

APPENDIX

B

MEMORANDUM IN SUPPORT OF LAWINFO.COM'S CLAIM THAT THEY ARE
NOT AN ATTORNEY REFERRAL SERVICE

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TO: Mr. Lance Bracy, Esq.
Chief Disciplinary Counsel
Tennessee Board of Professional Responsibility
1101 Kermit Drive, Suite 730
Nashville, Tennessee 37217

DATE: February 20, 2004

RE: LawInfo.com/Rule 44

I.
INTRODUCTION

LawInfo.com, established in 1994, is one of the Internet's oldest and most established resources for locating attorneys and other law related professionals on the Internet. Beginning on or about November of 2002, The Tennessee Board of Professional Responsibility (the "Board") contacted LawInfo.com to inform them that the service that they were providing had the characteristics of a lawyer referral service. Correspondences continued between LawInfo.com and the Board from that point on. Most recently, due to the passage of Rule 44 by the Tennessee Supreme Court, the Board has taken the position that LawInfo.com is a service that needs to register as an "Intermediary Organization" because it is operating as an attorney referral service.

(How do I find a lawyer?, <http://www.tba.org/LawBytes/T1_1000.html)

The NBA Lawyer Referral Service states on their website that “[o]ur trained staff will help you analyze your problem and put in contact [sic] with the right lawyer for your case or inform you of other resources which may be of help to you.” (NBA Lawyer Referral Service, <<http://www.nashbar.org/NewPages/LawyerReferral.htm>)

The dominant feature of both services is that the staff members of both services actively participate with members of the public in the selection of an attorney based upon a brief analysis of their respective legal problems. In addition to helping select an attorney, the TBA services will even schedule an appointment for a user of its service. The fee to do so is \$25.00. (How do I find a lawyer?, <http://www.tba.org/LawBytes/T1_1000.html)

Unlike the two services mentioned above, LawInfo.com does not actively participate in the assistance or selection of any particular attorney or do they become involved in the attorney-client relationship, should one develop. In addition, LawInfo.com does not collect information from a user, make a determination of the legal issues being raised, and then for a fee, direct the user to an attorney who also pays a fee or a percentage of the legal fee paid by the user of the service to the service provider. The process used to select and find an attorney is completely automated and free of any subjective input from a LawInfo.com staff member. (“Is this a referral service?, <<http://www.leadcounsel.com/about.html>)

When a user of the site seeks out an attorney, he or she simply searches for an attorney by two parameters: location and practice area. The names that appear on the computer screen when a search is performed provide links to the attorneys’ websites, if they have websites. Similar to the yellow pages, the service that LawInfo provides is that of a legal directory in that it provides a list of attorneys who practice within a specified area of law.

III.

THE USE OF THE LEAD COUNSEL PROGRAM DOES NOT CONVERT THE LAWINFO.COM SERVICE INTO A LAWYER REFERRAL SERVICE BECAUSE THE PROGRAM IS OPEN TO ALL ATTORNEYS AND THE PROGRAM DOES NOT DIRECT USERS TO SPECIFIC ATTORNEYS

In addition to free attorney listings on the LawInfo.com site, attorneys can choose to participate in the Lead Counsel Program. Advertising through LawInfo.com and applying for the "Lead Counsel" designation is open to all attorneys in the state of Tennessee. However, in order to acquire the designation as "Lead Counsel" an attorney must satisfy certain objective requirements. For example, the attorney must have been in the practice of law for five years, devote at least 20% of their practice to the area in which they are being listed as a "Lead Counsel" member, obtain professional references from their peers and not have been subjected to discipline in the past. (What is the Lead Counsel Program?, <<http://leadcounsel.com/about.html>>)

Not qualifying for "Lead Counsel" designation does not preclude an attorney from being listed on the LawInfo.com attorney directory site. As previously stated, any practicing attorney can choose to be listed on the legal directory.

In past correspondences, the Board had argued that the use of the LawInfo.com Lead Counsel Program creates an attorney referral service because it directs users of the site to specific attorneys only. This is not correct because a search for an attorney in a specific practice area will generate a listing of *all* attorneys who are listed in the LawInfo.com legal directory for that practice area, whether or not they are designated as a "Lead Counsel" member. The user is able to see all attorneys who are listed within any given practice area and is able to make a choice amongst the listings. Accordingly, given that the Lead Counsel Program is open to all attorneys, and given that the LawInfo.com legal directory lists both Lead Counsel members and