

ETHICS ADVISORY PANEL
OPINION #93-102 REQUEST #454
Issued December 8, 1993

The inquiring attorney asks whether a proposed advertisement violates the Rules of Professional Conduct. The advertisement would be run by the inquiring attorney's law firm in various newspapers. The advertisement contains statements with regard to a type of illness, its cause, symptoms and effects. The advertisement also contains a statement that refers to a prior verdict obtained by the inquiring attorney's law firm and states that it is the "largest jury award in New England history" Below that statement the advertisement states that "Each case is unique. This verdict does not guarantee that similar results will be obtained in any other case." Finally, the advertisement also states that "Rhode Island does not have a procedure for certification or recognition of specialization by lawyers."

Rule 7.1(b) addresses the issue raised by this inquiry and provides as follows:

Rule 7.1 Communications Concerning a Lawyer's Services. - 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:

(b) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law:

The Comment to that Rule explains that:

The prohibition in paragraph (b) of statements that may create "unjustified expectations" would ordinarily preclude advertisements about results obtained on behalf of a client, such as the amount of a damage award or the lawyer's record in obtaining favorable verdicts, and advertisements containing client endorsements. Such information may create the unjustified expectation that similar results can be obtained for others without reference to the specific factual and legal circumstances.

The Panel believes that any reference to a prior favorable verdict in an advertisement violates Rule 7.1(b) as being misleading notwithstanding the use of disclaimers such as the one included in the advertisement. Therefore, the Panel cannot condone the release of this advertisement.

With respect to the statements concerning the illness, its cause, symptoms and effects, the Panel cannot endorse the substance of those statements as factually true.