

No. _____

**IN THE
SUPREME COURT OF ILLINOIS**

**IN RE APPLICATION BY AVVO, INC. FOR COPY OF ATTORNEY REGISTRATION
INFORMATION PROVIDED ON ARDC WEBSITE**

AVVO, INC.,

Applicant.

**VERIFIED APPLICATION BY AVVO, INC. FOR COPY OF
ATTORNEY REGISTRATION INFORMATION PROVIDED ON WEBSITE
OF ATTORNEY REGISTRATION & DISCIPLINARY COMMISSION**

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Counsel for Avvo, Inc.

Avvo, Inc. respectfully applies, pursuant to Supreme Court Rule 766, for the Court or a member thereof to authorize the Administrator of the Attorney Registration & Disciplinary Commission to produce to Avvo an electronic copy of the information provided on the ARDC website regarding lawyers licensed to practice in Illinois. As explained below, Avvo seeks that information to ensure the accuracy and completeness of the free online directory that it provides to help consumers find a lawyer. The requested information, which Avvo has already obtained for 30 other states, will not be used to contact any lawyers.

In support of its application, Avvo states as follows:

I. BACKGROUND INFORMATION ABOUT AVVO, INC.

1. In June 2007, Avvo (pronounced AH-voe) launched a web service (www.avvo.com) designed to help consumers make informed decisions in hiring lawyers. Unlike online or printed directories that provide information only on those lawyers paying a fee to be listed, Avvo strives to provide consumers with free, unbiased information on ALL lawyers.
2. Avvo currently operates in 14 jurisdictions (Arizona, California, Colorado, the District of Columbia, Florida, Georgia, Illinois, Massachusetts, New York, Ohio, Oregon, Pennsylvania, Texas, and Washington), representing approximately two-thirds of all attorneys in the United States. Avvo expects to cover over 80% of all attorneys in the country by the end of this year.
3. Avvo aggregates information, including admissions data and disciplinary records, into a set of profiles for every licensed lawyer in the states where Avvo operates. The profiles provide information about lawyers' legal practice areas, work experience, educational background, professional awards and recognitions, publications and speaking engagements, association memberships and honors, and many other subjects. For attorneys practicing in areas

of consumer law, such as personal injury, bankruptcy, and DUI, Avvo supplements publicly available data with additional information gleaned from attorney websites. Moreover, once Avvo has launched service in a state, lawyers in that state can “claim” their profiles and—at no expense—add information about their practice areas, experience, and professional recognitions.

4. Avvo applies a proprietary algorithm to calculate an “Avvo Rating” for each lawyer whose profile has been claimed or for whom Avvo has otherwise located sufficient information. The Avvo Rating—a score of 1 to 10, in decrements of one-tenth of a point—represents Avvo’s effort to evaluate a lawyer’s overall skills, reputation, and experience.

5. Avvo’s service is free for consumers and lawyers, and offers important benefits for both. Consumers using Avvo have a single source to search for a lawyer. They can search by easy-to-understand combinations of legal problem and location (*e.g.*, “bankruptcy/debt lawyers in Chicago”) and read the profiles and client reviews for attorneys whom they may wish to retain. For consumers who have received a referral, Avvo offers a way to quickly double-check the lawyer’s experience and disciplinary history.

6. For lawyers, Avvo offers an easy way to create an on-line presence—a vital benefit for solo and small firm practitioners, nearly half of whom lack websites. Even for those already on-line, Avvo offers another means of managing an attorney’s professional reputation, and a free avenue to provide potential clients with additional background information. For this reason, thousands of attorneys, ranging from the Washington State Attorney General to consumer lawyers to large firm business lawyers, have claimed and updated their Avvo profiles.

II. BASIS FOR AVVO’S REQUEST

7. Avvo obtains the records underlying its lawyer profiles from each state’s attorney regulatory authority. In some cases, these authorities provide Avvo with the information

directly; in other cases, Avvo is able to obtain the requisite information from the authority's website. Avvo has contacted 34 states for this data. To date Avvo has been able to obtain the requested information from 30 of those states. In one case, New Jersey, Avvo received a disk after making a formal request to the state's Supreme Court.

8. Before launching service in Illinois, Avvo contacted the Attorney Registration & Disciplinary Commission to obtain registration and disciplinary information about every lawyer in this state. The information sought by Avvo constitutes a portion of the information about each attorney contained in the master roll of attorneys. Avvo ultimately learned, however, that the ARDC is authorized by this Court to provide a copy of information from the master roll of attorneys in three kinds of situations, and that Avvo's request did not fall into any of those categories. As the ARDC explained:

The ARDC Administrator is authorized to allow outside entities use of the Master Roll of Illinois attorneys for certain narrow purposes. Those purposes are: (1) for use by a court or its officers in conducting its business; (2) for use by the Illinois State Bar Association or a local bar association in Illinois for membership solicitation or for a legitimate association purpose or program which benefits the profession or the public; and (3) for use by a continuing legal education organization in Illinois to promote programs beneficial to the profession or the public. Avvo, Inc. is not a court, a bar association or a CLE provider, and the purpose for which Avvo, Inc. has requested the Master Roll is not one for which we are authorized to release it.

Letter dated April 23, 2008, from Althea K. Welsh to Josh King (copy attached as Appendix 1).

9. Having established the three categories in which information from the master roll may be released, this Court unquestionably has the authority to permit that information to be released in such additional situations as the Court deems fit. Indeed, as explained below, Supreme Court Rule 766(a) appears to provide that the master roll is public information, and the ARDC already makes much of that information public, albeit not in a readily usable format. In

any event, Rule 766(b) provides a formal mechanism for requests, such as Avvo's, that the Administrator of the ARDC be authorized to release information from the master roll.

A. The Master Roll Is "Public" Pursuant to Rule 766(a)

10. Supreme Court Rule 766 governs the confidentiality and disclosure of matters pertaining to attorney registration and discipline. Subparagraph (a) states the general rule that "[p]roceedings under Rules 751 through 780 shall be public with the exception of the following matters, which shall be private and confidential...." The ARDC prepares and maintains a master roll of attorneys pursuant to Rule 756(b). Information contained in the master roll is public because none of the enumerated exceptions in Rule 766(a) to the public nature of ARDC activities applies to the ARDC's responsibilities regarding the master roll.

11. The conclusion that information regarding the ARDC's activities under Rule 756 is public is reinforced by the exception in Rule 766(a)(10) for "information concerning trust accounts provided by lawyers as part of the annual registration pursuant to Rule 756(d)." Since trust account information under Rule 756(d) must relate to a "proceeding" under Rule 766(a)—otherwise no exception for that information would be necessary to the general rule making public proceedings under Rules 751 through 780—attorney registration information under Rule 756(b) must likewise relate to a "proceeding" under that Rule. However, while there is an express provision excepting trust account information from what is public under Rule 766(a), there is no such exception for attorney registration information. The master roll information requested by Avvo therefore constitutes public information, pursuant to Rule 766(a), for which there is no exception requiring confidentiality.

12. The public nature of attorney registration information pursuant to Rule 766(a) is consistent with the common-law right to inspect and copy information maintained by the

government, including the judicial branch. As the United States Supreme Court has explained, “[i]t is clear that the courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597, 98 S. Ct 1306, 1312 (1978).

13. This Court has likewise recognized the right of access to court files and records. *Skolnick v. Altheimer & Gray*, 191 Ill.2d 214, 230, 730 N.E.2d 4, 15-16 (2000). Although the presumption of access to those records is not absolute, disclosure is generally required except in unusual circumstances such as those involving sensitive private information. *See id.* at 231, 730 N.E.2d at 16. *See also Nixon, supra*, 435 U.S. at 598, 98 S. Ct. at 1312 (noting that presumption can be overcome if disclosure is sought for spiteful, scandalous, or libelous purposes or to harm a business’ competitive standing). Rule 766 can be viewed as this Court’s codification of the common-law right as applied to documents in the possession of the ARDC, with access being the norm and the exceptions being the circumstances enumerated in subparagraphs (a)(1) through (11). Because none of those exceptions is applicable to the attorney registration information sought by Avvo, disclosure is warranted.

14. In any event, it makes eminently good sense that a list of persons licensed to practice law in Illinois would be considered public information. Consumers should be able to determine whether persons holding themselves out to be lawyers are, in fact, licensed attorneys. Indeed, the “Lawyer Search” feature of the ARDC’s website (www.iardc.org/lawyersearch.asp) provides the public with information regarding each lawyer’s date of admission, registered business address and telephone number, registration status, and disciplinary history. It is simply that information—and nothing more—that Avvo now seeks.

15. Although the ARDC website already makes public the information requested by Avvo, the website suffers from two key limitations that prevents Avvo from using the website to obtain the requisite information for all lawyers licensed in this state. First, to access information regarding a lawyer on the ARDC website, one has to know the last name of the lawyer for whom information is sought. Avvo has no way of knowing the names of all licensed lawyers. Second, there is a limit on the number of records displayed, which creates problems in searching for lawyers with common last names. These impediments to accessing information on the ARDC website create the need for Avvo to request a disk containing a complete copy of the attorney registration information available on the website.¹

B. At a Minimum, the Administrator Should Be Authorized to Provide a Copy of the Master Roll Pursuant to Rule 766(b)(2)

16. Regardless whether the master roll is considered public information pursuant to Rule 766(a), it is clear that Rule 766(b)(2) allows the Court or an individual Justice to authorize disclosure. Rule 766(b)(2) states:

Disclosures in the Interests of Justice. In the interests of justice and on such terms as it deems appropriate the court or a member thereof may authorize the Administrator to produce, disclose, release, inform, report or testify to any information, reports, investigations, documents, evidence or transcripts in the Administrator's possession.

The attorney registration information from the master roll of attorneys sought by Avvo constitutes information or a document that is in the Administrator's possession. *See* Rule 756(b) (ARDC duty to maintain master roll). Accordingly, the Court or an individual Justice may

¹ Avvo understands that the master roll of attorneys may contain private information, such as social security numbers. That kind of information is not provided on the ARDC website and is not sought by Avvo. All Avvo seeks is the basic non-confidential information already available on the ARDC website.

authorize the Administrator to produce a copy to Avvo in the interests of justice and on appropriate terms.

17. Disclosure to Avvo would serve the interests of justice—and, indeed, would help reduce an important barrier to many citizens’ access to justice—by facilitating the ability of consumers to make informed decisions in hiring an attorney. Many persons needing representation have no idea who to retain or how to find the right lawyer. Avvo strives to fill this important need by providing a comprehensive listing of all lawyers in the state, their registration and disciplinary history, and in many cases additional background information about their practice areas, experience, and professional honors. Avvo also helps lawyers reach prospective clients by providing them with a prominent and free online presence.

18. The grounds for providing a copy of information from the master roll to Avvo are at least as compelling as those supporting other recognized situations in which production of information from the master roll is permitted. For example, the ARDC is authorized to provide a copy of the master roll to for-profit continuing legal education providers. Just as it is appropriate to permit the master roll to be disclosed to help CLE providers improve the competence of Illinois attorneys by marketing their programs to Illinois lawyers, it is likewise appropriate to permit the master roll to be disclosed to help Avvo improve consumers’ access to justice by assisting them in hiring lawyers and by assisting lawyers in marketing their services.

19. The existing Supreme Court policy authorizing provision of the master roll to CLE providers, including for-profit CLE providers like the Practising Law Institute and West LegalEdCenter, reveals that there is no prohibition against the use of information from the master roll for commercial purposes. Nor should there be. There is nothing wrong with private companies using public information, including court records, for commercial gain. Indeed,

Lexis, Westlaw, and West Publishing (Thomson West) do just that with court opinions.

Similarly, title insurance companies rely on public real estate records in providing their services to purchasers of property. Avvo's use of attorney registration records is indistinguishable from these established commercial uses of public information.

III. SUGGESTED TERMS AND CONDITIONS OF PRODUCTION

20. Rule 766(b)(2) authorizes production of information in the possession of the ARDC in "the interests of justice and on such terms as [the Court or a Justice] deems appropriate." Appropriate terms undoubtedly include Avvo's payment of the reasonable cost of producing the requested disk containing information from the master roll.

21. Avvo does not intend to use that information to contact lawyers and would not be averse to conditioning production on its agreement to refrain from using the information in that fashion. However, this limitation may not be necessary in light of the fact that CLE providers given access to the master roll are permitted to use that information to contact lawyers.

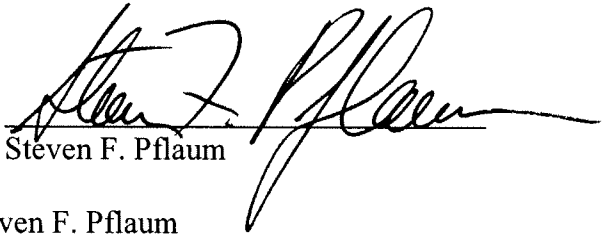
22. With new lawyers joining the profession each year and many lawyers frequently moving offices and changing jobs, it is important for Avvo to maintain up-to-date information. Accordingly, Avvo requests that it be authorized to obtain a copy of the information from the master roll up to four times each year.

WHEREFORE, Avvo, Inc. respectfully requests that the Court or a member thereof authorize the Administrator of the ARDC to provide Avvo with a disk containing a copy of the information from the master roll of attorneys that is currently provided on the ARDC website on the basis of the terms and conditions contained in the proposed order submitted with Avvo's application.

Dated: June 10, 2008

Respectfully submitted,

AVVO, INC.

By 
Steven F. Pflaum

Steven F. Pflaum
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Counsel for Avvo, Inc.

VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

Dated: June 10, 2008

A handwritten signature in black ink, appearing to read 'J. King', written over a horizontal line.

Joshua M. King
Vice President, Business
Development and General Counsel
Avvo, Inc.



ATTORNEY REGISTRATION AND DISCIPLINARY COMMISSION
of the
SUPREME COURT OF ILLINOIS

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Josh King
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Avvo, Inc.
217 Pine St., Suite 300
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Chicago
April 23, 2008

Dear Mr. King:

I have been asked to respond to your recent communications requesting the Attorney Registration and Disciplinary Commission's ("ARDC's") Master Roll of attorneys.

The ARDC Administrator is authorized to allow outside entities use of the Master Roll of Illinois attorneys for certain narrow purposes. Those purposes are: (1) for use by a court or its officers in conducting its business; (2) for use by the Illinois State Bar Association or a local bar association in Illinois for membership solicitation or for a legitimate association purpose or program which benefits the profession or the public; and (3) for use by a continuing legal education organization in Illinois to promote programs beneficial to the profession or the public. Avvo, Inc., is not court, a bar association or a CLE provider, and the purpose for which Avvo, Inc., has requested the Master Roll is not one for which we are authorized to release it.

Your April 4, 2008 e-mail asserts that the ARDC Master Roll is a public record pursuant to Illinois Supreme Court Rule 766. Your assertion is incorrect. Rule 766 does not reference the Master Roll, but rather addresses issues related to the public or confidential nature of disciplinary proceedings and the disclosure of confidential information by the ARDC Administrator.

For the reasons stated above, we are unable to comply with Avvo, Inc.'s request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Althea K. Welsh".

Althea K. Welsh
Senior Counsel

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