



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 about the propriety of certain lawyer advertising, and issues advisory opinions. 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-page and other printed advertising material to determine compliance with the Rules of Professional Conduct. If the committee finds 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. This fiscal year, fifty such letters were sent to lawyers who, in all cases, voluntarily complied with the committee's request. None of the matters were referred for disciplinary action.

On July 14, 2005, the SCLOAS submitted to the Supreme Court of Virginia a proposed amendment to Rule 7.4(d) concerning a lawyer's ability to advertise practice certifications and accreditations. The Court rejected the proposed amendment on February 28, 2006. The amendment would have incorporated the American Bar Association's position in its current Model Rules that if an attorney has been certified by an ABA-accredited organization, the attorney may advertise the certification without any disclaimer. Because the Court rejected this amendment, attorneys need to continue to use a disclaimer for *all* certifications not recognized by the Supreme Court of Virginia.

Legal Advertising Opinion A-0114 was carried over from FY 2003. The Supreme Court approved LAO A-0114 on August 26, 2005. In the LAO, the committee opines that an attorney may advertise the fact he or she is listed in a publication such as *The Best Lawyers in America*, or a similar publication, and include additional limited statements, claims or characterizations based upon the lawyer's inclusion in the publication, provided such statements, claims or characterizations do not violate Rule 7.1. Also, attorneys recognized and listed in *The Best Lawyers in America* may properly note that they are among those lawyers "whom other lawyers have called the best." The opinion cautions, however, that lawyers should be mindful to exercise discretion when communicating this information, and that the communication should be objective and not misleading. For example, although an attorney may properly characterize inclusion in the book *The Best Lawyers in America*, the attorney cannot characterize that inclusion into statements such as, "Since I am included in the book, that means I am the best lawyer in America." Nor can the attorney impute any such endorsement to others in the law firm not so recognized or to the firm itself.

The work of the SCOLAS could not be done without our volunteer members. I thank them for the inspiration, time and energy they bring to our work. They are Cochair Alison P. Landry, Alan S. Anderson, Gina M. Burgin, Jeffrey H. Krasnow, Susan R. Salen, William Miller, William L. Schmidt, Roscoe B. Stephenson III, David R. Selig,

George L. Townsend and C. James Williams III. James M. McCauley, Leslie A.T. Haley and Michelle L. Townsend of the VSB staff work hard to guide us in our work, and their talents are appreciated as well.

