



The State Bar of California

Task Force on Access Through Innovation of Legal Services – Subcommittee on Rules and Ethics Opinions

To: Rules and Ethics Opinions Subcommittee
From: Joyce Raby
Date: May 31, 2019
Re: B.3. ATT2 Report and recommendation on the adoption of proposed rule 5.4 as amended – Comments to proposed Rule 5.4(a)(7)

Recommendation: Rule 5.4(a)(7). A lawyer or law firm may share legal fees with a nonprofit law practice incubator of which the lawyer or law firm is a member.

I would like the subcommittee to explore why there is a limitation to "law tech incubators".

I will use FJTC as an example.

FJTC has completed and soft launched a tool that supports low-bono services (low cost services) offered through a legal aid program (Jacksonville Area Legal Aid or JALA) in Jacksonville, Florida. Called FLARE for Family Law Assistance at Reduced Expense, the program "provides moderate income families with legal help at a reduced expense. FLARE works with local attorneys to make sure that high quality legal services are available to individuals who may not be able to pay the standard rate to hire an attorney." These attorneys are vetted by JALA and agree to fixed fee, unbundled arrangements with clients. The program only provides services within family law in Florida. JALA currently refers clients who don't qualify for free services to FLARE. However, it is contemplated that at some point members of the public looking for help could engage with FLARE without having to be referred by JALA.

FJTC created an online portal to support the program that does the following:

- Allows a client to answer interview style questions in preparation for consultation with an attorney
- upload appropriate documents
- select the type of unbundled services package they wish to purchase
- process credit card payments from clients to participating attorneys
- allow attorneys to accept a client/package
- supports document review and modification by both clients and attorneys
- supports client attorney communication

When Jim Kowalski - the executive director of JALA - came to me with the idea, we agreed that the long term goal of the project was to create a revenue stream for both our organizations. Jim has been working with his board and ethics committee to determine an acceptable fee sharing arrangement. FJTC would receive a percentage of the fees generated by participating attorneys in exchange for ongoing technical support and maintenance. If this program proves successful, FJTC plans to roll this product out to other legal aid organizations - offering similar services with an eye toward creating revenue that goes beyond supporting just this effort.

Given the definition of "law or legal tech incubator" - FJTC, even as a nonprofit, would not qualify as eligible to participate in a fee sharing arrangement in California. I would like to encourage the subcommittee to include other types of organizations as eligible. Specifically, nonprofit tech companies (like FJTC) working with a law firm or legal aid organization to provide free and/or low cost services to vulnerable populations.

To: Rules and Ethics Opinions Subcommittee
From: Toby Rothschild
Date: May 31, 2019
Re: B.3. ATT2 Report and recommendation on the adoption of proposed rule 5.4 as amended – Comments to proposed Rule 5.4(a)(7)

Recommendation: Rule 5.4(a)(7). A lawyer or law firm may share legal fees with a nonprofit law practice incubator of which the lawyer or law firm is a member.

Hi all – I understand the concern that Andrew is raising, and I think fee sharing for legal incubators might make some sense. I am concerned that the rule does not include the definition, as the one in the CCAJ handbook is pretty slim, and I don't know how widely known or accepted it is. I would want to explore the range of incubators to see if there is any limitation that would make sense. I'm not sure what a tech law incubator is. If it is incubating tech firms which are not law firms, the fee sharing rules don't apply. I think this needs a lot more work, but I can see it as a useful tool if done right.