

## STATEWIDE GRIEVANCE COMMITTEE



### **Advisory Opinion #15-04768-A Firm Motto and Logo**

Pursuant to Practice Book §2-28B, the undersigned, duly-appointed reviewing committee of the Statewide Grievance Committee, reviewed a request for an advisory opinion filed on July 2, 2015. The proposed advertisement is a logo with the firm's name along with a phrase or motto that the law firm intends to use in various types of advertising material. The reviewing committee concluded that the proposed advertisement does not comply with the Rules of Professional Conduct.

The logo depicts a multi-point star enclosed in a circle. Underneath is the first listed partner name of the law firm followed by word "law." The proposed phrase is "we listen. we care. we win." Since this phrase will be used in various forms of undetermined future advertising material, the proposed phrase on its own does not contain the name of an attorney admitted in Connecticut responsible for its content as required by Rule 7.2(d) of the Rules of Professional Conduct. This opinion assumes that the proposed phrase, when placed in the context of actual advertising material, will comply with that requirement when disseminated.

Attorney advertising is subject to the requirements of Rule 7.1 of the Rules of Professional Conduct. Rule 7.1 provides:

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

misleading. These include the recitation of past results obtained by an attorney for previous clients that may result in "unjustified expectations" of success in potential clients. Also, statements about a lawyer's services that "lead a reasonable person to formulate specific conclusions" about those services must contain a "reasonable factual foundation." (See Rule 7.1 of the Rules of Professional Conduct, commentary).

In Advisory Opinion #07-01009-A, "Television Advertisement Critical of Insurance Companies," a reviewing committee of the Statewide Grievance Committee was requested to provide an advisory opinion on the telephone number "1 800 Win Win." (See opinion available at [http://www.jud.ct.gov/sgc/Adv\\_opinions/default.htm](http://www.jud.ct.gov/sgc/Adv_opinions/default.htm).) By using the phrase "we win" the law firm alludes to the services it provides. The question for this reviewing committee is whether the statement is ambiguous or whether it implicates the issues explored in the commentary to Rule 7.1.

Questions of language and meaning are often difficult and interpretation may change with context. The phrase, read on its own, simply states "we" meaning the law firm "win." The statement does not in itself reference past successes but does appear to state the quality of services to be delivered, namely that the firm will "win."

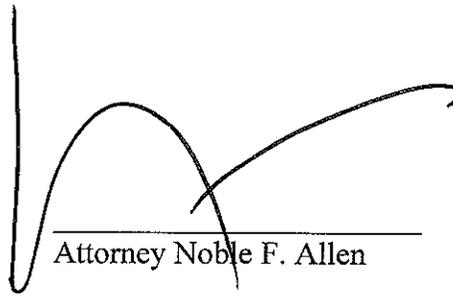
The proposed advertisement violates Rule 7.1 of the Rules of Professional Conduct because the reference to the firm winning is likely to create an unjustified expectation as to success. Rule 7.1 prohibits communications that are false or misleading. It is misleading for a lawyer to make claims in an advertisement that cannot be substantiated. *Id.* In some instances, an appropriate disclaimer given equal weight could correct a statement that is likely to create unjustified expectations or otherwise mislead a consumer. *Id.*

By stating, “we win” the firm is creating unjustified expectations for prospective clients. The firm is suggesting that it wins every case and that it will win a prospective client’s case regardless of the merits. The statement is misleading. The firm could correct this misleading statement by including a disclaimer, explaining that results are based on the merits of the case and that success in the past does not guarantee success in the future.

Accordingly, this reviewing committee opines that the advertisement does not comply with the Rules of Professional Conduct.

(E)

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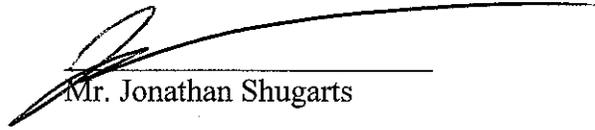
Attorney Noble F. Allen

A handwritten signature in black ink, consisting of a stylized 'T' followed by a series of connected loops and a final flourish.

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Attorney Tracie Molinaro

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Mr. Jonathan Shugarts