

NOTICE TO THE BAR

**SUPREME COURT COMMITTEE ON ATTORNEY ADVERTISING –
PROPOSED ATTORNEY ADVERTISING GUIDELINE**

**ATTORNEY ADVERTISEMENTS: USE OF QUOTATIONS FROM JUDICIAL
OPINIONS REGARDING THE LEGAL ABILITIES OF AN ATTORNEY**

The Committee on Attorney Advertising, pursuant to Rule 1:19A-2(c), here publishes for comment a proposed Attorney Advertising Guideline that addresses the use in advertising by lawyers or law firms of quotations from judicial opinions regarding the legal abilities of an attorney. The Committee on Attorney Advertising deems the adoption of this proposed guideline to be necessary in clarifying the application of the Rules governing advertisements and other communications within its jurisdiction. The Guideline, if approved by the Supreme Court and adopted by the Committee on Attorney Advertising, would be binding on all New Jersey attorneys.

Any comments on the proposed Guideline should be sent by April 6, 2009 to the Committee on Attorney Advertising, Attention: Committee Secretary, Professional Services, Richard J. Hughes Justice Complex, P.O. Box 037, Trenton, New Jersey, 08625-0037. Comments may also be submitted via Internet e-mail to the following address: Comments.Mailbox@judiciary.state.nj.us.

The Committee will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by e-mail should include their name and e-mail address. Comments submitted in response to this Notice will be maintained in confidence only if the author specifically requests confidentiality. In the absence of such a request, the author's identity and his or her comments may be subject to public disclosure after the Court has acted on the proposed guideline.

Cynthia A. Cappell, Esq., Chair
Supreme Court Committee on Attorney Advertising

Dated: February 25, 2009

COMMITTEE ON ATTORNEY ADVERTISING

PROPOSED ATTORNEY ADVERTISING GUIDELINE

Attorney Advertisements: Use of Quotations From Judicial Opinions Regarding the Legal Abilities of an Attorney

An attorney or law firm may not include, on a website or other advertisement, a quotation from a judge or court opinion (oral or written) regarding the attorney's abilities or legal services.

Official Comment:

This guideline arises from the review by the Committee on Attorney Advertising of an attorney's website that included two quotations from judges regarding the attorney's legal abilities. The quotations were from unpublished opinions of the judges on fee applications and the judges' names and titles are included.

RPC 7.1 prohibits misleading statements. The statements on the website concerned an attorney's performance in one case and were not intended to be a judicial endorsement or testimonial. The Committee considers such statements, taken out of context and posted on an attorney's website, to be misleading.

In addition, the statements are likely to create an unjustified expectation about results the attorney can achieve. RPC 7.1(a)(2). A prospective client who reads, on the attorney's website, about a judge complimenting an attorney's efforts in a case is likely to expect that the judge will be favorable in his or her case.

The Committee recognizes the institutional concerns that arise when an attorney uses quotations from judges in attorney advertising. Judges must always be, and appear to be,

impartial. Judges cannot appear to be endorsing a particular attorney or assisting an attorney solicit legal business.

Moreover, it is likely that the judges whose statements appear on this attorney's website will be required to disqualify themselves from handling any matter in which the attorney appears. By including the judicial endorsements on the website, the attorney is able to manufacture conflicts with judges. This is prejudicial to the administration of justice. RPC 8.4(d).