

STATEWIDE GRIEVANCE COMMITTEE



Advisory Opinion #09-06652-A Letter Soliciting Clients from Published Police Arrest Logs

Pursuant to Practice Book §2-28B, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, reviewed a request for an advisory opinion filed on November 3, 2009. The proposed print advertisement is a letter to be mailed to prospective clients by the requesting attorney, who will obtain the names from police arrest logs published in Connecticut newspapers. Similar advertisements were the subject matter of Advisory Opinions #08-04627-A and #09-04933 available at http://www.jud.ct.gov/sgc/Adv_opinions/default.htm. The requesting attorney indicates that the proposed advertisement will be mailed daily to persons who are named in police logs or police blotters found in Connecticut newspapers. Only one letter will be mailed to each person named in the logs and the attorney anticipates using the proposed advertisement for at least six months to a year. The reviewing committee concluded that the advertisement complies with the Rules of Professional Conduct.

The advertisement provides the following information: a letter on firm letterhead that provides the name of the requesting attorney in the top center followed by "Attorney and Counselor at Law," the state and federal court in which the attorney is admitted to practice, the attorney's email and website address. In the upper left side of the letter is the address, phone and fax number of one of the attorney's two offices and corresponding on the upper right side is the second office address, phone and fax numbers. Underneath the letterhead in the center of the page is the phrase "ADVERTISING MATERIAL" in red ink. The first sentence of the letter, after the

salutation provides: **"If you have already retained a lawyer for this matter, please disregard this letter."**

The letter proceeds to state that the attorney's office has learned that the addressee has been charged or may be charged with a criminal violation or traffic infraction and advises that the purpose of the letter is to provide information about the services available from the law office. The letter offers that the attorney routinely handles criminal and traffic cases in courts throughout Connecticut and has two offices in the state. The letter concludes by offering the possibility of meeting with the potential client to discuss handling the case.

The envelope in which the letter will be mailed was provided along with the letter in the advisory opinion request. In the lower left corner of the envelope the words "Advertising Material" are displayed in red ink.

Pursuant to Rule 7.2(i) of the Rules of Professional Conduct, the above referenced information found in the firm's letterhead consisting of the firm's name, addresses, phone and fax numbers, website and email address is presumed not to violate the provisions of Rule 7.1 of the Rules of Professional Conduct, and therefore is not false or misleading. The advertisement complies with Rule 7.2 (d) by listing the name of at least one attorney admitted in Connecticut responsible for its content.

Rule 7.3 of the Rules of Professional Conduct regulates communications with prospective clients and provides the parameters of that contact. Subsections (b) and (c) of Rule 7.3 regulate written communications for the purpose of obtaining professional employment. The numbered subsections of Rule 7.3(b) distinguish between several types of written (and electronic)

communications; specifically those concerning personal injury or wrongful death cases, persons already represented by counsel in a specific matter or who are unfit or unwilling to receive such communications. This opinion assumes those fact patterns found in subsection (b) of Rule 7.3 are not applicable to the proposed advertisement.

Since the proposed advertisement will be sent to persons arrested for criminal violations and traffic infractions based on published police logs, the requesting attorney is aware they are potentially in need of legal services based on the fact of their arrest. Subsection (c) of Rule 7.3, concerning communications to prospective clients, is applicable to the proposed advertisement.

Rule 7.3(c) provides:

Every written communication, as well as any communication by audio or video recording, or other electronic means, used by a lawyer for the purpose of obtaining professional employment from a prospective client known to be in need of legal services in a particular matter, must be clearly and prominently labeled "Advertising Material" in red ink on the first page of any written communication and the lower left corner of the outside envelope or container, if any, ... (emphasis added)

The prospective clients are solicited because they have been arrested and are therefore "known to be in need of legal services" as provided by Rule 7.3(c). The proposed advertisement complies with Rule 7.3(c) by providing the label "Advertising Material" clearly and prominently in red ink on the first page which is the cover letter and on the accompanying envelope.

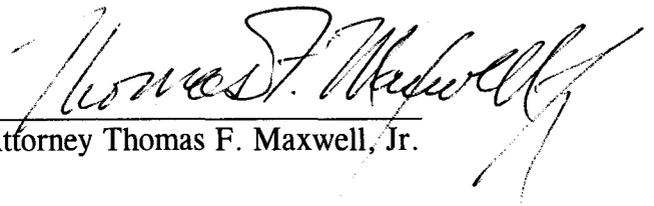
The proposed advertisement complies with other relevant provisions of Rule 7.3. Pursuant to Rule 7.3(d) it contains the requisite first sentence: "If you have already retained a lawyer for this matter, please disregard this letter." The proposed advertisement complies with the provisions

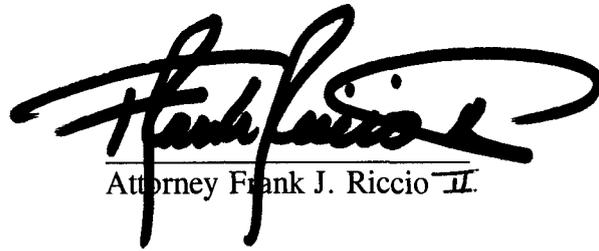
of Rule 7.3(g) as well. Subsection (g) of Rule 7.3 provides that written communications to prospective clients (that are not brochures or pamphlets) shall be on letter-sized paper rather than legal-sized paper and shall not resemble legal documents. The envelope complies with the labeling requirements of Rule 7.3(c) and with Rule 7.3 (e) by not revealing on the outside the nature of the client's legal problem. The proposed advertisement is therefore in compliance with the provisions of Rule 7.3 concerning communications with prospective clients.

Accordingly, this reviewing committee opines that the advertisement complies with the Rules of Professional Conduct.

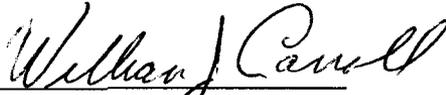
(E)

ISSUE DATE: November 25, 2009


Attorney Thomas F. Maxwell, Jr.



Attorney Frank J. Riccio II.


Mr. William J. Carroll