

**ETHICS OPINION NO. 264
OF THE MISSISSIPPI BAR
RENDERED APRIL 7, 2022**

CAVEAT: This Opinion is limited strictly to the facts as presented for analysis under Mississippi’s Rules of Professional Conduct. The facts and questions outlined below, and the opinion rendered is limited to the ethical issues only.

ADVERTISING- LEAD GENERATOR- It is not permissible for an attorney to employ a lead generator service that manipulates potential clients by generating advertisements using John Doe’s (another attorney’s/law firm’s) trademark, name, or likeness without permission.

The Ethics Committee of the Mississippi Bar has been requested to render an opinion regarding the practice of an attorney hiring lead generator services that engage in the unauthorized use of John Doe’s (another attorney’s/ law firm’s) trademark, likeness, or name for advertising.

Applicable Rules and Analysis

Rule 7.1 of the Mississippi Rules of Professional Conduct (MRPC) provides that “[a] lawyer shall not make or permit to be made a false, misleading, deceptive or unfair communication about the lawyer or lawyer’s services.” Rule 7.7(a), MRPC, provides that “a lawyer shall not use a firm name, letterhead, or other professional designation that violates Rule 7.1.”

The practice of using John Doe’s firm name, likeness, or trademarked materials without permission from John Doe would constitute, false, misleading and deceptive communication, and is not permissible.

Rule 8.4 provides that “[i]t is professional misconduct for a lawyer to violate the rules of professional conduct, knowingly assist or induce another to do so, or do so through the acts of another [such as a lead generator].”

When an attorney retains a lead generator service to advertise on their behalf, Rule 5.3, MRPC, requires that the attorney make “reasonable efforts to ensure that the [lead generator’s] conduct is compatible with the professional obligations of the lawyer.”

Thus, it is impermissible for an attorney to knowingly employ a lead generator service that engages in the unauthorized use of John Doe’s trademark, name, or likeness in

violation of Rule 7.1 and 7.7. Additionally, attorneys must exercise reasonable due diligence to ensure that the practices of a hired lead generator service do not run afoul of the MRPC.

Conclusion

Therefore, it is the opinion of this Committee that an attorney's use of another's name, trademark, or likeness without permission is not permissible, nor is it permissible for a third party (i.e. lead generator service) to engage in such activities on the attorney's behalf.