

STATEWIDE GRIEVANCE COMMITTEE



Advisory Opinion #07-00859-A Radio Advertisement "Raising the Bar"

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 August 17, 2007. The proposed one minute radio advertisement is scheduled to run at least weekly on WTIC AM from late September 2007 until approximately May of 2008. The reviewing committee concluded that the advertisement does not comply with the Rules of Professional Conduct.

The advertisement consists of two testimonials by persons identified as clients of the law firm. Both clients provide their town of residence and one gives her name. A professional announcer is heard before and after each testimonial. The professional announcer provides the name of the law firm and comments on how the firm represents its clients, who are heard speaking about how well the firm handled their cases. The first testimonial describes the persistence and professionalism of the firm, the fact that the case was settled and indicates the firm was the right one to handle the case.

The second testimonial describes the firm as being forceful enough to "fight for our rights" in an accident case, while also empathizing with the client and her family. The advertisement ends with the announcer proclaiming the firm has been "raising the bar in the practice of law for almost 50 years." The name of the firm and location in Hartford is given, but no particular attorney is

named in the advertisement.

The radio advertisement violates Rule 7.2(d) of the Rules of Professional Conduct because it fails to include the name of at least one Connecticut admitted lawyer responsible for the advertisement. Only the name of the law firm is given in the radio commercial. According to Rule 7.2(d,) the name of the Connecticut admitted attorney responsible for the advertisement must be given.

One of the statements contained in the commercial violates Rule 7.1. The announcer states that the law firm is “raising the bar in the practice of law for almost 50 years.”

Rule 7.1 of the Rules of Professional Conduct provides:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

The commentary to Rule 7.1 elaborates on the types of statements that are misleading. They include statements containing unsubstantiated comparisons of the lawyer’s services to other lawyers’ services. Under the commentary to Rule 7.1, this is a comparison to the services of other lawyers, i.e. other members of the bar. The use of the phrase “raising the bar” must be removed.

The two testimonials purport to be from actual clients, who provide a name and/or a town of residence. This advisory opinion is predicated on the representation that the testimonials are from actual clients of the firm. Testimonials in lawyer advertising must comply with the Rules of Professional Conduct by operation of Rule 8.4(1).

Accordingly, this reviewing committee opines that the foregoing portions of the

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advertisement do not comply with the Rules of Professional Conduct.

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