



## State Bar of Georgia List Server and Discussion Board Terms and Conditions of Use

(Revised February 18, 2005)

The list servers and discussion boards are provided as a service of the State Bar of Georgia (hereinafter “Bar”). The Bar has established the specific Terms and Conditions of Use that follow to facilitate quality communications on the list servers and discussion boards. For example, violating antitrust laws, libeling others, copyright and trademark infringement, and selling and marketing are not permitted.

***By accessing, posting to, or otherwise using the list servers and discussion boards that are sponsored, created, serviced, or otherwise allowed by the Bar, you agree that you understand and have agreed to all Terms and Conditions of Use and will comply with them.***

### **Right to Suspend or Terminate**

The Bar reserves the right, in its sole discretion, to suspend or terminate membership on all list servers and discussion boards, with or without notice, for users who violate these Terms and Conditions of Use. The Bar also reserves the right, in its sole discretion, to suspend or terminate the services being provided, including, but not limited to, terminating any and all list servers and discussion boards, with or without notice, if the Terms and Conditions of Use are violated. Furthermore, the Bar reserves the right, in its sole discretion, to suspend or terminate membership and services, with notice, for any other reason the Bar deems necessary or appropriate. If you have questions, please contact Bar Counsel at 404-527-8771, the Bar’s MIS Director, Lamont Burwell, at 404-527-8746, or the moderator of a list server or discussion board.

### **Rules of User Conduct**

Exercise care during all discussions. Information posted on the list servers and boards is available for a number of people to see, and comments are subject to all federal and state laws, including those related to libel, slander, antitrust, trademark, copyright, patent and unfair competition.

Do not use harsh criticism or attack others. The discussions on the list servers and boards are meant to stimulate conversation. Let others have their say. Defamatory, abusive, profane, threatening, offensive, illegal or unauthorized copyrighted material is strictly prohibited. Do not post anything in a list server or discussion board message that you would not want the world to see or that you would not want anyone to know came from you.

Do not post any information or other material protected by copyright without the permission of the copyright owner. Remember that the Bar and other list and board participants may reproduce postings to the list servers and boards. Do not post any materials that you do not want others to reproduce.

Do not post commercial messages (“spamming”). Do not post unsolicited messages to individuals participating on the list servers and boards whose topic is not relevant to the substance of the postings. Do not post unsolicited messages to individuals participating on the list server and boards who have not requested to be recipients of such postings.

Do not post messages that promote any business of personal ventures. Contact people directly with products and services that you believe would help them.

Do not post any messages that facilitate users to arrive at any agreement that either expressly or impliedly leads to price fixing, a boycott of another's business, or other conduct intended to illegally restrict free trade.

Do not post messages that encourage or facilitate an agreement among users about prices, fees, discounts, or terms or conditions of sale or services; salaries; profits, profit margins, or cost data; territories, allocation of customers (clients) or territories; or selection, rejection, or termination of customers (clients) or services.

The Bar reserves the right to interpret whether activities amount to appropriate user conduct, and may resolve such matters as they deem appropriate within the parameters of the law.

### **User Warranties and Representations**

By posting material, the posting party warrants and represents that he or she owns the copyright with respect to such material or has received permission from the copyright owner. In addition, the posting party grants the Bar and users of that list server or discussion board the non-exclusive right and license to display, copy, publish, distribute, transmit, print, and use such information or material.

### **List Server and Discussion Board Etiquette**

Sign all messages with your first and last name. Show your e-mail address if it does not appear in the header. It is also helpful to give the name of your firm or company and address. Concisely and clearly specify the topic of the comments in the subject line. This makes it easier for other users to respond to your posting and to search the archives by subject. Include only the relevant portions of the original message in your reply, delete any header information, and place your response before the original posting.

Only send a message to the entire list when it contains information that all or most subscribers can benefit from. Send messages such as "thanks for the information" or "me, too" to individuals - not to the entire list or board. Do this by using your e-mail application's forwarding option and typing in or cutting and pasting in the e-mail address of the individual to whom you want to respond.

Do not send administrative messages, such as "remove me from the list," through the list server or discussion board. Instead, use the Web interface or contact the Bar's MIS Director to change your settings or to remove yourself from a list. If you are changing e-mail addresses, you do not need to remove yourself from the list and rejoin under your new e-mail address. Simply change your settings.

Notify other list subscribers of lengthy messages either in the subject line or at the beginning of the message body with a line that says "Long Message."

### **Disclaimer of Warranties and Other Disclaimers**

The Bar accepts no responsibility for the opinions, statements or information posted on the list servers and discussion boards by others. The content, whether posted by the Bar, a member or any third party, is provided without warranties of any kind, either express or implied, including, but not limited to, for a particular purpose or non-infringement. The Bar does not warrant that the content is accurate, reliable or correct, that the list server or board will be available at any particular time or location, or that any defects or errors will be corrected. Your use of the list servers or discussion boards is solely at your risk.

### Antitrust

Federal and state antitrust laws prohibit any agreements among competitors that result in a restraint of trade. Examples of such restraints include price fixing, bid rigging, allocation of markets or territories, group boycotts or refusals to deal. An agreement among competitors to “fix” or “establish” a price for goods or services or to “carve up” the market is often prosecuted as a criminal violation with fines of up to \$100,000,000 for institutions and \$1,000,000 for individuals. In addition, private parties can collect treble damages and attorneys fees. Proving such anticompetitive “agreements” is not very difficult. As a result, antitrust counselors advise competitors never to discuss the prices they charge for products or services. For example, if one Association member posts or mentions its pricing and another member changes its price (whether or not it actually “agreed” with the other Association member), both members are exposed to potential antitrust claims.

Any “agreement” in restraint of trade involves groups who agree to “boycott” or “refuse to deal” with a particular vendor. When competitors have discussions concerning vendors which may result in the appearance of an agreement to “refuse to deal” or to “boycott” that vendor, the risk is that such conversations (whether in person, in writing or on the list server) can be viewed as an agreement to “boycott” that particular vendor.

### Defamation

The law of defamation varies from state to state. In some states, “commercial” defamation is viewed as a separate claim from defamatory remarks about individuals and requires a different standard of proof. While it is generally correct that “truth” is a defense to such claims, the definition of “truth” is ultimately in the hand of a jury. Should a particular person suffer a significant financial loss because of erroneous, inflammatory or exaggerated statements, it is not beyond reason to anticipate that such a person would consider bringing a claim against those persons who made those statements.

### Limitation of Liability

Under no circumstances shall the Bar be liable for any direct, indirect, punitive, incidental, special, consequential or any other damages whatsoever resulting from the content of the list servers and discussion boards or the use of, or inability to use, the list servers and discussion boards. This limitation applies to any alleged liability based on any legal theory including, but not limited to, contract, tort, negligence or strict liability, even if the Bar has been advised of the possibility of such damage.

The Bar is not responsible and assumes no liability for computer network, hardware, or software failure on equipment owned or operated by others, as a result of any use of the list servers and discussion boards discussed in these Terms and Conditions of Use.

The users or the group for whom a list server or discussion board is being sponsored, created, serviced, or otherwise allowed by the Bar agree to hold harmless the Bar against any charges of liable, slander, antitrust, trademark, copyright, patent and unfair competition violations.

The Bar agrees not to distribute, sell, or use the list of users on a list server or discussion board, without prior consent of the user or the group for whom the list server or discussion board is being sponsored,

created, serviced, or otherwise allowed by the Bar.

**No Monitoring of Site**

The Bar does not actively monitor the list servers and discussion boards for content and does not on its own undertake editorial control of postings. However, if the Bar is informed of material that in the opinion of the Bar may violate Federal, State and/or local law, or could be construed as obscene, offensive or otherwise inappropriate, it will be removed at the Bar's discretion.

The moderator of the list server or discussion board shall not monitor for content and shall not undertake editorial control of postings. However, if the moderator is informed of material that appears to be inappropriate, they should bring such material to the attention of Bar Counsel at 404-527-8771, or the Bar's MIS Director at 404-527-8746.

**Jurisdiction**

The laws of the State of Georgia will govern any disputes arising from these Terms and Conditions of Use. If there is cause to bring a case to court, the matter is to be resolved in the State of Georgia.

**Modification**

The Terms and Conditions of Use may be modified or amended at any time within the sole discretion of the Bar. The Bar agrees to provide notice of the modifications or amendments within a reasonable time, and the users and group for whom the list server or discussion board is being sponsored, created, serviced, or otherwise allowed by the Bar, will not be subject to the new terms and conditions until notification of modifications and amendments has been provided.