

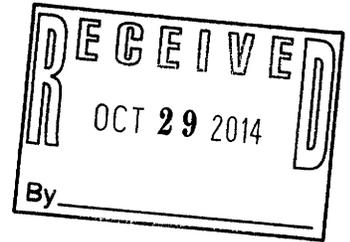
James H. Drescher

J.D.

Attorney at Law

October 28, 2014

James Hivner, Clerk
Re: Rule 8, RPC 7.3
Tennessee Appellate Courts
100 Supreme Court Bldg.
401 7th Avenue North
Nashville, TN 37219-1407



Re: ADM2014-01954

Dear Mr. Hivner:

Please add my concerns to those expressed in the attached. My law practice is predominantly family law. I have been licensed since 1982. I joined a Nashville firm in 1991 when I left the Marine Corps. I was a judge advocate for nine years.

If it were up to me, lawyer solicitation of potential clients in divorces would be completely forbidden.

Several years ago, I was retained to represent the wife of a very wealthy businessman. The parties had been married for over twenty years and had several minor children. At that time in Davidson County, it was generally accepted that filing first had potential advantages. My client was unsure about wanting to end the marriage but I advised her that filing first could be beneficial. Thus, she opted to file but we had no immediate intention of serving the complaint. My client clung to the hope that she and her husband might reconcile. A few days later, my client called me in a breathless panic. Her husband had received a form solicitation letter in the mail which essentially said "we see you have been sued for divorce, you need to hire a lawyer right away". Naturally, the husband was demanding to know what was afoot.

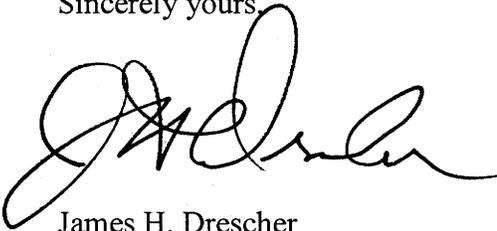
I was furious. My client was, in turn, furious with me.

I knew the lawyer who sent the letter. I spoke to several colleagues about my concerns. What if my client had been beaten or murdered? These things do happen. I spoke privately to the family law judges in Davidson County, wondering, perhaps, if a local rule might be implemented to halt this dangerous practice. More particularly, I confronted the lawyer who sent the letter. I firmly explained to him the dangers posed by his letters. I sternly warned him to refrain from doing this in any future case I might file. In the midst of these conversations, I learned that he was not the only one who routinely sent these letters to divorce defendants. As it turns out, the lawyer who sent the letter agreed not to send future correspondence in cases I filed

(how he might assure an exception for me made me skeptical at best). Perhaps most importantly, my client and her husband sought counseling and were able to avoid divorce.

Should the Supreme Court declined to bar these letters in domestic cases, it is still my strong view that a waiting period be imposed and the longer the better. Thirty days would seem to be a minimum. I truly believe that these letters pose a palpable threat to the safety of litigants and their children. The manner and timing of telling an emotional, angry and violent person that a divorce action has been filed should be solely left to the plaintiff and his or her lawyer, not to someone trolling for business.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'J. Drescher', written in a cursive style.

James H. Drescher

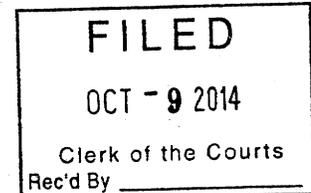
Enclosure

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE RULE 8, RPC 7.3(b)(3),
RULES OF THE TENNESSEE SUPREME COURT

No. ADM2014-01954

ORDER



The Court has received a letter from a private attorney whose law practice is focused on divorce and family law, and that attorney has suggested a possible amendment to Tenn. Sup. Ct. R. 8, RPC 7.3. In pertinent part, the attorney's letter summarizes the issue as follows:

The issue is, very simply, that while the Court protects victims of accidents and workers compensation from attorneys soliciting their business under Supreme Court Rule RPC 7.3 [sic], the Court did not do so with regard to divorce or legal separation issues. Thus, on more than one occasion, I have had a client make the difficult decision to file for a divorce or legal separation, and on one of these occasions, actually put in the divorce complaint the physical and verbal abuse that had occurred. Then, before that client even had an opportunity to have their spouse served with the divorce or legal separation complaint, seek shelter, to be away in the event of service, or tell their spouse that they had filed for divorce, their spouse received a solicitation letter telling them that they had been sued for divorce or legal separation, and asking for their business. . . . This is especially important for spouses and children, who are often the victims of domestic abuse.

It is not unreasonable to ask that they have at least thirty (30) days to decide how and when they are going to serve their spouse with the divorce or legal separation complaint, and how they will protect themselves and their children, should there be a reaction or over-reaction to the filing.

For the foregoing reasons, the letter asks the Court to consider amending RPC 7.3(b)(3) to add “divorce or legal separation” to the other causes of action listed in that provision. In an attachment to her letter, the attorney set out her suggested revision of RPC 7.3(b)(3).

Attached as an appendix to this Order is the attorney’s proposed amendment of RPC 7.3(b)(3). For context, however, the appendix incorporates the attorney’s suggested revision into the full text of RPC 7.3. The Court hereby solicits written comments on the proposed amendment from judges, lawyers, bar associations, members of the public, and any other interested parties. The deadline for submitting written comments is Monday, November 10, 2014. Written comments should be addressed to:

James Hivner, Clerk
Re: Rule 8, RPC 7.3
Tennessee Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

and should include the docket number set out above.

The Clerk shall provide a copy of this order to LexisNexis and to Thomson Reuters. In addition, this order, including the appendix, shall be posted on the Tennessee Supreme Court’s website.

IT IS SO ORDERED.

PER CURIAM