

Supreme Court revises lawyer advertising rules

May 27, 2004

The Mississippi Supreme Court on Thursday revised rules regarding lawyer advertising.

Revision areas include:

- a definition of what constitutes false or misleading advertising;
- disclosure of a law practice's geographic location;
- kinds of advertising covered by the rules;
- mandatory submission of advertising to the Mississippi Bar, with optional review.

The court a year ago, on May 29, 2003, issued orders revising lawyer advertising rules. The court on Aug. 8, 2003, at the request of the Mississippi Bar, suspended the effective date of revisions pending further study.

Revisions adopted today by orders of the Supreme Court are effective Oct. 1, 2004.

Revisions limit statements about results obtained on behalf of a client. Rules 7.1 (b) and (c) of the Mississippi Rules of Professional Conduct say that an advertisement is in violation of the rules if it "creates an unjustified, false or misleading expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate these rules or other law;" or if the advertisement "states or implies that the lawyer is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official."

In a commentary, the court said that the rule "precludes advertisements about results obtained on behalf of a client, such as the amount of damage verdicts or settlements, that create an unjustified expectation of similar results without reference to the specific factual and legal circumstances."

The new Rule 7.2 (c) requires that all advertisements disclose the city and state in which the lawyers are located or include a reference to further information being available from the Mississippi Bar. Rule 7.2 (d) requires that advertisements and written communications include the name of at least one lawyer or the lawyer referral service responsible for their content.

Telephone and computer-accessed communications were added to those covered by advertising rules.

Some advertisements will be required to be filed with the Office of General Counsel of the Mississippi Bar. Thirteen categories of communications are exempt from the filing requirement. Rule 7.5 (b) of the Mississippi Rules of Professional Conduct lists exemptions.

Advertising lawyers have the option to seek an advisory opinion from the Office of General Counsel of the Mississippi Bar as to whether an advertisement is in compliance with court rules. A \$50 fee is required for submission of an advertisement for an advisory opinion.

The court revised jurisdiction of the Mississippi Rules of Professional Conduct. Rule 8.5 says, "A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if

the lawyer advertises, provides or offers to provide any legal services to be performed in this jurisdiction."

A revision to Rule 8 of the Rules of Discipline of the Mississippi Bar gives a bar Complaint Tribunal power to enjoin violations of the Mississippi Rules of Professional Conduct.

A copy of the rule changes is available on the Supreme Court's web site, www.mssc.state.ms.us. Look under the 5-27-2004 Hand Down list or under Rules.

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Media Contact: Beverly Pettigrew Kraft, Administrative Office of Courts, 601-354-7452