

STATEWIDE GRIEVANCE COMMITTEE



Advisory Opinion #13-02510-A Television Advertisement Regarding Personal Injury Services

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 April 4, 2013. The proposed advertisement is a 30 second television commercial advertising the requesting attorney's services to prospective motor vehicle accident clients. This reviewing committee concludes that the proposed television advertisement does not comply with the Rules of Professional Conduct.

The proposed television advertisement has been submitted in the form of a script and a DVD. The commercial begins with pictures of a motor vehicle accident scene and words spoken over offering that victims of motor vehicle accidents are scared and injured and further asking the viewer: "So you call a lawyer. But at what expense?" The commercial opines that most accidents do not end up in court yet most lawyers charge a fee of 33 percent of any recovery. The requesting attorney appears on courthouse steps and presents a graphic chart which contrasts his fee with the customary contingency fee charged in personal injury cases.

Graphics display first the attorney's name and website URL, and then the attorney's name, address, phone number and URL address and lastly the attorney's name, phone number

and URL address. The name, address, phone and website information are not displayed continuously but in intervals that reappear as the screens change. The website or URL address is not the attorney's name but is the phrase "the fifteen percent lawyer." The telephone number displayed is 1-855-GET-1515. Graphic language is also displayed in the middle and at the conclusion of the proposed advertisement which states that the "client is responsible for court costs and expenses of litigation." This information is also spoken over the graphic about client costs at the end of the commercial and a display of the attorney's contact information and the slogan: "Protecting your right to recover more."

Although this advertisement displays the firm's website address, the website itself was not reviewed in connection with this advisory opinion request. Pursuant to Rule 7.2(i) of the Rules of Professional Conduct, the above referenced information consisting of the attorney's name, phone number and 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 phone number is apparently designed to numerically advertise the attorney's 15 percent contingency fee and is not, as a result, misleading under Rule 7.1 because it is his stated fee.

The use of the phrase "the fifteen percent lawyer" as the attorney's website or URL address is a type of trade name which is governed by Rules 7.1 and 7.5 of the Rules of Professional Conduct. Attorneys are permitted to use trade names, including website domain names, provided they are not misleading and do not violate other Rules of Professional Conduct. For a full discussion of the use of trade names by attorneys, please see Advisory Opinion #10-01283-A available at http://www.jud.ct.gov/sgc/Adv_opinions/default.htm. In the proposed advertisement, the phrase "the fifteen percent lawyer" is a reference to the

contingency fee charged by the requesting attorney in motor vehicle accident cases and as a result its use as a domain name for the attorney does not violate either Rule 7.1 or Rule 7.5 of the Rules of Professional Conduct.

The proposed advertisement provides disclosure information about court costs and expenses which is required by Rule 7.2(f) of the Rules of Professional Conduct. Rule 7.2(f) provides:

Every advertisement and written communication that contains information about the lawyer's fee, including those indicating that the charging of a fee is contingent on outcome... or that the fee will be a percentage of the recovery shall disclose whether and to what extent the client will be responsible for any court costs and expenses of litigation. The disclosure concerning court costs and expenses of litigation shall be in the same print size and type as the information regarding the lawyer's fee and, if broadcast, shall appear for the same duration as the information regarding the lawyer's fee. If the information regarding the fee is spoken, the disclosure concerning court costs and expenses shall also be spoken.

The disclosure concerning client responsibility for court costs and expenses is displayed twice in the proposed advertisement for a total of 11 seconds and is also spoken at the conclusion of the advertisement. The attorney's fee is displayed various times in the commercial by reference to "the fifteen percent lawyer" and is spoken by reference to the "fifteen percent" domain name or to call the "fifteen percent lawyer." The proposed advertisement complies with Rule 7.2(f) by both displaying the court costs and expenses information on screen for the same duration as the information about the attorney's fee and by correspondingly speaking the information at the end of the commercial.

The proposed advertisement does not comply with Rule 7.2(d) of the Rules of Professional Conduct which provides:

Any advertisement or communication made pursuant to this rule shall include the name of at least one lawyer admitted in Connecticut responsible for its content. In the case of television advertisements, the name, address and telephone number of the lawyer admitted in Connecticut shall be displayed in bold print **for fifteen seconds or the duration of the commercial, whichever is less**, and shall be prominent enough to be readable. (Emphasis added)

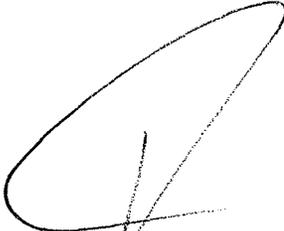
The proposed advertisement is 30 seconds long and does not comply with Rule 7.2(d). The name of the attorney responsible for the advertisement appears on various screens for the requisite 15 second time period in total but the address and telephone number do not. The attorney's address appears on screen for 8 seconds and the phone number for no more than 12 seconds which does not comply with the 15 second time period required by Rule 7.2(d). Accordingly, this reviewing committee opines that the proposed advertisement does not comply with the Rules of Professional Conduct.

ISSUE DATE: May 1, 2013

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