

Texas Disciplinary Rules of Professional Conduct

RESTRICTIONS ON ATTORNEY WHO WANTS TO “TAKE OVER THE FILE”

- A. In-Person or Telephone Contact. DR 7.03 (a) prohibits an attorney who seeks professional employment from instituting in-person or telephone contact with the deceased attorney’s former clients when a significant motive for the lawyer’s doing so is the lawyer’s pecuniary gain.
- B. Prohibited Written Solicitations. DR 7.05 (a) prohibits certain written communications while DR 7.05 (b) sets forth certain other requirements for the content of this “solicitation” including compliance with DR 7.04 (a) through (c) relating to advertisements in the public media.
1. Contingent fees. DR 7.04 (h) applies if services are to be rendered on a contingent fee basis and DR 7.04 (i) through (o) may also apply.
 2. Special Marking. The solicitation shall be plainly marked “ADVERTISEMENT” on the first page and on the envelope. DR 7.05 (b) (2).
 2. Retaining Copies. A copy of each written solicitation communication, the relevant approval thereof, and a record of the date of each such communication; the name and address to which each such communication was sent; and the means by which each such communication was sent shall be kept by the lawyer or firm for four years after its dissemination. DR 7.05(e).
 4. Additional Requirements. See Appendix C for excerpt from Rule 7.05.
- C. Filing Requirements For Public Advertisements and Written Solicitations. A copy of the written solicitation being sent, together with a representative sample of the envelopes and the fee (\$75) must be filed with the Advertising Review Committee of the State Bar of Texas, either before or concurrently with the mailing. DR 7.07(a). See Appendix C for excerpts of these Rules. The State Bar has a form for this purpose. See Appendix D.
- D. Prohibited Employment. A lawyer shall not accept or continue employment when the lawyer knows or reasonably should know that the employment was procured by conduct prohibited by DR 7.01-7.05, and 8.04(a)(2) and (9).

