Half the Price, Double the Headache? A Guide for Lawyers Navigating the Use of Groupon as a Marketing Tool

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By Stephanie A. Martin

The concepts of legal work and Groupon seem to be diametrically opposed. To most, the thought of consulting an attorney conjures thoughts of high fees charged by the fraction of the hour. The popularity of Groupon and other daily deal sites, on the other hand, is fueled by consumers wishing for experiences at half price or less. Could the two ever be compatible? One attorney in Missouri recently attempted to do just that. While his offering of a will and power of attorney for $99 brought in some business, the largest outgrowth of the undertaking was the volume of publicity created within the legal community.\(^1\) It was sufficiently novel that it raised curiosity from the legal community as to whether the practice could turn a profit from the practice. At the same time, questions were raised as to whether it conforms with the ethics rules laid out in the Model Rules of Professional Conduct and their analogs in the various states.

A few state Bar ethics boards throughout the country have addressed the issues surrounding the use of daily deal coupons, with varying results. The practice raises salient issues not only in fee structure, but in advertising and the formation of the lawyer-client relationship. Four of the boards came to a favorable conclusion regarding the use of the service, with some caveats where they perceived it could conflict with the Rules. The Indiana State Bar Association Legal Ethics Committee took the dimmest view of the practice. Other states have weighed in informally, outside of the ethics opinion framework.

Attorneys everywhere seem to be wondering not only about the ethical ramifications of participating in Groupon, but the potential profitability that may accompany such an endeavor. It is unclear whether many attorneys have participated in a Groupon campaign. An analysis of the few test cases undertaken by state bar ethics committees across the country provide a clearer, if incomplete, picture of the ethical landscape and potential pitfalls. Whether daily deal coupons could bring profit to lawyers is still anyone’s guess. An exploration of Groupon’s structure helps to provide a basis for recommendations to attorneys attempting the practice. Ultimately, ethics violations are either perceived as absent in several states, or can be remedied. However, attorneys may want to refrain from participating until the potential profit from such an undertaking outweighs the cost of complying with the various professional responsibility obligations.

Use of Groupon Generally Does Not Constitute Fee-sharing

One of the major issues addressed by a few of the states’ ethics boards is that of the uncertainty of the lawyer’s relationship with Groupon itself. Specifically, the boards have addressed whether the lawyer’s participation in Groupon is a permissible method of advertising under Rules 7.1, 7.2 and 7.3, or an improper sharing of fees with a nonlawyer under Rule 5.4. Generally, the boards have agreed that the Groupon arrangement is not an impermissible fee-sharing agreement. Whether the arrangement is a permissible form of advertising, sanctioned by Rules 7.1, 7.2 and 7.3, is a thornier issue. Because the use of advertising is subject to these rules’ restrictions, the ethics boards of the various states are hesitant to bless the practice without caveats.

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2 See, e.g., id.
3 Email from Groupon Customer Support to author (May 7, 2012, 14:40 EDT)(on file with author). According to the company, Groupon customer support does not have access to this data.
Model Rule of Professional Conduct 5.4 restricts attorneys’ ability to share their legal fees with nonlawyers to a few discrete circumstances. Further, the rule prohibits nonlawyers who recommend to, or hire an attorney on behalf of, a third party from influencing the path of the lawyer’s representation of that third party. These restrictions are in place to prevent interference in the attorney’s relationship with the client and preserve his or her “professional independence of judgment.” If there exists a person or entity in a position of potential influence on the attorney—a person who recommended the attorney’s services, or a person other than a client who is paying the attorney’s fee—it is possible that the attorney’s performance could be compromised. It could motivate the attorney to emphasize the relationship with that person or entity more than the client in an attempt to continue receiving recommendations and additional business.

The South Carolina Ethics Committee analyzed the Groupon arrangement in the context of a fee-splitting of a non-lawyer under Rule 5.4, but found that the fee structure was not wrongful. Although the Rule expressly prohibits the sharing of fees with a nonlawyer except for a very few concrete exceptions, the Ethics Committee concentrated on the Comment’s statement that the rule was made in contemplation of avoiding the impairment of a lawyer’s “professional judgment.” Groupon’s featuring the business on their site, according to the Committee, does not impair the lawyer’s judgment. As long as Groupon has no say in what services the lawyer should perform, the rule is not violated in South Carolina. The Nebraska

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9 S.C. Bar Ethics Advisory Opinion 11-05.
ethics committee, likewise, premises its discussion of fee-sharing arrangements in the context of the lawyer’s analytical independence.\(^\text{10}\)

The Indiana Legal Ethics Committee, by contrast, found that the arrangement between merchants and daily deal websites constituted an illegal fee-sharing agreement where attorneys were the merchants. The Committee perceived the daily deal sites as creating a “buying group,” essentially a targeted audience that could avail themselves of the legal services of an individual attorney.\(^\text{11}\) An attorney paying for this service not only violates the advertising rule, but impermissibly engages in fee-sharing in the eyes of the Indiana Committee. The Committee’s opinion, in contrast to other states, did not mention or analyze the fee arrangement in the context of lawyer independence, but rather seemed to regard it as a bright-line rule.\(^\text{12}\)

A distinction that seems to be crucial to these decisions is the source of the funds given to Groupon as a part of the merchant-Groupon-patron relationship. In order to comply with Rules 5.4 and 7.2, an attorney must not pay an entity for a referral or recommendation out of the proceeds of the work generated by that recommendation.\(^\text{13}\) This arrangement is what crosses the line into impermissible fee-sharing. This distinction is made in an article written by the deputy general counsel of the Oregon Bar. Though not a formal opinion, the article gives guidance to attorneys seeking to make use of this service. Ms. Hollister cites prior ethics opinions as ruling that fee arrangements with websites where merchants are paid “per-click” for visits to their site from an ad were proper.\(^\text{14}\) This was so in part because there is no direct link between those clicks and legal work performed by the attorney—there is no guarantee that a visit to the website

\(^{10}\) *Neb. Ethics Advisory Opinion for Lawyers* No. 12-03, at 2867-8.


\(^{12}\) *Id.*


\(^{14}\) *Id.*
will result in a potential client. The link between a daily deal and a potential client, however, is much more direct. In the Groupon context, attorneys would seem to avoid advertising restrictions if the payment for Groupon’s fees is issued from a designated advertising budget set up by the attorney. If the daily deal site, however, “require[s] the lawyer to allow [the company] to retain a portion of the amount collected or the fee actually earned,” the arrangement would likely be an impermissible fee sharing arrangement in Oregon as well as other states.\textsuperscript{15}

\textit{Participation Fees Generally are Seen as Advertising, not Referrals, as Long as they are Reasonable}

The possibility of impermissible fee-sharing is often discussed by the various ethics opinions in conjunction with the committees’ discussions of advertising costs. This suggests that the two are closely linked. If appearing on the site constitutes advertising, the fees given to Groupon as a condition of appearing on the site are governed by Rule 7.2. The Comment to the rule acknowledges that an active marketing campaign runs contrary to the traditional aversion of lawyers to advertising their services. At the same time, the Comment acknowledges that advertisement may be necessary to reach the public, especially to reach “persons of moderate means who have not made extensive use of legal services.”\textsuperscript{16} The Model Rules impose limits on the types of advertisements an attorney may commission, and place a “reasonableness” test on funds expended on the pursuit.\textsuperscript{17}

In making the reasonableness of costs determination, the Nebraska ethics board makes a distinction based on the percentage of the deal’s value retained by Groupon for featuring the attorney’s services. If the percentage is reasonable under the circumstances, the board found, the

\textsuperscript{15} \textit{Id.}\textsuperscript{15}

\textsuperscript{16} \textit{MODEL RULES OF PROF’L CONDUCT R. 7.2 cmt. (2010).}\textsuperscript{16}

\textsuperscript{17} \textit{Id.}\textsuperscript{17}
fee would not be regarded as an “unreasonable” advertising fee that violates Rule 7.2.\textsuperscript{18} However, the board refrained from making a benchmark percentage that would be considered proper, because it did not have figures detailing Groupon’s fee structure.\textsuperscript{19} Instead, it left the determination in the hands of individual attorneys. Groupon’s pricing structure is in fact a closely-guarded secret\textsuperscript{20} and seems to vary based on merchant, but is usually reported to be a fee of about half of the value of the coupon.\textsuperscript{21} The Indiana Legal Ethics committee found that this 50% fee charged by Groupon exceeded the company’s costs of producing the deal and therefore did not meet the reasonableness test.\textsuperscript{22} The Indiana committee made this determination based on its observation that Groupon has only “fixed, minimal costs associated with creating and administering the online coupon.”\textsuperscript{23} In the Committee’s eyes, these costs did not justify a 50%-per-sale fee. While these costs may have been made available to the committee in order to make its decision, these costs to Groupon of creating and administering its deals is not publicly available. However, the company’s merchant site suggests that merchants receive comprehensive training, an implementation strategy, ongoing support, and analytical tools that help the merchant track its customers’ habits; in addition to the creation and publicization of the deal.\textsuperscript{24} The amount of manpower necessary to accomplish each of these tasks seems to indicate that the merchant fees pay for costs that encompass more than a bare minimum of work borne by the daily deal company. In order to ensure that the cost of participation is proportional to the

\textsuperscript{18} Rule 7.2 allows for attorneys to “pay the reasonable costs of [permissible] advertisements or communications.”

\textsuperscript{19} Neb. Ethics Advisory Opinion for Lawyers No. 12-03, at 2869.

\textsuperscript{20} Groupon, Inc. v. Hanna, 2011 WL 5028961 (Ill.Cir. 2011) (stating Groupon’s complaint against former employees that joined a competing company, alleging potential disclosure of proprietary information, including “deal structure and pricing information.”).


\textsuperscript{23} Id.

\textsuperscript{24} \textit{Deal Preparation, GrouponWorks for Businesses}, available at http://www.grouponworks.com/deal-preparation (last accessed May 8, 2012); see also Weiss, supra note 21.
company’s output, however, more information may need to be made available to attorneys seeking to use the service. Since, according to the Nebraska ethics committee, the “burden is upon the lawyer to assure” that the cost is reasonable; attorneys may also be able to have latitude to determine whether the participation fee is reasonable in terms of its value for work completed by the daily deal company.

A few of the ethics boards that addressed this issue also came to the conclusion that the payment retained by Groupon was not a payment for a referral that would run afoul of ethics rules. Their reasoning was largely based on the fact that Groupon’s system of disseminating their daily deals is not premised on personal contact with subscribers. To these boards, Groupon acted as a mere go-between to advertise the wares of its participant merchants and collect payment from subscribers. Based on information on Groupon’s operations, however, a future ethics board may take a more hard-line stance on this issue and conclude that the payment is for a referral.

Though Groupon’s daily deals are disseminated widely and indiscriminately, there are facts that could lead a future court to conclude that the services more closely approximates a referral. On the subscriber side, Groupon to some extent customizes its offerings of deals to individual subscribers’ tastes, based on preferences selected by the subscriber. Currently, these preferences do not include an option for attorney services, specific practice areas of attorney services, or professional services generally. If attorney use of daily deal sites as a form of advertising increases, however, the available preferences for attorney services could become more specific. The merchant side of Groupon’s operations presents a more immediate problem

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25 Nebraska Ethics Advisory Opinion for Lawyers No. 12-03, at 2868.
27 Weiss, supra note 21.
regarding referrals. According to an interview with Groupon staff, when the company attempts to recruit new businesses to its ranks, “[t]he company won't reach out to just any business: [i]t must have a certain number of outstanding reviews on sites like Yelp.”\(^{29}\) While Yelp is geared more toward restaurants and other merchants—similar to the usual merchants participating in Groupon—there is no shortage of attorney review and ranking resources of which the Groupon staff can avail themselves in determining whether attorney applicants meet the company’s standards. Groupon’s standard selection process could be enough to cause a future ethics board to rule that the use of the site is a referral. To this end, both the text of an Oregon ethics rule, as well as the deputy general counsel for the Oregon bar’s Bar Counsel article, suggest that the state may go this route. The article, though not an official ethics opinion proffered by the state bar’s ethics committee, is instructive in assessing the mood in the state on this issue. In the article, the deputy attorney general acknowledges that if a nonlawyer, including a service, were paid by the lawyer as a “reward” for matching up the lawyer with potential clients, the relationship would run afoul of the rule against paying for referrals.\(^{30}\) The rule seems to be even broader: where an “intermediary is relied upon to forge the actual attorney and client link,” the lawyer is deemed to have relied on a referral.\(^ {31}\) This language may have implications for Groupon users. In many cases, daily deal subscribers may not have knowledge of the attorney but for the Groupon advertisement in which the lawyer is featured. They likely will not have utilized the attorney for their legal services before. Indeed, they may not have contemplated beginning a legal relationship but for the discount’s making the endeavor feasible. In the cases of these first-time customers, the subsequent attorney-client link would not have been “forged” but for the

\(^{29}\) Weiss, supra note 21.

\(^{30}\) Hollister, supra note 13.

\(^{31}\) Id. (quoting OSB Formal Opinion No. 2007-180).
participation of the daily deal site. A future ethics committee perceiving the daily deal arrangement in this way may rule it an impermissible referral arrangement.

*Formation of the Attorney-Client Relationship*

Another thorny issue presented by the Groupon model is the uncertainty surrounding when the attorney-client relationship is formed. In accordance with daily deal sites’ terms, “[p]urchase of the coupon entitles the consumer to the described...service.”\(^{32}\) This runs counter to the traditional commencement of legal representation model. Normally, the attorney consults with the potential client and garners information from the client, which allows the attorney to determine whether a conflict exists, if the representation is warranted, and if the attorney has the requisite knowledge to effect the representation. In the daily deal model, the payment of, essentially, a portion of the fee seems to indicate an earlier formation of the relationship. The purchaser is not only self-selecting an attorney, but also a service, if the deal is fashioned in such a way. This almost-reverse relationship may create problems in navigating attorney-client privilege. It may also implicate the lawyer’s duties during the initial consultation—it is unclear whether the purchaser should be treated as a prospective client under Rule 1.18, or an existing client. Erring on the side of treating her as an existing client has other repercussions for dealing with conflicts of interest, as well as establishing whether the client is already represented.\(^{33}\)

The South Carolina Bar seems to leave resolution of these issues to the discretion of the individual attorney, instead merely cautioning that in navigating the formation of the


\(^{33}\) If these contingencies exist, the lawyer could be in violation of *MODEL RULES OF PROF’L CONDUCT* R. 1.7 (Conflict of Interest: Current Clients) and R. 4.2 (Communication with Person Represented by Counsel).
relationship, the attorney take care to not violate the rules. The New York State Committee goes one step further, suggesting that attorneys include within the “fine print” of the deal several caveats, covering the various ethical issues. Specifically, the Committee suggests disclosing that the purchase and use of the deal is contingent on the successful completion of a conflicts check and a determination that the attorney is competent to provide the requested legal service for the particular client. The Committee also suggests including language stating that if these preliminary processes were unsuccessful, the attorney would provide a refund.

In Oregon, the attorney-client relationship may be formed even earlier. In her article, deputy general counsel of the Oregon Bar Amber Hollister indicates that the relationship may be formed at the time of purchase. She states that under Oregon law, the relationship can commence when a prospective client has “subjective intention to form a lawyer-client relationship if there are objective facts upon which a reasonable person would rely as supporting the existence of a lawyer-client relationship.” The circumstances that can create this impression may vary. However, it at is possible that the “objective facts” that will be considered will include the claims and disclaimers made by the attorney in the deal advertisement. Hollister cautions lawyers to take into account the impression their advertisements may be creating, when creating the advertisement. It is likely the language of the ad itself and disclaimers will form the basis of the purchaser’s impression. The timing of creation at the point of sale seems to be an impracticable standard, or may lead to a total bar of attorney participation in daily deal sites. The imposition of an attorney-client relationship imputes certain responsibilities to the attorney in dealing with the client. These include confidentiality and avoidance of conflicts with current

34 S.C. Bar Ethics Advisory Opinion 11-05.
36 Id.
37 Hollister, supra note 13.
38 Id.
and future clients under Model Rules 1.6, 1.7, and 1.18. At the moment the subscriber purchases, the attorney has no knowledge of that purchaser whatsoever. If the relationship is imputed at that point, it would be impossible for the attorney to correctly fulfill his duties. Further, if the subscriber fails to redeem the coupon, it is unclear whether the attorney owes that person a duty under Rule 1.18(b).  

Traditional canons of legal practice mandate that on the determination that an attorney is unable to perform the work necessary for the client, the client is not obligated to pay further fees. This circumstance may come about on the discovery of a conflict of interest, or as a result of the matter being beyond the expertise of the attorney. In this traditional scenario, the determination of the subject matter and the presence of conflicts are performed early in the relationship, before a fee agreement is reached. The wrinkle presented by the Groupon arrangement is that the putative client has in effect paid for the service sight unseen, before meeting with the attorney. Here, upon the discovery of a conflict, the amount the customer has already paid must be refunded. Each of the states that have addressed the issue reminds its attorneys that all unearned fees must be deposited into a client trust account. If attorneys place the proceeds of their daily deal ad in such an account, it is a relatively straightforward process to refund the patron’s payment.

Where the states have come to different conclusions is in the disposition of Groupon’s fee. In Indiana, the ethics committee determined that the obligation to refund payments obligates attorneys to return not only the share of the customer’s purchase that went to the attorney, but

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MODEL RULES OF PROF’L CONDUCT R. 1.18 (2010). The rule states:  
(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.

Though this duty may technically be owed, it seems clear that if the purchaser never corresponded with the attorney, the attorney does not possess any confidential information about the purchaser. The attorney may thus avoid liability.
also the portion retained by Groupon as the company’s fee.\(^40\) Other ethics opinions do not seem to address the company’s share. As such, this practice seems to be a more extreme disposition of the attorney-client relationship that may further discourage attorneys from participating in Groupon.

The promulgation of a Groupon or other daily deal is already considered a “loss leader”—in which the business takes a loss on a number of sales in the pursuit of publicity and subsequent business.\(^41\) An attorney that is already offering his services at a significant discount may be discouraged from trying the practice at all if he must not only lose the client’s business but must also essentially pay the fee charged by Groupon twice. An examination of the Groupon and Return Policy offers an opportunity to avoid this circumstance. Groupon informs its subscribers that they may return their purchases of a certain deal if they experience “trouble” redeeming the deal, as determined on a case-by-case basis.\(^42\) As the possibility of a conflict of interest would be present for every attorney participant, Groupon could be made aware that requests for refunds may very easily occur for attorney-service deals. Attorney merchants and Groupon could come to an agreement that upon an unsuccessful conflicts check, Groupon refunds the patron’s purchase and the attorney reimburses Groupon the amount that he received. Groupon and the patron are made whole, and the attorney does not take on any improper payment. The amount he may lose in reimbursing his proceeds of the deal could be seen as advertising costs or other costs.

Is it Advisable to Offer Discount Legal Services?


Participation in a daily deal site like Groupon could be a boon to attorneys seeking more business. Exposure to thousands of people within a city will almost certainly benefit a practice. In addition, attorneys may be able to tap a younger and more diverse market, who may have avoided seeking legal services because of their age or because it was cost-prohibitive. In the best-case scenario, an attorney may find a young client that begins a relationship with the attorney because of the Groupon, but goes on to form a long-term relationship.\footnote{This contingency is certainly possible. Groupon’s core customer is reportedly “between the ages of 18-34, single, and there’s a good chance she makes more than $70,000 a year.” Weiss, \textit{supra} note 21.} However, the structural and ethical constraints of the Groupon-merchant-customer and attorney-client relationships indicate that this scenario is difficult to achieve. Suggestions for navigating these constraints, scattered throughout this article, may help attorneys in deciding to attempt the practice. However, attorneys—especially those outside the few states that have addressed the question—would be better served by avoiding the practice until more can be learned about their feasibility. They can also, as the Oregon Bar’s deputy general counsel suggested, contact their local bar association ethics committee “for case-by-case advice.”\footnote{Hollister, \textit{supra} note 13.}

States that have addressed the inclusion of terms and conditions disclosing the attorney’s ethical duties have generally found that these will help the attorney avoid violating ethical rules.\footnote{See S.C. Bar Ethics Advisory Opinion 11-05., \textit{N.Y. State Bar Assn. Comm. on Professional Ethics} Opinion 897 (12/13/11).} They may also, however, discourage participation in the deal by the public. Because the public is generally unaware of the ethical duties imposed on lawyers, they may be confused by language mandating a conflicts check and the like. They may also see the coupon as applying to one transaction, and not know that it still in fact triggers the formation of an attorney-client relationship. Thinking there were merely too many restrictions on their purchase, they may not buy. While some may be encouraged by language stating that a refund will apply in the event
the attorney cannot perform the service, others who seek the service may not want to see the premature contemplation of a refund by the provider. Some may believe that a refund could only be had with significant activity on their part and may be discouraged from buying the deal. Several of the opinions seem to center on the offering of services for a discount rate. However, many daily deal coupons to restaurants and other businesses are structured as an amount “toward” a meal or services. For example, a restaurant could have a deal in which the coupon holder pays ten dollars, which can be redeemed for a credit of twenty dollars that can be applied to a bill that may total more than $20. The use of this pricing structure, instead of that premising the deal on the provision of a certain service, seems to give both the merchant and the purchaser more flexibility. It seems as if this arrangement would give an attorney more latitude to recommend services he thinks necessary, rather than feeling compelled to stay within the bounds of the coupon’s terms—a will and durable power of attorney, for example. It also allows the patron more flexibility in seeking legal help. Rather than trying to assess on her own that she needs a will, thus entering the relationship with a closed mind; a potential client with a vaguer problem may be willing to buy a deal for “legal services” and may come out with a more appropriate estate plan. This arrangement was tangentially discussed by the Nebraska Ethics Committee. The Committee determined that coupons offering a discount off fees are still required to disclose, in the advertisement, certain terms. Here, they must disclose the nature of the discount including what services were included: filing fees, paralegal fees, and the like.

In addition to, and in part because of, the ethical issues presented by a relationship with daily deal sites, structural issues in practically promulgating the deal abound. From the

46 Nebraska Ethics Advisory Opinion for Lawyers No. 12-03, at 2869.
perspective of the deal company, a merchant attorney provides a poor return. Because the inherent nature of the attorney-client relationship is one-on-one, the merchant will not be able to honor a volume of deals efficiently. A restaurant, by contrast, has a high turnover rate and can offer many deals. This is compounded by the fact that the interested merchant is likely a small or solo practitioner seeking publicity. With these firms, deal purchasers may literally only be able to redeem their deals one at a time. Because Groupon and its analogs measure sales as a portion of each deal sold, they will see a lower rate of return with these merchants. Groupon explicitly acknowledges that some merchants must place a cap on the number of deals offered, but it is certainly in the company’s interest to encourage greater sales. Attorneys may also be less-than-ideal partners for daily deal sites because the services are still more expensive compared to other types of deals offered by the sites.

These structural issues also make the arrangement impractical for the attorney. The likely practitioner to seek out this arrangement is small firms and solo practitioners, seeking to increase their publicity. As small businesses, they fit in with Groupon’s model of promoting small, local businesses, that would benefit from increased traffic. These practitioners may also be better equipped than a large firm to, or already do, perform short-term transactions such as wills and durable powers of attorney. However, the very properties that make these attorneys more likely to avail themselves of a daily deal site are what make them ill-equipped to actually participate. Some of the problems experienced by other daily deal merchants would present significant problems for these attorneys. For example, the time constraints of honoring all of the

47 See generally Edelman et al., supra note 41 (stating that daily deal arrangements work best for companies with “low cost of goods sold and with a highly perishable product.”)
49 See Deal Preparation, supra note 24.
50 Bruce, Groupon for Legal Services, supra note 41.
51 See Weiss, supra note 21.
coupons make it necessary for the lawyer to put a cap on the number of coupons available, thus limiting his supply. This supply will be further limited by prospective clients becoming ineligible because of conflicts checks, because they do not need or cannot get the service they have bought, or because they do not redeem the coupon within the time limit. Often, the merchant sees the heaviest traffic in the first few days and the last few days of the deal’s time limit. This can have disastrous consequences for the lawyer as he or she tries to juggle the Groupon clients, existing clients, as well as the significant legwork involved in participating in the deal.\textsuperscript{52} Further, the attorney may not be able to count on subsequent profits from Groupon clients, as some are driven to seek the services based on the deal and may not be willing to pay a higher price.\textsuperscript{53}

\textit{Conclusion}

The ethics decisions that have already come down leave much to be fleshed out. There are a number of factors that, if changed, may have a large impact on whether the practice violates ethics rules. It is also unclear how other states will rule on the practice. At the same time, participating has questionable monetary and other benefits. It behooves most attorneys to avoid the practice until it is more feasible to engage in it. The potential for ethical pitfalls seems to lurk in every aspect of the practice. Because the use of daily deal sites is far from prevalent, some violations may not yet have been discovered. At the same time, the potential for profit seems to be low. The deep discount in price, the necessary cap on the amount of purchases allowed, the potential for prospective clients to be turned away because of conflicts of interest, and the unlikelihood of future business from dealholders, all conspire to result in low profitability. Until a better balance can be struck—when lawyers could be more certain of their

\textsuperscript{52} See Bruce, \textit{Groupon for Legal Services, supra} note 41.
\textsuperscript{53} See \textit{id.}.
ethical footing, or when the potential payoff makes it worthwhile to deal with the ethical problems—lawyers should avoid the practice.