

**STANDING COMMITTEE ON LAWYER ADVERTISING  
AND SOLICITATION**

*Daniel L. Rosenthal, chair*

The Standing Committee on Lawyer Advertising and Solicitation (SCOLAS) monitors lawyer advertising and solicitation in Virginia, responds to inquiries regarding the propriety of certain lawyer advertising and issues advisory opinions when, in the judgment of the committee, it is helpful to do so. The SCOLAS meets every other month at the offices of the Virginia State Bar in Richmond.

The committee and assistant bar counsel review in detail selected broadcast media and Yellow Pages ads and other printed advertising material to determine compliance with the applicable *Rules of Professional Conduct*. If the committee finds that an ad is in violation of a rule, a letter is written to the responsible lawyer pointing out the problem and requesting that the advertisement be modified accordingly. In the fiscal year ending 2005, sixty-seven such letters were sent to lawyers who in all cases voluntarily complied with the committee's request. None of the matters were referred to discipline.

The SCOLAS is proposing an amendment to Rule 7.4(d) that concerns a lawyer's ability to advertise certain certifications or accreditations. This amendment was approved by the Virginia State Bar Council at its meeting on June 16, 2005, and was submitted to the Supreme Court of Virginia for consideration. The amendment incorporates the American Bar Association's position in the current Model Rules—that if an attorney has been certified by an ABA-accredited organization, the attorney can advertise that he or she is so certified without any disclaimer. The amendment adds further distinction to the current rule that requires a disclaimer for all certifications that are not recognized by the Supreme Court of Virginia. The amendment comes as a committee response to requests from many of the practicing members who carry these ABA specialty certifications. In making this recommendation, the committee has confirmed that the ABA has a stringent accreditation process to ensure that certified lawyers have been evaluated, have demonstrated substantial involvement in the subject area, received adequate peer review, passed a written examination and are currently in good standing with their state bar.

The Court approved the committee's proposed amendments to Rule 7.2(e) and Comment [1] of Rule 7.5, which became effective June 30, 2005. The amendment to Rule 7.2(e) allows attorneys who advertise to file a written statement with the Virginia State Bar identifying the lawyer responsible for all firm advertising, rather than having to include that identifying information in every advertisement. This revision came from suggestions of the practicing bar whose firms engage frequently in advertising. The Court also approved the amendment to Comment [1] of Rule 7.5, which comes as a result of the ethics counsel realizing that language in the disciplinary rules, specifically EC 2-13, was not included in the new rules when they were adopted in 2000. The language clarifies that a law firm could continue to use the name of a retired or deceased member in the firm's name, if the lawyer was a member of that firm, if doing so is authorized by law or by contract and if the public is not misled.

One opinion, Legal Advertising Opinion A-0114, was carried over from the fiscal year 2003 and is currently pending approval, modification or rejection with the Supreme Court. The opinion states that "it is not unethical for a lawyer to advertise the fact that he or she is listed in a publication entitled *Greatest Lawyers in the Country*." The opinion additionally cautions that "any advertisement which makes statements or claims beyond the fact that the lawyer is listed in such a publication must comply with Rule 7.1." In addition, the Allen, Allen, Allen & Allen law firm of Richmond filed an alternative opinion, with response from the Virginia State Bar to be considered by the Court.

I wish to thank the members of the committee—Alison P. Landry, vice-chair; Alan S. Anderson; Kevin O. Barnard; Gina M. Burgin; Jeffrey H. Krasnow; William Miller, lay member; William L. Schmidt; David R. Selig, lay member; George L. Townsend; and C. James Williams III—for their dedication and contributions to the work of the committee during the past year.

