

You have asked the Committee whether it is proper for a law firm to accept employment of clients who have potential civil law suits and who have been referred to the firm as a result of one of the partners of the firm becoming acquainted with one of the inmates of a specific correctional facility. You have further indicated that the firm has neither requested nor solicited such referrals.

The appropriate and controlling rule relative to your inquiry is DR:2-103(D) which provides in part that a lawyer shall not compensate or give anything of value to a person or organization to recommend or secure his employment by a client, or as a reward for having made a recommendation resulting in his employment by a client, except that he may pay for public communications as permitted by DR:2-101. Ethical Consideration 2-7 [EC:2-7] begins by stating that the selection of a lawyer by a layperson should be made on an informed basis such as the advice and recommendation of third parties, for example, relatives, friends, acquaintances, business associates, or other lawyers. However, the ethical consideration also admonishes that a lawyer should not compensate another person for recommending him, for influencing a prospective client to employ him, or for encouraging future recommendations except that he may pay for advertisements and other public communications or for participation in legal referral services or lawful prepaid legal service plans, pursuant to DR:2-103(D). (See also LE Op. 312, LE Op. 625, LE Op. 1164)

Therefore, the Committee would opine that voluntary recommendations of a particular law firm made to inmates by an individual who is acquainted with the firm, when the law firm has neither requested nor solicited such referrals, and the firm's subsequent acceptance of those cases, is not improper. Under the facts as you have stated them, the Committee is assuming that the law firm has not or does not intend to compensate or give anything of value to that individual for making such recommendation, and, further, that the recommendation has not been made based on any false, fraudulent, misleading, deceptive statement or claim (DR:2-101(A)). It is currently well established that recommendations for employment of lawyers made by third parties who are familiar with the lawyer or law firm are an acceptable and viable method of solicitation which is initiated by the client.

Committee Opinion
November 21, 1989