

RE: Proposal for a New Comment [5] to Rule 7.1 of the Hawai‘i Rules of Professional Conduct

**GUIDELINES FOR REFERENCING FORMER
GOVERNMENT SERVICE IN ATTORNEY ADVERTISING**

The Supreme Court of Hawai‘i seeks public comment regarding a proposed new Comment [5] to Rule 7.1 of the Hawai‘i Rules of Professional Conduct (governing attorney advertising), designed to provide guidance to attorneys wishing to reference their former government service when communicating their services to the public. The proposed comment is attached hereto.

Comments about the proposed new comment should be submitted, in writing, **no later than Monday, November 29, 2021**, to the Judiciary Communications & Community Relations Office, by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 539-4801, or via the [Judiciary’s website](#).

Attachment

**PROPOSED NEW COMMENT TO THE
HAWAII RULES OF PROFESSIONAL CONDUCT**
(New material is underlined)

Rule 7.1. COMMUNICATIONS CONCERNING A LAWYER'S SERVICES.

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it:

(a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(b) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law; or

(c) compares the lawyer's services with other lawyer's services, unless the comparison can be factually substantiated.

COMMENTS:

[5] If a lawyer refers to oneself as a former or retired government official (e.g., judge, justice, governor, senator, attorney general, prosecutor, public defender, etc.), to avoid creating any unjustified expectation about the results the lawyer can achieve, any communication, whether by words or image, should clearly indicate that the lawyer no longer serves in that role and is a former or retired official. Use of historical documents, articles or video footage of actual events, or re-creations thereof, should clearly state the historical context. Additionally, if the lawyer was removed from that prior office due to misconduct, any direct or indirect reference to the prior office in the communication should clearly disclose the removal due to the misconduct.