

Terry A. Tolbert
William T. Beadle
Bryan N. Musgrave



3010 East Battlefield
Springfield, Missouri 65804
(417) 887-3010
(417) 887-3070 fax

firm@tbmlaw.com
www.tbmlaw.com

August 15, 2008

The Missouri Bar
Attn: Special Committee on Lawyer Advertising
326 Monroe St.
Jefferson City, MO 65102

Dear Committee Member:

Thank you for the opportunity to address the proposed changes to the Rules of Professional Conduct with regards to lawyer advertising. My firm markets our practice on television and this rule greatly impacts, if not altogether precludes, our ability to continue with that marketing.

That being said, we will continue to market our firm on television regardless of what restrictions are placed on said marketing. If the rule changes require an oral disclaimer, then my firm will buy *more* advertising time in which to market our practice given the fact that we will have to use a portion of the commercial to provide the oral disclaimer. Additionally, an oral disclaimer, in my opinion, effectively tells the public that all lawyers can not be trusted thereby negating the exact purpose the rule changes are purportedly designed to promote. I respectfully request the oral disclaimer requirement be withdrawn.

Secondly, the requirement prohibiting the use of an endorsement by a celebrity does not pass the requirements set forth in the *Central Hudson* case. My firm uses what could loosely be defined as a "celebrity" endorsement and I gather that this rule change is directed towards our marketing. Make no mistake, I will spend every last penny I have and every available minute of spare time to challenge this rule if it is approved. I respectfully request this rule change be withdrawn.

I would be glad to discuss this issue with any of you in person if you would be interested. I may be reached at (417) 887-3010. Thank you again for the opportunity to address the Committee.

Sincerely,



William T. Beadle

Terry A. Tolbert
William T. Beadle
Bryan N. Musgrave



3010 East Battlefield
Springfield, Missouri 65804
(417) 887-3010
(417) 887-3070 fax

19 August 2008

firm@tbmlaw.com
www.tbmlaw.com

Special Committee on Lawyer Advertising
Missouri Bar Association
PO Box 119
Jefferson City, MO 65102

Re: Comment on proposed amendments to the Rules concerning lawyer advertising

Dear Committee Members:

I would urge this committee to consult the ABA's Commission on Responsibility in Client Development. The ABA has done a number of studies on lawyer advertising. Prior to forwarding these proposed rule changes to the Board of Governors or moving further toward approval, I urge the Committee members to consult *Lawyer Advertising at the Crossroads: Professional Policy Considerations*, published by the ABA's Commission based on its study of lawyer advertising and public perception. In short, the ABA Commission found that public perception of lawyers is gleaned from movies, TV shows, and actual experiences with actual lawyers, not from lawyer advertisements.

The proposed rules changes are being lead by and championed by the competitors of those lawyers who advertise. The limitations being placed are designed to thwart competition to the advantage of the committee members and other non-advertising lawyers. They are certainly not designed to foster better public perception of the legal profession nor are they designed to prohibit false or misleading advertising. Rule changes related to the style and content of media and celebrity spokespersons do not target deception. Such ad techniques may be useful to consumers in identifying suitable services. For example, a dramatization may be an effective way of reaching potential clients who do not know how legal terminology corresponds to their experiences and problems. These are unlikely to deceive an unsuspecting client, and any concerns regarding actors can be addressed through a less restrictive requirement of a disclosure.

My law firm advertises on T.V. and in some yellow pages. We know our ads are not only ethical and honest, but also becoming of our profession and contain useful information to potential clients and consumers of legal services, whether they hire our firm or not. However, some of our advertisements would not comply with the proposed new rules, if they were passed in the current form. I take great issue with what is clearly an attempt to regulate competition in the legal profession, based solely upon the subjective standards being proposed by this committee. Moreover, the intent of these rules are focused on eliminating lawyer advertising, not regulating it.

Special Committee on Lawyer Advertising
Missouri Bar Association
Re: Comment on proposed rule changes
19 August 2008
Page -2-

For those Committee members who do not regularly handle large numbers of telephone calls from potential plaintiffs, they may be surprised at how many of our fellow Missourians do not know their most basic rights: that there is such a thing as a contingent-fee contract, that they have the right to legal representation, that signing a release means "the case is over", and even that they are entitled to be compensated if injured due to someone else's negligence. The rights that we take for granted as being so basic, some of our most vulnerable citizens are oblivious to.

Any lawyer practicing regularly in civil litigation and workers' compensation knows that there is an undeniable trend in the insurance industry to delay claims longer and pay claims lower. This trend has left more and more claimants in need of legal representation. Not just on the larger claims, but the smaller ones too. Without the mass dissemination of information concerning legal services, more potential litigants would not seek legal representation and would, instead, remain at the mercy of the insurance industry. The old "referral networks" can no longer make the connection and give access to justice for everyone in the public.

As lawyers, we inform and advise clients about their rights and options. Since the majority of this firm's clients come to us through our advertising efforts, we know that advertising prompts clients to pick up the phone and contact lawyers. Of course, we are not referring to the bankers, doctors, business executives or others who may already have or know of an attorney. And we are not referring to people who may have a friend or an uncle who is lawyer. We are talking about the defenseless and oppressed, the disenfranchised, the people that our Oath refers to, the Oath signed and hanging on every Missouri lawyer's office wall. Our firm works with the big plaintiff firms all the time, the big firms that do not advertise, but instead find clients through referrals and word of mouth. We respect and admire these lawyers as our friends and colleagues, but we all know that these law firms take only a select, few cases. There are more citizens out there that need good legal representation.

And let us not be blind to the fact that these rule changes are targeted at plaintiff's lawyers. The lawyers who represent the injured, the unemployed, the disabled, and the poor. The lawyers that provide valuable financing to clients who could not otherwise afford representation. Not cash financing, but the loans that are made every day when a contingent-fee client benefits from our para-legals and secretaries, benefits from attorney services, and benefits from the disbursement of client costs for experts and other items of expense.

Of course the Bar has the right and duty to pass reasonable rules, but these new proposed rules are a stark violation of the First Amendment freedoms which we, as lawyers, have sworn to protect. I shudder at the thought of a system where a select few individuals could so drastically limit speech and

Special Committee on Lawyer Advertising
Missouri Bar Association
Re: Comment on proposed rule changes
19 August 2008
Page -3-

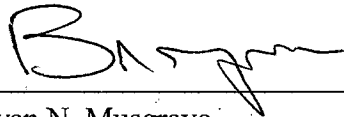
ad content according to what they alone feel is appropriate. If we want to enrich the image of lawyers then, as lawyers, we need to focus on treating our clients and each other with respect and to live our lives with integrity. We are proud to serve the public as a lawyer in the state of Missouri. The oath that we took when we entered this profession serves as our guide every day. The proposed amendments will serve to limit the choices of clients and prevent a competitive marketplace among law firms. They are in violation of our oath to uphold the law and protect the oppressed.

Therefore, I respectfully request that you withdraw these proposed amendments and recommend that the Bar continue to adopt the ABA's model rules on lawyer advertising.

With kindest personal regards.

Sincerely yours,

TOLBERT BEADLE & MUSGRAVE, LLC



Bryan N. Musgrave

BNM/

Terry A. Tolbert
William T. Beadle
Bryan N. Musgrave



3010 East Battlefield
Springfield, Missouri 65804
(417) 887-3010
(417) 887-3070 fax

firm@tbmlaw.com
www.tbmlaw.com

August 28, 2008

Special Committee on Lawyer Advertising
Missouri Bar Association
P.O. Box 119
Jefferson City, MO 65102

Re: Comment on proposed amendments to the rules concerning lawyer advertising

Dear Committee Members:

I appreciate the opportunity to comment on the proposed rule changes before your committee. My firm markets its practice on television and yellow pages. I believe the rules were recently changed only two (2) years ago, and fail to see any drastic degradation of lawyer advertising in that short time period that necessitates these proposed changes. If there is any study or public complaints I would request the committee publish them.


The oral disclaimer is onerous, unnecessary and will only require that firms using television advertising to purchase more air time. Lawyer ads will begin to resemble the drug company ads with disclaimers that studies have shown are ignored by the public.

The requirement to provide copies of every direct mail and commercial to the Bar does not appear to serve any realistic purpose, other than the requirement to hire additional Bar staff to organize this voluminous information. As I am sure the committee members are aware more and more firms are using these forms of advertising which will only increase in the future.

As these rules only apply to specific lawyers' practice area, I believe this will provide the final blow the mandatory Bar system. Due the Bar's recent political activities that have brought out complaints from certain members for the elimination of the mandatory Bar, the ensuing lawsuits that will most certainly will result from the implementation of these rules will certainly end the mandatory Bar system in Missouri. I am also licensed in Arkansas which has a voluntary bar that is weak and ineffective in any activity other than organizing CLEs.

I respectfully request that these proposed rules be withdrawn.

Sincerely,



Terry A. Tolbert