

STATEWIDE GRIEVANCE COMMITTEE



Advisory Opinion #09-04874-A Electronic Newsletter

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 13, 2009. The proposed advertisement is a three (3) page newsletter that will be sent by email to existing and former clients and to business organizations that process third party collections. The newsletter will be sent three (3) to twelve (12) times a year depending upon the topics of interest. The reviewing committee concluded that the proposed advertisement complies with the Rules of Professional Conduct.

The proposed advertisement provides the following information: a two page substantive discussion of Section 805 of the Fair Debt Collection Practices Act regarding cease and desist communications; a disclaimer stating that the newsletter should not be construed as a substitute for legal advice or as a fully exhaustive explanation of the law; and a third page providing the name of the attorney, the name, address, phone and fax numbers and website address of the law firm. The newsletter concludes with language explaining that the contents are intended for the addressee only and should not be reproduced or further delivered to any third party.

Pursuant to Rule 7.2(i) of the Rules of Professional Conduct, the information on the third page, consisting of the name, address and other contact information of the firm, 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 also complies with Rule 7.2 (d) by listing the name of at least one attorney admitted in Connecticut responsible for its content.

Practice Book § 2-28A mandates the filing of certain types of attorney advertising with the Statewide Grievance Committee. There are several exceptions to the mandatory filing requirements. Practice Book § 2-28A(b) lists the types of advertisements and Rule 7.2(i) of the Rules of Professional Conduct lists the types of information that are exempt from the mandatory filing requirements of Practice Book § 2-28A. Practice Book § 2-28A(b)(5)(i) provides that the filing requirements of Practice Book § 2-28A(a) do not apply to "a communication sent only to: [e]xisting or former clients." Practice Book § 2-28A(b)(5)(ii) provides that the filing requirements of Practice Book § 2-28A(a) do not apply to "a communication sent only to: ... business organizations." Therefore, if the newsletter is sent exclusively to current or former clients and to business organizations, this advertisement does not need to be filed with the Statewide Grievance Committee.

Rule 7.3 of the Rules of Professional Conduct regulates communications with prospective clients and provides the parameters of that contact. Since the individuals who will be emailed the proposed advertisement are current or former clients, the only prospective clients who will receive the communication are business organizations selected because they engage in collections work. Rule 7.3 distinguishes between personal contact and written contact with prospective clients and allows for more direct contact with business organizations than with individuals. (See Rule 7.3(a)(4))

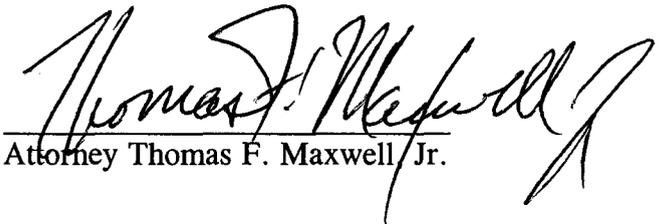
The requesting attorney indicates that business organizations that will be emailed the

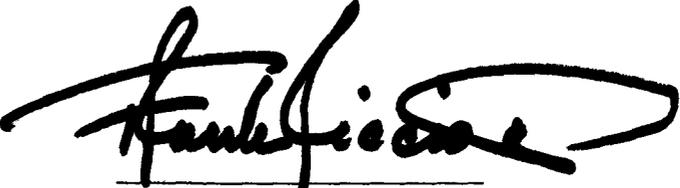
newsletter process third party collections and have not been clients of the firm. This opinion assumes the law firm does not know of any need for legal services in a particular matter that the businesses have, aside from the fact that they are engage in collection work. The requesting attorney indicated that the firm has no particular knowledge of the legal needs of the business organizations, aside from the fact that they engage in third party collections. Therefore the provisions of Rule 7.3 (c), requiring "Advertising Material" in red ink, in both the subject line and the body of email communications, sent to prospective clients known to be in need of legal services in a particular matter, do not apply to the proposed advertisement.

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

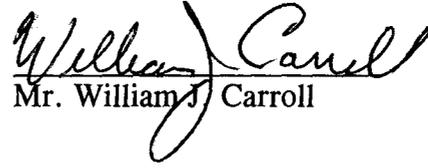
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ISSUE DATE: September 3, 2009


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