FEE
BASICALLY, ADVERTISING FEE.

>> LAWYER PAYS A FEE TO YOUR
CLIENT'S COMPANY?

1-800-PAIN?

>> ACTUALLY MY CLIENT DOES NOT
CHARGE AT THIS TIME.

MY CLIENT IS WAITING TO SEE WHAT
THIS COURT DOES BEFORE PUTTING A
FEE STRUCTURE INTO PLACE.

>> WE KNOW YOU CAN'T CHARGE A
CONTINGENCY AS ON EACH CASE, YOU
CAN'T CHARGE BASED UPON THE
SIGNIFICANCE OF THE CASE.

SO IT HAS TO BE SOME OTHER ARMS
LENGTH TRANSACTION THAT IS NOT
SPECIFICALLY CASE RELATED?

>> CORRECT.

>> NOW WHAT'S THE PROBLEM WITH
THAT?

>> THERE IS NO PROBLEM WITH
THAT.

>> OKAY.

I'M TRYING TO SEE, YOU HAVE MADE
A LOT OF ARGUMENTS ABOUT WHAT IS
OKAY AND WHAT'S NOT OKAY.

WE ALREADY HAVE SOME THINGS BUT
AS IT BOILS DOWN I TRIED TO GO
THROUGH ALL THESE THINGS.

SEEMS AS THOUGH YOU ARE ALL

UNHAPPY WITH AND THINK IT IS UNNECESSARY TO REGISTER, RIGHT?

>> NO, WE'RE NOT OBJECTING.

>> OKAY.

ARE YOU UNHAPPY WITH THE FACT THAT IT IS GOING TO BE REGULATED AND MONITORED?

>> WE DON'T BELIEVE THE BAR IS ACTUALLY GOING TO REGULATE OTHER THAN THE CONDUCT OF LAWYERS. AGAIN WE DON'T HAVE A PROBLEM WITH THAT.

WE THINK IT IS ALREADY IN PLACE.

>> HOW ABOUT THE FEE?

YOU DO OBJECT TO A FEE WITH REGARD TO OPERATING THE SYSTEM?

>> WELL WE DON'T BELIEVE THERE IS REALLY ANY COSTS BECAUSE THE BAR DOESN'T DO ANYTHING EXCEPT OPERATE THE DISCIPLINARY SYSTEM.

>> SO THAT IS THE OBJECTION.

NOT THAT THERE IS A COST.

YOU DON'T THINK ONE THAT IS JUSTIFIED?

>> CORRECT.

WE BELIEVE IF THERE IS FEE TO BE IMPOSED FOR REGISTRATION IT SHOULD BE IMPOSED BY THIS COURT BASED ON ANTITRUST CONCERNS.

>> WE DON'T GET INVOLVED IN SETTING FEES ON ANY OF THESE THINGS, OTHER THAN THE BAR WILL ASK US TO RAISE A FEE OR LOWER A FEE.

WE DON'T GET INVOLVED IN SETTING FEES, DO WE?

>> ACTUALLY, AS A MATTER OF THE ADVERTISING REVIEW PROGRAM, THIS COURT APPROVES THOSE FEES.

>> APPROVE THEM, YES.

WHAT WOULD BE DIFFERENT HERE?

>> WELL, WE BELIEVE THE RECENT CASE THAT CAME OUT OF THE U.S. SUPREME COURT, NORTH CAROLINA DENTAL BOARD CASE, BECAUSE THE BAR, BOARD OF GOVERNORS IS COMPOSED OF ACTIVE MARKET COMPETITORS, THAT THAT CASE IN ESSENCE SAYS THAT THE ULTIMATE AUTHORITY WHICH WAS THIS COURT,

WOULD HAVE TO SET THE FEE.

>> THAT CASE WAS DEALING WITH A SERVICE OR PROFESSION OR DELIVERY OF CARE THAT HAD NOT BEEN PREVIOUSLY REGULATED AT ALL BY THE DENTAL BOARD, CORRECT? TEETH WHITENING DEAL?

>> RIGHT UPO.

>> BUT NOW WE'RE, ARE YOU SUGGESTING THAT THE FLORIDA BAR HAS NOT BEEN INVOLVED HISTORICALLY IN MONITORING LAWYERS CONDUCT ON FEES, EXCHANGE OF FEES AND CENTRAL FLORIDA'S?

>> NO.

BUT ALWAYS SUBJECT TO YOUR JURISDICTION AND YOUR APPROVAL AS A FINAL--

>> THAT IS YOUR ONLY CONCERN ABOUT IT.

>> AS FAR AS THE FEE. OKAY.

>> I WOULD LIKE TO ALSO--

>> MAKE SURE EVERYBODY IS AWARE WHAT YOU OBJECT TO, PLEASE.

>> THANK YOU.

I LIKE TO BRING UP IN RE, RULES CASE WHICH ADDRESSES JUSTICE PARIENTE'S CONCERN.

IN THAT CASE THE BAR WANTED TO ADOPT A SPECIAL CONFLICT RULE WHICH WOULD PROHIBIT BANKS AND INSURANCE COMPANIES TO USE IN-HOUSE LAWYERS TO PROVIDE SERVICES TO CUSTOMERS OR INSUREDS.

THIS COURT RULED AGAINST THAT, AND SAID WE'RE NOT GOING TO ADOPT A SPECIAL RULE THAT WILL APPLY ONLY TO LAWYERS BASED ON THEIR EMPLOYMENT RELATIONSHIP.

WE THINK THESE RULES, ARE SIMILAR, ANY LAWYER, WHO GETS REFERRALS FROM A REFERRAL SOURCE, HAS A POTENTIAL FOR CONFLICT.

WE BELIEVE THAT THEY'RE REGULATED BY RULES ALREADY.

WE DON'T BELIEVE THAT ANY

SPECIAL RELATIONSHIP, LIKE, FOR EXAMPLE, IF IN THE IN RE RULES CASE, THERE WAS IN HOUSE EMPLOYEE RELATIONSHIP.

THAT DUD NOT JUSTIFY A SPECIAL CONFLICT RULE.

WE DON'T BELIEVE A LAWYER WHO GETS ONE OR MORE CASES FROM A REFERRAL SERVICE SHOULD BE SUBJECT TO SPECIAL CONFLICT RULES EITHER.

AND WE WOULD POINT OUT THAT THESE RULES APPLY, WHETHER A LAWYER GETS ONE CASE A YEAR, FROM REFERRAL SERVICE OR GETS MORE.

AND REALITY IS, MOST LAWYERS WHO WORK WITH REFERRAL SERVICES GET ONLY A FRACTION OF THEIR BUSINESS FROM THAT SOURCE. THEY ALSO ADVERTISE ON THEIR OWN AND HAVE OTHER SOURCES OF BUSINESS.

>> OKAY.

YOUR TIME IS UP.

THANK YOU, SIR.

>> THANK YOU.

>> MAY IT PLEASE THE COURT.

>> WHICH CASE ARE YOU GOING TO ARGUE?

THE FIRST ONE OR THIS ONE?

>> I'M ONLY FOCUSING ON 4-7.22-B, SEVEN THROUGH 10, THOSE PROVISIONS.

THOSE PROVISIONS I THINK, ARE NOT IN THE BEST INTERESTS OF THE CLIENTS AND HERE'S THE REASON WHY.

FIRST OF ALL, THEY ARE COMPLETELY REDUNDANT.

THE CONCERNS THAT HAVE BEEN VOICED ABOUT CONFLICTS OF INTEREST ARE COVERED ALREADY BY RULES 4-1.7 AND 4-1.8.

IF ONE BELIEVES IN OVERREGULATION, I GUESS ONE COULD SAY THESE RULES ARE GOOD BUT THEY ARE COMPLETELY REDUNDANT.

>> IF THEY'RE REDUNDANT, THEY'RE

NOT AGAINST THE BEST INTERESTS
OF THE CLIENT.

COULD YOU JUST EXPLAIN, YOU'VE
GOT 1-800-ASK-GARY.

>> YES.

>> THAT IS FLORIDA BUSINESS?

>> IT IS.

>> THEY ARE REGISTERED HERE?

>> THEY ARE.

>> THEY ARE REGISTERED WITH THE
FLORIDA BAR?

>> YES.

WHO OWNS 1-800--

>> DR. GARYKOPHTHESARSIS.

IT IS GREEK LAST NAME.

HE USES DR. GARY.

>> WHO IS HE?

>> HE IS CHIROPRACTOR AND HAS
CLINICS.

>> SAME KIND OF THING AS
411-PAIN?

>> VERY SIMILAR, VERY SIMILAR.

>> DOES HE CHARGE, DOES THIS
REFERRAL SERVICE CHARGE LAWYERS
A FEE?

>> A FLAT FEE.

>> WHAT IS THE FLAT FEE AMOUNT?

>> THE FLAT FEE VARIES DEPENDING
UPON THE AREA.

NOT QUITE SURE WHAT IT IS IN
DIFFERENT AREAS.

BUT IT'S A FLAT FEE.

HAS NOTHING--

>> WHAT MIGHT IT BE ON MONTHLY
BASIS?

>> 100, \$125 A MONTH.

I HESITATE TO GIVE A NUMBER WHEN
I'M NOT SURE WHAT THE NUMBER IS.

>> HOW MANY LAWYERS ARE PART OF
THE REFERRAL SERVICE?

>> AS OF MARCH 31ST, 2015, THERE
WERE 42 AROUND THE STATE.

INCLUDING MORGAN AND MORGAN.

THERE ARE ABOUT 42 LAWYERS THAT
ARE REGISTERED AND EVERY

QUARTERLY HE HAS TO REPORT TO
THE STATE WHO THESE LAWYERS ARE

AND THE FLORIDA BAR THEN

RESPONDS SAYING ALL THESE

LAWYERS ARE IN GOOD STANDING AND

CONSISTENTLY THEY HAVE GOTTEN THAT RESPONSE.

>> SO THERE ARE OTHER REGULATIONS.

WHAT REGULATION REQUIRES THEM TO REPORT THAT TO THE STATE?

>> THERE IS A CERTAIN REGULATION WITH REGARD TO THAT.

I'M NOT SURE WHICH RULE THAT IS. BUT THERE IS A RULE THAT REQUIRES THIS REPORTING TO THE STATE.

IT IS DONE QUARTERLY.

SO THEY DO THAT QUARTERLY.

SO THE BAR KNOWS WHO THE LAWYERS ARE ON THIS LIST.

HERE IS ONE OF THE REASONS WHY I THINK THIS IS TROUBLESOME.

THE DISCLOSURE REQUIREMENT THAT YOU'VE ADDRESSED, JUSTICE LEWIS. I'LL TELL WHAT I DON'T LIKE ABOUT THAT.

THIS NOTION THAT HAVING, QUOTE INFORMED CONSENT, HAVING A CLIENT SIGN A DOCUMENT THEY SAYS THAT THEY UNDERSTAND THIS HAS COME FROM A REFERRAL SERVICE AND IT'S ALL RIGHT, I THINK THAT IS ANTITHETICAL TO THE CLIENT'S INTEREST.

IT GIVES THE LAWYER A VENEER OF PROTECTION, BEING ABLE TO SAY, WELL THE CLIENT HAS WAIVED ANY CONFLICT, IF INDEED THERE WERE A CONFLICT.

>> I GUESS, WHAT THE PROBLEM REALLY IS, IF THE REFERRAL IS COMING, SO DIFFERENT TO ME THAN LAWYER REFERRAL SERVICES HISTORICALLY WERE.

I JUST, THINK ABOUT IT IN ALL SORTS OF WAYS, INCLUDING TITLE COMPANIES OWNING THESE.

IF THE, IF THE CLIENT, IF THE LAWYER, REALLY, IN TO GET REFERRALS, THEY'RE GOING TO WANT TO KEEP WITH THE PARTICULAR CHIROPRACTIC SERVICE AND THAT MAY NOT BE IN THE BEST INTERESTS OF THE LAWYERS.

OF THE CLIENT.
WHY SHOULDN'T THE DISCLOSURE BE
THERE, THAT SHE KNOW THAT
REFERRAL IS COMING FROM THE SAME
GROUP TO WHICH THEY'RE RECEIVING
REFERRAL SERVICES?
SO WHEN THEY GO AND SAY, YOU
KNOW, I REALLY DON'T LIKE THE
TREATMENT I'M GETTING AT THIS
CHIROPRACTIC CLINIC.
THEY DON'T HAVE THEM, OH, NO,
THEY'RE GOOD.
YOU SHOULD STAY WITH THEM.
THEY CAN EVALUATE, WELL, MAYBE
IT IS BECAUSE YOU HAVE GOT THAT
RELATIONSHIP?
>> WELL, I THINK IT IMPUTS UPON
CLIENTS IN THESE SITUATIONS MORE
SOPHISTICATION THAN THEY HAVE.
IT PROTECTS LAWYER.
>> THAT IS THE PROBLEM.
THEY'RE VULNERABLE.
THEY HAVE BEEN IN AN ACCIDENT.
THEY'RE RELYING ON A LAWYER TO
BE INDEPENDENT IN TERMS OF WHAT
THEY'RE GOING TO DO IN THE BEST
INTERESTS OF THE CLIENT.
>> AND WE ARE RELYING UPON THE
LAWYER TO FOLLOW THE RULES THAT
GOVERN THE FLORIDA BAR AND
PROFESSIONAL RESPONSIBILITY.
AND SO, THE CONCERN THAT I HAVE
RAISED WITH REGARD TO THIS IS
MERELY BY INFORMING THE CLIENT,
WHO IS NOT SOPHISTICATED, WHO
MAY BE VULNERABLE AND THE CLIENT
SIGNS AND SAYS, I UNDERSTAND
THAT.
THEN LATER ON THERE IS A
PROBLEM, THEN THE LAWYER HAS A
DEFENSE.
I THINK THAT BURDENS ABILITY OF
FLORIDA BAR TO REGULATE LAWYERS.
>> I, THE REFERRALS, I KNOW YOU
AS A LAWYER AND MY REFERRAL OF
SOMEONE TO YOU, UNTAINTED BY ANY
MONETARY CONSIDERATIONS ELEVATES
THAT REFERRAL THAT
RECOMMENDATION TO A DIFFERENT
LEVEL THAN IF YOU'RE PAYING ME

TO SEND YOU CASES.
AND WHY SHOULDN'T A CLIENT KNOW
IF YOU ARE PAYING ME TO SEND YOU
CASES, RATHER THAN I'M REFERRING
HIM TO YOU BECAUSE YOU'RE THE
BEST LAWYER IN ALL OF
SOUTH FLORIDA?

>> I DON'T THINK THERE IS ANY
INHERENTLY HARMFUL ABOUT THE
CLIENT KNOWING IT.
BUT WHAT I'M CONCERNED ABOUT IS
THAT BECOME AS DEFENSE TO THE
LAWYER.

I'M REALLY ARGUING NOW IN A
FASHION THAT IS PRO-FLORIDA BAR
REGULATING LAWYERS AND NOT
HAVING THE LAWYER BE ABLE TO
SAY, WELL, I TOLD THE CLIENT
THIS AND SO, EVEN THOUGH THERE
IS A CONFLICT I'M NOW PROTECTED
FROM THE CONFLICT.

I MEAN THIS IS KIND OF LIKE
ARBITRATION CLAUSES IN
CONTRACTS.

PEOPLE DON'T READ THEM.
THEY'RE BOUND TO ARBITRATION.
HERE PEOPLE, THERE IS
DISCLOSURE.

THEN PEOPLE SAY--

>> I DON'T KNOW HOW YOU CAN
CONVERT A DISCLOSURE INTO, I
WAIVE ANY RIGHTS TO CONFLICT OF
INTEREST.

I MEAN, I DON'T UNDERSTAND THIS
DISCLOSURE TO INCLUDE A WAIVER
PROVISION OF ANY CONFLICT?

>> IT IS A CONSENT.
AS I UNDERSTAND THE RULE.
AND I THINK IT IS CONSENT TO
IT, .

>> TO THE FEE.

>> CLIENTS INFORMED CONSENT
CONFIRMED IN WRITING.
IF YOU TAKE A LOOK AT SUBSECTION
9, THE LAWYER PROVIDES WRITTEN
DISCLOSURE OF THE RELATIONSHIP
AND OBTAINS THE CLIENT'S
INFORMED CONSENT CONFIRMED IN
WRITING.

AND THEN PARAGRAPH 10 ALSO TALKS

ABOUT THE SAME KIND OF THING.
>> WHO CALLS THE TELEPHONE THAT
IS YOUR CLIENT?
WHO CALLS?
WHO MAKES THAT INITIAL CALL?
>> TO THE LAWYER?
>> WHO CALLS, PICKS UP THE PHONE
AND CALLS A 800 NUMBER?
>> INJURED PERSON.
>> CLIENT EVENTUALLY, RIGHT?
>> YES.
>> WHY IS, THAT CLIENT KNOWS,
THEY CALLED THAT PHONE NUMBER.
SO HOW IS THE DISCLOSURE BACK TO
THE CLIENT, BY THE WAY, THERE IS
A REFERRAL SERVICE INVOLVED IN
THIS, HOW IS THAT ANY GREAT
SHOCK TO ANYBODY?
>> WELL I DON'T THINK IT SHOULD
BE A GREAT SHOCK.
AGAIN THE POINT I'M MAKING NOT
SO MUCH THAT THE CLIENT DOESN'T
KNOW.
WHAT I'M CONCERNED ABOUT IS THE
ABILITY OF A LAWYER TO HIDE
BEHIND THIS DISCLOSURE AND
CONSENT.
I MEAN IT IS AN UNUSUAL APPROACH
THAT I'M TAKING TO THIS.
I'M NOT SAYING THAT THE CLIENT
DOESN'T KNOW BECAUSE THE CLIENT
IS INJURED.
THE CLIENT IS IN PAIN.
THE CLIENT CALLS.
THE CLIENT THEN IS REFERRED TO A
LAWYER.
SO OBVIOUSLY THE CLIENT KNOWS
THAT IT HAS COME THROUGH THAT
PROCESS.
SO WHY DO WE HAVE THIS THEN?
TO PROTECT THE LAWYER?
>> WELL, I DON'T KNOW, I SEE, I
KNOW YOU'RE OUT OF TIME, BUT I
HAVE TO ASK THIS QUESTION.
ISN'T THIS SOMETHING THEN THAT
WHEN THIS CASE GOES INTO
LITIGATION, THAT THE DEFENSE
LAWYER IS GOING TO BE ABLE TO
SAY, BOTH TO THE CLIENT AND TO
THE DOCTOR, YOUR LAWYER CAME

THROUGH THIS.
AND, YOU KNOW, MAYBE HE IS GOING
TO HARM THE KLEIN'S PERSONAL
INJURY CASE?

I MEAN THAT, IT IS GOING TO BE
KNOWN BY, IT IS DISCOVERABLE,
HOW THE REFERRAL CAME ABOUT.

>> IT IS.

I DON'T THINK THAT HARMS THE
CASE AT ALL.

I MEAN, I, MY PERCEPTION OF THIS
IS--

>> YOU DON'T, AGAIN I HAVE TO,
IN FAIRNESS, IF YOU AS A LAWYER
AND IT IS KNOWN THAT YOU HAVE
REFERRED SOMEBODY TO A DOCTOR,
OR A DOCTOR IS REFERRED TO A
LAWYER, IT HAS AN EFFECT ON THE
CREDIBILITY OF THAT CASE.

>> OF COURSE IT HAPPENS, IT
HAPPENS ALL THE TIME.

THE TREATING DOCTOR MAY BE
REFERRING CASES TO A LAWYER OVER
AND OVER AGAIN.

THERE IS A RELATIONSHIP.

SO, THAT DOES HAPPEN.

MY TIME IS UP.

>> CAN I ASK YOU, WHICH
SUBSECTION ARE YOU REFERRING TO
ABOUT THIS DISCLOSURE THAT
YOU'RE-- I'M LOOKING AT 10.

10 IS WHAT I WAS REFERRING TO.

>> I'M TALKING ABOUT NINE.

IF YOU TAKE A LOOK AT NINE, IT
TALKS ABOUT THE LAWYER PROVIDES
WRITTEN DISCLOSURE OF THE
RELATIONSHIP TO THE CLIENT AND
OBTAINS THE CLIENT'S WRITTEN,
CLIENT'S INFORMED CONSENT
CONFIRMED IN WRITING.

THAT IS AT THE BOTTOM OF
SUBSECTION 9.

THANK YOU.

>> THANK YOU, SIR.

TWO MINUTES.

JUSTICE LEWIS, HE LEFT OUT, I'M
NOT SURE INTENTIONALLY, WHAT IS
RIGHT BEFORE THE WORD
DISCLOSURE.

THE LAWYERS HAVE TO STILL,

BEFORE THAT DISCLOSURE INSURE
THAT THEY HAVE NO CONFLICT AND,
COMPLY WITH RULES 4-1.7. AND
4-1.8.

SO THERE CAN'T BEING HIDING
BEHIND THIS PARTICULAR SIGNING
BECAUSE THE LAWYER HAS TO DO
THAT.

YOU HAVE THREE OPTIONS.
YOU CAN ACCEPT THE RULES AS THE
BOARD OF GOVERNORS HAS
RECOMMENDED TO YOU IN THE
FLORIDA BAR.

YOU CAN GO BACK TO THE LAWYER
REFERRAL SERVICE COMMITTEE AND
FIND OUT, WHAT YOU WOULD LIKE TO
TAKE FROM THERE, WHICH IS MORE
RESTRICTIVE INCLUDING NUMBER
ONE.

>> CAN I ASK YOU QUESTION?
WHY DID YOU NOT, WHY DID THE
BOARD OF GOVERNORS, IF YOU CAN
THUMBNAIL SKETCH REJECT IN TOTO
OR ADOPTING THE TOTAL REPORT?
WHY?

WAS THERE A REASON, IF NOT.

>> I THINK MR. ROGOW WAS VERY
ELOQUENT IN FRONT OF THE BOARD
REVIEW COMMITTEE, VOTED 7-1, ONE
DISSIDENTING VOTE.

>> YOU, RIGHT?

>> YES.

I CAN TELL YOU THAT THEY
BELIEVED, AS THEY ALWAYS DO,
THEY LIKE TO BE LESS RESTRICTIVE
AND THEY THOUGHT THAT FOR FUTURE
PURPOSES, INCLUDING LAWSUITS.
I MUST BE, REMEMBER THIS GOES TO
THE FEDERAL COURTS THAT TALK
ABOUT THINGS SUCH AS, FREEDOM OF
SPEECH AND FREEDOM OF COMMERCE,
THAT THIS WOULD BE THE MOST,
LESS RESTRICTIVE WAY TO GO
FORWARD.

ON THE OTHER HAND, IF YOU DON'T
LIKE ANY LAWYER REFERRAL
SERVICES, OR WANT THEM IN
FLORIDA, LIKE MANY STATES DON'T
ALLOW.

YOU CAN GO THAT DIRECTION.

WE CAN ONLY REGULATE LAWYERS AND
TELL LAWYERS, HOW LAWYER
REFERRAL FOR SERVICES SHOULD
EXACT.

THAT IS IN SUBSECTION A.
SUBSECTION B TELLS WHAT THE
LAWYERS HAVE TO DO.

>> HOW MANY STATES PROHIBIT THIS
ACTIVITY.

>> I CAN'T TELL YOU.

>> SIGNIFICANT NUMBER, ONE OR
TWO?

>> YES.

I THINK THERE IS SIGNIFICANT
NUMBERS.

>> OKAY.

>> HAVE LOOKED AT LAWYER
REFERRAL SERVICES THOUGHT IT WAS
NOT IN THE BEST INTEREST OF THE
PUBLIC BUT I CAN'T GIVE YOU A
NUMBER.

>> HAVE YOU LOOKED AT LAWYER
REFERRAL SERVICES FOR DOCTORS OR
TITLE COMPANIES.

>> FOR PROFIT SERVICES UNRELATED
WHETHER THEY OWN.

>> FLORIDA BAR IS NOT SUGGESTING
THAT THEY, HAVE NEVER SUGGESTED
A BAN ON FOR-PROFIT RULES?

>> NEVER PASSED EVEN THOUGH
DISCUSSED AT BOARD OF GOVERNORS.
FINALLY FOR THE CODIFICATION OF
THESE RULES, BECAUSE THERE IS
THAT SPECIAL RELATIONSHIP ON
ADVERTISING AND CLIENT
PROCUREMENT WITH A FOR-PROFIT
ENTITY, THAT IS WHY THE BOARD OF
GOVERNORS FELT IT IS SO
IMPORTANT TO CODIFY THE RULES.
THESE ARE NOT NEW RULES OR
CHANGED RULES.

THEY'RE CODIFICATION RULES.

WITH SOME ADDITIONS.

I WON'T LEAD YOU ASTRAY.

THERE IS NOTHING BURDENSOME
HERE.

THERE IS NO CHILLING EFFECT.

>> THANK YOU FOR YOUR ARGUMENTS.
THE COURT IS IN RECESS FOR TEN
MINUTES.

