

DIGEST OF ETHICS ADVISORY PANEL  
OPINION #90-25, REQUEST #105  
Issued May 31, 1990

An attorney seeks Panel advice as to whether he may properly run a certain advertisement in a general circulation newspaper.

The attorney has submitted a sample copy of the advertisement for Panel review. To one side of the advertisement are some simple, semi-abstract graphics. The other side of the advertisement indicates that the attorney's office is "equipped to handle" certain types of cases. At the bottom of the advertisement the attorney's name, street address and phone number are reproduced. The short text of the advertisement suggests that the attorney's office takes an individual interest in its clients and will explore alternatives on a client's behalf. The text does not compare the attorney's services to those provided by any other attorney.

Rule 7.1, entitled "Communications Concerning a Lawyer's Services" provides:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or if it:

(a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;

(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; or

(c) compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

The Panel takes the position that the attorney's advertisement complies with Rule 7.1.

Rule 7.2, titled "Advertising," provides in pertinent part:

(a) Subject to the requirements of Rule 7.1, a lawyer may advertise services through public media, such as a newspaper . . .

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(d) Any communication made pursuant to this rule shall include the name of at least one lawyer responsible for its content.

The attorney's advertisement complies with Rule 7.2. Rule 7.4 provides:

Communications of Fields of Practice. -- A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer may not, however, indicate that his or her practice is limited to or concentrated in particular fields of law unless, as part of the same communication, the lawyer also indicates that Rhode Island does not have a procedure for certification or recognition of specialization by lawyers. A lawyer shall not state or imply that the lawyer is a specialist except as follows:

(a) a lawyer admitted to engage in patent practice before the United States patent and Trademark Office may use the designation "Patent Attorney," or a substantially similar designation; or

(b) a lawyer engaged in Admiralty practice may use the designation "Admiralty," "Proctor in Admiralty" or a substantially similar designation.

Rule 7.4 expressly permits an attorney to indicate the fact that he does or does not practice in particular fields of law. However Rule 7.4 also expressly prohibits a lawyer from implying that he or she is a specialist. Therefore, in order to clearly meet the requirements of Rule 7.4 and obtain Panel protection the attorney must include the disclaimer set forth to the effect that no procedure exists in Rhode Island for the certification or recognition of specialization by lawyers.

Ethics Advisory Panel advice is protective in nature. There is no requirement that an attorney abide by a Panel opinion, but if he or she does, he or she is fully protected from any charge of impropriety.