Lawyer Advertising 2.0:

Updates Now in Place to Streamline the Ad Review Filing Process

The Louisiana State Bar Association (LSBA) launched the new Lawyer Advertising Filing Portal on July 1 to streamline the advertising filing procedures and to give lawyers and law firms easier ways to revise previous advertising filings, submit new ads for review and to pay for the process online via credit cards.

Chief among the updates is the method to submit ads via online means. Media links are now being accepted from file-sharing services such as Dropbox, Google Drive and others. Advertisers may provide links to their advertising material/media rather than sending the material via postal service, FedEx, UPS, etc. Note that media links provided must be publicly accessible and the media must be downloadable. It is the advertiser's responsibility to establish their own file-sharing service accounts. Dropbox is the LSBA's preferred sharing service.

It is important to note, however, that ad submissions will still be allowed via the postal service and other delivery services, and payment can still be handled by paper checks.

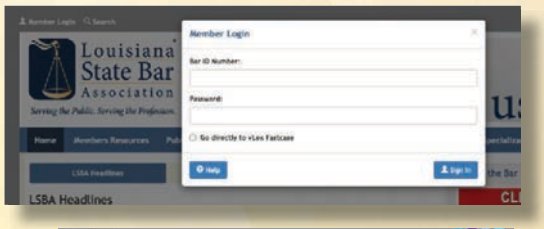
Background

Under Rule 7.7 (effective Oct. 1, 2009), lawyers are obligated to file ALL non-exempt advertisements or unsolicited written communications with the LSBA prior to or concurrent with first use or dissemination of the advertisement or communication. A list of advertisements and communications exempt from the filing requirement can be found in Rule 7.8. It should be noted that "exempt" does not necessarily mean "compliant" with the Rules — "exempt" means merely that the Rules leave the evaluation of compliance with the Rules to the individual lawyer. In short, ALL advertisements and unsolicited written communications — exempt and non-exempt — must be compliant with the Rules, or the lawyer risks potential professional discipline.

The Rules policies prohibit evaluation of an actual or proposed specific advertisement or communication unless and until properly filed under the established procedure; as such, LSBA Ethics Counsel is unable to offer any form of informal or "off-the-record" pre-screening of specific advertisements and communications. However, the LSBA offers a "No Risk/No Doubt Filing Policy." Any lawyer who is uncertain or unclear about whether an advertisement or communication is exempt from the filing requirement is strongly encouraged to file the item properly with LSBA Ethics Counsel, who will, in turn, offer to terminate the filing, with full refund of the filing fee submitted, if the advertisement or communication is, in fact, exempt from filing. There is no risk of needlessly paying a filing fee for an exempt advertisement and no doubt left regarding whether something is required to be filed under the Rules.



Log into Your LSBA Member Account
Sign into your member account on *www.lsba.org*.



Navigate to the Lawyer Advertising Page
Visit the LSBA website, *www.lsba.org/LawyerAdvertising*

Access the Filing Portal
Click on the "Lawyer Advertising Filing Portal" link in the right-hand menu.



Amendments Effective in 2022

Subsequent amendments to the Louisiana Rules of Professional Conduct regarding lawyer advertising were made as a result of a study and recommendations to the Louisiana Supreme Court by the LSBA's Rules of Professional Conduct Committee in response to Senate Concurrent Resolution 57 of the 2020 Regular Legislative Session, which requested the implementation of a "lawyer advertisement review recognition program." These amendments became effective on Jan. 1, 2022. The changes to the rules included:

► A database of all advertisements and unsolicited written communications that have been filed with the LSBA shall be made readily available to and searchable by the public.

►All "non-exempt" advertisements and unsolicited written communications (as defined in the Rules) shall contain a "filing number." The number will be provided by the LSBA at the time of the filing required by Rule of Professional Conduct 7.7.

►Advertisements and unsolicited written communications that contain a reference or testimonial to past successes or results obtained must contain a disclaimer such as "Results May Vary" or "Past Results are not a Guarantee of Future Success."

Also, effective Nov. 11, 2022, discounted filing fees for new lawyers were added. Members admitted to the LSBA for less than three years and not affiliated with a firm of five or more lawyers are eligible for a discounted filing fee of $100 for each separate advertisement or unsolicited written communication filed prior to or concurrent with first use/dissemination. Late filings for eligible new lawyers will be assessed an additional $100 late fee (for a total filing fee of $200.)

Best Practices for Lawyer Advertising

For some guidance, here are a few "best practices" tips for lawyer advertising. Attorneys are encouraged to always do their due diligence and research fully the wealth of advertising rules and other information provided on the LSBA website.

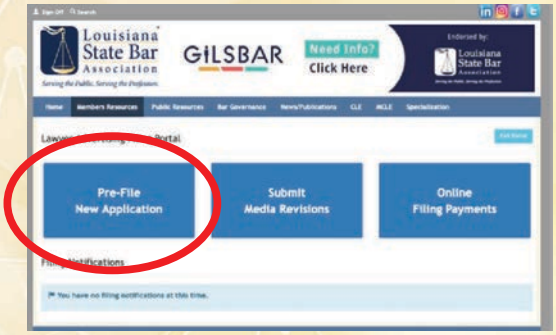
►Avoid rushing to produce any advertisement to try and meet a publication/airing deadline imposed by the media salesperson or consultant. There is no such thing as an "advertising emergency." Advertising — which can be expensive — should be designed and created purposefully and with meaningful consideration by the lawyer.

►Lawyers should review the Louisiana Rules of Professional Conduct and read all instructions on the lawyer advertising filing forms carefully before ever filing an advertisement with the LSBA. The instructions on the forms — and those readily available on the LSBA website — have been worded thoughtfully and are primarily intended to help the lawyer to avoid issues with incorrect or missing items. Likewise, every question on the filing forms has been designed to elicit pertinent, important information needed by the LSBA to continue with the efficient processing of the filing; leaving a question unanswered or with a vague response can necessitate follow-up requests from the LSBA for additional information to proceed with the filing.

►Careful and thoughtful focus on the front end of the process may curtail potential disciplinary admonitions later. It appears that the majority of admonitions have resulted from failure to file advertisements at all or from a failure to follow the rules with respect to Rule 7.2(a), "required content", *i.e.*, including within the advertisement: 1) the full name of at least one lawyer responsible for the content of the advertisement; 2) a city/town of one or more bona fide office location(s); and 3) the filing number assigned by the LSBA at the time of filing. These issues can likely easily be avoided by simply taking one's time and reviewing the proposed advertisement, the rules and the filing instructions and forms carefully prior to public dissemination of the advertisement.

►Rather than spending extended periods of time wondering or worrying about whether an advertisement must be filed and evaluated by the LSBA, the

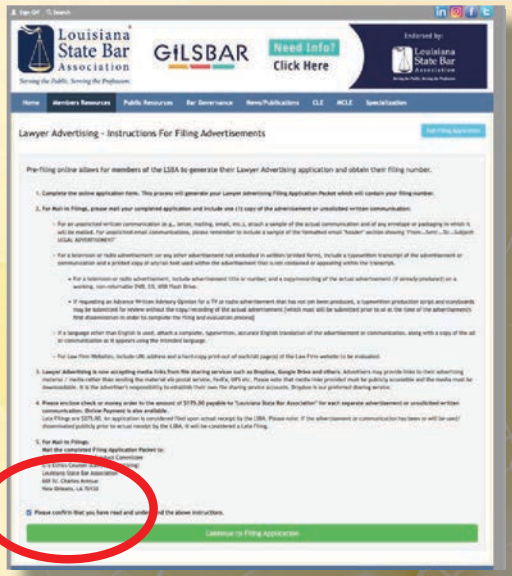
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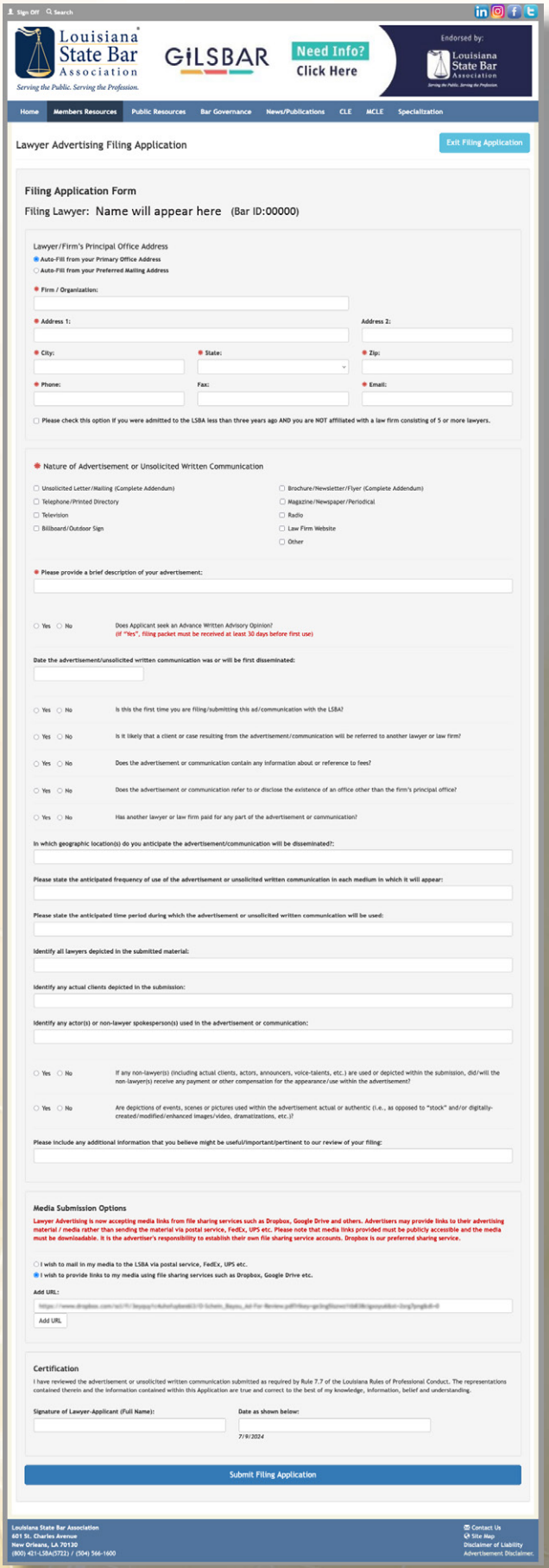


Initiate a New Application
Click on "Pre-File New Application." This will provide the required filing number needed to complete your advertisement.



Review and Continue
Review the information provided. Select the checkbox at the bottom of the form and proceed to the filing application.







Fill out Filing Application form to generate Filing Number

On the form, under the Media Submission Options, select the checkbox that states "I wish to mail in my media.." even if you are going to use a sharing URL. This will generate a filing number needed to submit advertisement.

Finalize the Application

Check to make sure all information is accurate, then sign and date the form.

Submit Your Application

Click the "Submit Filing Application" button.

Download Your Application

Click the button that says "Download Your Application" for record keeping, review and verification. Save a copy on your system to help ensure documentation is preserved and accessible when needed.

Preliminary Ad Filing Number

Locate your Preliminary Ad Filing Number either on the PDF of the downloaded application or in an email sent to your address of record with the LSBA. The email will have the filing number in the subject line and will contain information on how to complete the ad filing process.

lawyer should, when in doubt, simply file the advertisement with the LSBA. When an advertisement is actually exempt from required filing and evaluation, the LSBA will tell that lawyer that the advertisement is, after review of the filing, exempt and will offer to refund the entire filing fee that has been submitted with the filing. If the filing turns out not to be exempt, the lawyer has already started the process required by Rule 7.7 and, as such, is then not at risk of disciplinary consequences (like an admonition) for not filing.

►Whether filing online using the new advertising portal or via regular mail, lawyers need to remember to obtain the brand-new filing number for each filing by using the already-established "prefiling" process, making sure to insert that new filing number into the content of the advertisement *prior* to trying to upload the media link (e.g., a Dropbox link) for that advertisement to the LSBA advertising portal, or prior to submission of the filing by mail.

Observations and Suggestions Going Forward

Since July 1, 2008, the LSBA has received more than 17,300 new lawyer advertising filings. While the LSBA membership is currently slightly over 23,000 lawyers, in reality, there are only about a dozen or so lawyers who file their advertisements with the LSBA regularly and often. These "frequent filing" lawyers, through practical experience and necessity, learned the filing process and, most especially, the rules that apply to their own advertisements — resulting in relatively fast and easy processing and evaluation of their advertisement filings. Many of the advertisements for those lawyers are noticeably already compliant upon arrival at the LSBA and, as such, can be evaluated as compliant quickly and without any noticeable delay. The balance of the 23,000+ lawyers advertise much less regularly and, as a consequence, may have a bit more difficulty navigating through the exact same filing and evaluation process. Also, some of these lawyers may still be unaware of the filing and evaluation requirements of Rule 7.7 — even though the Rules have required filing and evaluation of most lawyer advertisements for more than 16 years. To boost awareness, the LSBA offers

comprehensive ad filing information online, easily accessible under several tabs.

The best advice the LSBA can provide is to take your time when considering producing/purchasing one or more advertisements. Do not rush — or allow yourself to be rushed — into purchasing and publicly disseminating an advertisement. Spending your hard-earned money to show others — including your peers and occasionally even the ODC — that you don't know the pertinent rules (or worse, that you don't "check your homework" before public dissemination) merely adds insult to risk of (disciplinary) injury.

Despite what some lawyers may believe, the LSBA lawyer advertising filing process is not intended to be an impediment or hurdle to advertising legal services; it is, in many ways, just the opposite. The filing and evaluation process, while required by Rule 7.7, is intended foremost to try and help the lawyer who wants to advertise to do so ethically and without risk of disciplinary consequences. The LSBA can best help a lawyer who is willing and interested in working to "get it right" before the advertisement goes public. That means reviewing the rules, reviewing the written information available on the LSBA website about filing, etc., asking for advice or assistance before filing and then filing the advertisement as far ahead of a publication deadline as possible. Requesting an "advance advisory opinion" is also the safest way to file an advertisement, as it ensures that the lawyer will not publish the advertisement until compliance with the rules is achieved. In the event that the LSBA evaluation determines that the advertisement, as submitted, is not yet compliant with the rules, considering the advice and implementing the suggestions for achieving compliance would be the safest way to avoid exposing yourself to the risk of challenge and/or disciplinary consequences.

Lawyers should also endeavor to try and be "smart consumers" of lawyer

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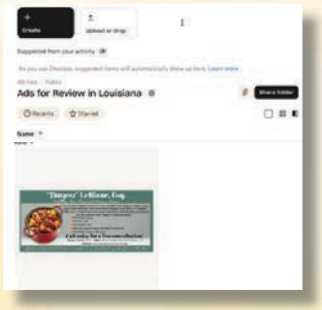
Finish Your Advertisement

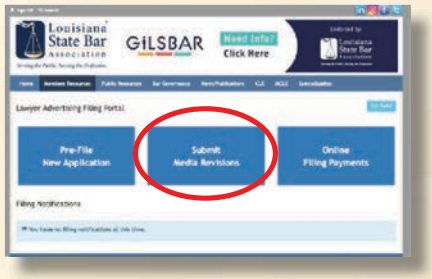
Include the Preliminary Ad Filing Number to your finished advertisement.



Upload and Share the Advertisement

Upload the advertisement to a file-sharing platform, such as Dropbox or Google Drive. Ensure the content is shareable and *copy the sharing URL*.





Log into Your LSBA Member Account

Sign into your member account on *www.lsba.org*.

Navigate to the Lawyer Advertising Page

Visit the LSBA website, *www.lsba.org/LawyerAdvertising*

Click on "Submit Media Revisions"

Enter the Preliminary Ad Filing Number to edit your previous submission.

Submit the Sharing URL

Change the Media Submission Option click button to "I wish to provide links to my media using file sharing services such as Dropbox, Google Drive, etc"

Add the URL

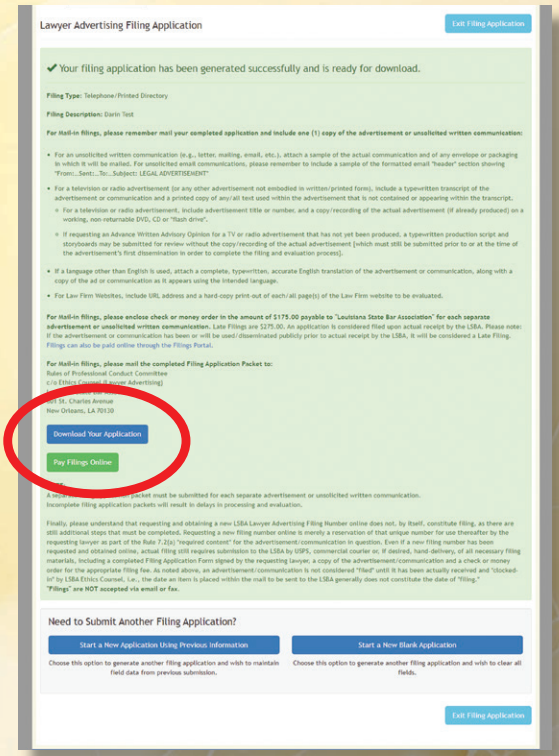
Click the "Add URL" button and make sure the sharing URL from your file storage system appears below the box.

Resubmit the Form and Download

Make sure all information is accurate and submit the form. Download the finalized form for your records.

Payment Options

There are two options for payment. To pay by check or money order, print out the downloaded application and follow the instructions provided in the email or on the screen. To pay by credit or debit card, click the "Online Filing Payments" button to proceed with the payment.



advertising products, making sure that they are reasonably demanding and getting their money's worth for whatever services or assistance the media salesperson is presumably also selling along with the advertisement itself. That would include design and review opportunities for the lawyer, especially where the lawyer can ask questions of and/or make suggestions to the media designer about complying with the rules, and where the media designer will, hopefully, be honest about their own limitations or lack of knowledge with respect to what the rules may require. In the end, the rules require the lawyer to comply, so the media designer will not receive a disciplinary admonition even if that person has been wrong about what is required by the rules.

To that end, as lawyers have an ongoing requirement for continuing legal education, it would be helpful for lawyers to consider taking an occasional CLE program or two regarding the lawyer advertising rules — especially those who are unfamiliar with the rules and the filing process. The LSBA has offered annually — and will continue to offer — "lawyer advertising workshops," which are two hours long, and designed to cover the fundamentals with respect to the rules, process for filing and evaluation, and some guidance and advice for advertising in compliance with the rules. The LSBA is here to help to make the process as painless and efficient as possible for all concerned. Future advertising workshops will be announced in various LSBA online and print publications. Stay tuned!

Comprehensive Web Support

The LSBA continues to maintain a comprehensive web page devoted to lawyer advertising procedures and processes, along with several educational tools to guide lawyers and law firms in the process.

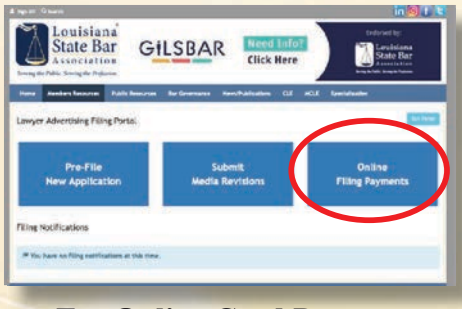
On the web page, members can gain information about pre-filing online, filing fees, application forms, the Filing Search area and several other important aspects of the filing procedure.

Staff support is also available.

All inquiries regarding the lawyer advertising rules (whether for lawyer advertising within LSBA publications or for lawyer advertising in outside media outlets) should be directed to LSBA Ethics Counsel Richard P. Lemmler, Jr., by phone (504)619-0144, by fax (504)598-6753, by email RLemmler@lsba.org, or by mail to Louisiana State Bar Association, Rules of Professional Conduct Committee, c/o LSBA Ethics Counsel, 601 St. Charles Ave., New Orleans, LA 70130-3404.

For more information on the policy, filing procedures and filing forms, go to:

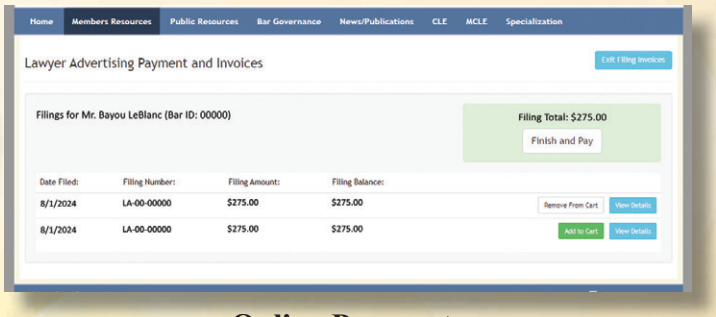
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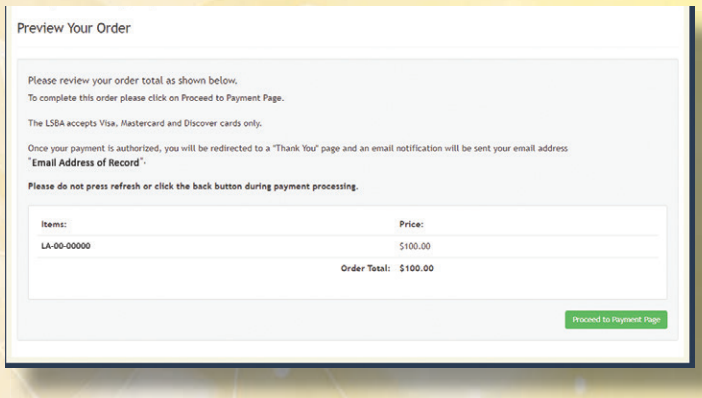
For Online Card Payments

After logging into the Advertising Filing Portal, click on the "Online Filing Payments."



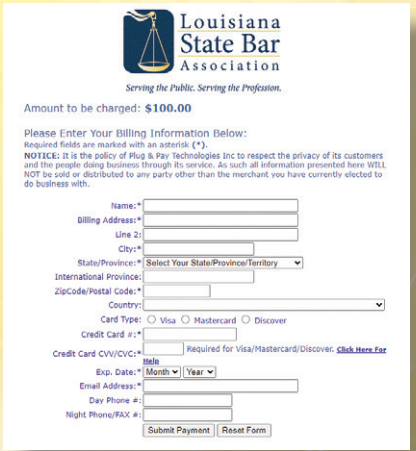
Online Payments

The filing numbers, amount due, balance due, and date filed will be displayed. First, verify the ad by clicking "View Details." Then, to make a payment, click "Add to Cart." When ready, click "Finish and Pay" at the top of the box.



Preview Order

A screen will appear previewing the payment amount. Make sure everything is correct and click "Proceed to Payment Page"



Payment and Confirmation

A standard credit card payment screen will appear. Complete the secure form and click "Submit Payment." A confirmation screen will appear if successful, and you will receive an email.