

**From:** [Erwin Rosenberg](#)  
**To:** [RulesCommittee Secretary](#)  
**Date:** Thursday, December 15, 2022 4:03:58 PM

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22-AP-F

Dear Secretary of the Rules Committee,

I respectfully propose replacing current Federal Appellate Rule 46 to say the following:

"The Federal Government acknowledges that pursuant to the First Amendment of the U.S. Constitution all persons have the right to practice law and may not be prevented from practicing law unless a government officer seeking a restriction acts in a content-neutral manner and proves to a neutral judge that the intended practice of law needs to be restricted for a compelling reason and that there is no less restrictive alternative means of achieving the compelling purpose. See Riley v. National Federation of Blind of NC, Inc., 487 US 781, 802 (1988),("The history to which the State refers relates to the period before the 1985 amendments, at which time professional fundraisers were permitted to solicit as soon as their applications were filed. Then, delay permitted the speaker's speech; now, delay compels the speaker's silence. Under these circumstances, the licensing provision cannot stand")(footnote omitted). See also Nifla v. Becerra, 138 S. Ct. 2361, 2374 (2018)("And the Court emphasized that the lawyer's statements in *Zauderer* would have been "fully protected" if they were made in a context other than advertising. 471 U.S., at 637, n. 7, 105 S.Ct. 2265.").

Thank you,

Erwin Rosenberg