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April 5, 2010

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex W)
600 Pennsylvania Avenue, NW
Washington, DC 20580

Re: Proposed Changes to the Practice of Law Exemption, FTC "Mortgage Assistance Relief Services" Rulemaking, Rule No. R911003, 75 Fed. Reg. 10707 (March 9, 2010)

Dear Sir/Madam:


The State Bar of Wisconsin objects to the above referenced proposed rule regarding "Mortgage Assistance Relief Services" (MARS). We support the American Bar Association's (ABA) comments filed in its March 29 letter, which provides a fuller explanation of our concerns, and urge you to amend this rule to exempt licensed attorneys who are practicing law and those individuals acting under their direction.

The proposed rule undermines the confidential attorney-client relationship and interferes with the traditional state court regulation of lawyers in several ways. It subjects lawyers to recordkeeping requirements that could undermine the attorney-client privilege. It prohibits lawyers from giving their clients who live in another state appropriate legal advice by prohibiting them from advising these clients not to communicate directly with the lenders. And it prohibits lawyers from charging an advance fee for helping their clients renegotiate their mortgages or avoid foreclosure if a bankruptcy petition or lawsuit is not filed.

The rule as written could drive lawyers out of the mortgage-modification business, leaving these services in the hands of lay practitioners, including "mortgage rescue" charlatans who prey on the most vulnerable of our public. As the ABA states, "With fewer lawyers available to represent consumer debtors, many more of these consumers will be forced to retain nonlawyer, for-profit MARS providers who, unlike licensed attorneys, are not subject to the strict ethical standards, supervision, and disciplinary authority of the state courts."

We endorse the ABA's request for a broader exemption for lawyers and their nonlawyer employees. If adopted, this change to the proposed rule would help preserve the state courts' traditional supervision and regulation of lawyers and allow licensed attorneys to continue to provide the effective legal representation their consumer clients need.

Sincerely,


Douglas W. Kammer
President
State Bar of Wisconsin