

23 MS. SCHABEL:

24 I know, so, yes, I think that the more

25 you say, and I think you should encourage

1 people. It's -- you know, you can comment  
2 on the web site. The idea is to get input,  
3 not to just push something through. We are  
4 on a short time frame but that is largely  
5 dictated by forces other than us so, you  
6 know, stepping up to the plate and making  
7 your comments is really important.

8 Yes?

9 MR. PITTENGER:

10 Not -- not to drag this out, Richard,  
11 any longer, my wife actually has a  
12 babysitter tonight, so she's going to be  
13 disappointed if I sit around here all night,  
14 but I read -- in reviewing the materials  
15 before tonight's meeting, I remember seeing  
16 something that -- that said you submit your  
17 ads and if -- if the LSBA says that the ads  
18 pass muster, and you run them, that they  
19 could still run afoul at the ODC; is that my  
20 understanding?

21 MR. LEMMLER:

22 I think that's correct. I think it --

23 as in any instance currently, if you seek an  
24 advisory opinion from the LSBA, that is not  
25 binding on anyone. It's our advice. It's

1           our best interpretation of the rules and our  
2           best counsel to you as to what we believe  
3           the rules mean, and I think that, perhaps,  
4           has some mitigating value and I know it  
5           would for a hearing committee and the board  
6           and perhaps even the Court, but it is not  
7           binding on the Disciplinary Counsel or the  
8           board or the Court.

9           MR. PITTENGER:

10                 Yes, but up -- up to this date, your -  
11           - your suggestions or your -- your answers  
12           to my routinely stupid questions over the  
13           telephone are not admissible in the -- in a  
14           --

15           MS. SCHABEL:

16                 That's a change.

17           MR. PITTENGER:

18                 -- at a hearing or --

19           MR. LEMMLER:

20                 That's correct.

21           MS. SCHABEL:

22                 In this situation --

23 MR. PLATTSMIER:

24 This would be admissible, Tommy.

25 MS. SCHABEL:

1 -- this would be admissible.

2 MR. PLATTSMIER:

3 If you've got something in writing, an  
4 approval from Richard and the LSBA screening  
5 folks, acted in good faith, tried to comply,  
6 modified the advertisement, if that had been  
7 suggested, whatever, and, then, you ran it  
8 and we get a complaint from somebody that  
9 says, "It's obviously deceptive or wrong  
10 because of 'A', 'B' or 'C'," and we look at  
11 it and we say, "Well, you know, they've got  
12 a point. Maybe it is" and you come back and  
13 say, "But I did it exactly in accordance  
14 with the recommendations of the good folks  
15 there", that has got to be taken into  
16 consideration and it is admissible if we  
17 would be perhaps foolish enough to go  
18 forward with the disciplinary prosecution --

19 MR. PITTENGER:

20 Thank you.

21 MR. PLATTSMIER:

22 -- and it's provided for.

23 MR. PITTENGER:

24 Thank you.

25 MR. LEMMLER:

1           Yes, it's essentially what we have  
2           now, modified, and I have to admit that,  
3           certainly, I guess we were discussing this  
4           earlier, a couple of the staff attorneys and  
5           myself, that, you know, it's a process, at  
6           least, that's available to you. It's  
7           someone to give you a second opinion on your  
8           ad before you run it, you know. It's better  
9           than not getting it, I guess, in my view so,  
10          you know, we're trying to help the lawyers,  
11          I guess is the real goal here.

12          MR. PLATTSMIER:

13                 Let me make a statement for the  
14                 record. The information that we have kind  
15                 of gotten feedback from, from other states,  
16                 who have a similar process, such as Florida,  
17                 is that, over the years, their perception  
18                 has been that lawyers who wish to engage in  
19                 some form of advertisement, routinely do  
20                 make use of that service because they  
21                 genuinely want it to be in compliance with  
22                 the rules. That is not to say that there



23 might not be some folks who would like to

24 push the envelope and see if they can't

25 intentionally, perhaps, present

1 constitutional issues. That may well  
2 happen, as well, but that could probably  
3 happen with just about any set of rules or  
4 restrictions on advertising.

5 UNIDENTIFIED SPEAKER:

6 I have another question, is there --  
7 is there a process that, before you invest  
8 your money in producing a TV spot, that you  
9 have a video description and a -- and a  
10 script that you say, "This is what I intend  
11 to do", before I do it, so that you don't  
12 have to incur the production costs twice?

13 MR. LEMMLER:

14 Essentially, if you do the written  
15 advisory opinion process the first  
16 component, that first process, you do have  
17 to pay a fee, but it's before you incur all  
18 your production costs and so forth and, you  
19 know, there is no real time limit on that  
20 and we'll work with you until you get it  
21 right, under the proposal. We do that now.

22 Anyone else?

23 (No response.)

24 MR. LEMMLER:

25 Okay. Well, I guess that's it.

1 Thanks to everyone for coming.

2 MR. KING:

3 The number?

4 MR. LEMMLER:

5 Oh, yes. On the CLE, I'm sure you  
6 need that.

7 MR. KING:

8 Write this down, 0250061102.

9 MR. PHILLIPS:

10 Do it again.

11 MR. KING:

12 It's 0250061102.

13 MR. PHILLIP:

14 And what's the name?

15 MR. KING:

16 Reevaluating Louisiana's Lawyer  
17 Advertising Rules, and I'll bring -- I'll  
18 leave it right up here if anybody needs to  
19 see it.

20 MR. LEMMLER:

21 You get one hour of ethics for this.

22 MR. KING:

23                    One hour of ethics.

24                    MR. GUIRARD:

25                    One last question. I'm sorry. E --

1 E. Eric Guirard. Has there been any effort,  
2 I'm just wondering, on the part of the  
3 Committee, to -- to poll or study attorneys  
4 in other jurisdictions that have had to toil  
5 under similar rules? There are a number of  
6 other states that have that.

7 MR. LEMMLER:

8 Florida. Florida has this right now.  
9 Texas has it right now.

10 MR. GUIRARD:

11 Florida, yes.

12 MR. LEMMLER:

13 New York is proposing it.

14 MR. GUIRARD:

15 It seems to be -- it seems to me it  
16 would be really valuable to -- to at least  
17 talk to lawyers who have had to be subject  
18 to these rules to see their -- their  
19 experiences or their problems.

20 MS. SCHABEL:

21 We are told, and we are regularly in  
22 contact with people active in the Texas and

23 Florida Bar --

24 MR. GUIRARD:

25 That's the Bar Association.

1 MS. SCHABEL:

2 -- we are told that they are -- that  
3 they are regularly -- you know, that there  
4 has been positive --

5 MR. GUIRARD:

6 Well, you were told that. That's the  
7 Bar. I just wonder about the actual  
8 lawyers.

9 MR. LEMMLER:

10 Well, I don't know how we could  
11 identify and target those folks.

12 MR. GUIRARD:

13 They have ads.

14 MR. LEMMLER:

15 They have an opportunity to come  
16 forward. Well, they can come forward now.  
17 We have a public comment --

18 MR. GUIRARD:

19 Would it be okay, I mean, if some of  
20 those attorneys contacted and commented?

21 MR. LEMMLER:

22 It's public comment. Anyone can



23 comment.

24 MS. SCHABEL:

25 Anyone can comment. It's on the web

1 site.

2 MR. LEMMLER:

3 They're more than welcome, I'm sure,  
4 anyone's comments --

5 MR. GUIRARD:

6 Okay.

7 MR. LEMMLER:

8 -- so there is no restriction. You  
9 don't have to be a member of the Bar to  
10 comment.

11 Anything else?

12 (No response.)

13 MR. LEMMLER:

14 There is refreshments, food outside.  
15 Please help yourself. There is plenty.

16 MS. SCHABEL:

17 Take some home.

18 MR. LEMMLER:

19 Thank you for coming. Thank you very  
20 much for your comments.

21 MR. PLATTSMIER:

22 Thank you for coming.

23

THE HEARING WAS CONCLUDED AT 6:12 P.M.

24

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25

1                    R E P O R T E R ' S   P A G E

2            I, Lori B. Overland, Certified Court  
3            Reporter, in and for the State of Louisiana, the  
4            officer, as defined in Rule 28 of the Federal  
5            Rules of Civil Procedure and/or Article 1434(b)  
6            of the Louisiana code of Civil Procedure, before  
7            whom this sworn testimony was taken, do hereby  
8            state on the Record

9            That due to the interaction in the  
10           spontaneous discourse of this proceeding, dashes  
11           (-- ) have been used to indicate pauses, changes  
12           in thought, and/or talk overs; that same is the  
13           proper method for a Court Reporters's  
14           transcription of proceeding, and that the dashes  
15           (-- ) do not indicated that words or phrases have  
16           been left out of this transcript;

17           That any words and/or names which could not  
18           be verified through reference material have been  
19           denoted with the phrase "(inaudible)."

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Lori Overland, C.C.R.

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## 1 CERTIFICATION

2 I, the undersigned reporter, do hereby  
3 certify that the above and foregoing is a true  
4 and correct transcription of the stenomask tape  
5 of the proceedings had herein, taken down by me  
6 and transcribed under my supervision, to the  
7 best of my ability and understanding, at the  
8 time and place hereinbefore noted, in the above  
9 entitled cause.

10 I further certify that the witness was duly  
11 sworn by me in my capacity as a Certified Court  
12 Reporter pursuant to the provisions of R.S.  
13 37:2551 et seq. in and for the state of  
14 Louisiana; that I am not of counsel nor related  
15 to any of the counsel of any of the parties, nor  
16 in the employ of any of the parties, and that I  
17 have no interest in the outcome of this action.

18 I further certify that my license is in good  
19 standing as a court reporter in and for the  
20 state of Louisiana.

21

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Lori Overland, C.C.R.

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# 97083

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