

## **ETHICS ADVISORY OPINION**

**12-09**

UPON THE REQUEST OF A MEMBER OF THE SOUTH CAROLINA BAR, THE ETHICS ADVISORY COMMITTEE HAS RENDERED THIS OPINION ON THE ETHICAL PROPRIETY OF THE INQUIRER'S CONTEMPLATED CONDUCT. THIS COMMITTEE HAS NO DISCIPLINARY AUTHORITY. LAWYER DISCIPLINE IS ADMINISTERED SOLELY BY THE SOUTH CAROLINA SUPREME COURT THROUGH ITS COMMISSION ON LAWYER CONDUCT.

### **Factual Background:**

A lawyer who lives in North Carolina is the only South Carolina licensed lawyer in a North Carolina law firm. The firm wants to advertise using billboards in South Carolina. The firm proposes to include the likenesses of all of the firm members on the billboard and identify the South Carolina licensed lawyer.

### **Questions Presented:**

1. Must all advertisements, including billboards, in South Carolina contain the name of a licensed South Carolina attorney?
2. May the likeness of other attorneys in the firm, who may or may not be licensed in South Carolina, appear in South Carolina advertisements?

### **Summary:**

An out of state law firm may advertise on billboards in South Carolina and include pictures of firm members not licensed in South Carolina, provided the billboard meets all South Carolina advertising regulations.

**Opinion:**

When an attorney or law firm advertises for legal services in South Carolina, there are required disclaimers and disclosures intended to avoid misleading the public about the nature of services rendered and those who will be providing the services. Rule 7.2(d) states “Any communication made pursuant to this Rule shall include the name and office address of at least one lawyer responsible for its content.” There is no requirement as to a particular font size, color, or placement of the required information, nor is there any requirement that the responsible lawyer be licensed in South Carolina.

The inquirer’s scenario is distinguishable from the one addressed in EA Op. 04-09. In 2004, a South Carolina lawyer in a multi-state firm wanted to display in his South Carolina office the business cards of the firm’s non-South Carolina lawyers. The business cards proposed for display only listed the address of the South Carolina branch of the firm. The Committee determined that since there was no disclaimer that those lawyers are not admitted to practice in South Carolina, the display of the business cards with only South Carolina contact information was misleading. The difference between the business cards and the billboards at issue in this situation is that the cards set forth misleading information by listing the South Carolina address only, thereby omitting the actual address in North Carolina where the listed persons worked. As long as the proposed billboard advertisement is for the firm generally, which by virtue of its employment of a South Carolina licensed lawyer can provide legal services in South Carolina, and does not advertise for the persons directly pictured or otherwise mislead the public into the perception that those pictured are the ones who will actually perform services in South Carolina, the billboard is acceptable as proposed. See also Rule 7.2(h).

The Committee cautions that Rules 7.1 through 7.5 apply, including Rule 7.2(a) which states that “all advertisements shall be predominantly informational such that, in both quantity and quality, the communication of factual information rationally related to the need for and selection of a lawyer predominates and the communication includes only a minimal amount of content designed to attract attention to and create interest in the communication.”