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**In re: Amendments to the Rules Regulating The Florida Bar – Advertising Rules  
SC05-2194**

THE COURT WILL CALL THE FIRST OF THE RULES CASES , IN RE THE AMENDMENTS TO THE R ULES REGULATING THE FLORIDA BAR ADVERTISING RU LES. AS THE LAWYERS ARE COMING U P , THE COURT IS CONSIDER INGT THAT WE WOULD HEAR THE CRIMINAL JURY INSTRUCTIONS AND THE C IVIL JURY INSTRUCTIONS TOGETHER , BECAUSE THEY INVOLVE THES AME IS SUES , AND IF POS SIBLE , MOVE THE LAST CASE , W HICH IS A FAIRLY SHORT CASE , IF THE L AWYERS COME FOLLOWING THE ADVERTISING.OKAY. GOOD. ALL RIGHT. WE HAVE, TODAY , GET BACK TO THE RIGHT CASE. WE HAVE GOT APPEARANCE S FORTHE FLORIDA BAR FROM MS , MR , MR . TARBERT AND MR . ESBARY. H OW DO YOU DIVIDE YOUR TIME?

IMMEDIATE PAST PRESIDENT OF THE FLORIDA BAR , KELLY OVERSTREET. WHAT I WOULD LI KE TO DO IS HAVE A SHORT INTRODUCTION AND THEN WE HAVE DIFFERENT MEMBERS HERE FROM THE BAR THAT, DEPENDING UPON THE QUESTIONS ASKE D, WILL RESPOND AND THEN ANY REMAINING TIME WILL BE USED IN REBUTT AL.

CHIEF JUST ICE: THAT IS FINE. YOU MAY PROCEED.

MAY IT PLEASE THE CO URT. IN MA RC H 2 004 , I APPOINTED AN ADVERT ISING TA SK FORCE TO UNDERTAKE A COMPREHENSIVE REVIEW OF THE ADVERTISING , ATTORNEY ADVERTISING RULES. THE IDEA WAS TO ATT EMPT TO CLARIFY AND IMPROVE THE RULES. WE APPO INTED A VERY DIVERSE COMMITTEE, BOTH IN TERMS OF THE AREAS OF PRACTICE , THELOCATION, AND OTHER FACTORS. PARTICULARLY THOSE THAT ADVERTISED AND THOSE THAT DIDN'T, BECAUSE WE THOUGHTIF YOU ARE GOING TO BE LOOKING AT THE RULES , YOU NEED TO HAVE FOLKS THAT ARE ACTUALLY DE ALING WITH THESE RULES AND HAVING TO SUBMIT ADVERTISEMENTS. THE TASK FORCE MET A NUMBER OF TIMES , AND SPAENT LA RGE AMOUNT OF TIME , CONSIDERING THE RULES AND ANY NECESSARY CHANGES THAT SHOULD BE PROPOSED. ULTIMATELY , THERE WERE SOME CHANGES THAT WERE RECOMMENDED TO THE BAR'SBOARD OF GOVERNORS. MOST OF THOSE CHA NGES WERE APPROVED AND ARE BEFORE YOUTODAY.THE ONES THAT WERE NOT APPROVED WERE PRIMARILY LE SS RESTRICTIVE THAN WH AT WE HAVE PRESENTLY. M ANY OF THE CHANGES CLARIFY AND REORGANIZE THE RULES AND MAKE THEM EA SIER TO UNDERSTAND. THE MOST SIGNIFICANT CHANGE BEFORE THE COURT TODAY IS A PREREVIEW, REQUIRED OF ALL RADIO AND TELEVISION ADVERTISEMENTS, WHICH WE THINK IS SUPPORTED BY THE RECORD BEFORE THE COURT. THE WAY WE HAVE DIV IDED OUR T IME , WE HAVE JODY EBBETS , WHO WAS THE ADVERT ISING VICE CHAIR AND IS THE CHAIR OF THE CURRENT COMMITTEE ON ADVERTISING , THAT WILL BE RESPONDING TO Q UESTIONS DEALING WITH THE WEB SITE AND TO THE PROC ESS THAT THE T ASK FORCE UTILIZED INCOMING UP WITH ITS RECOMMENDATIONS. WE HAVE BARRY RICHARDS WHO WAS AVAILABLE TODAY TO DEAL WITH THE CONSTITUTIONAL ISSUES AND ANY QUESTIONS THE COURT MIGHT HAVE ON THE PREREVIEW OF ADVERTISING AS IT RELATES TO R ADIO AND T V, AND F INALLY OUR CLEANUP H ITTER , WE HAVE ETHICS COUNSEL ELIZABETH TARBERT , WHO WILL BE HANDLING BASICALLY ALL OF THE PROCEDURAL MECHANISMS OF CHANGES TO THE RULES AND ANYQUESTIONS THAT YOU HAVE ONTHE TECHNICALITIES OF THOSERULES.ON BEHALF THE BAR, I WOULD ASK THAT THE COURT APPROVE THE CHANGES WHICH ARE BEFORE YOU AS REQUESTED IN THE BAR'S PETITION. AND AT THIS POINT , I WILL T URN THE PODI UM OVER TO MS , WHO CAN SORT OF HANDLE WHO WILL -- T O MS . TARBERT, WHO CAN SORT OF HAND LE WHO WILL BE THE BE ST ONE TO RESP ONSE, BASED UPON THE COURT'S INQUIRY . THANK YOU .

JUSTICE: I GUESS I WOULD START WITH, I HAVE A QUESTION CONCERNING THE APPROACH UNDER , I GUESS IT IS 4-7 GENERALLY , BUT THE PROVISION THAT WOULD EXEMPT FROM THE RULES , THE LAWYER TO LAWYER OR LAURO FORMER COMMUNE -- OR LAWYER AND FORMER CLIENT COMMUNICATIONS , AND ONE , HAVING BEEN AT THIS NOW FOR 25 YEARS , AND IN VARIOUS DEBATES AND REVISIONS OF THESE RULES , MY ONE CONCERN , OVERRIDING CONCERN , IS THAT NO ONE BE GIVEN A COMPETITIVE ADVANTAGE BY THE RULES OF DISCIPLINE. AND THAT INCLUDES ADVERTISING.

I UNDERSTAND YOUR CONCERNS. ACTUALLY THOSE TWO PROVISIONS, REALLY, SEEM TO ACKNOWLEDGE WHAT ALREADY EXISTS IN THE RULES , IN 4-7.1 , THE COMMENT TO IT SAYS THAT COMMUNICATION --

JUSTICE: HERE IS MY CONCERN. I GOT IN THE MAIL THIS PAST WEEK , AN ADVERTISEMENT SENT TO ME. I ASSUME BECAUSE I WAS A MEMBER OF THE FLORIDA BAR . IT IS THE PRODUCTS LIABILITY LAW FIRM IN FLORIDA. IT LISTS EXAMPLES OF FIRM RECOVERIES. 30.1 MILLION , 19.5 MILLION , 15 MILLION. AND THEN IT HAS THESE PICTURES OF FAILED AUTOMOBILES AND CRASHED AUBLT. MY QUESTION -- CRASHED KAUBLS. MY QUESTION IS , IS THAT , ARE THE RULES PRESENTLY AND AS GOING TO BE AMENDED , INTENDED TO ALLOW THIS TYPE OF ADVERTISEMENT? AND IS IT ALLOWED TO GO OUT GENERALLY , OR WHO IS IT ALLOWED TO GO TO AND WHY?

THE KIND OF BROCHURE THAT YOU ARE REFERRING TO IS PERMITTED TO BE SENT OUT CURRENTLY UNDER THE CURRENT RULES , TO OTHER LAWYERS. YOU DO RECEIVE THOSE BROCHURES BECAUSE YOU ARE A MEMBER OF THE FLORIDA BAR . THERE ARE LAWYERS THAT WILL PURCHASE LISTS FROM THE FLORIDA BAR OF ALL BAR MEMBERS IN A PARTICULAR CIRCUIT AND SEND OUT PAMPHLETS LIKE THE ONE YOU JUST DISPLAYED. THE CURRENT RULES AND THE COMMUNITY TO RULE 7-4.1 DOES SAY THAT COMMUNICATIONS BETWEEN LAWYERS ARE EXEMPT FROM THE APPLICATION OF THE RULES, SO THE BAR CURRENTLY INTERPRETS THAT COMMENT AS MEANING ALL COMMUNICATIONS BETWEEN LAWYERS , INCLUDING THE KIND OF BROCHURES TO WHICH YOU REFER. IF YOU REFER TO RULE 4-7.4-A , LAWYERS CAN DIRECTLY SOLICIT THEIR OWN CURRENT AND FORMER CLIENTS, SO THOSE KINDS OF BROCHURES WOULD ALSO UNDER THE CURRENT RULES, BE PERMISSIBLE FOR CURRENT AND FORMER CLIENTS. IF YOU CAN PICK UP THE PHONE AND CALL THEM AND SAY THOSE KINDS OF THINGS TO THEM AND BE UNREGULATED , THERE IS REALLY NO THING TO STOP THAT KIND OF BROCHURE FROM BEING SENT TO LAWYERS , LAWYERS ' CURRENT CLIENTS.

JUSTICE: THAT CERTAINLY GIVES A BIG ADVANTAGE TO PEOPLE WHO HAVE BEEN IN THE PRACTICE FOR 20 YEARS RATHER THAN SOMEONE WHO HAS BEEN IN PRACTICE FOR TWO YEARS , CORRECT, BECAUSE THOSE ARE THE PEOPLE THAT HAVE BEEN FOR 20 YEARS , ARE GOING TO HAVE A LOT MORE FORMER CLIENTS.

WELL, IN SOME CASES THAT IS TRUE AND IN SOME CASES THAT IS NOT TRUE. THERE ARE NEW LAWYERS THAT HAVE NUMEROUS CLIENTS, TOO. WHEN I PRACTICED IN THE PUBLIC DEFENDERS OFFICE , I HAD LITERALLY THOUSANDS OF CLIENTS , SO YOU WOULD HAVE SAID THAT I COULD HAVE HAD A NUMBER OF CLIENTS THAT I COULD HAVE --

JUSTICE: YOU DIDN'T NEED TO ADVERTISE TO THOSE PEOPLE.

I AM NOT SURE THEY WOULD HAVE THE MONEY TO HIRE ME ANYWAY.

JUSTICE: THIS POSITION ON FORMER CLIENTS, I CAN CERTAINLY UNDERSTAND CURRENT CLIENTS AND SOME FORM OF PROTECTED COMMUNICATION, BUT A FORMER CLIENT , WHY WOULD FORMER CLIENTS NOT BE AS MEMBERS OF THE PUBLIC , LISS IS TIGING IT OR -- SOLICITING IT OR SOMETHING BEYOND -- SOLICITING THEIR LEGAL BUSINESS, BEYOND ADVERTISING , SOLICITING THEIR LE

GAL BUSINESS, AND WHY IS IT A DIFFERENT STANDARD AS WE STAND BACK FROM THE RELATIONSHIP? MAYBE I REPRESENTED SOMEBODY 25 YEARS AGO, AND TODAY THEY ARE REALLY IN A NO DIFFERENT POSITION THAN A MEMBER OF THE GENERAL PUBLIC. I MAY HAVE CONSIDERED THEM. I MAY HAVE -- I MAY HAVE ENCOUNTERED THEM. I MAY HAVE ENCOUNTERED FOLKS AT CHURCH, AND FORMER CLIENTS SUCH AS JUSTICE WELLS, AND I AM NOT SURE HOW WE HAVE BEEN DOING IT IS THE REAL ANSWER AS WE LOOK AT WHAT THE RULE OUGHT TO BE.

THE RATIONALE FOR WHY WE HAVE DONE THAT IN THE PAST IS THIS IS NOT SOMEBODY WHO IS STRANGER TO THE LAWYER. THEY HAVE ACTUALLY CHOSEN THAT LAWYER TO REPRESENT THEM IN THE PAST, SO THEY HAVE ALREADY MADE KNOWN, IT IS ALREADY KNOWN TO THAT CLIENT WHAT THE LAWYER'S QUALIFICATIONS AND EXPERIENCE ARE. THIS IS SOMEONE THEY HAVE PERSONALLY SELECTED.

JUSTICE: IT CHANGES. YOU SEE THE THINGS ABOUT THE RESULTS AND HOW GOOD WE ARE AND WHAT WE ARE DOING, AND THAT ALL MAY BE WELL AND GOOD, BUT IT DOESN'T SEEM AS THOUGH I MAY HAVE REPRESENTED SOMEBODY 25 YEARS AGO AS A FORMER CLIENT, AND THEY ARE IN THAT SAME CATEGORY. THEY HAVE NO IDEA. I HAVE HAD NO DEALINGS WITH THEM FOR THE LAST 25 YEARS.

THAT IS A POLICY CALL THAT YOU ALL HAVE TO MAKE. THE BAR'S INTERPRETATION OF THE EXISTING RULE ARE THOSE ARE PEOPLE WHO ARE IN LESSER NEED OF PROTECTION. THEY ARE NOT SOMEBODY WHO IS A TOTALLY UNSOLICITED, COLD KIND OF CONTACT.

CHIEF JUSTICE: WOULD IT APPLY IF SOMEBODY HAD REPRESENTED A CLASS? WOULD IT ALLOW THIS TYPE OF MARKET GO BROKE ASSURE TO GO TO ALL MEMBERS OF A -- MARKETING BROCHURE TO GO TO ALL MEMBERS OF A CLASS?

I AM NOT SURE IT CAME BEFORE THE COMMITTEE. SOMEBODY IN THAT CLASS WAS PERHAPS IN CONTACT WITH THE LAWYER BUT PERHAPS NOT THE ENTIRE CLASS BECAUSE THERE WAS NO RELATED CONTACT.

CHIEF JUSTICE: THIS IS A RELATED QUESTION AND I GUESS IT HAS BEEN AN ONGOING POLICY DETERMINATION, BUT WE CONTINUE WITH THE NOTION THAT, IN AN ADVERTISEMENT, THAT YOU CANNOT GIVE RESULTS OBTAINED. SO THAT HERE, IN THIS BROCHURE THAT JUSTICE WELLS REFERENCED, THERE IS EXAMPLES OF RECOVERIES IN PRODUCTS LIABILITY CASES OF SOME SUBSTANTIAL AMOUNTS. I KNOW THIS FIRM, AND I AM SURE THAT MOST OF THESE, THAT, I AM SURE THEY ARE NOT MISREPRESENTING, HOPEFULLY THEY ARE NOT, THESE AMOUNTS, AND I GUESS WHAT I WONDER WAS WHERE WE HAVE GONE TO IN ADVERTISING, AND I HAVE TO SAY I AM NOT A FAN OF ADVERTISING. I THINK IT HAS DONE EVERYTHING TO DEFEAT OUR PROFESSION RATHER THAN TO DO WHAT WAS INTENDED TO BE DONE, WHICH IS TO MAKE THE PUBLIC MORE INFORMED. WE ALLOW THIS SORT OF PUFFING, WHERE A FIRM SAYS WE ARE OPEN ALL NIGHT OR WE HAVE BEEN IN BUSINESS AND WE ARE THE ONES TO PROTECT YOUR RIGHTS, BUT WE DON'T ALLOW THE FIRM TO GIVE THE FACTS, WHICH ARE THESE ARE RECOVERIES THAT WE HAVE ACTUALLY HAD. SO WE SORT OF FOSTER THIS IDEA THAT SOME ADVERTISEMENT IN TALLAHASSEE ABOUT SOME GENTLEMAN WHO WAS, HIMSELF A VICTIM OF AN INJURY, AND THAT IS WHY HE BECAME A PERSONAL INJURY LAWYER. THAT IS ABOUT AS RELEVANT TO A DECISION AS WHAT, THAT HE IS A GOOD LITTLE LEAGUE COACH OR SOMETHING, SO THE QUESTION I HAVE IS WAS THE ISSUE OF WHY NOT ALLOW RESULTS OBTAINED AND STOP ALL THESE ADJECTIVES THAT REALLY CANNOT BE ASCERTAINED. I MEAN, THESE ARE FACTS THAT CAN BE ASCERTAINED BY THE BAR AS TO WHETHER THEY ARE TRUE OR NOT, BUT ALL THE ADJECTIVES THAT ARE USED, THEY ARE EXCELLENT, HARDWORKING, AGGRESSIVE, YOU KNOW, THAT IS JUST PUFFING! THAT IS MY QUESTION, IS WHAT ABOUT RESULTS OBTAINED AND WHY SHOULDN'T WE ALLOW RESULTS OBTAINED, AND STOP ALL THE, THIS, THESE OTHER DESCRIPTIVE PHRASES?

WELL , JUSTICE PARIENTE , SOME OF THE DESCRIPTIVE PHRASES THAT YOU REFER TO ARE PROHIBITED. STATEMENTS CHARACTERIZING THE QUALITY OF LEGAL SERVICES, SUCH AS EXCELLENT OR "PROVIDING HIGH-QUALITY LEGAL SERVICES", THOSE ARE PROHIBITED UNDER THE CURRENT RULES. AS A PRIOR RESULT , AL THOUGH THE ACTUAL VERDICT OR FACTS OF THE SETTLEMENT CAN BE OBTAINED, THE BAR'S POSITION IS THE UNSOPHISTICATED PUBLIC IS N'T GOING TO KNOW WHAT THOSE MEAN. EVEN THOUGH THEY MIGHT HAVE THE BARE FACTS THAT THE PERSON RECEIVED A \$1 MILLION VERDICT , IT WAS REALLY A \$10 MILLION CASE. THEY MAY NOT BE ABLE TO UNDERSTAND THE DIFFERENCE BETWEEN THE FACTS AND CIRCUMSTANCES THAT WENT INTO MAKING THAT CASE THAT GOT THAT VERDICT , WHAT EVER IT WAS, AND THE PERSON'S OWN CASE.

JUSTICE: WHY , THEN , SHOULD WE ALLOW THAT TO BE CIRCULATED, TO MEMBERS OF THE BAR , BECAUSE MOST OF THESE CASES WE KNOW IN REALITY COME FROM REFERRING LAWYERS. THESE PAMPHLETS ARE GOING TO BE SENT ON TO THE CLIENTS THAT, IN DIVORCE FIRMS , I MEAN, THAT IS THE NATURE OF THE BUSINESS , AND SO IT SEEMS TO ME WE EITHER ALLOW IT OR WE DON'T ALLOW IT. PERIOD!

WELL , JUSTICE WELLS, THE RATIONALE FOR WHY WE ALLOW IT HIS LAWYERS ARE NOT AN UNSOPHISTICATED PUBLIC. THEY DO HAVE THE MEANS TO UNDERSTAND THE FACTS AND CIRCUMSTANCES THAT LED TO PARTICULAR VERDICTS AND SETTLEMENTS AND BE ABLE TO DETERMINE WHETHER OR NOT THOSE ARE ACTUALLY GOOD RESULTS THAT A LAWYER OBTAINED OR WHETHER THEY ARE NOT.

JUSTICE: LET ME ASK A QUESTION ABOUT THE WEB. MR . EBBETS.

CHIEF JUSTICE: GIVE YOUR APPEARANCE.

THIS IS CHOBEBBETS , VICE-CHAIR OF THE WEB SITE ADVERTISING FORCE .

JUSTICE: WHAT IS THE APPROACH HERE THAT THE BAR--

I THINK THE JUSTICES ARE WRESTLING WITH WHAT THE TASK FORCE WRESTLED WITH IN TRYING TO FIND HARMONY AMONG THE , AMONGST THE CONFLICTING ISSUE OF PROTECTING THE PUBLIC FROM GENERAL ADVERTISING AND LETTING LAWYERS AS MY ESTEEMED COLLEAGUE POINTED OUT IN HIS BRIEF , THE CONCEPT OF MARKETING. HOW FAR CAN MARKETING GO TO ALLOW LAWYERS TO PUT THEIR NAME OUT THERE AND THEIR SUCCESSES, AS FAR AS THEIR PAST RESULTS , AND YET NOT INFLICT HARM ON THE PUBLIC THAT CAN BE MISLED BY THAT, AND THAT DOVETAILED INTO THE MONSTROUS PROBLEM OF THE WEB, WHICH IS IN REALITY THE ADVERTISING TOOL FOR THE FUTURE OF ALL LAWYERS. I WILL TELL THE COURT THAT WE KNOW THAT MORE THAN 40,000 FLORIDA LAWYERS HAVE WEBSITES. WEBSITES CAN BE FROM ONE PAGE TO 500 PAGES , AND AS THIS COURT IS PROBABLY WELL AWARE, A WEB SITE CAN NOT ONLY BE CHANGED DAILY. IT CAN BE CHANGED HOURLY IN A BLOG SETTING .

JUSTICE: THAT BEING SAID , IT SEEMS TO ME THAT OUR REAL JUDGMENT NEEDS TO BE THE VALUE SYSTEM THAT IS IN PLACE, NOT WHAT THE WEB CAN DO, AND THAT CONTROLS OUR VALUES, AND THAT IS WHAT I FEAR. I START LOOKING AT THIS AND WE START EXCLUDING TECHNOLOGY, JUST BECAUSE TECHNOLOGY IS THERE AND THAT IS GREAT, BUT TECHNOLOGY CAN BE OUR DEATH IF WE ARE NOT CAREFUL.

JUSTICE LEWIS THAT , IS WHAT WE CONCLUDED IN GOING BACK TO THE TASK FORCE TIME AND AGAIN AND SAID WE MUST USE A SET OF RULES THAT PUTS ITS ARMS AROUND THE ENORMOUS COMPLEXITY OF THE WEB ITSELF , AND THAT IS WHY WE DID NOT END THE PROCESS BUT ARE CONTINUING THE PROCESS TO DEAL WITH IT , AND JUSTICE WELLS, IF I MAY CONTINUE, THE WEB WOULD ALLOW A LAWYER PRESENTLY UNDER CURRENT RULES TO GIVE PAST RESULTS , GIVE

STATEMENTS OF ITS SUCCESSOR ABILITIES DIFFERENTLY FROM ANY OTHER FORM OF ADVERTISING, BECAUSE WE HAVE LOOKED AT IT AS A KIND OF CURIOUS PLACE OF INFORMATION UPON REQUEST. SOMEONE IS SEEING OUT TO GO TO THE WEB SITE, VERSUS BEING PUSHED UPON THEM IN A TELEVISION AD OR A PHONE BOOK AD. THAT IS A, MAYBE A DISTINCTION WITHOUT A DIFFERENCE, AND THAT IS WHY WE HAVE NOT STOPPED THERE, AND THAT IS WHY I AM STILL WORKING WITH THE MEMBERS OF THE BAR TO FIND A BETTER SOLUTION TO IT.

CHIEF JUSTICE: JUSTICE CANTERO HAS A QUESTION.

THERE WAS A DIFFERENCE BETWEEN THE TASK FORCE AND BOARD OF GOVERNORS ON THIS PARTICULAR ISSUE?

ABSOLUTELY. THE TASK FORCE, AND I WILL TELL YOU CAN DIDLY, BOTH THE 2004 TASK FORCE AND THE PRESENT COMMITTEE ON WEB SITE ADVERTISING, WOULD LIKE TO FIND IT TO BE SIMPLY INFORMATION UPON REQUEST, AND EXEMPT IT COMPLETELY FROM ADVERTISING RULES. THE BOARD OF GOVERNORS WAS NOT HAPPY WITH THAT CONCLUSION INITIALLY AND IT IS NOT HAPPY WITH IT NOW, AND I WILL TELL YOU THAT WE HAVE DONE AN ENORMOUS AMOUNT OF WORK, HUNDREDS OF HOURS LOOKING AT WHAT OTHER STATES DO, LOOKING AT THE ABA MODEL, AND I WILL REMIND THIS COURT AS IT WILL KNOW THAT, OUR STATE, FLORIDA, HAS SOME OF THE MOST STRICT, AND IF A VOR THAT STRICT, ADVERTISING RULES IN THE COUNTRY. WE CAN'T SIMPLY FOLLOW THE ABA MODEL BECAUSE IT IS MORE LAX THAN OUR OWN FLORIDA -- MORE LAX THAN OUR OWN FLORIDA RULES.

JUSTICE: WHAT IF A POTENTIAL CLIENT CALLS UP A LAW FIRM AND SAYS I WOULD LIKE SOME INFORMATION ABOUT YOUR FIRM, DOES THE BAR REGULATE THE INFORMATION UPON REQUEST?

WE ALLOW A LAWYER PRESENTLY TO SEND OUT BROCHURES. I WANT TO SAY SOMETHING THAT MUST BE CLEAR AS AN OVERRIDING CONCERN TO ALL ADVERTISING RULES. THEY MUST BE HONEST. THEY ALWAYS MUST BE HONEST. THE ABA MODEL SAYS, AND THAT IS IT A SIMPLISTIC APPROACH TO THE ABA MODEL IS THAT THE LAWYER MUST ALWAYS BE HONEST.

JUSTICE: IF IT IS SOMETHING THAT A POTENTIAL CLIENT VOLUNTARILY GOES TO TO FIND OUT INFORMATION ABOUT THE FIRM, HOW IS THAT DIFFERENT FROM REQUESTING A BROCHURE?

THAT IS PART OF THE DEBATE. THE WEB SITE, ITSELF, IT LULLS ACTUALLY IN EARLIER FORMAT -- IT ACTUALLY IN EARLIER FORMATS, YOUR HONOR, THEY HAVE LOOKED AT A WEB SITE FRONT PAGE, OR AS WE CALL IT WHEN YOU GO TO THE WEB SITE YOU GET A FRONT PAGE AND THEN BEHIND THAT, YOU GET A HOMEPAGE, AND WE HAVE SAID LET'S SANITIZE IT LIKE A DOOR AND MAKE BEHIND IT THE STUFF THAT YOU CAN PUT ALL OF THE THINGS ON. THAT, AGAIN --

CHIEF JUSTICE: WHEN IS THE REPORT GOING TO BE COMPLETE? WHAT IS THE TIME FRAME FOR THE COMMITTEE?

JUSTICE PARIENTE, WE HAVE ANOTHER MEETING COMING UP AT THE ANNUAL MEETING IN BOCA RATON IN JUNE. AT THAT TIME WE WILL FORMULATE ANOTHER SET OF SUGGESTED RULES. THE LAST TWO VOTES OF THIS WEB SITE COMMITTEE HAVE BEEN TO MAKE IT INFORMATION UPON REQUEST BASIS AND HAVE EXEMPTING IT FROM THE RULES BUT HAVING REPORTED THAT TO THE BOARD OF GOVERNORS, THEY ARE NOT SATISFIED WITH THAT, SO WE ARE GOING TO CRAFT RULES THAT ARE SPECIFIC TO THE WEB BUT IN HARMONY WITH THE OVERALL ADVERTISING RULES, BECAUSE AS I UNDERSTAND IT, THIS COURT HAS SAID OVER AND OVER AGAIN, THERE MUST BE CONSISTENCY IN HOW WE TREAT ADVERTISING, REGARDLESS OF THE MEDIA, AND WE, IF IT IS GOING TO BE SOMETHING DIRECT, IT MUST HAVE A RATIONAL BASIS FOR BEING DIRECT, IN THIS CASE THE WEB SITE. YES, JUSTICE. SORRY.

JUSTICE: THAT WAS MY CONCERN IS ON THE ADVERTISEMENT OF THE WEB AS OPPOSED TO THE

INDIVIDUAL LAWYER'S WEB PAGE, THE SIDE BAR ADVERTISEMENT LIKE GOOGLE, YOU GET THE POP-UPS OR WHAT EVER THAT DIRECT SOMEBODY TO A PARTICULAR SITE. YOU ARE LOOKING INTO THAT AND HOW WE REGULATE THOSE?

YES, JUSTICE, WE ARE. ACTUALLY, AGAIN, THE GENTLEMAN TO MY RIGHT WERE BOTH MEMBERS OF THE TASK FORCE, AND VERY BRIGHT, AND THEY ARE EXTREMELY KNOWLEDGEABLE AND BRIGHT IN THEIR INTELLECTUAL APPROACH TO THESE THINGS. MR. ADVERSARY SAYS THAT IS A REAL PROBLEM WITH THE POP-UP ADS, AND HE SHOWED ME SOMETHING THIS AMONG, I DIDN'T KNOW YOU COULD GO TO A NEWSPAPER WEB SITE LIKE THE ST. PETE TIMES AND YOU READ AN ARTICLE ABOUT A LAWYER AND THEN YOU GET A POP-UP THAT SUGGESTS IF YOU ARE READING THAT STORY.

JUSTICE: THAT IS HOW THEY POP-UP, IS IT ADVERTISES TO THOSE PARTICULAR SECTIONS AND THAT IS MY CONCERN.

JUSTICE BELL, WE ARE O'CLOCK LOOKING AT THAT. -- WE ARE LOOKING AT THAT.

UNDER THE RULES, POP-UP ADS AND ALL OTHER BANNER ADS ARE REGULATED AS ANY OTHER FORM OF MEDIA, THE SAME AS PRINT ADVERTISEMENT.

JUSTICE: I GUESS MY CONCERN IS THE POP-UP ITSELF WOULD BE VERY EASY TO CONSTRUCT IN A WAY THAT IT WOULD NOT VIOLATE THE ADVERTISING RULES BUT WOULD DIRECT YOU TO A WEB PAGE THAT WOULD IN ESSENCE, CIRCUMVENT OR GO AROUND THE ADVERTISING RULES. IF YOU ACCEPT THAT A SEARCH FOR A PARTICULAR WEB SITE GIVES YOU GREATER LATITUDE, IS MY CONCERN.

IT IS CORRECT, ALTHOUGH THE PERSON WOULD STILL BE HAVING TO MAKE THAT CHOICE TO GO TO THAT WEB SITE, IN ADDITION THAT WEB SITE WOULD STILL BE SUBJECT TO EVERY SINGLE REGULATION OTHER THAN THE PROHIBITION AGAINST PRIOR RESULTS AND THE PROHIBITION AGAINST STATEMENTS CHARACTERIZING THE QUALITY, AND IT WOULD NOT BE SUBJECT TO REQUIRE REVIEW BY THE FLORIDA BAR, ALTHOUGH --

JUSTICE: IF WE, HOWEVER, ARE STILL LOOKING AT THIS ISSUE ABOUT WEB SITES, WHY WOULDN'T IT BE MORE PRUDENT TO HAVE A WEB SITE, HAVE THE SAME RESTRICTION AS OTHER KINDS OF ADVERTISEMENTS CONCERNING THE RESULTS AND QUALITY OF SERVICES, AND THEN IF WE SEE DOWN THE ROAD, THAT MAYBE WEB SITES DON'T REALLY NEED IT, WE CAN CHANGE IT, BUT IT WOULD BE A LOT MORE DIFFICULT, IT SEEMS TO ME, TO GO THE OTHER WAY.

THE ANSWER TO THAT IS AS SIMPLY AS I CAN PUT IT, IS THAT WITH 40,000 WEB SITES OUT THERE AND WITH THE WEB SITES HAVING BEEN SUBJECT TO BAR REGULATION, THEY HAVE BEEN ALWAYS SUBJECT TO BAR REGULATION, BUT WE HAVE NOT YET HAD AN ENFORCEMENT POLICY TO CHECK LAWYER WEB SITES. AGAIN, CANDOR, HERE, I THINK IS MORE IMPORTANT THAN ANYWHERE ELSE IN THE WORLD. WHEN WE STARTED LOOKING AT WEB SITES, OUR BAR COUNSEL LOOKED AT BOARD OF GOVERNOR WEB SITES AND SADLY ADVISED MANY MEMBERS OF THE BOARD OF GOVERNORS THEIR OWN WEBSITES WERE NOT IN COMPLIANCE WITH REGULATIONS.

JUSTICE: RIGHT NOW THEY SHOULD BE IN COMPLIANCE WITH THE OTHER ADVERTISEMENT RULES CONCERNING --

EXCEPT FOR THOSE EXCEPTIONS AND THOSE EXCEPTIONS ARE IMPORTANT BECAUSE MOST LAWYERS USE THEIR WEB SITES TO TALK ABOUT THEIR LAWYERS, THE ACHIEVEMENTS OF THEIR LAWYERS, THEIR PAST SUCCESSES, THE DYNAMICS OF THEIR LAW FIRM, SO THOSE EXCEPTIONS WHILE THEY MAY NOT LOOK IMPORTANT ARE EXTRAORDINARILY IMPORTANT, BECAUSE MOST LAWYERS HAVE USED THE WEB SITE FOR THAT EXACT PURPOSE, BELIEVE AGO THAT THE WEB SITE IS DIFFERENT FROM OTHER FORMS OF ADVERTISING IN A PLACE WHERE PEOPLE ARE

SEEKING THEM OUT NOT THAT THEY ARE SEEKING PEOPLE OUT.

JUSTICE: ONE QUESTION AND I KNOW YOU ARE OUT OF TIME , AND PER HAPS MR . BOGGS IS SITTING IN THE BACK TO ANSWER AFTER THE OTHERS HAVEAN OPPORTUNITY TO T A LK TO US. B UT I WOULD LIKE TO KNOW WHAT THE STATISTICS ON THE BAR PROSE CUTION OF ETHICAL VIOLATIONS OUT OF THE ADVERTISING RULE .

YOU KNOW THE ANSWER TO THAT.

PROB ABLY R E CEIVE BETWEEN 200 AND 300 COMPL AINTS ABOUT LAWYER ADVERTISEMENT S PER YEAR. OF THOSE, MA NY OF THEM ARE E ITHET DISMISSED BY BAR STAFF OR THEY ARE HA NDLED IN A FA IRLY LOW-LEVEL FASHION , GETTING A M INOR MISCONDUCT , PUBLIC REPRI MAND OR DIVERSION.IN ACCORD ANCE WITH THE STANDARDS FOR IMPOSING DISCIPLINE IN LAWYER ADVERTISING CASE S, IT WOULD DEPEND. IF IT WAS A MISREPRESENTATION , OBVIOUSLY --

JUSTICE: DO WE KNOW HOW MANY ON A YEARLY BASIS , W E HAVE FIND INGS OF PROBABLE C AUSE ?

THAT , I THINK SOMEBODY IS GOING TO HAVE TO GET BACK TO YOU ON.

JUSTICE: AND HOW MANY WE HAVE IN WHICH SDPIP LIEN -- DISCIPLINE IS ACTUALLY IMPOSED.

WE WILL GET BACK TO YOU WITH THAT.

CHIEF JUSTICE: THANK YOU VERY MUCH.WE WILL H EAR FROM --

CASEY EBBS BARRY, JR. , -- CASEY EB SARY JR., AND MY SON , AND HE HAS HEARD THE ARGUMENTS BEFORE THE COUR T. HE IS NINE AND WAS IN THE SOAP BOX DERBY LAST WE EK . HE HAD A GREAT TIME.I WA NTED TO ADDRESSSOMETHING THAT JUSTICE CANTERO QUESTIONED ANDSOMETHING THAT JUSTICE BELL HAD ASKED ABOUT, AND THAT IS WHAT IS THE SCIENCE OF THE INTERNET, AND SC IENCE OF THE INTERNET IS THAT, WHEN ONE PUTS AN INQU IRY IN A WEB BROWSER , SOMETIMES YOU YOU WILL SEE WEB SITE LI STED AS HTTP:// : // THAT IS A COMP UTER COMMAND. ALL SCIENTISTS AG REE THAT , WHEN YOU MAKE A COMMAND IN THE FORM O F A HTTP:// COMMAND, THAT YOU YOU ARE REQUESTING INFORMATION. THAT IS ACTUALLY HOW IT IS DEFINED , AND THE REAL PAINFUL DETAIL S ARE IN MY BRIEF AND YOU CAN LOOK AT THAT. SO THE SCIENCE OF THIS INCLUDES THE FACT THAT THESE ARE ACTUALLY REQU ESTS FOR INFORMATION, AND THERE IS NOTHING IN THE RECORD THAT CAME BEFORE THE ADVERTISINGTASK FORCE THAT WOULD CHANGE THAT, NOR IS THERE AN YTHING THAT COULD CHANGE THAT. ALL EX PERTS AGREE.

JUSTICE: I ME AN, IT IS THE SAME THING. I PICK UP A NEWSPAPER. I PICK UP A NEWSPAPER FOR INFORMATION, SO THAT IS MY HTTP:// I N HARD COPY, SO WHY SHOULD THAT NOT BE THE SAME INFORMATION I CAN GET FROM PRINTED MATERIAL THAT APPLIES AC ROSS ELECTRONIC MATERIAL?

WELL , ON YOUR UP I N , YOU YOU ARE GOING TO HAVE A -- ON YOUR U P IN , YOU ARE GOINGTO HAVE A -- O N YOUR NEWSPAPER, YOU YOU ARE GOINGTO HAVE A NUMBER OF ART DELAYS THAT YOU HAVE N'T -- OF ARTICLES THAT YOU WEREN'TFAMILIAR WITH, AND YOU CAN NARROWLY TAYLOR YOUR REQUEST.

CHIEF JUSTICE: IF YOUKNOW WHAT YOU ARE DO ING.

IF YOU ARE KNOW WHAT YOU ARE DOING.

CHIEF JUSTICE: SERIOUSLY , I WAN TED TO MAKE JUSTICE L EWIS --

JUSTICE: T HAT WAS HIS ANSWER.

CHIEF JUSTICE: THAT WAS HIS ANSW ER.

JUSTICE: A HYPOTHETICAL QUESTION. CLERKS OFFICES ARE GOING TO THE INTERNET , PUBLIC RECORDS. LET'S SAY AN INDIVIDUAL HAS A D UI TI CKET AND THEY GO TO THE CL ERK'S SITE TO TRY T O FIGURE OUT WHERE THEIR COURTIS OR WHATEVER AND THE CLERK'S OFFICE TO RAISEMONEY , SE LLS ADVERTISEMENTS OR LINK S TO THOSE , AND SO ALAWYER GIVES A POP-UP, AND IT SAYS DO YOU LIE ? AND THAT IS I T , AND YOU POP THERE AND THEN YOU YOU GO TO THE SITE THAT SAYS I HAVE BEEN SUCCESSFUL OVER 80 PER CENT, OVER 90 PERCENT .

I THINK WE S HOULD REGULATE. THAT I THINK YOU SH OULD REGULATE CONTEXT -DRIVEN ADS. FOR EX AMPLE THE NEWS PAPER AD THAT WE WERE DISCUSSING IN THE LO UNGE EARLIER. SOME OF THE TECHNOLOG ICALALLOWS IF THERE IS A ARTI CLE ABOUT CAR CRASHES , THERE ARE CERTAIN KEY WORDS THAT YOU CAN BUY THAT WILL GENERATE AN AD THAT IS CONTEXT DRIVEN AND THAT IS WHY YOU ARE REA DING ABOUT C ERTAIN ISSUES DOWN THE SIDE OF THE PAGE . I THINK YOU SHOULD REGULATE THOSE. THOSE ARE SPONSORED ADS. A T THE TOP OF GOOGLE RESULTS, THOSE ARE SP ONSORED ADS. THOSE ARE ADS WHERE PEOPLE BOUGHT KEY WORDS TO GEN RAT AN AD AND VIRTUALLY NONE OF THOSE COMPLY WITH THE BAR RULES, AT LEAST THE ONES I HAVE SEEN .

CHIEF JUSTICE: WHAT ABOUT THE YE LLOW BA NKS. AREN'T YOU T RYING TO - - THE YELLOW PAGES. AREN'T YOU TRYING TO FIND A LAWYER?

YES, THEY DO.

CHIEF JUSTICE: SO I AM TRYING TO FIND OUT, SOME ONE IS TR YING TO FIND AN ATTORNEY. H OW IS IT DIFFERENT , A S FAR AS WHAT, IF WE ARE SAYING THAT WE SHOULD BE TR EATING AND BE CONSISTENT IN HOW WE TREAT ADVERTISING , I AM JUST HAVING A HARD TIME SEEING HOW THIS IS SIMPLY A REQUEST FOR INFORMATION AS OPPOSED TO THE AB ILITY TO SAY , WELL , NOW I AM GOING TO FIND ALL THE ATTORNEYS THAT DO PERSONAL INJURY WORK. I AM A MUCH MORE , YOU KNOW , SOMEBODY WHO IS KNOWLEDGEABLE, AND THEN THEY G ET ALL OF THESE FIRMS , AND THE Y FIND OUT WHAT THE RESULTS OB TAINED WERE. YOU SEE, I MIGHT SAY I THINK THAT IS GOOD FOR ADS, TOO , BUT WHY NOT B E CONSISTENT IN HOW WE TREAT IT?

WELL , I THINK THE WAY TO BE CONSISTENT IS TO SEPARATE O UT, I MA DE A LI TTLE LIST HERE, BANNER ADS, POP-UPS , SPONSORED LISTING S. THOSE SHOULD BE SEPARATED OUT FROM LAWYER WEB PAGES , BECAUSE THEORETICALLY THE COURT'S WEB SI TE IS A LAWYER'S WEB PAGE . THEORETICLY ALL OF THE CONTENT -D RIVEN B LOGS, ALL OF THE WEB SITES THAT ARE OWNED BY LAWYERS THAT WERE INVOLVED IN A COU PLE OF HIGH PROFILE CASES THAT HAVE BEEN BEFORE THIS COURT, WERE TRUE SOURCES OF INFORMATION AND PLEADINGS , AND FREE SP EECH FIRST AMENDMENT FOR DEBATE, ABOUT WHETHER OR NOT THAT WAS AN ISSUE THAT PEOPLE AGREED UPON. FOR EXAMPLE THOSE BL OGS ALLOW PEOPLE WHO ARE NOT ON THE LAWYER'S WEB SITE TO POST COMMENT, AND YOU YOU END UP , I GOO ING HE WILLED THE -- I GOO GLED THE TERM SLIPPERY SLOPE, AND FIRST OF ALL IT IS A WE AK AR GUMENT WHEN YOU DON'T HAVE ANYTHING ELSE TO ARGUE , BUT INTERESTING LY ENOUGH THERE ARE THOUSANDS OF PAGES THAT TALK ABOUT THAT , BUT WHAT HAPPENED WITH THE YELLOW PAGES AND WHAT HA PPENED WITH ADVERTISEMENTS AND I AM SURE IT HAPPENED IN NEW O R LEANS , TOO , WHERE THEY SAID IT IS ONLY GOING TO AND COUPLE OF INCHES OVER THE LE VY. IT IS NOT GOING TO BE A PROBLEM , AND PRETTY SOON IT TAKES MONTHS TO PUMP THE WATER OUT. ONCE THE HO RSE IS OUT OF THE BARN, IT IS HARD TO GET HIM BACK IN THERE. LAWYER WEB SITES ARE TO BE DISTINGUISHED FROM LAWYER ADVERTISING , AND I THINK THE COMMITTEE APPOINTED, THE WEB SITE ADVERTISING COMMITTEE , DICTATED THE RESULTS RIGHT OUT OF THE B OX .

JUSTICE: IS THERE A DIFFERENCE WHEN YOU TYPE IN WWW.EBSBARYWAGNERPA.COM. YOU WANT A LISTING. IT IS JUST LIKE A PHONE CALL REQUESTING A BROCHURE. IT SEEMS TO ME A POP-UP AD OR ANYWHERE ELSEWHERE YOU ARE LOOKING FOR GENERAL INFORMATION BUT NOT ASPECIFIC INFORMATION ABOUT A PARTICULAR LAW FIRM.

THAT IS ABSOLUTELY CLEAR TO US.

JUSTICE: AS FAR AS CONSISTENCY, IT SEEMS TO ME THAT IF WE ARE GOING TO PROHIBIT WEB SITES FROM DOING CERTAIN THINGS AND CONSIDER THOSE ADVERTISING, THEN WE NEED TO CONSIDER BROCHURES ADVERTISING AS WELL, BECAUSE IT IS THE SAME KIND OF THING EXCEPT IT IS LOW TECH VERSUS HIGH TECH .

AND THERE IS A CONSTITUTIONAL STANDARD. YOU HAVE TO HAVE A SUBSTANTIAL INTEREST IN WHAT YOU ARE REGULATING. WITH THE WEB SITES, WE HAVE GOT, IN THE COMMENTS , I AM FALLING IN THE ACCIDENTAL TOURIST IN THE WEB SITES. IF YOU LOOK AT THE COMMENTS IN THE RULE 7-4.6 , YOU HAVE GOT AN ACCIDENTAL TOURIST WHO ACCIDENTALLY ENDED UP ON A WEB SITE. IT TALKS ABOUT WEB SITES NOT BEING EASILY CATEGORIZED AS TO INFORMATION TO REQUEST FROM A PERSPECTIVE CLIENT WHICH IS SUBJECT TO THE GENERAL PROHIBITION AGAINST , AND IT GOES ON AND ON. IT IS EASILY CATEGORIZED.

CHIEF JUSTICE: HOW DO YOU ANSWER, MAYBE YOU DIDN'T OR DID.

I WILL NOW. CHIEF MY QUESTION ABOUT HOW IS IT, AGAIN, AS JUSTICE CANTERO'S SCENARIO IS , YOU KNOW THE NAME OF THAT FIRM AND YOU ARE GOING TO THE FIRM. IN MY SCENARIO ACTION , YOU ARE TRYING TO FIND OUT -- IN MY SCENARIO, YOU ARE TRYING TO FIND OUT PRODUCT LIABILITY LAWYERS. HOW IS THAT DIFFERENT THAN THE YELLOW PAGES?

YELLOW PAGES COULD BE LIKE THE HOMEPAGE OF THE WEB SITE, WHICH HAS THE LAWYER'S NAME, PHONE NUMBER AND NOT MUCH ELSE, AND THEN IF YOU WANT MORE INFORMATION , YOU CALL THE LAWYER IN THE YELLOW PAGE AD AND YOU GET MORE INFORMATION .

JUSTICE: HOW ABOUT IF IT SAYS "SEE OUR AD PAGE 400"?

WHERE WOULD IT SAY THAT, YOUR HONOR ?

JUSTICE: RIGHT BESIDE THE TELEPHONE NUMBER, IT SAYS "SEE OUR AD" AND THEN IT REFERS TO A DIFFERENT PAGE, BECAUSE THERE IS NOT ENOUGH PAGES IN THE PHONE BOOK WITHOUT ADS .

AND THE DIFFERENCE IS?

WHY IS THAT DIFFERENT FROM YOU HAVE GOT A NAME OF SOMEBODY THAT IS ACTUALLY IN THE TELEPHONE BOOK AND ON THE WEB , INTERNET TECHNOLOGY . "SEE OUR AD".

WEB SITES ARE NOT JUST ADS.

IT CONTAINS THE SAME INFORMATION. IT IS TANTAMOUNT TO AN AD, SO WHY IS IT DIFFERENT? YOU WERE SAYING BEFORE IT IS DIFFERENT BECAUSE YOU KNOW THE NAME. YOU KNOW THE NAME FROM THE YELLOW PAGES. THAT TERM , AS CHIEF JUSTICE REFERS TO , IS A PRODUCT LIABILITY FIRM. THAT'S GREAT . "SEE OUR AD" PAGE 400 ONE TO ME THAT NOT A SUBJECT THAT SHOULD BE TREATED THE SAME.

I DON'T THINK A LOT OF ADVERTISING SHOULD BE REGULATED, SO I THINK WE HAVE A BASIC DIFFERENCE HERE.

JUSTICE: THE SUPREME COURT DOES SAY THAT IT CAN BE REGULATED. FLORIDA DOES REGULATE IT, SO IF YOU ARE PITCHING A POSITION THAT WE SHOULD NOT REGULATE ADVERTISING, THEN THAT SHOULD BE ON THE TABLE. WE SHOULD UNDERSTAND OUR PHILOSOPHICAL VIEWS ON THOSE THINGS, AND YOU YOU ARE CERTAINLY ENTITLED TO DO THAT AND EXPRESS THAT AND WE RESPECT THAT, BUT WE NEED TO KNOW RATHER THAN TRYING, IF YOU ARE TRYING TO GET RID OF ADVERTISING RESTRICTIONS, WE SHOULD KNOW THAT UP FRONT AND NOT DO IT IN A PIECEMEAL WAY SO WE HAVE SOME CONSISTENCY IN WHAT WE ARE DOING.

MY LEGAL POSITION IS THAT WEB SITES ARE NOT ADVERTISING. IT IS CORE FIRST AMENDMENT SPEECH. THE DIFFERENCE BETWEEN AN AD, LIKE IF YOU ARE LOOKING FOR A PRODUCTS LIABILITY LAWYER, THE PRODUCTS LIABILITY LAWYER IS GOING TO PITCH INFORMATION LIKE IS IN THAT MAILER THAT WAS RECEIVED, BUT WHEN YOU GET TO THE WEB SITE, YOU CAN GO WHAT IS A PRODUCTS LIABILITY LAW SUIT?

JUSTICE: DO YOU KNOW HOW MANY STATES ARE REGULATING WEB SITE ADVERTISE SOMETHING.

I DON'T KNOW THE ANSWER TO THAT, BUT I KNOW THAT WE DID A LOT OF RESEARCH.

JUSTICE: DO YOU KNOW IF THERE IS ANY RESTRICTION IN GEORGIA.

I DO NOT KNOW THAT.

JUSTICE: ORAL BAM?

DO NOT KNOW, SIR.

CHIEF JUSTICE: I DON'T KNOW IF I ASKED THIS QUESTION OR IF IT WAS ANSWERED BUT SINCE YOU WERE ON THE TASK, FOR -- ON THE TASK FORCE, WHAT WAS THE REASON FOR A PROHIBITION LAWYERS MAKING STATEMENTS REFERENCING THE QUALITY OF LEGAL SERVICES AND ADVERTISING PAST RESULTS?

I DON'T RECALL WHAT THAT WAS. I AM NOT TRYING TO BE EVASIVE.

CHIEF JUSTICE: THAT IS SORT OF TO ME, A GAIN, FIRST OF ALL I THINK IT IS, TO SAY THAT YOU CAN CHARACTERIZE YOUR ABILITY AS AGGRESSIVE BUT NOT YOUR RESULTS OR SOMETHING, IS, I DON'T SEE THE DISTINCTION THERE, BUT IT SEEMS TO ME THAT THOSE ARE THE TWO BIGGEST THINGS THAT WOULD BE OF CONCERN, ARE THESE TWO AREAS, AND FOR SOME REASON, THOSE ARE EXEMPTED, IF IT IS A WEB SITE. IT IS SORT OF LIKE RIGHT NOW IT IS, CAN'T QUITE FIGURE OUT WHICH WAY TO GO SO WE WILL TREAT THEM INCONSISTENTLY.

I KNOW THE ANSWER NOW. THE ANSWER WAS THAT YOU HAD THAT MAILING RULE THAT HAD, IT WAS INFORMATION AT THE REQUEST, AND THOSE MAILERS COULD INCLUDE RESULTS, SO THEY WERE MAKING IT CONSISTENT. I BELIEVE THAT IS WHERE THAT CAME FROM. BUT. MR. WAGNER HAS THE FINALITY IN MINUTES.

CHIEF JUSTICE: -- THE FINALITY IN MINUTES.

CHIEF JUSTICE: YOU ARE INTO HIS TEN MINUTES.

I APOLOGIZE FOR THAT. THERE IS REALLY NOT A SLIPPERY SLOPE HERE. WHAT WE ARE DEALING WITH HERE IS STEPS INTRUDING INTO FIRST AMENDMENT SPEECH. I WILL BE BACK AND THE BAR COUNSEL CITED THE COMMENTS THREE TYPES HERE TODAY AND WE WILL BE CITING IT FOR DOZENS OF YEARS TO COME IF WE DON'T, I WOULD SAY, LEAVE THE CURRENT RULE. THANK YOU.

I AM BILL WAGNER ONE OF THE RESPONDENTS AND WHAT IS LEFT OF MY TEN MINUTES , I DON'T THINK I CAN COVER MY RESPONSE, BUT FROM THE QUESTIONS I INTERPRET THE FACT THAT SOME OF THE JUDGES ANYWAY HAVE READ THE RESPONSE THAT I MADE BECAUSE SOME OF THE QUESTIONS --

CHIEF JUSTICE: WOULD YOU CAPSULIZE YOUR POSITION.

I WOULD LIKE TO DO THAT. THE FIRST THING , I HAVE NO QUARREL WITH MOST OF THE RECOMMENDATIONS OF THE COMMITTEE AND THE BAR. THEY IMPROVE WHAT IS A DIFFICULT PROBLEM. I THINK THE COURT SHOULD VERY CAREFULLY CONSIDER THE PROPOSAL WITH REGARD TO THE WEB , BECAUSE I THINK AS RECOGNIZED, THERE ARE A LOT OF UNSOLVED QUESTIONS THERE. SECOND POSITION I TAKE IS THAT IT IS TIME , AFTER THIS LONG PERIOD OF TIME , FOR THE COURT TO REQUIRE THE BAR TO DO SOMETHING. TO REQUIRE IT TO COMPLETELY STUDY THIS ENTIRE ISSUE OF ADVERTISING AND MARKETING , AND SAY AN ANSWER IN WRITING SOME GOALS AND PRESENT THEM TO YOU TO APPROVE THOSE GOALS. IS WHAT THIS REGULATION WE ARE DOING REALLY ASSISTING THE PUBLIC? IF YOU COME WITH A PIECE OF THING , HOW DOES THAT ASSIST THE PUBLIC? TWO , IS IT REALLY GOING TO WORK. THREE , IS THE ADVERTISING OR THE MARKETING OR WHATEVER YOU ARE DOING , WHATEVER YOU CALL THIS , CAUSING ADVERSE REACTION FROM THE PUBLIC GENERALLY , TO OUR SYSTEM OF JUSTICE. AND IF YOU SET FORTH THOSE RULES OR PERHAPS SOME OTHER GUIDELINES THAT YOU COULD COME UP WITH THAT THE BAR WOULD BE REQUIRED TO COME UP WITH THOSE GUIDELINES .

CHIEF JUSTICE: BUT THEY ALREADY STUDIED , BACK IN 2000 WHEN WE HAD THE 2000 RULES , THEY STUDIED AND FOUND OUT WHAT WE KNOW , WHICH IS THAT ADVERTISING HAS , HAS HAD A NEGATIVE IMPRESSION ON THE PUBLIC .

ABSOLUTELY BUT THEY DIDN'T START OVER , AND MY MEMORIALS POINT OUT THE THINGS THAT, THERE ARE RULES THAT WE ARE LIVING OUT , DIRECT MAIL SOLICITATION THAT ARE AS ANCIENT AS OUR FIRST REGULATIONS , AND THEY DO NOT MAKE SENSE WHEN YOU LOOK AT THE OTHER WAYS OF SOLICITING BUSINESS.

CHIEF JUSTICE: WHAT IS YOUR VIEW ON THE MARKET GO BROKE ASSURES?

I THINK THERE HAS TO BE CONSISTENCY. IF YOU ARE GOING TO SAY WE CAN SEND THOSE TO THE PUBLIC , IF YOU CAN SEND THOSE TO MY 9,000 FORMER CLIENTS AND THEIR NEIGHBORS AND THEIR RELATIVES AND THEIR FRIENDS AND FELLOW WORKMEN , THEN YOU OUGHT TO BE ABLE TO SEND THEM TO THE PUBLIC GENERALLY. THERE OUGHT TO BE CONSISTENCY IN THAT -- CONSISTENCY IN THAT, AND IF THAT TYPE OF ADVERTISING IS BAD , PERHAPS YOU CAN CURE IT BY SAYING 40 PERCENT OF THE ADVERTISEMENT HAS TO BE SOMETHING THAT ADVANCES THE RESPECT OF THE CIVIL JUSTICE SYSTEM , RESPECT FOR THE COURT SYSTEM. YOU COULD MAKE THAT AS A REQUIREMENT AS THE EXPENSE THAT A LAWYER HAS TO PAY FOR ENGAGING IN ADVERTISING AT ALL. THE SUPREME COURT SAYS THIS SUPREME COURT SAYS, THAT THE INTENTION IS TO GIVE THE PUBLIC INFORMATION THAT THEY CAN USE. I DON'T UNDERSTAND HOW YOU SAY YOU CAN GIVE THEM INFORMATION YOU CAN USE, BUT YOU CAN'T TELL THEM WHAT THE QUALITY OF SERVICE IS. SO YOU GET AROUND THAT BY SAYING, WELL, YOU CAN DO THAT ON A WEB PAGE OR YOU CAN DO IT , THE MAN ON TELEVISION CAN'T DO IT BUT HE CAN TAKE , BUT CALL ME AND I WILL GIVE YOU INFORMATION , AND THEN THEY SEND THAT OUT TO THEM , OR GIVES THE WEB SITE. BELIEVE ME I KNOW. MARKETING IS NOT JUST ADS , AND I DISAGREE HERE. WE HAPPEN TO HAVE A SECTION , ONE OF THE BACK PAGES OF OUR WEB SITE WHICH DESCRIBES MARITIME ACCIDENT. WHAT HAPPENS WHEN TWO BOATS RUN INTO EACH OTHER. NOW , IF YOU PUT IT IN GOOGLE AND LOOK FOR BOATS COLLIDING, IT DOESN'T GO TO OUR FRONT WEB PAGE. IT GOES TO THAT PAGE PROVIDING INFORMATION. I AM NOT CERTAIN IF THAT IS GOOD OR BAD FOR THE PUBLIC, TO HAVE LAWYERS PROVIDE INFORMATION OF AVAILABILITY TO THEM , BUT I DON'T THINK THE BAR AND RESPECTFULLY I DON'T THINK THE

COURT CAN CONTINUE TO GO ON AN OUTLINE , A SERIES OF RULES DEVELOPED 15 YE ARS AGO , WHEN THE BIGPROBLEM WAS YELL OW PAGES. THE BAR JUST CA ME OUT WITH SOME INFORMATION. IT SAYS THAT TO DAY , PEOPLE RECALL YELLOW PAGES 90 PERCENT OF THE TIME. PEOPLE RECALL ABOUT LAWYERS F ROM DIRECT MAIL SOLICITATION, 3 PERCENT OF THE TIME. PEOPLE RECALL IT FROM TELEVISION, 91 PERCENT OF THE TIME. BUT THE MA GIC WOR D THERE WAS RECALL. RECALL IS MARKETING. MARKETING, YOU DON'T LOOK AT THE TELEVISION THING AND SAY , GEE , I THINK I WILL GO HAVE AN ACCIDE NT AND H IRE A LAWYER. WHAT HAPPENS IS YOU SEE THAT AD OVER AND OVER AND OVER AGAIN, AND TODAY YOU HAVE AN ACCIDENT, AND YOU THINK WHERE DID I SEE THAT N AME, AND I WILL GO TO THAT COMPANY.NOW , I AM NOT SAYI NG THERE IS ANYTHING WRONG WITH THAT , BUT I THINK WE HAVE TO RECOGNIZE AND REALIZE THAT THE WOR LD OF ADVERTISING AND MARKETING HAS CHANGE D IN THE LAST 15 YEARS AND RESPECTFULLY, WE ASK WHY DIDN'T THE BAR DO THIS, WHY DIDN'T THE BAR DO THIS , WHY DIDN'T OUR COMMITTEE DO THIS? THE WORL D OF THE LAWYERS WH O SIT DO WN AND MAKE THOSE DECISIONS HAS AL WAYS CHANGED DRAMATICALLY, AND I SUSPECTIF YOU WAIT OR THE BAR COMESUP WITH A COMP LETE REVIEW OF THIS AND STUD Y IT AND GET EXPERT ADVICE INSTEAD OF THE ADVICE OF AN OTHER LAWYER WHO IS INVOLVED IN ON E WAY OR THE OTHER, YOU ARE GOING TO BE WAITING ANOTHER TENYEARS.

CHIEF JUSTICE: WHAT DO YOU SUGGEST THEN?

MY SECOND POINT WAS GO A HEAD AND AP PROVE THESE THINGS. YOU MAY WANT TO WITH HOLD ON --

CHIEF JUSTICE: I TH OUGHT IT WAS IRONIC WHEN I SA W THE TASK FORCE THIS TIME DOES NOT FAVOR THE PR E, WHAT IS YOUR VI EW ON THE PRESCREENING OF TELEVISION AND R ADIO ADVERTISEMENT , BECAUSE AS I UNDERSTAND THE TASK FORCE DID NOT AGREEWITH THAT , WHEREAS SIX YEARSAGO , THEY THOUGHT ADVERTISING TELEVISION AND R ADIO ADVERTISING SHOULD BE BANNED COMPLETELY.

I WAS THE RE SIX YEARS AGO, AND THE INSTRUCTION FROM THE BAR LEADERSHIP AND THE IMPLIED INSTRUCTIONS FROMTHE THEN-COURT WAS , DO ANYTHING POSSIBLE YOU CAN DO TO REGULATE ADVERTISING. BUT THEY WERE THINKING, THEN , A BOUT ADVERTISING THAT WAS THOUGHT THEN. MY GOD LOOK A T THOSE YELLOW PAGES. THEY ARE GOING TO KILL US. WE ARE BACK ING OUT OF THE YELLOW PAGES . THERE ARE SO MANY , 1 25 I N TAMPA.IT IS NOT COMPETITIVE AND THEY KEEP CHARGING FOR IT. ADVERTISING HAS CHANGED DRAMATICALLY AND YET WE ARE S TILL TINKERING WITH THE RULES.

CHIEF JUSTICE: IF IT IS GOING TO TAKE TEN YEARS TO DO WHAT YOU SUGGESTED , WHAT WOULD YOU SUGGEST IF YOU WERE UP HERE , WHAT WOULD YOU SUGGEST?

I WOULD SUGG EST IT WOULD MOVE A LOT FASTER, IF THE COURT WOULD SAY TO THE BAR A S YOU HAVE DONE IN A COUPLE OF RECENT DECISIONS, YOU SAID I AM GOING TO GIVE YOU SIX MONTHS TO COME UP WITH A PROPOSAL THAT WILL OUTLINEAWAY IN WHICH YOU ARE THERE A FTER GOING TO DECIDE TO PURSUE OR NOT PU RSUE MARKET ING REGULATION, AND I WAS K IND OF SURPRISED, BUT I DON'TFIND IT IN THE MATERIALS , BUT THE FLORIDA BAR CITIZENS FORUM , WHICH SOME MEMBERS OF THE BOARD SORT O F JOKE AT AND SAY THAT IS THEM. WE DON'T PAY ANY ATTENTION. THEIR RECOMMENDATIONS YOU SHOULD READ.THEY SAY IN REGULATING LAWYER ADVERTISING, THE PRIMARY CONCERNS OF THE FLORIDA BAR SHOULD BE PROTECTING THE PUBLIC AND PRESERVING THE INTEGRITY OF THE LE GAL PROFESSION. S ECOND RECOMMENDATION , THEFLORIDA BAR SHOULD SIMPLIFY THE STANDARDS REGARDINGDESIGN OF AN ADVERTISEMENT AND PRIORITIZE REGULATING THE PROFESSION OF THE M ESSAGE ANSW ERING TWOQUESTIONS. IS THE ACTION BY THE LAWYER F ALSE , MISLEADING OR DAMAGING TO THE PUBLIC, AND SECOND, DOES IT DENIGRATE THE PROFESSION OR THE SYSTEM OF JUSTICE? IF YOU TE STED E AC H ONE , THEYHAVE A RULE IN H ERE WHICH SAYS IF I SENT A LE TTER OUTAND I

INCLUDE A COPY OF MY CONTRACT, I HAVE TO STAMP ON IT " DON'T SIGN IT" ! THE LETTER HAS TO SAY AT THE TOP IF YOU ALREADY HAVE A LAWYER, IGNORE THIS LETTER. I DON'T HAVE TO SAY IT IF I SENT IT TO ONE OF MY 9,000 OR 10,000 FORMER CLIENTS. I DON'T HAVE TO SAY IT ON THE INTERNET. YOU CAN DOWNLOAD MY CONTRACT ON THE INTERNET. THERE IS NO INCONSISTENCY BECAUSE I RESPECTFULLY SUGGEST THE BAR HAS NOT STOPPED AND SAYS OKAY, THE WORLD HAS CHANGED . LET'S START OVER AND SEE , A, WHAT DO WE WANT TO ACCOMPLISH. WE WANT TO PROTECT THE PUBLIC FROM MISLEADING LIES. THOSE TYPE OF THINGS. HOW IS THE BEST WAY TO DO IT. ALL OF THESE ADVANCED STUDIES THAT COST A LOT OF MONEY TO REQUIRE PEOPLE TO DEVELOP THESE ADS AND SEND THEM IN AND GET THEM APPROVED, OR DO WE WANT TO FINE PEOPLE THAT HAVE LIED AND HAVE MISLED AND NAIL THEM. I WOULD ADOPT A RULE THAT WAY. THIS COURT MAY FEEL DIFFERENTLY. THEY MAY FEEL IT IS IMPORTANT RIGHT NOW TO PREVENT ME FROM SENDING A CONTRACT TO A CLIENT IN A LETTER. I WOULD SUGGEST THAT LEVEL OF REGULATION IN THAT FIELD IS TOTALLY INCONSISTENT WITH WHAT THEY ARE CONSIDERING IN THE WEB SITE AND NOW TOTALLY INCONSISTENT WITH WHAT HAPPENS ON TELEVISION. I DO HAVE TWO OTHER PROPOSALS THAT I WOULD BRIEFLY COMMENT. I DO THINK THAT , UNDER THE RULES AND ANNOUNCEMENTS OF THE U.S. SUPREME COURT , AND BY THE WAY THE U.S. SUPREME COURT HAS RECENTLY APPROVED NOT TAKING CERTIORARI ON THE OPINION ON THE PIT BULL THING, AND ONE OF THE PINK THINGS ON THE PIT BULL THING IS YOU -- ON THE PIT BULL THING IS YOU SAY THAT FELLOW VIOLATED THE RULE. THERE IS NO LOGIC IN THAT , FOLKS. IT MAY BE WHAT YOU WANT TO ACCOMPLISH, BUT THERE IS NO ACCOMPLISH IN SUPPORTING PUTTING PIT BULL IN THE GROUND, BECAUSE PIT BULL SAID WAS, WHAT IS THE RULE , WAIT A MINUTE . YOU ARE MAKING AN EXCEPTION TO THE WEB PAGE. ANYWAY. WE WON'T GET INTO THAT. I APOLOGIZE. BUT I WOULD SUGGEST THAT THERE IS SOMETHING THAT THE COURT AT LEAST CONSIDER. I AM NOT SUGGESTING YOU DO THIS BUT I WOULD SUGGEST YOU CONSIDER ASKING THE BAR TO FIND OUT WHETHER OR NOT THIS EVENING THE U.S. SUPREME COURT AND THIS COURT WOULD APPROVE SOME MORE STRICT REGULATION THAN WHAT I CALL SPOT ADVERTISING. SPOT ADVERTISING IS NOT ADVERTISING. IT DOESN'T PROVIDE HARDLY ANY INFORMATION EXCEPT NAME RECOGNITION. BECAUSE OF THE LIMITED SPOT TELEVISION ADS, BECAUSE OF THE LIMITED INFORMATION THAT IS PROVIDED , IT IS MUCH MORE LIKELY PROVIDING INFORMATION THAT IN FACT MISLEADS OR IS MISUNDERSTOOD BY THE PUBLIC , AND AT LEAST ACCORDING TO THE STUDY, 80 PERCENT OF PEOPLE WHO HAVE NEGATIVE OPINION OF LAWYERS AND NEGATIVE OPINIONS OF THE JURY SYSTEM GET IT FROM SPOT ADVERTISING. I THINK THE NEW U.S. SUPREME COURT MIGHT REGULATE THAT. THEY MIGHT ALSO ALLOW YOU TO CONDITION THE RIGHT TO ADVERTISE IN THAT MANNER OR OTHER MANNERS WITH A REQUIREMENT THAT YOU INCLUDE SOMETHING THAT BOOSTS AND BOASTS ABOUT OUR SYSTEM. THANK YOU VERY MUCH.

CHIEF JUSTICE: THANK YOU VERY MUCH , MR . WAGNER. YOUR COMMENTS WERE VERY MUCH APPRECIATED AND YOU HAVE , THROUGHOUT THIS WHOLE ADVERTISING IS SUE , HAVE REMAINED SOMEBODY THAT IS ASSISTING THE COURT IN A VERY POSITIVE WAY. I APPRECIATE IT .

IF I MAY RESPOND TO TWO OF JUSTICE WELLS'S QUESTIONS.

CHIEF JUSTICE: LET'S LOOK AT PENNSYLVANIA BECAUSE WE ARE VERY WELL OVER TIME , BUT DO YOU WANT , I DON'T -- YOU HAVE THE STATISTICS?

TWO QUESTIONS. YOU AND JUSTICE QUINCE SHARED QUESTION THAT I WOULD LIKE TO RESPOND. I WOULD LIKE TO ASK THE COURT TO LET MR . RICHARDS ADDRESS ONE CONSTITUTIONAL ISSUE. TWO DOZEN FINDINGS OF PROBABLE CAUSE IN ANY GIVEN YEAR ON MANY CASES WHICH HANDLES THE DIVERSIFICATION PROGRAM AND ADVERTISING WORKSHOP, TO GO OVER THE RULES AND MAKE SURE EVERY LAWYER IS AWARE OF THE RULES. ANOTHER QUESTION YOU HAD JUSTICE WELLS, A MAJORITY OF STATES ALTHOUGH THEIR RULES DO NOT SPECIFICALLY ADDRESS THE INTERNET, APPLY THE ADVERTISING RULES TO THE INTERNET AS THEY WOULD IN THE SAME WAY TO ANY OTHER MEDIUM. JUSTICE QUINCE AND JUSTICE PARIENTE, I THINK

HAD QUESTIONS ABOUT WHY WE ARE DEALING WITH THE WEB SITES IN THE WAY THAT WE HAVE. WE ARE ASKING TO MAINTAIN THE STATUS QUO BEFORE THE BAR ASKS YOU TO EITHER MAKE THE RULES MORE RESTRICTIVE FOR WEB SITES OR LESS RESTRICTIVE. BECAUSE OF THE WAY THE RULES CHANGED, WE HAD TO SPECIFICALLY ADDRESS THE EXCEPTIONS WITHIN THE WEB SITE RULE ITSELF, BUT ALL THAT WE ARE ASKING IN THIS PETITION IS FOR YOU TO MAINTAIN THE STATUS QUO EXACTLY AS IT IS TODAY UNTIL THE BAR CAN COME TO YOU --

CHIEF JUSTICE: WHICH ALLOWS WEB SITES TO HAVE RESULTS OBTAINED.

CORRECT, AND STATEMENTS AS TO QUALITY OF LEGAL SERVICES.

CHIEF JUSTICE: IS IT TRUE THAT YOU CAN GIVE ADJECTIVES THAT DESCRIBE YOU. YOU CAN'T GIVE QUALITY OF THE SERVICES BUT YOU CAN DESCRIBE YOU.

IN GENERAL ADVERTISING? YES.

CHIEF JUSTICE: I MEAN, TO ME THAT IS, AGAIN, A DISTINCTION WITH THAT DIFFERENCE, BUT YOU DIDN'T DRAFT THEM ORIGINALLY.

NO, I DID NOT. BARRY RICHARDS JUST WANTS TO RAISE ONE CONSTITUTIONAL ISSUE REGARDING WEB SITES.

CHIEF JUSTICE: MR. RICHARDS. YES. THANK YOU.

MAY IT PLEASE THE COURT. THE ONLY ISSUE I WANTED TO COMMENT ON IS I THINK WE NEED TO KEEP IN MIND THAT THERE IS A CONSTITUTIONAL DISTINCTION BETWEEN SOLICITED AND UNSOLICITED ADVERTISING, IN THAT THERE IS A CONSIDERABLY HIGHER IMPEDIMENT TO THE STATE'S REGULATION OF SOLICITED AS OPPOSED TO UNSOLICITED ADVERTISING.

JUSTICE: THAT IS EXACTLY WHAT CONCERNS ME CONCERNING WHAT MIGHT BE REGULATED ON A WEB SITE. IF THAT IS SOLICITED, BECAUSE SOMEBODY IS AFFIRMATIVELY REQUESTING THAT INFORMATION, HOW CAN WE SAY THAT IS ADVERTISED AND REGULATED AS ADVERTISING?

WELL, IT IS EASY TO ANSWER THE QUESTION AS IS SO OFTEN THE CASE IN OUR BUSINESS, IF YOU LOOK AT THE EXTREME END OF THE SPECTRUM. CLEARLY A POP-UP AD IS SOLICITED AND THEREFORE --

JUSTICE: POP-UP AD TO ME IS NOT A WEB SITE. THAT IS A POP-UP AD ADVERTISING ON SOMEBODY ELSE'S WEB SITE.

RIGHT.

JUSTICE: I AM TALKING ABOUT SOMEBODY GOING TO BARRYRICHARD.COM.

THAT IS EXACTLY WHAT I WAS TALKING. YOU CAN DESCRIBE THAT IN MY NAME. THE CATEGORY BETWEEN THE TWO EXTREMES, THE BEST EXAMPLE BEING THIS, ASSUME THAT YOU HAVE A POP-UP AD THAT FULLY COMPLIES WITH THE RULES THAT LINKS TO A WEB SITE THAT IS NOT IN COMPLIANCE, SO THE QUESTION THEN BECOMES ONCE YOU HAVE THE POP-UP AD WITH THE LINK, DO YOU THEN OR SHOULD YOU THEN SUBJECT ENTIRE WEB SITE TO THE ADVERTISING RULES?

JUSTICE: BUT THEN PROHIBITING ANY KIND OF STATEMENTS ON A WEB SITE IS LIKE SAYING, WELL, YOU CAN'T HAVE A FLOATATION DEVICE BECAUSE SOME FLOATATION DEVICES DON'T WORK. IT SEEMS LIKE WHAT YOU HAVE TO DO IS REGULATE THOSE POP-UP ADS NOT REGULATE THE WEB SITE.

WELL , YES. WHAT I AM NOT ARGUING , I AM NOT ADVOCATING A POSITION.I AM JUST SUGGESTING THAT THE TASK FORCE , THE ISSUES ARE BEFORE THEM. ONE RESPONSE TO YOU MIGHT BE , IF I MAKE THE CHOICE OF A POP -UP AD, THEN I HAVE VOLUNTARILY SUBJECTED MY ENTIRE WEB SITE TO ALL OF THE ADVERTISING REGULATIONS BECAUSE I HAVE EFFECTIVELY MADE IT A PART OF THE POP-UP AD, SO IT IS MY CHOICE. IF I DON'T WANT TO DO THAT IN A POP-UP A D , I DON'T HAVE TO LIVE WITH IT.

CHIEF JUSTICE: WHAT YOU ARE SUGGESTI NG IS THE TASK FORCE COMMITTEE IS STRUGGLING WITH THESE ISSUES IN TRY ING TO STRIKE A BALANCE THAT IS CONSTITUTIONAL, AS WELL AS WILL PROTECT THE PUBLIC.

THAT'S CORRECT , YOURHONOR.

CHIEF JUSTICE: WHICH IS A HARD TASK TO --

IT IS A MATTER OF CONCERN TO ME BECAUSE I AM THE ONE WHO HAS TO BE DEFENDANT ING -- DEL VEDING THE CONSTITUTIONALITY OF WHATEVER THEIR PRODUCT IS.

CHIEF JUSTICE: THANK YOU .