

The Supreme Court of Ohio

BOARD OF COMMISSIONERS ON GRIEVANCES AND DISCIPLINE

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OFFICE OF SECRETARY

OPINION 89-30

Issued October 13, 1989

[CPR Opinion-provides advice under the Ohio Code of Professional Responsibility which is superseded by the Ohio Rules of Professional Conduct, eff. 2/1/2007.]

[Not current-subsequent rule amendments to DR 2-101, eff. Jan. 1, 1993 and Aug. 16, 1993.]

SYLLABUS: The Code of Professional Responsibility contains no specific provision precluding Ohio lawyers from participating in group legal advertising. All lawyers' advertisements must not contain any false, fraudulent, misleading, or deceptive statements or claims.

OPINION: We have before us your request for an advisory opinion on the propriety of television advertising called Injury Helpline. The 30 second commercials encourage injured persons to call the displayed toll free number. Lawyers are given the opportunity to purchase exclusive rights to receive all telephone calls generated from the commercials in their geographic areas. The geographic area is defined by zip codes.

The advertisements are owned by the production company who is responsible for where and when the commercials are broadcasted. The company agrees to spend 70 percent of the monies collected from attorneys to purchase advertising in that market. The name and address of each participating attorney would appear in printed form on the spots. The participating attorneys are required to approve the ads for broadcast. The commercials include the following written statement, "Advertisement Paid for By Sponsoring Attorneys. Not a Lawyer Referral Service."

Group lawyer advertising is a relatively new concept that facilitates the process of informed selection of a lawyer by potential consumers of legal services. There is nothing in the Code of Professional Responsibility which precludes this kind of advertising. However, all forms of communication by lawyers may not include any false, fraudulent, misleading or deceptive statements or claims. Code of Professional Responsibility, DR 2-101 (A). False or misleading communications are defined in DR 2-101(C).

In our view, this type of advertisement is not a referral service. See, also, Board of Commissioners Op. 88-27 (1988) (lawyer permitted to advertise in Talking Yellow Pages). The toll free operators merely give callers the name of the

attorney who purchased exclusive rights to callers from the particular geographic area. We suggest including an additional safeguard, namely, having the operator inform the caller that it is not a referral or endorsement and that the named attorney has paid for the advertisement.

In conclusion, it is our opinion and you are so advised that Ohio lawyers may participate in group legal advertisements on television which route calls from viewers to lawyers who pay for exclusive rights to calls from specific geographic areas. These advertisements must not contain any false, fraudulent, misleading or deceptive statements or claims as defined in DR 2-101(C).

This is an informal, non-binding advisory opinion based upon the facts presented and limited to questions arising under the Code of Professional Responsibility.