Withdrawn/April 3, 2018
Committee Opinion
February 1, 1988

LEGAL ETHICS OPINION 1029 LEGAL CORPORATION – ADVERTISEMENT.

Your inquiry seeks guidance concerning the application of the Virginia Code of Professional Responsibility to a proposed advertisement relating to a proposed legal corporation ("The Litigation Group") which would serve as a private lawyer referral service.

Disciplinary Rule 2-103(D) requires that any communication of a qualified legal referral service be in accordance with the standards of DR:2-101 or DR:2-103, as appropriate. DR:2-101 applies to all communication other than "in-person" communication, and prohibits such communication if it "contains a false, fraudulent, misleading, or deceptive statement or claim."

Also relevant to your inquiry are DR:2-104(A), which provides that lawyers shall not hold themselves out publicly as, or imply that they are, a recognized or certified specialist, except for the limited areas set forth in DR:2-104; LE Op. 926, which provides that it is improper for a lawyer referral service's advertising or corporate name to indicate a specialty; and LE Op. 427, which provides that it is not improper for an attorney to state in a professional advertisement that his "practice includes" and to list specific areas and fields of the practice of law. The Committee also directs you to LE Op. 971.

The advertisement mentions that the group handles "auto accidents, medical malpractice and product liability, cases." This, however, seems to be more in the nature of listing areas of practice, which is permissible under LE Op. 427, rather than an indication of specialization.

The name "The Litigation Group," however, appears to imply a law firm rather than a lawyer referral service. The Committee finds this misleading and suggests that a disclaimer be placed at the end of the advertisement indicating that "the group" is not a law firm.

The Committee also believes that the statement "no recovery-no fee" is misleading in light of the fact that the attorneys involved will probably still hold a client liable for *costs* even if there is no recovery. (See *Zauderer v. Office of Disciplinary Counsel of Ohio*, 471 U.S. 625, 105 S. Ct. 2265 (1985), in which the Supreme Court upheld a holding of the Ohio Supreme Court which found that a "no recovery-no fee" claim in a print advertisement was misleading.) The Committee suggests that the statement either be deleted from the advertisement or that a suitable disclaimer be added.

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