

In this hypothetical, Smith and Jones are lawyers who previously practiced together in the firm of Smith & Jones, P.C. Smith recently withdrew from the PC and formed a new law firm with other lawyers. Jones continues to practice law with the PC. Pursuant to the requirements of Rules 7.1(a), 7.5(a), and 7.5(d), Jones filed the necessary papers to legally change the name of the PC from “Smith & Jones, P.C.” to “Jones Law Office, P.C.” At all relevant times before and after the withdrawal of Smith, the PC has owned the Internet domain name and URL “smithjones.com.” Since Smith’s withdrawal, the PC has established a new domain name and URL, “joneslawoffice.com.” As the owner of the former domain name, the PC would like to make arrangements to automatically redirect anyone who attempts to access smithjones.com to joneslawoffice.com, or alternatively, to put a notice on the smithjones.com website that Smith & Jones, P.C. has now become the Jones Law Office because of Smith’s withdrawal from the firm, providing the date of Smith’s withdrawal and a link to joneslawoffice.com.

QUESTION PRESENTED

Is this redirection of Internet traffic permissible under Rule 7.5(d)? If it is not acceptable, is the proposed website notice permissible?

APPLICABLE RULES AND OPINIONS

The relevant Rules of Professional Conduct are Rule 7.1(a)¹ and Rule 7.5(a) & (d)².

ANALYSIS

There is no doubt that the firm name cannot include the departed partner’s name once that partner has joined another firm³. However, that does not necessarily imply that the domain name and URL must be immediately abandoned once the partner departs the firm. Even after the firm name changes, the domain name/URL will have value to former clients who are searching for the firm using the name they are familiar with, or others who for whatever reason are not aware of the firm name change. Because search results may be in part based on an individual’s search history and other historical factors, a search for “Smith” or “Jones” may lead to

¹ Rule 7.1 Communications Concerning A Lawyer’s Services

(a) A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact when omission of such fact makes the statement materially false or misleading as a whole.

² Rule 7.5 Firm Names And Letterheads

(a) A lawyer shall not use a name, firm name, letterhead, or other professional designation that violates Rule 7.1. A trade name may be used by a lawyer in private practice if it does not imply a connection with a government agency or with a public or charitable legal services organization and is not otherwise in violation of Rule 7.1.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

³ Rule 7.5(d); LEO 1704.

“smithjones.com” even after Smith’s departure and the resulting name change⁴. For these reasons, it would not serve the interests of the public, including former/potential clients, or the partners in the former firm who collectively built goodwill and created value associated with that firm name, to require that all use of the domain name and URL be discontinued immediately once the partners separate. On the other hand, a domain name/URL containing the firm name is a “professional designation” for purposes of Rule 7.5(a) and accordingly may not contain a false or misleading statement.

While placing a notice on the smithjones.com website is an appropriate way of explaining why smithjones.com is no longer the Smith & Jones website, the content of the notice may not be misleading. The notice proposed in this hypothetical, which would say that Smith & Jones, P.C., “has now become” the Jones Law Office, is misleading without the additional information that Smith also continues to practice law, because it implies that Smith may no longer be available to represent clients and that clients of Smith & Jones will be represented by Jones.

The other proposed solution, redirecting smithandjones.com to joneslawoffice.com, also requires some additional information in order to avoid being misleading. Automatically redirecting traffic to joneslawoffice.com without providing some explanation, either as part of the redirecting process or on the joneslawoffice.com website, is misleading for the same reason that the proposed notice above is misleading: it implies that Smith may not be available for continued representation and that Jones may be the only remaining option for representation. Even if Jones has the legal right to control the smithjones.com domain name/URL, redirecting traffic to joneslawoffice.com is appropriate only if joneslawoffice.com, or a page visible during the process of redirecting, explains the change from Smith & Jones to Jones Law Office and that Smith continues to practice law in a different firm. Clients are entitled to their choice of lawyer, and Jones may not impede that choice by refusing to provide information about the change in the name and composition of the firm. See LEO 1506.

This opinion is advisory only and is not binding on any court or tribunal.

Committee Opinion
March 20, 2014

⁴ See, e.g., “Google Accounts & Web History,” available at <http://www.google.com/goodtoknow/data-on-google/web-history/> (discussing Google’s use of personal information to customize search results).