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BOARD CERTIFIED IN
WORKER'S COMPENSATION
MEMBER OF FLORIDA, NEW YORK
AND CALIFORNIA BARS

February 22, 1996

Sid J. White, Clerk
The Supreme Court of Florida
Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399-1927

87,589

RE: Comments on Bar Rule amendments filed 3/15/96

Dear Mr. White:

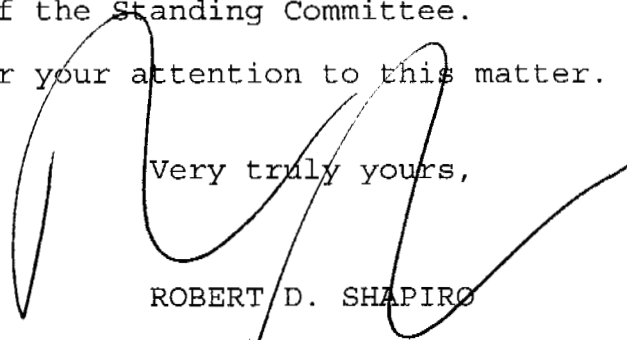
Pursuant to Rule 1-12.1, Rules Regulating the Florida Bar, I wish to comment upon the proposed amendment to Rule 4-7.2, which governs Advertising by the legal profession.

w/ not attend
o.a.

Specifically, the proposed Rule 4-7.2, as amended, fails to address advertising by lawyers via computer-based technology, such as the Internet, bulletin board services and other on-line services. According to an "Ethics Update" article appearing in the Florida Bar News this past December or January, the Standing Committee on Advertising of the Florida Bar analyzed this issue and concluded that this type of advertising is to be considered a form of legal advertising. However, according to the article, such electronic ads need not include the usual "hiring disclosure" language set forth in Rule 4-7.2(d), but, like other ads, must be filed for review with the Committee. I am attaching a copy of the article for your review, and by copy of this letter, I am urging the Florida Bar to amend this proposed rule to adopt the recommendations of the Standing Committee.

Thank you for your attention to this matter.

Very truly yours,



ROBERT D. SHAPIRO

RDS/lb

cc. Exec.Dir., The Florida Bar

encl. article from F.B. news

Ethics Update

Prepared by The Florida Bar Ethics Department

Information that a lawyer makes available to the public about the lawyer or the lawyer's services via the Internet, or similar computer-based technology, is considered a form of lawyer advertising.

The Florida Bar Standing Committee on Advertising reached this conclusion after analyzing the issue over the course of several meetings. Specifically, the committee's opinion is that such "computer ads," including law firm web sites or home pages, are subject to the Rules of Professional Conduct governing advertisements disseminated in the electronic media.

The committee's decision, however, is not limited to just web sites or home pages. Any advertising or promotional material that can be accessed, or which is transmitted, via computer falls within these rules.

In taking this position, the committee is looking toward the not-so-distant future when, for example, e-mail will become more widespread and lawyers may begin using e-mail to send information to, or solicit business from, prospective clients.

What rules apply to web sites and other computer ads? Some of the relevant rules are highlighted below:

- Ads may not be *false or misleading*, may not create *unjustified expectations* about results the lawyer can achieve, and may not contain *testimonials*.
- Ads may not contain *dramatizations*.
- Ads may not contain *self-laudatory illustrations* or statements that are merely self-laudatory.
- Ads may not *compare the lawyer's services* with the services of other lawyers, *unless the comparison can be factually substantiated*.
- Ads *must include the name of at least one lawyer* responsible for the ad.
- Ad *must disclose the geographic location*, by city or town, of the office in which the advertising lawyer *principally practices law*.
- In the case of ads using audio, the information in the ad must be articulated by a *single voice*, with *no background sound* other than instrumental music. The voice may be that of a full-time employee of the firm but *shall not be that of a celebrity* whose voice is recognizable.
- Importantly, an electronic-media ad **NEED NOT INCLUDE** the "hiring disclosure" language set forth in Rule 4-7.2(d) (i.e., "the hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide to ask us to send you free written information about our qualifications and experience.").
- Electronic-media ads, including computer ads, *must be filed for review* with the Standing Committee on Advertising as provided in Rule 4-7.5. A computer ad is exempt from this filing requirement *only if* it contains no illustrations and nothing more than the limited, basic information specified in Rule 4-7.2(n) (e.g., name, address, telephone number, areas of practice, fee schedule, etc.)

Exactly what must be filed for review? The advertising lawyer must include (1) a hard copy print-out of the ad, (2) a statement of when and where the ad will appear, and (3) a filing fee of \$50 per ad. A lawyer who files an ad will receive an advisory opinion from the committee concerning the ad's compliance with the advertising rules.

The committee's decision is an initial step in the area of lawyer advertising through the use of computers. Recognizing that there are many facets involved, the committee has formally recommended to the Joint Presidential Advertising Task Force appointed by Bar President John DeVault and President-Elect John Frost, and chaired by former Bar President Ben Hill, that this issue be comprehensively considered by a group including representatives familiar with areas such as advertising, professional ethics, unlicensed practice of law and computer technology.