



# Don't Be a Victim of Barratry and Solicitation

Written On March 8, 2011 By [Bob Kraft](#)

Barratry, or solicitation of personal injury claims, is a large and growing problem in Texas. This type of “ambulance chasing” gives all lawyers a bad name, and should be universally condemned in the legal community. Sadly, the State Bar of Texas generally turns a blind eye to this illegal and unethical practice.

If you are involved in an auto collision or you are injured in any other way that attracts publicity, generates a public record (such as a police report), or results in a hospital visit, you may very well be approached by a lawyer or someone working on behalf of a lawyer. That person may be a chiropractor who offers a free X-ray, and then tells you that you must sign a contract with “their” lawyer before you can get the X-ray. This is all *illegal*. In fact it is a felony, as explained by the Texas

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Penal Code – Section 38.12— Barratry And Solicitation Of Professional Employment.

Think about it — do you want to be represented by a lawyer who committed a felony in order to get your case? If a lawyer is willing to commit one felony, what else might he or she be willing to do to you? How could you ever possibly trust a person like that to act in your best interests?

Don't be a victim of barratry or solicitation. If you are approached in this manner, contact the State Bar of Texas by phoning (800) 204-2222.

§ 38.12. BARRATRY AND SOLICITATION OF PROFESSIONAL EMPLOYMENT.

(a) A person commits an offense if, with intent to obtain an economic benefit the person:

(1) knowingly institutes a suit or claim that the person has not been authorized to pursue;

(2) solicits employment, either in person or by telephone, for himself or for another;

(3) pays, gives, or advances or offers to pay, give, or advance to a prospective client money or anything of value to obtain employment as a professional from the prospective client;

(4) pays or gives or offers to pay or give a person money or anything of value to solicit employment;

(5) pays or gives or offers to pay or give a family member of a prospective client money or anything of value to solicit employment; or

(6) accepts or agrees to accept money or anything of value to solicit employment.

(b) A person commits an offense if the person:

(1) knowingly finances the commission of an offense under Subsection (a);

(2) invests funds the person knows or believes are intended to further the commission of an offense under Subsection (a); or

(3) is a professional who knowingly accepts employment within the scope of the person's license, registration, or certification that results from the solicitation of employment in violation of Subsection (a).

(c) It is an exception to prosecution under Subsection (a) or (b) that the person's conduct is authorized by the Texas Disciplinary Rules of Professional Conduct or any rule of court.

(d) A person commits an offense if the person:

(1) is an attorney, chiropractor, physician, surgeon, or private investigator licensed to practice in this state or any person licensed, certified, or registered by a health care regulatory agency of this state;

(2) with the intent to obtain professional employment for himself or for another, sends or knowingly permits to be sent to an individual who has not sought the person's employment, legal representation, advice, or care a written communication that:

(A) concerns an action for personal injury or wrongful death or otherwise relates to an accident or disaster involving the person to whom the communication is addressed or a relative of that person and that was mailed before the 31st day after the date on which the accident or disaster occurred;

(B) concerns a specific matter and relates to legal representation and the person knows or reasonably should know that the person to whom the communication is directed is represented by a lawyer in the matter;

(C) concerns an arrest of or issuance of a summons to the person to whom the communication is addressed or a relative of that person and that was mailed before the 31st day after the date on which the arrest or issuance of the summons occurred;

(D) concerns a lawsuit of any kind, including an action for divorce, in which the person to whom the communication is addressed is a defendant or a relative of that person, unless the lawsuit in which the person is named as a defendant has been on file for more than 31 days before the date on which the communication was mailed;

(E) is sent or permitted to be sent by a person who knows or reasonably should know that the injured person or relative of the injured person has indicated a desire not to be contacted by or receive communications concerning employment;

(F) involves coercion, duress, fraud, overreaching, harassment, intimidation, or undue influence; or

(G) contains a false, fraudulent, misleading, deceptive, or unfair statement or claim.

(e) For purposes of Subsection (d)(2)(E), a desire not to be contacted is presumed if an accident report reflects that such an indication has been made by an injured person or that person's relative.

(f) An offense under Subsection (a) or (b) is a felony of the third degree.

(g) Except as provided by Subsection (h), an offense under Subsection (d) is a Class A misdemeanor.

(h) An offense under Subsection (d) is a felony of the third degree if it is shown on the trial of the offense that the defendant has previously been convicted under Subsection (d).

(i) Final conviction of felony barratry is a serious crime for all purposes and acts, specifically including the State Bar Rules and the Texas Rules of Disciplinary Procedure.

Acts 1973, 63rd Leg., p. 883, ch. 399, § 1, eff. Jan. 1, 1974. Amended by Acts 1989, 71st Leg., ch. 866, § 2, eff. Sept. 1, 1989; Acts 1993,

73rd Leg., ch. 723, § 2, eff. Sept. 1, 1993; Acts 1993, 73rd eg., ch. 900, § 1.01, eff. Sept. 1, 1994; Acts 1997, 75th Leg., ch. 750, § 2, eff. Sept. 1, 1997.

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