

RULES OF OPERATION

of the

**LAWYER REFERRAL AND
INFORMATION SERVICE**

of the

**SAN DIEGO
COUNTY
BAR ASSOCIATION**

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RULES OF OPERATION
of the
LAWYER REFERRAL AND INFORMATION SERVICE
of the
SAN DIEGO COUNTY BAR ASSOCIATION

(effective September 5, 1978)

ARTICLE ONE

PURPOSE

Section 1. **GENERAL PURPOSE.** It is the purpose of the Lawyer Referral and Information Service to render a public service by making referrals to qualified, insured Lawyers and to provide information about Lawyers and the availability of Legal Services.

ARTICLE TWO

ORGANIZATION

Section 1. **TITLE.** These Rules shall be called Rules of Operation of the Lawyer Referral and Information Service of the San Diego County Bar Association.

Section 2. **DEFINITION OF TERMS.** As used herein the term “*Association*” means the San Diego County Bar Association; the term “*Committee*” means the Standing Committee of lawyers designated to administer the Lawyer Referral and Information Service; the term “*Applicant*” means clients making application for legal services with the Lawyer Referral and Information Service; the term “*Service*” means the Lawyer Referral and Information Service of the San Diego County Bar Association.

Section 3. **STATE BAR MINIMUM STANDARDS/ COMMITTEE.** The Service shall be operated, in accordance with these Rules and the Minimum Standards for a Lawyer Referral Service in California, which Minimum Standards and any amendments thereto as may be adopted from time to time by the Board of Governors of the State Bar of California, are incorporated by reference herein as though set forth fully at length. Any conflict between the body of these Rules and the Minimum Standards as adopted by the State Bar, shall be resolved by reference to the Minimum Standards.

The Service shall be managed by a Committee of nine voting members, consisting of the Treasurer and a Board Liaison of the Association, who shall automatically be replaced each year by their successors; and seven lawyers appointed by the President of the Association with the approval of the Board of Directors to serve extended terms. (The terms of the members of the Committee who serve for three years shall be staggered so that at least two new members are appointed each year .) Of such 7 seats, 3 shall be designated Class A seats with terms of office expiring December 1996 and every 3 years thereafter; 2 shall be designated Class B seats with terms of office expiring December 1997 and every 3 years thereafter; and 2 shall be designated Class C seats with terms of office expiring December 1998 and every 3 years thereafter. In the event of a vacancy, the then President of the Association (with Board approval) may fill the vacancy . The

President of the Association shall be an ex officio member of the Committee, but not entitled to vote. (*Amended November 1987 & May 1999*)

- Section 4. LRIS ADMINISTRATOR. The Service will be operated by the LRIS Administrator together with other LRIS personnel. The LRIS Administrator shall make a monthly report to the Committee or at any time the same is requested by the Chairperson of the Committee. The service shall keep the records set forth in Rule 15 of the Minimum Standards for a Lawyer Referral Service in California, and shall maintain a list of lawyers eligible to receive cases according to the type of case.
- Section 5. REFERRAL ROTATION. Referrals generally shall be in rotation except that the service should keep in mind the distance involved from the home address of the Applicant to the office of the lawyer. Referrals outside requiring fluency in a foreign language shall, to the extent possible, be referred to an attorney having fluency in that language.
- Section 6. ANNUAL REPORT. The LRIS Administrator and the Chairperson of the Committee of the Service shall annually file with the State Bar, on a form to be supplied by it, a report on the activities of the Service and of the Committee.

ARTICLE THREE

ADMINISTRATION

- Section 1. ATTORNEY REGISTRATION. Any member in good standing of the State Bar of California engaged in the active practice of the law in San Diego County may apply for registration with the Service by signing and filing with the service a registration form to be provided by the Service, paying the registration fee, and by a receipt of either a Certificate of Insurance or Cover sheet of your professional liability insurance. The application shall not be processed without the registration fee. No more than one registration fee per year shall be collected from any lawyer irrespective of the number of panels applied for, and the fee shall be retained whether or not a given applicant is approved. The registration fee of \$75.00 for SDCBA Members and \$300.00 (*fees revised 11/06*) for Non-SDCBA Members shall be charged irrespective of when in the course of the year, application is made, and shall serve as registration fee only to the end of the calendar year in which the application is made.
- Section 2. REGISTRATION FEE. Each member of the Service shall pay an annual registration fee

of \$75.00 for SDCBA Members and \$300 for Non-SDCBA Members and all panel fees are free.

Failure to timely pay the re-registration fee shall, at the option of the Committee, serve as a basis for re-registration with the Service. Re-registration may occur pursuant to standards established by the Committee.

Section 3. SUBJECT MATTER PANELS. The Committee shall, subject to the approval of the Board of Directors of the San Diego County Bar Association, maintain such subject matter panels in the fields of law as it shall determine. Subject matter panels now established by the Lawyer Referral and Information Service are as follows:

| | |
|----------------------------------|-----------------------------------|
| Administrative Law | Guardianship |
| Adoption | Immigration and Naturalization |
| Bankruptcy – A (Personal) | Juvenile Court |
| Bankruptcy – B (Commercial) | Labor - Employment |
| Civil Litigation | Landlord-Tenant |
| Commercial Litigation | Legal Malpractice |
| Condemnation | Medical Malpractice |
| Conservatorship | Military Law |
| Consumer Fraud | Personal Injury - Plaintiff |
| Corporation and General Business | Personal Injury - Defendant |
| Criminal Law | Probate |
| (State Misdemeanor, Felony and | Real Estate Transactions |
| Federal) | Social Security Disability |
| Family Law | Taxation |
| General Panel | Wills, Trusts and Estate Planning |
| Appellate (Civil and Criminal) | Workers' Compensation |
| Civil Rights | |
| Entertainment | |
| Insurance | |
| Patent, Trademark & Copyright | |
| Securities | |

- Section 4. APPLICATION REVIEW. The Committee shall review each application for a subject matter panel and shall evaluate, and at its option, investigate, the qualifications of the registrant for each subject matter panel requested in light of the current qualifications on file in the office of the Service. All applications for membership shall be in the form of a declaration under penalty of perjury with respect to the satisfaction of requirements for membership in the Service or panel thereof, if, in their opinion after evaluation or investigation, any registrant is not qualified to serve on such subject matter panel, the Committee shall reject his/her application for membership, shall so advise him/her in writing shall specify the reasons for its decision and shall inform him/her that he/she has ten (10) days within which to request a hearing before the Committee.
- Section 5. ONGOING REVIEW OF QUALIFICATION. For good cause, the Committee may review the qualifications of any member of any subject matter panel. If, in the Committee's opinion after such review, a member of any subject matter panel is not then qualified to serve on such subject matter panel, the Committee shall suspend or remove said member's name from such subject matter panel, shall so advise the member in writing, shall specify the reasons for its decision and shall inform him/her that he/she has ten (10) days within which to request a hearing before the Committee.
- Section 6. VOLUNTARY WITHDRAWAL. Any panel member may withdraw from the Service upon giving five (5) days written notice to the Committee and submitting all payments and reports on all unreported referrals.
- Section 7. MASTER REGISTRATION FILE. A master file of registration records of all members of the Service shall be maintained by the LRIS Administrator of the Service. Reference of cases will be on a rotation basis, subject to the foreign language and geographic considerations set forth in Article Two, Section 5 above.
- Section 8. FEES. All Lawyers registered with the Service shall agree to render professional services for each layman referred by the Service upon the following fee basis;
- a. INITIAL CONSULTATION. All lawyers registered with the Service will charge each person referred by the Service nothing for the initial conference up to thirty (30) minutes. All compensation for professional services rendered thereafter will be subject to agreement between the attorney and the referred person.
 - b. FEE DISPUTES. Disputes as to fees, at the request of the client, shall be submitted to the Standing Committee on Arbitration of the San Diego County Bar Association. When an attorney first becomes aware of a fee dispute, he/she shall provide the client with a written notice of his or her right to arbitrate, submitting a copy of this letter to the San Diego County Bar Association.
- Section 9. PERFORMANCE OF SERVICE/FURTHER REFERRAL. Persons referred by the Service to panel members in the Service are to be given their first conference by the attorney at whom such person is referred. If, after the first conference, said person is in need of further legal services which the panel member cannot provide, the panel member shall refer such person back to the office of the Service. Any subsequent panel member to whom said person is referred shall be obligated to pay to the Service the forwarding fee specified in Article Three, Section 13. Under no circumstances shall a panel member refer said person to another attorney who is not a panel member. Other attorneys in the panel member's firm may assist on the matter, provided that the panel

member exercises a reasonable degree of supervision over the matter. Any panel member who refers in violation of this Section shall be liable to the Service in an amount equal to 15% of all fees paid by the Applicant on all matters specified in Section 13 (b).

- Section 10 . PANEL MEMBER RECORDS AND REPORTS. Each panel member shall keep a record of the name of each client referred to him or her through the Service, the date of the reference, the general nature of the matter referred and the total fee received. Upon receipt of a fee or a portion thereof, or upon disposition of the matter, the attorney shall report to the Service on the matter. Said report shall include prorated payment of any fees collected. The total fee charged and received shall be reported by the panel member at any time such member is required to pay a forwarding fee to the Service. The Service may also from time to time request written reports on all matters being handled by said panel member.
- Section 11 . RULES OF PROFESSIONAL CONDUCT. Each panel member shall be guided, governed and bound by the Rules of Professional Conduct as applied to members of the State Bar of California, and the initial contact with the panel member shall be made by or on behalf of the persons referred to said panel member.
- Section 12. LAWYER WARRANTIES/INSURANCE/INDEMNIFICATION. No lawyer shall be registered under the Service unless and until he/she shall: warrant that he/she is a member in good standing of the State Bar of California engaged in the active practice of law in San Diego County; warrant that he/she was not at any time during the preceding five (5) years prior to application either under suspension from practice or disbarment by the State Bar of California, or serving a sentence or been on probation from a crime involving moral turpitude; acquire and maintain per the State Bar Minimum Standards errors and omissions insurance in the amount not less than \$100,000 for each occurrence and \$300,000 aggregate per year, and waive liability and agree to indemnify and hold harmless the San Diego County Bar Association and its members (and the Committee and its agents) from any and all claims, demands, actions, liability, or loss, which may arise from, or be incurred as a result of, the operation of the Service or referrals of clients to him or her through the Service, or the use of information contained in the registration form; agree that the information contained in the registration form may be furnished to applicants in the operation of the Service; agree that his or her name may be classified in the Service as the Committee shall direct; agree that his or her name may be withdrawn from any and all classifications, if any, of the Service at any time by the vote of the majority of the members of the Committee subject to review.
- Section 13. FORWARDING FEES.
- (a) USE OF FORWARDING FEE. Each panel member agrees to pay to the Service upon receipt thereof, in addition to the registration fee, a forwarding fee of fifteen (15) percent of all fees received by the panel member from any referral made by the Service. The forwarding fee so paid shall be deposited in the Lawyer Referral and Information Service commercial bank account. The net income of the Service together with funds presently on hand in the commercial bank account of the Service, shall be used for the general purpose of supporting activities and programs in the public interest, subject to the provisions of Rule 17.2 of the Minimum Standards for a Lawyer Referral Service in California.
- (b) MATTERS COVERED BY FORWARDING FEE. The 15% forwarding fee referred to in Section 13 (a) above shall be due on all fees received by the panel

member in connection with any of the following:

- (1) The matter or matters considered at the initial consultation;
- (2) Any matter arising out of, concerning, relating to, or derivative of the same facts, transactions and/or circumstances of the referred matter or matters. Examples include but are not limited to any (A) malicious prosecution/abuse of process/bad faith claims; (B) wrongful death from a personal injury case, (C) will contest and related actions out of probate matters; (D) Class Actions; (E) Enforcement proceedings; (F) Appeals.

- (c) PAYMENT OF FORWARDING FEES. The panel member will hold in trust that portion due LRIS and remit all fees within 30 days of the receipt and shall pay interest at the rate of 10% per annum on all amounts past due and owing the Lawyer Referral Service. In the event of any dispute regarding the amount of forwarding fees due the LRIS or related to the non-payment thereof, the prevailing party shall be entitled to recover reasonable costs and reasonable attorney's fees.

Section 14. IMMUNITY FOR LAWYER REFERRAL SERVICES, DUTY TO DISCLOSE DISCIPLINARY ACTIONS (*excerpts from California Civil Code §43.95*) (*provision added 6/99*).

- (a) There shall be no monetary liability on the part of, and no cause of action for damages, shall arise against any Lawyer Referral Service that is authorized by the State Bar of California and operates in accordance with the State Bar Minimum Standards, when referring members of the public to any professional member of the service, or for acts of negligence or conduct constituting unprofessional conduct committed by the professional to whom a member of the public was referred.
- (b) There shall be no immunity, if the Service while making a referral, fails to disclose the nature of any disciplinary action of which it has actual knowledge taken by the State Bar of California against that attorney. There shall be no time limit on the duty to disclose. There shall be no duty to disclose a disciplinary action where a disciplinary proceeding results in no disciplinary action being taken against the professional to whom a member of the public was referred.

Section 15. PRIVILEGED LAWYER-CLIENT COMMUNICATION.

A disclosure of information to a lawyer referral service for the purpose of seeking legal assistance shall be deemed a privileged lawyer-client communication.

ARTICLE 4

SUSPENSION, REMOVAL, HEARING & APPEAL

Section 1. SUSPENSION AND REMOVAL. Upon proof satisfactory to the majority of the Committee of a violation of any of these Articles or the Code of Professional Responsibility of the American Bar Association, or any rules of professional conduct of the State Bar of California or of a failure to handle referred cases with reasonable professional competence and diligence, or of a substantial over-charging of referred clients, or by falsification of any material statement made to qualify for any panel or made in any required report, or of a failure to do any of the following: (a) pay the annual fee, (b) forward all referral fees when due, (c) submit all required reports, (d) comply with the rules of the Service and/or maintain continuous eligibility, a panel member's name may be suspended or removed from the Service upon written notification to the panel member of the reasons for the Committee's action. Said written notification shall inform the panel member that he/she has ten (10) days within which to request a hearing before the Committee.

Section 2. REQUEST FOR HEARING.

- a. NOTICE OF DECISION. In all cases in which the Committee has given written notice of rejection, suspension, or removal to a registrant or panel member pursuant to Section 4, 5, or 6 of these Rules of Operation, the registrant or panel member shall have ten (10) days following the date of the receipt of such notice within which to request a hearing before the Committee. Said request shall be by notice to the LRIS Administrator of the Lawyer Referral Service. In the event the registrant or panel member does not request a hearing within the time and in the manner herein above set forth, he/she shall be deemed to have accepted the action involved and it shall thereupon become effective immediately.
- b. TIME AND PLACE FOR HEARING. Upon receipt of a request for hearing the LRIS Administrator shall deliver such request to the Committee. The Committee shall within thirty (30) days after receipt of such request, schedule and arrange for a hearing. The Committee shall give notice to the registrant or panel member of the time, place and date of the hearing. The date of the commencement of the hearing shall be not less than forty-five (45) days, not more than sixty (60) days from the date of receipt of the request by the LRIS Administrator for a hearing.
- c. FAILURE TO APPEAR. Failure without good cause of the person requesting the hearing to appear and proceed at such a hearing, shall be deemed to constitute voluntary acceptance of the actions involved which shall become final and effective immediately.
- d. POSTPONEMENT AND EXTENSION. Postponements and extensions of time beyond the time expressly permitted in these Rules of Operation may be requested by anyone, but shall be permitted by the Committee or its chairperson acting upon its behalf on showing of good cause.
- e. DECISION OF THE COMMITTEE. Within ten (10) days after final adjournment of the hearing, the Committee shall render a decision by majority vote. A copy of said decision shall be forwarded to the Board of Directors of the Association. The decision shall contain a concise statement of the reasons justifying it and shall inform

the registrant or panel member that he/she has ten (10) days within which to appeal the decision to the Board of Directors of the association. At the same time a copy of the decision shall be delivered by registered or certified mail to the person who requested the hearing.

- f. THE APPEAL. The decision of the Committee shall be considered final, subject only to the right of appeal as provided in Article IV, Section 4 (Appeal to Board of Directors of the association) of these Rules of Operation.

Section 3 . HEARING PROCEDURE.

- a. PERSONAL PRESENCE MANDATORY. Under no circumstances shall the hearing be conducted without the personal presence of the person requesting the hearing unless he/she has waived such appearance or has failed without good cause to appear after appropriate notice.
- b. REPRESENTATION. The person requesting the hearing, the Committee or the Board of Directors of the Association may be represented in any phase of the hearing or appeals procedure by an attorney if they so desire. If the person requesting the hearing chooses to have legal representation it shall be at his/her own expense.
- c. PRESIDING OFFICER. The presiding officer at the hearing shall be chairperson of the Committee or any other committee member so designated by him/her. The presiding officer shall act to insure that all participants in the hearing have a reasonable opportunity to be heard, to present all oral and documentary evidence, and that decorum is maintained. He/she shall be entitled to determine the order or procedure during the hearing. He/she shall have the authority and discretion, in accordance with these Rules of Operation, to make all rulings on questions which pertain to matters of law and to the admissibility of evidence.
- d. COMMITTEE'S REPRESENTATIVE. The chairperson of the Committee shall appoint another member of the committee to act as its representative at the hearing. The committee's representative shall present the evidence and arguments against the registrant or panel member who requested the hearing. The Committee's representative shall not participate in the deliberations or decision of the Committee.
- e. RECORD OF HEARING. The Committee may maintain a record of the hearing by one of the following methods: a shorthand reporter present to make a record of the hearing, a recording, or minutes of the proceedings. The cost of such shorthand reporter shall be borne by the party requesting same. The Committee may, but shall not be required to, order that oral evidence shall be taken only an oath or affirmation administered by any person designated by such body and entitled to notarize documents in the State of California.
- f. RIGHTS OF BOTH SIDES. At a hearing, both the person requesting the hearing and the Committee shall have the following rights: to call and examine witnesses, to introduce exhibits, to cross-examine any witness on any matter relevant to the issues, to impeach any witness and to rebut any evidence. If the registrant or panel member does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.
- g. ADMISSIBILITY OF EVIDENCE. The hearing shall not be conducted

according to rules of law relating to the examination of witnesses or presentation of evidence. Any relevant evidence shall be admitted by the presiding officer if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the admissibility of such evidence in a court of law. The person requesting the hearing and the Committee shall have the right to submit a memorandum of points and authorities.

- h. OFFICIAL NOTICE. The presiding officer shall have the discretion to take official notice of any matters either technical or scientific, relating to the issues under consideration which could have been judicially noticed by the courts of this State. Participants in the hearing shall be informed of the matters to be officially noticed and they shall be noted in the record of the hearing. The person requesting the hearing shall be informed of the matters to be officially noticed and they shall be noted in the record of the hearing. The person requesting the hearing shall have the opportunity to request that a matter be officially noticed or to refute the noticed matters by evidence or by written or oral presentation of authority. Reasonable or additional time shall be granted, if requested, to present written rebuttal of any evidence admitted on official notice.
- i. BASIS OF DECISION. The decision of the Committee shall be based on the evidence produced at the hearing. This evidence may consist of the following:
 - 1. Oral testimony of witnesses;
 - 2. Briefs, or memorandum of points and authorities presented in connection with the hearing;
 - 3. Any material contained in the Association's or the Lawyer Referral Service's files regarding the person who requested the hearing;
 - 4. Any and all applications, references, and accompanying documents;
 - 5. All officially noticed matters;
 - 6. Any other admissible evidence.
- j. BURDEN OF PROOF. It shall be incumbent on the person who requested the hearing to initially come forward with evidence in support of his/her position. In all cases in which a hearing is conducted under these Rules of Operation, after all the evidence has been submitted, the Committee shall rule against the person who requested the hearing unless it finds that said person has proved, by clear and convincing proof, that the action of the Committee was arbitrary, unreasonable, or not sustained by the evidence.
- k. ADJOURNMENT AND CONCLUSION. The presiding officer may adjourn the hearing and reconvene the same at the convenience of the participants without special notice. Upon conclusion of the presentation of oral and written evidence, the hearing shall be closed. The Committee shall thereupon, outside of the presence of any other person conduct its deliberations and render a decision as provided by Section 7, Subsection (e) (Decision of the Committee) of these Rules of Operation.

Section 4. APPEAL TO BOARD OF DIRECTORS OF THE ASSOCIATION.

- a. TIME FOR APPEAL. Within ten (10) days after receipt of the decision of the Committee, the person who requested the hearing may request an appellate review by the Board of Directors of the Association. Said request shall be delivered to the President of the Association in writing and delivered either in person, or by certified or registered mail. If such appellate review is not requested within such period, the person who requested the hearing shall be deemed to have accepted the action involved and it shall thereupon become final and shall be effective immediately. The written request for appeal shall also include a brief statement as to the reasons for appeal.
- b. GROUND FOR APPEAL. The ground for appeal from the hearing shall be: (a) substantial failure of the Committee to comply with the procedures required by these Rules of Operation in the conduct of hearings and decisions upon hearings so as to deny due process and a fair hearing; (b) action taken arbitrarily, capriciously, or with prejudice.
- c. TIME, PLACE AND NOTICE. In the event of any appeal to the Board of Directors of the Association set forth in the preceding subsection, the Board of Directors shall, within thirty (30) days after receipt of such notice of appeal, schedule and arrange for an appellate review. The Board of Directors shall cause the registrant or panel member to be given notice of the time, place and date of the appellate review. The date of appellate review shall not be less than forty-five (45) days, nor more than sixty (60) days from the date of receipt of the request for appellate review. The time for appellate review may be extended by the President of the Association for good cause.
- d. NATURE OF APPELLATE REVIEW. The proceedings by the Board of Directors of the Association shall be in the nature of an appellate hearing based upon the record of the hearing before the Committee, provided that the Board of Directors of the Association may, in its discretion accept additional oral or written evidence subject to the same rights of cross-examination or confrontation provided at the Committee hearing. Both the person who requested the appeal and the Committee shall have the right to present a written statement in support of their position on appeal, and in its sole discretion, the Board of Directors of the Association may allow each party or representative to personally appear and make oral argument. At the conclusion of oral argument, if allowed, the Board of Directors of the Association may thereupon, at a time convenient to itself, conduct deliberations outside the presence of the appellant and Committee and their representatives. The Board of Directors of the Association may affirm, modify or reverse the decision of the Committee, or, in its discretion, refer the matter for further review and recommendation.

- e. FINAL DECISION. Within twenty (20) days after the conclusion of the proceedings before the Board of Directors of the Association, the Board of Directors of the Association shall render a final decision by majority vote in writing and shall deliver copies thereof to the registrant or panel member and to the Committee in person or by certified or registered mail.
- f. FURTHER REVIEW. The final decision of the Board of Directors of the Association following the appeal procedures set forth in these Rules of Operation shall be effective immediately and shall not be subject to further review. Provided, however, if the matter is referred back to the Committee for further review and recommendation, said Committee shall promptly conduct its review and make its recommendations to the Board of Directors of the Association in accordance with the instructions given by the Board of Directors of the Association. This further review process and the report back to the Board of Directors of the Association shall in no event exceed thirty (30) days in duration except as the parties may otherwise stipulate.
- g. RIGHT TO ONE HEARING ONLY. Except as otherwise provided in these Rules of Operation, no registrant or panel member shall be entitled as a matter of right to more than one hearing before the Board of Directors of the Association on any single matter which may be the subject of an appeal without regard to whether such subject is the result of action by the Committee or the Board of Directors of the Association, or a combination of acts of such bodies.

ARTICLE FIVE

AMENDMENT

Section 1. AMENDMENT. These Rules may be added to, amended, or repealed by a majority vote of the Board of Directors of the Association.