

Samuel W. Dearman

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IN THE SUPREME COURT IN AND FOR THE STATE OF FLORIDA

CASE NUMBER: 74,987

RESPONSE TO  
PETITION TO AMEND  
THE RULES REGULATING THE  
FLORIDA BAR - ADVERTISING ISSUES

FILED

NOV 10 1959

CLERK OF THE SUPREME COURT

By [Signature]  
Deputy Clerk

In the conclusion of the Florida Bar's Petition to Amend the Rules Concerning Advertising, the Bar states that the proposed amendments are to ensure that consumers receive truthful and reliable information concerning legal needs and legal services and to prevent advertising abuses which have occurred in the past. The proposed amendments are clearly oriented to eliminating those abuses that apparently the Special Commission on Advertising found. Specifically the amendments prevent advertisements that are not truthful, and advertisements that are misleading, and eliminate trade names for law firms that are supposedly deceptive. Apparently Commission on Advertising also believe that all endorsements and testimonials are abusive and even the use of a celebrity voice is an abuse. Although these amendments seem to go much too far in the elimination of what the Bar considers to be a very difficult problem, still these recommendations are all designed to eliminate certain advertising practices that in the Bar's judgment result in misinformation and unjustified expectations.

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However, the new Rule 4 - 7.2D requirement that there be a disclosure in all advertisements in electronic media stating that the hiring of a lawyer is an important decision that should not be based solely on advertisements is clearly not the Bar trying to eliminate an abuse but rather apparently an attempt by the Bar to eliminate the effectiveness of advertising and thereby indirectly eliminating advertising since it can not directly do so. I can state unequivocally on behalf of the people of this State that there is not a person living in Florida who believes that he has to hire a particular lawyer just because he saw that person's ad. Additionally every citizen in this State knows that the hiring of an attorney is an important decision.

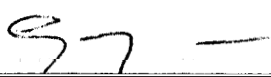
The Petition explains that the purpose of this Rule is to encourage the informed selection of a lawyer and the Rule in fact requires advertisements to further read that before a decision is made regarding hiring a lawyer, the consumer should review the information regarding qualifications and experience that would be sent by the lawyer. The informed selection of a lawyer is a excellent goal but the Bar should spend its money encouraging that rather than making the advertising attorney promote that in his personal ad. In actuality very few consumers wade through summaries of qualifications and experiences before choosing an attorney just like very few consumers wade through qualifications and experiences of different doctors before selecting a doctor. Consumers choose attorneys based on numerous reasons including reputation, referral by friend of relative, or past experiences with that attorney. If someone chooses to hire an attorney based

on the advertisement that he sees, that is his right to due **so** and again he knows full well that he is not required to do **so**.

The Florida Bar would have the attorney who is paying for the ad produce an ad which he thinks is appealing to consumers and will cause consumers to contact him and then put at the end of the ad this disclosure which is clearly contrary **to** the whole purpose **of** the advertisement. Advertisements for hospitals and doctors and accountants and other professionals are designed to encourage consumers to use their services and certainly do not at the end of the ad suggest to the consumer that, contrary to the ad, the consumer should not hire that person based solely on the ad. The consumer knows that he is free to hire whomever he wants and the consumer is certainly going to think **it** odd that an ad that **is** oriented to eliciting that person's business has a disclaimer at the end **of it** contrary to the whole purpose of the ad.

This Rule **is** not the eliminating of an advertising abuse and again is an indirect attempt **to** minimize the affect of the advertisement **so** as to eliminate advertising. I respectfully submit that this Honorable Court not adopt this Rule.

Respectfully submitted,

  
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