

February 3, 2023

Re: Solicitation Rule

Dear Utah Supreme Court and Committees:

The Utah Association for Justice is an association of Utah attorneys who strive to promote justice and fairness for persons injured by others and safeguard victims' rights. Along with Utah State Senator Mike McKell we are writing to express our concern to certain changes to Rule 7.3 "solicitation of clients," now Rule 7.1(b), and how these changes negatively impact victims already harmed by the fault of others.

We raised this specific issue in prior correspondence to the Utah Supreme Court, dated December 27, 2021. In that correspondence, we stated:

The elimination of the prohibition against in-person solicitation previously found in Rule 7.3 has drastically affected personal injury victims – especially in situations of high stress following an accident. Unfortunately, several attorneys within our organization have become aware of law firms searching police scanners and showing up at accident scenes, hospitals and potential clients' homes after an accident. Personal injury clients need time to mourn the death of their loved ones and/or recover from significant injuries. The Utah legislature was concerned with personal injury clients' ability to make important decisions in these high stress situations, so they created Utah Code 78B-5-813, which states that any adverse statement, written or oral, obtained from an injured person within 15 days of an occurrence or while the person is confined in a hospital is not admissible as evidence in any civil proceeding. The same rationale would apply to personal injury victims making the important decision of hiring an attorney in a high-stress environment, especially when being solicited in person where the individual is subject to a direct personal encounter without time for reflection.

Due to egregious abuses (characterized by victims as aggressive, inappropriate, or uninvited solicitation at an injury scene or hospital) as a result of changes to Rule 7.3, the Utah Association for Justice respectfully requests this Court to revisit and revise Rule 7.1 to reinstall specific protections involving inappropriate solicitation of professional employment. The Utah Association for Justice will gladly participate in drafting clear and unequivocal language to prevent these abuses and, more importantly, provide the Office of Professional Conduct bright line guidance and enforcement tools. We look forward to any future communications on this matter and opportunity to assist further.

*Respectfully submitted by Utah State Senator, Mike McKell and the Executive Committee on behalf of the Utah Association for Justice and Utah Senator*

Mike McKell – State Senator

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