

JOINT COMMITTEE ON LEGAL REFERRAL SERVICE
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AND
THE NEW YORK COUNTY LAWYERS' ASSOCIATION
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LEGAL REFERRAL SERVICE
RULES FOR PANEL MEMBERSHIP

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About the Legal Referral Service

The Legal Referral Service (the "Service") is sponsored by The Association of the Bar of the City of New York and the New York County Lawyers' Association (the "Associations") under the auspices of the Associations' Joint Committee on Legal Referral Service (the "Joint Committee").

The Service is operated as a public service and exists primarily for the benefit of the public. The Service assists individuals in need of legal services or advice, by helping them determine whether they require and may be able to hire the services of a lawyer in private practice and, if so, referring them to attorneys who have been screened and selected by the Service and who agree to abide by its rules. When appropriate, the Service refers individuals to other programs or agencies. The goals of the Service, including its staff and the attorneys who are Panel Members, are to provide information and referrals, to recommend lawyers or other resources to provide competent, ethical legal advice and representation, to educate the public about legal representation, and to increase respect for the legal profession.

In consideration of being listed as a Member of one or more Panels of the Service, each Panel Member shall be bound by the rules of the Service, as in effect from time to time.

Panel Application Process

"Panel" means the group of attorneys listed by the Service as being eligible to receive referrals of legal matters in any of the Panel Categories or Sub-Categories established by the Service.

"Panel Member" or "Member" means any attorney listed by the Service from time to time as eligible to receive referrals of legal matters in any of the Panel Categories or Sub-Categories. "Panel Membership" or "Membership" means the status of an attorney as a Panel Member.

Membership on any Panel is open to attorneys who are in good standing before the Bar of the State of New York, who actively practice law in the New York City metropolitan area, who have been actively practicing law for more than two years, who meet the Service's requirements for Panel Membership, and who agree to be bound by rules of the Service as in effect from time to time.

An attorney who desires to be listed as a Panel Member shall make an application to the Service in such form as shall be established from time to time by the Service.

The Service shall review the suitability for Panel Membership of each Panel Member or applicant for Panel Membership and may, if a lawyer's application for Panel Membership is deemed inadequate or deficient, deny such application without an interview. If the application is denied, the applicant shall be so informed in writing.

Each applicant for Panel Membership, including any Panel Member who desires to be listed as a Member of a new Panel, shall be required to submit to a personal interview. Each Panel Member who desires to have his or her Membership renewed may be required to submit to an interview.

In evaluating applicants for Panel Membership, including applicants for renewed Membership, the Service will consider, among other things, the number of years the applicant has been admitted to the bar; the applicant's experience in and knowledge of the particular area(s) of law applied for; the number of matters that the applicant has handled in those areas of law; the applicant's knowledge of and adherence to applicable ethics codes and rules; the applicant's law office practices, including responsiveness to clients and handling of fee issues with clients; the applicant's willingness and availability to provide half-hour office consultations to individuals referred by the Service even if it is unlikely that fees will be generated; and the applicant's willingness to abide by and comply with the rules of the Service and to deliver legal services to clients in a manner consistent with the goals of the Service.

The Service has the absolute discretion, right and power to grant or deny any applicant's or Panel Member's application for Membership on any Panel, to renew or not renew any Panel Member's application for renewal of Membership on any Panel, to limit the participation of any Panel Member on any Panel, or to remove any Panel Member from any Panel. No finding of professional misconduct or other wrongdoing is necessary for or is to be implied from any action by the Service which results in the suspension of referrals or removal from or non-renewal of Panel Membership.

Each Panel Member acknowledges that there is no assurance fee-generating referrals will result from Membership on any panel.

Former Panel Members shall be required to submit a new application and follow the same procedure as new applicants. In evaluating applications from former Panel Members, the Service may consider the circumstances under which such Panel Membership ended. If the application is denied without an interview, the applicant shall be informed of the denial in writing.

Panel Membership Requirements and Obligations

1. Professional Liability Insurance Requirements

Each Panel Member shall keep in force and effect a professional liability insurance policy in the minimum amount according to the experience level for which he/she is admitted to the panel.

Panels members for areas that do not have experience levels and those admitted as Level 1 shall keep in force and effect a professional liability insurance policy in the minimum amount of one hundred thousand (\$100,000) dollars.

Panel members who are admitted to the Panel as Level 2 shall keep in force and effect a professional liability insurance policy in the minimum amount of five hundred thousand (\$500,000) dollars.

The maximum deductible under such policy (applicable to all panel members) shall not be greater than ten (10%) percent of the applicable per-claim policy limit except in the discretion of the Executive Director.

Each Panel Member shall submit to the Service a copy of the declarations page of his or her professional liability insurance policy or other evidence satisfactory to the Service that such coverage is in force and effect. Prior to the expiration date of such policy, each Panel Member shall notify the Service of the renewal of his or her professional liability coverage, accompanied by a copy of the declarations page of the renewal policy or other evidence satisfactory to the Service that such coverage has been renewed. Each Panel Member shall promptly notify the Service if his or her professional liability insurance coverage is terminated or decreased.

Any Panel Member who does not keep the minimum professional liability insurance coverage in force and effect or who does not have on file with the Service a copy of the declarations page of his or her professional liability policy (or other evidence satisfactory to the Service) evidencing that such coverage is then in force and effect will be suspended from receiving referrals.

1. Panel Member Advertising

Panel Members shall not participate in, or allow, any advertising or other promotional activity that refers to the Panel Member's Membership in the Legal Referral Service or any particular LRS Panels, unless such material or promotional activity has been developed or approved in writing by the Joint Committee.

1. Membership Fees

Each Panel Member shall pay an annual base listing fee of \$200 plus \$60 for each Major Panel Category under which he or she is listed as a member. Any Panel Member who is also a member of one of the below listed associations:

*THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK
NEW YORK COUNTY LAWYERS' ASSOCIATION
NATIONAL EMPLOYEE'S LAWYERS' ASSOCIATION
AMERICAN IMMIGRATION LAWYERS' ASSOCIATION*

will receive a base listing fee discount of \$50; an additional \$50 discount will be given to those Panel Members who are admitted to practice for less than 8 years.

2. Duration of Panel Membership

Each Panel Member's listing shall be effective for 12 months and may be renewed from year to year thereafter.

3. Renewal of Panel Membership

Each Panel Member who wants to renew his or her Panel Membership, shall complete a renewal application to the Service. In deciding whether to renew a Panel Member, the Service may consider the Panel Member's record with the Service, including, willingness to meet with referred clients, compliance with Service rules, client-survey responses and other relevant information.

1. Local Office Requirement

Each Panel Member shall engage in the practice of law in the New York City metropolitan area and maintain a New York office in that area suitable to receive clients during normal

business hours.

Panel members who wish to be listed in more than one county, must generally maintain a regular office presence of two days per week in each county, as approved by the Executive Director.

1. Response Time to Referred Clients

Each Panel Member must respond to referrals within two days of the initial call from a new referral made by the Service. Each Panel Member must inform the Service if he or she will be unable to return phone calls from new referral clients for a period of three or more business days. During such period, no new referrals shall be made.

2. Collection of \$35 consult fee

Each client referred by the Service and interviewed by a Panel Member shall be charged an initial consultation fee of \$35, unless such fee is prohibited by law or waived by the Service. The initial referral fee shall be charged by the Panel Member unless the Service requires the client to pay the initial referral fee directly to the Service and informs the Panel Member that this has been done.

1. Waiver of \$35 consult fee

The \$35 is waived for the following areas:

- [1] tort matters typically handled on a straight contingency fee basis;
- [2] all social security referrals (SSD and/or SSI cases);
- [3] all workers compensation referrals;
- [4] other matters where the consult fee waiver is approved by the Executive Director, in his/her discretion, upon request of the client or a panel member.

2. Limitations on consult fees charged

Each Panel Member agrees not to charge any fee to compensate for the first half hour consultation with the referred client other than the \$35 that is forwarded to the Service.

3. Compensation for consultations beyond the first half hour

Compensation for any additional time or services beyond the initial one-half hour consultation must be agreed to between the Panel Member and the client before the client is charged any fee beyond the initial \$35.

4. Written Retainer Agreement Requirement

It is recommended that written fee agreements be used for all matters in which clients are charged fees in addition to the one-half hour consultation fee.

The Panel Member shall enter into a written fee agreement before rendering substantial services in a matter that may involve a fee in excess of \$1,000, unless the Panel Member reasonably concludes that under the circumstances it is impractical or inappropriate to do so. To the degree practical, the agreement shall outline the work to be performed and the basis of the fee and be signed by the client.

The failure to have a written fee agreement (a) with respect to the initial consultation, shall be an absolute defense by the client to any action by the Panel Member for additional

compensation for any extension of the initial consultation beyond one-half hour, and (b) shall raise a rebuttable presumption that the client did not agree to hire the Panel Member for any services beyond the initial consultation and that the Panel Member is not entitled to additional fees.

1. Payment of consult and case fees due to the Service

The Panel Member shall promptly (but in any event within 30 days after receipt) remit the initial referral fee to the Service, unless it is waived by the Service or is to be paid directly to the Service. The initial referral fee shall include an initial consultation between the client and the Panel Member of up to one-half hour.

1. Payment of case fees from Referred Clients

In the case of any matter referred by the Service on and after February 1, 1991 and any matters directly related thereto where the aggregate fee received by the Panel Member is \$600 or more, the Panel Member shall pay to the Service an additional referral fee equal to the following percentages of the aggregate fee received by the Panel Member:

- 5% of the first \$10,000, plus**
- 10% of the next \$40,000, plus**
- 15% of the amount over \$50,000.**

For purposes of these rules, "matter referred by the Service" shall include:

- A. The initial matter referred and any related transaction, proceeding or action;
- A. Any other matter which involves the same client and is undertaken within three (3) years of the date of the service's referral or the initial retention, whichever is later;
- A. Any other matter which involves the same subject matter as the initial referral, arises from the initial referral, and is undertaken within three (3) years of the date of the service's referral or the initial retention, whichever is later.

Each Panel Member shall promptly (but in any event within 30 days after receipt by the Panel Member of any portion of his or her fee) report and pay to the Service any additional referral fee payable to the Service.

For purposes of computing the amount owed to the Service, in the case of a Panel Member who is associated with a firm or other group, the fee received by the Panel Member shall be deemed the gross amount received by the firm or group.

In the case of any matter referred by the Service before February 1, 1991, the fee shall be paid in accordance with the fee schedule applicable at the time of the referral.

Each Panel Member agrees not to charge any additional fees or to increase his or her fee for the purpose of compensating for the amount due the Service under the percentage formula outlined above.

Each Panel Member shall keep detailed business records with respect to all matters referred to the Panel member by the Service, including referral notices, contact reports, retainer agreements and billing and payment records.

15. Fee Disputes between Client and Panel Member

Upon the client's written request, the Service may submit any fee dispute between a Panel Member and a client referred by the Service to such person, persons or forum as may be designated by the Service for binding arbitration.

In the event of an arbitration proceeding, the Panel Member shall cooperate fully in the timely conduct of such proceeding and shall not file or prosecute a lawsuit for the collection of the fee in question or assign such fee for collection except for the enforcement of the arbitration award. Nothing in this section shall preclude the parties from agreeing to mediation of any fee dispute between a Panel Member and a client.

If a client referred by the Service requests fee arbitration concerning a matter other than the one for which that Panel Member was originally referred, the Service may nevertheless require the Panel Member to submit to binding arbitration in accordance with this section.

If an arbitration hearing is scheduled, upon reasonable notice the arbitrator or arbitration panel may proceed with the hearing and determine the dispute on the basis of the evidence produced, despite the failure of either party to attend or submit evidence.

16. Lawsuits for collections against Referred Clients

With respect to any client or matter referred by the Service, no Panel Member shall file a lawsuit for collection or assign such matter to a collection agency unless the Panel Member has given the Service at least 45 days notice prior to taking such action. This notice allows the Service to inform the client of the right to arbitration.

17. Fee Disputes between Panel Member and the Service

Each Panel Member agrees that any fee dispute between the Panel Member and the Legal Referral Service shall be submitted to a mutually agreeable arbitrator or mediator. If the Panel Member and the Legal Referral Service are unable to agree upon an arbitrator or mediator for said dispute, the dispute shall be submitted to the American Arbitration Association.

Each Panel Member shall promptly (but in any event within 30 days) complete and return, with any payment due, each referral statement, billing statement, case-status report or other form from the Service.

Each Panel member shall make available for review or audit, upon request of the Service made by the Chair of the Joint Committee, the Executive Director or a designee, all retainer agreements, billing and payment records, or copies thereof, as so requested by the Service, related to the Service or any matters or clients referred to the Panel Member by the Service. Any such review or audit shall be conducted by the Executive Director or a designee. At the discretion of the Chair of the Joint Committee, any such review or audit may be conducted or reviewed by a subcommittee appointed by the Chair of the Joint Committee.

Each Panel Member who is retained to handle a matter referred to such Member by the Service shall maintain responsibility for and control of such matter. A Panel Member shall not transfer responsibility or control of any matter referred by the Service without the knowledge and permission of the Service, unless required by law, court order or the written direction of the

client. However, the foregoing shall not prevent a Panel Member who is associated with a firm or group from having aspects of the matter handled by another attorney in the firm or group under the Panel Member's supervision, provided that the Panel Member retains responsibility and control. A Panel Member who does not accept a matter referred by the Service shall not recommend another attorney to the client unless the Panel Member (i) obtains the prior consent of the Service and (ii) informs the client that such referral is not being made by the Service.

18. Client Complaints about Panel Members

Any complaint or inquiry made by a person to the Service or to the Joint Committee or any member thereof, shall be deemed to be a privileged communication as if contained in a pleading filed in a court of the State of New York. No Panel Member shall commence or threaten to commence any libel, slander, interference with contractual relations or similar action based upon a complaint or inquiry made to the Service.

19. Suspension, Withdrawal and/or Removal of Panel Members or other action affecting the status of panel members during the membership year

1. Panel Membership may be summarily suspended by the Service as a result of a Panel Member's failure to comply with any of the following administrative requirements:

- A. Timely and accurate completion and return of required documents, including, without limitation, Client Statements and business records requested for review or audit;
- B. Accurate record-keeping as to all matters referred by the Service;
- C. Prompt and timely payment of fees due to the Service;
- D. Prompt and timely submission of proof of current professional liability insurance; and
- E. Prompt and timely submission of completed membership renewal applications and payment of dues and fees.

2. A Panel Member who is suspended from the Bar shall automatically be suspended from receiving referrals. A Panel Member who is disbarred shall automatically be terminated from Membership. Panel Membership may be suspended or terminated by the Service if the Panel Member:

- A. Violates the Code of Professional Responsibility, or Rules of the Appellate Division, First and Second Departments;
- B. Is convicted of any misdemeanor or felony in any jurisdiction;
- C. Fails to comply with any of the Rules including, but not limited to the following:

1.

charging consultation fees to Service clients in excess of those allowed by the Rules;

1. failing to comply with the Rules regarding the resolution of fee disputes or to comply with the Rules regarding review and audit of business records;

1. failing to maintain professional liability insurance in accordance with the Rules; and

1. recommending Service-referred clients to other attorneys without the prior permission of the Service.

D. Engages in conduct harmful or injurious to the goals, reputation or interests of the Service, including:

1. giving clients the impression that persons referred by the Service are entitled to less consideration than other clients;
2. excessive refusal to meet with clients referred by the Service;
3. failing to inform the Service when the panel member will be unable to accept or return phone calls from new referral clients;
4. rudeness to clients or to Service staff;
5. repeated fee disputes with clients;
6. impeding the Service's investigation of a client complaint, including but not limited to: threatening to sue a referred client or take other aggressive action against the client to prevent the client from informing the Service of a complaint; and
7. offering the client an inducement to withdraw a complaint

3. The Executive Director or his/her designee shall review: [1] each complaint concerning the professional conduct of Panel Members in connection with any referral and [2] any other report or notification relating to a Panel Member's fitness to receive referrals from the Service. The Executive Director, or his or her designee, shall make whatever investigation he or she deems to be reasonable and report to the Chair of the Joint Committee concerning the complaint and its resolution where appropriate. The Executive Director may determine, in his or her sole discretion, that a complaint or other notification warrants immediate suspension of referrals.

4. The Executive Director shall notify the Chair of the Joint Committee where the Executive Director determines, as a result of his or her investigation, that further action by the Joint Committee with respect to suspension or removal of a Panel Member is necessary. If warranted, the Chair of the Joint Committee shall appoint a subcommittee to investigate the complaint. The subcommittee shall conduct whatever interviews it deems appropriate. Panel Members against whom complaints are pending shall be notified of the complaint and given an opportunity to respond. Upon the completion of its review, the subcommittee may recommend to the Joint Committee that the complaint requires no action or recommend that the Panel Member be suspended or terminated or otherwise restricted in receiving referrals from the Service or recommend some other appropriate action.

5. After the investigative subcommittee has presented its final report and recommendations to the Joint Committee, and before the Joint Committee renders its final action, the Panel Member who is the subject of the investigation shall be accorded the opportunity to address the Joint Committee with respect to any matter relevant to the investigation or the appropriate resolution thereof. The Panel Member may be accompanied by counsel at this appearance.

6. At any time after the Joint Committee renders a final action in connection with the resolution of an investigation of a Panel Member, the Chair of the Joint Committee, in the exercise of its discretion, is authorized to place before the Joint Committee a motion to amend the action previously announced. The Joint Committee is empowered to alter in any manner the action previously rendered or to adhere to its original determination.

7. The Joint Committee shall consider the subcommittee's recommendations and, upon its final determination, shall advise the Panel Member in writing of its decision.

8. Upon resignation, withdrawal or removal from the Service, a Panel member is required to notify all referral clients of the Panel Member's disassociation from the Service within sixty (60) days of said separation from the Service. The Service reserves the right to make such notification to referral clients upon failure of a Panel Member to do so in a timely fashion.

9. Any Panel Member who withdraws or is removed from panel membership shall remain bound by the terms of these rules with respect to all clients referred to them by the Legal Referral Service.

10. Any Panel Member who has been removed from the Service, or has withdrawn from the Service during the time a complaint was pending against the Panel Member, may not reapply for membership on any panel of the Service for a period of thirty-six (36) months following the removal or withdrawal of the Panel Member.

Upon receipt of a re-application for panel membership by an individual who has previously been removed from the Service, or has withdrawn from the Service during the time a complaint was pending against that Panel Member, the Executive Director, in his or her discretion, in consultation with the Chair of the Joint Committee on Legal Referral Service, shall determine whether to grant an interview, or whether to deny the re-application without an interview.

In exercising his or her discretion, the Executive Director may consider any factors he or she deems relevant, including but no limited to the following:

- A. The reason(s) for removal or withdrawal of the Panel Member;
- B. Any remedial action taken by the Panel Member;
- C. Whether the Panel Member timely complied with notification requirements of subparagraph (8) or Rule 19 of the LRS Rules for Panel Membership;
- D. Whether the Panel Member fully complied with subparagraph (9) of Rule 19 of the LRS Rules of Panel Membership;
- E. Whether the Panel Member continued to maintain professional liability insurance in at least the amount set forth in Rule 1 of the LRS Rules for Panel Membership during the period since the Panel Member was removed from or withdrew from the Service; and
- F. Whether the Panel Member complied with administrative requirements enumerated in Rule 10(1) A-C during the period since the Panel Member was removed from or withdrew from the Service.

11. All panel members shall give notice to LRS within thirty (30) days if they have been

cautioned, admonished, reprimanded, or disciplined by any disciplinary or grievance committee, agency or court; whether they are currently under investigation concerning any allegation or professional misconduct or wrongdoing; and whether they are a defendant in any lawsuit filed by a client or former client other than as previously explained in their Application for Panel Membership or a prior Application for Renewal of Panel Membership.

20. Miscellaneous

1. Except as otherwise specified by the rules of the Service as in effect from time to time, any action to be taken by the Service may be taken by the Joint Committee, or by the Chair of the Joint Committee, or by the Executive Director of the Service or his or her designee. Any action by the Chair of the Joint Committee, the Executive Director of the Service or a designee may be modified by the Joint Committee. Except as otherwise specified by the rules of the Service as in effect from time to time, or by the Joint Committee, any action by the Joint Committee shall be by majority vote of the members present and acting at a meeting of the Joint Committee called by notice to the members of the Joint Committee at which there is a quorum of one-half of the members of the Joint Committee.

2. All notices, bills and other communications by the Service to any Panel Member or by any Panel Member to the Service shall be in writing and shall be served in a manner provided for service upon an attorney under CPLR Section 2103(b); and the time period for responding to any such notice or other communication shall be measured as provided in said Section.

3. A panel member should list a backup attorney on his/her application and must submit a written statement to confirm that the back up attorney is aware of such obligation.

4. These Rules for Panel Membership were last revised and adopted by the Joint Committee on September 9, 2003. These rules for Panel Membership may be modified by a vote of a majority of the members of the Joint Committee present and acting at a meeting called by a notice to the members of the Joint Committee which states that a proposed amendment to the rules will be considered and describes the proposed amendment and at which a quorum of one-half of the members of the Joint Committee is present.