

## STATEWIDE GRIEVANCE COMMITTEE



### **Advisory Opinion #23-06082-A Television Commercial # 4 Firm Advertising Communication and Name Display**

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 30, 2023. The proposed advertisement consists of a one hundred forty-four (144) second video to be streamed on the following platforms: YouTube TV, YouTube, Hulu Live, and Facebook. This reviewing committee concludes two portions of the advertisement do not comply with the Rules of Professional Conduct.

The proposed video to be streamed explains the firm's origin beginning in 1988 and advertises the types of cases/clients the firm represents along with the firm philosophy regarding client engagement and advocacy. A complete script of the proposed content accompanied the video for review and provides a verbatim transcript of the words spoken throughout the video.

The video begins with one of the requesting firm attorneys discussing the firm's inception and the types of matters/clients the firm attorneys represent. The video continues explaining the collaborative nature of the attorneys in the firm and the deference with which all cases/clients in the firm are afforded, whether a "small case or big case". The video then provides a client statement evidencing the collaborative approach practiced by the attorneys in the firm as well as a recommendation for the firm. The video ends reiterating the mission of the firm, namely, the client. Distinct in this video, is the addition of more featured attorneys. There are three attorneys speaking

during this video as opposed to one attorney. The name of each attorney speaking is prominently featured on the screen in white lettering. The first attorney's name is featured for ten (10) seconds, the second attorney's name is featured for five (5) seconds and the third attorney's name is featured for four (4) seconds.

Throughout the attorneys' monologues, the video pans on different views of buildings in New Haven, one attorney's degree, the firm attorneys speaking and working collaboratively, the client discussing the firm and the firm attorneys walking throughout New Haven. The video also contains "live" photos of the attorneys in front of New Haven landmarks. The video finishes with the display of the firm name accompanied with the firm logo. This display remains on the screen for four (4) seconds.

**Communication Concerning Services:**

During the first attorney's monologue, the video clearly displays a 2019 award with the title "The Best Lawyers in America" revealed full screen.

Rule 7.1 of the Rules of Professional Conduct provides:

A lawyer shall not make a false or misleading communication about the lawyer or lawyer's services. A communication is false or misleading if it contains a material representation 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 of the Rules of Professional Conduct states in part:

...an unsubstantiated comparison of the lawyer's services or fees with those of other lawyer's or law firms may be misleading if presented with such specificity as would lead a reasonable person to conclude that a comparison or claim can be substantiated.

The clear showing of the certificate containing language “The Best Lawyers in America” with no qualifying disclaimer, is misleading. The commentary in 7.1 of the Rules of Professional Conduct provides compliance with Rule 7.1 may be obtained with “(t)he inclusion of an appropriate disclaimer or qualifying language” to alleviate the unjustified expectations of the public.

Assuming the client testimonial contained within the video advertisement is delivered by an actual firm client as opposed to an actor portraying the same, the testimonial is in compliance with Rule 7.1 of the Rules of Professional Conduct.

**Display Name:**

Rule 7.2 (e) of the Rules of Professional Conduct 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.


The advertisement as submitted displays the speaking attorneys’ names for ten (10) seconds, five (5) seconds and three (3) seconds and then at the end of the video, the firm name and logo for four (4) seconds. Assuming one of the displayed attorney’s name is the attorney responsible for the advertisement, to fully comply with Rule 7.2(e) of the Rules of Professional Conduct the firm must display the name, address and telephone number of the lawyer admitted in Connecticut who is responsible for the advertisement in bold print for at least fifteen seconds as the times noted above do not comply with Rule 7.2(e) of the Rules of Professional Conduct.

Pursuant to Practice Book §2-28B(a) a suggested script was submitted with the advisory

opinion request. The script is in keeping with the attorney speaking in the video and as such all suggested changes as previously stated herein apply not only to the video submitted but also to the script.

Accordingly, this reviewing committee opines that the foregoing portions of the advertisement video as previously discussed herein is not compliant with the Rules of Professional Conduct.

ISSUE DATE: 9.28.23



---

Attorney Barry Butler



---

Attorney Kevin Black



Ms. Betsy Browne