

Indiana Supreme Court Provides Guidance on Ethics Rules for Out-of-State Attorney Advertising

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Brief Summary

The Indiana Supreme Court affirmed an indefinite bar against an out-of-state attorney who had advertised legal services in Indiana in violation of the state's ethical standards.

Complete Summary

Respondent, an attorney licensed to practice in Arizona but not Indiana, advertised on Indiana radio stations encouraging accident victims to call his office. At least two Indiana residents responded to the radio advertisements, which stated "Get protected with a national law firm that specializes in automobile accidents[.]" The lawyer maintained an office only in Phoenix, Arizona, the office did not affiliate with a national law firm, and the attorney had no certification as a specialist. Indeed, neither Arizona nor Indiana even offered certification for lawyers in the law of automobile accidents.

The Indiana Supreme Court indefinitely barred the attorney from practicing law in Indiana, including temporary admission and solicitation of clients. The lawyer stipulated to various ethical violations, including false representation of admission to practice law in Indiana; advertising with false, misleading, and/or deceptive statements; making an unauthorized statement of specialization; and making a statement that contains a representation or implication likely to cause an ordinarily prudent person to misunderstand or be deceived.

The Indiana Supreme Court stated that when an attorney claims to hold professional certification that falls

outside of the scope of the actual ethics rules, he or she misleads potential clients and goes against the purpose of certification, which is to create uniform criteria for specialties. Further, the Court noted that a lawyer misleads listeners when the attorney states that he or she works with a “national” law firm but in fact only maintains an office in one city in a different state. The Court warned that every attorney has an obligation to know and comply with Indiana’s ethical rules prior to advertising legal services in that state.

Significance of Opinion

This decision contains several discrete lessons that have broader relevance than the obvious facts in this case. It underscores the importance of lawyers making sure that their advertising efforts comply with the legal ethics rules in each and every jurisdiction where the advertisement may be received. The Court also equated a claim of “specialization” with an assertion of certification, and thereby effectively held the lawyer to meeting such a requirement, which was impossible here since neither state at issue provided the requisite certification. Moreover, the Court made clear that use of the term “national” in an advertisement cannot be made truthful merely by advertising one’s services in multiple jurisdictions.

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