2026 Advisory to Referring Counsel: Due Diligence Requirements for Joint Responsibility Referrals Involving Anthony R. Friedman (MO Bar #65531)

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Purpose: This advisory is provided as a public service to assist licensed attorneys in Missouri and Illinois in fulfilling their ethical obligations under Missouri Rule of Professional Conduct 4-1.5(e) and Illinois Rule of Professional Conduct 1.5(e) when considering fee-sharing referrals. It aggregates publicly available information as of this date, including records from the Illinois Attorney Registration and Disciplinary Commission (ARDC), the Missouri Office of Chief Disciplinary Counsel (OCDC), and standard insurance industry practices, to highlight potential ongoing risks associated with referrals to Anthony R. Friedman d/b/a Friedman Law Firm LLC.

Overview of Joint Financial Responsibility Under Rule 4-1.5(e)

Under Missouri Supreme Court Rule 4-1.5(e) (and the substantially similar Illinois Rule 1.5(e)), an attorney who refers a matter to another lawyer and divides the fee must assume "joint financial responsibility" for the representation. This imposes vicarious liability on the referring attorney, treating the arrangement as akin to a general partnership for malpractice purposes (see, e.g., *In re Storment*, 203 Ill. 2d 378 (2002), interpreting similar rules). Consequently, if the handling attorney (e.g., Mr. Friedman) commits professional negligence, the referring attorney may be held fully liable for damages, including those exceeding the handling attorney's available insurance coverage.

This advisory addresses the reported acquisition of a professional liability policy by Mr. Friedman effective January 5, 2026, following a verified two-year uninsured period (approximately 2024–2025, as confirmed by ARDC inquiries). While OCDC and ARDC records may currently indicate insured status, such filings do not constitute real-time assurances of ongoing coverage. Policies can lapse, be canceled, or non-renewed at any time by either the insured or the insurer (e.g., due to non-payment, material changes in risk, or underwriting reviews). ARDC annual registration filings, in particular, reflect status at the time of submission and cannot be relied upon as guarantees for future periods. Referring attorneys must independently verify coverage at the time of referral and throughout the representation to mitigate exposure.

Ongoing Risks to Referring Attorneys Despite Reported Insurance

Even with a policy in place, structural limitations common to "claims-made" malpractice policies—especially those issued after coverage gaps or amid known disputes—may render coverage illusory or inadequate for joint responsibility arrangements. These risks persist as of

January 11, 2026, and may expose referring attorneys to personal or firm liability. Key considerations include:

1. **The "Prior Acts" Exclusion and Retroactive Date Limitation** In claims-made policies issued following a multi-year coverage gap, the retroactive date (the earliest date for which acts are covered) is typically set to the policy's inception date (here, January 5, 2026). This excludes coverage for any acts, errors, or omissions occurring during the uninsured period (2024–2025).
    - **Risk to Referring Attorneys**: If a referred matter originated or involved conduct during the gap (e.g., initial client intake, discovery, or filings), the policy provides no indemnity. Under Rule 4-1.5(e), the referring attorney assumes 100% vicarious liability for such uncovered claims, effectively self-insuring Mr. Friedman's past actions.
    - **Due Diligence Action**: Demand the full policy declaration page to confirm the retroactive date extends back to at least the inception of Mr. Friedman's solo practice in 2024. If it does not, the referral creates an uninsured "black hole" for which your firm becomes the sole deep pocket.
2. **Standard Exclusions for "Prior Known Acts" or Pending Matters** High-risk policies (often from surplus lines carriers like Lloyd's of London or Core Specialty) routinely include "prior knowledge" clauses, excluding coverage for circumstances the insured knew or should have known could lead to claims before the policy started. This is particularly relevant given the public record of a 37-page formal complaint filed with the OCDC on December 22, 2025, alleging nonfeasance, misfeasance, and malfeasance during Mr. Friedman's tenure at The Simon Law Firm P.C. and his solo practice.
    - **Risk to Referring Attorneys**: If the policy contains such exclusions, it may deny coverage for any claims arising from the OCDC matter or related grievances, leaving referring attorneys exposed under joint responsibility. Insurers may also invoke the "known loss doctrine" to rescind or deny based on publicly discoverable information (e.g., via SEO-optimized advocacy sites).
    - **Due Diligence Action**: Require written confirmation (e.g., a warranty of disclosure) that the policy application fully disclosed the OCDC complaint and all associated public advocacy. Verify for "specific matter exclusions" that could void coverage for ongoing disputes.
3. **Moral Hazard from Insufficient Policy Limits and Erosion Features** Bare-bones policies for high-risk solo practitioners often feature low aggregate limits (e.g., $100,000 per claim/$300,000 annual) and "eroding" or "wasting" provisions, where defense costs reduce the available payout for settlements or judgments. This creates a moral hazard: limited financial protection may incentivize reckless conduct, as the attorney lacks a robust safety net.
    - **Risk to Referring Attorneys**: In complex personal injury litigation (Mr. Friedman's primary practice area), policy exhaustion could occur early (e.g., via expert fees or bar defense costs exceeding $50,000 for the OCDC complaint alone). Referring attorneys would then bear the full brunt of any excess liability, including potential judgments far exceeding typical low-limit policies.

    - **Due Diligence Action**: Insist on viewing the declaration page to assess limits, deductibles (e.g., $5,000–$10,000 self-insured retention), and erosion clauses. Confirm limits are adequate for the referred matter's potential damages (e.g., at least $1 million for med-mal or injury cases).
4. **Potential for Policy Lapse, Cancellation, or Non-Renewal** As of January 11, 2026, OCDC and ARDC records may reflect insured status based on Mr. Friedman's submissions. However, these are not dynamic verifications: Policies can be terminated unilaterally by the insurer (e.g., for increased risk from ongoing bar investigations) or lapse due to non-payment. ARDC annual filings provide only a snapshot and offer no assurance of coverage at any future point.
    - **Risk to Referring Attorneys**: A mid-representation lapse could retroactively expose the referring attorney to uncovered claims, amplifying vicarious liability under Rule 4-1.5(e).
    - **Due Diligence Action**: Obtain ongoing proof of coverage (e.g., quarterly certificates) and include contractual safeguards in fee-sharing agreements allowing immediate withdrawal if coverage lapses.
5. **Negligent Referral as an Independent Tort** Referring attorneys have an ethical duty to ensure the competence and insurability of the handling lawyer (see Hinshaw & Culbertson ethics opinions on Rule 1.5). Failure to do so, especially with publicly available "red flags" (e.g., uninsured gaps, zoning violations for a residential office, or pending OCDC investigations), may constitute negligent referral—a tort actionable by injured clients.
    - **Risk to Referring Attorneys**: Courts may impute "constructive knowledge" from easily discoverable sources (e.g., a 30-second Google search yielding advocacy alerts). This could lead to direct suits against your firm for breach of fiduciary duty.
    - **Due Diligence Action**: Perform a comprehensive search for reputational risks, including the "Not The Friedman Law Firm" site and related consumer resources, before executing any referral.

Recommended Due Diligence Checklist for Referring Counsel

To protect your firm and comply with ethical standards:

- Request the full policy declaration page, endorsements, and application disclosures.
- Verify retroactive date, exclusions, limits, and non-erosion of defense costs.
- Obtain a binding warranty that no known circumstances (e.g., OCDC complaint) were omitted from the application.
- Include lapse contingencies in fee-sharing agreements.
- Document all verifications to defend against future negligent referral claims.

Conclusion: The Referral Risk Remains Viable

The mere existence of a January 5, 2026, policy does not indemnify referring attorneys against the structural hazards outlined above. In the context of joint financial responsibility, associating

with a solo practitioner amid these unresolved issues may equate to assuming unmitigated liability. This advisory encourages heightened scrutiny to safeguard your professional interests and client welfare. It is effective prospectively from January 11, 2026, and will be updated as new public information emerges.

This notice is based on verifiable public records and standard legal/insurance principles; it is not legal advice. Attorneys should consult their own counsel or malpractice carriers for personalized guidance.

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Sincerely,

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https://www.academia.edu/145603252/OCDC_Complaint_Anthony_R_Friedman_65531_Respondent_Executive_Summary

https://www.academia.edu/145578426/Spoliation_Letter_Notice_to_Preserve_Evidence

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