

# Unethical Advertising or Just Poor Taste

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It is rare when issues involving legal marketing make the print or web pages of major metropolitan newspapers. But that is exactly the situation yesterday in regard to coverage of one law firm's attempt to obtain additional 9-11 lawsuits via advertising that some are suggesting is, at the very least, in poor taste.

The story revolves around an ad in which a New York City fireman appears alongside the headline, "I Was There."

The problem is that this particular fireman was neither there nor a member of the New York fire department on that day ten years ago. To make matters worse, the firefighter who was then working as a model, thought he was posing for a fire prevention ad. He was shot gripping a helmet -- not a picture of the 9-11 catastrophe that was later photo-shopped into his hands. A very small disclaimer at the bottom of the flyer reads, "This is an actor portrayal of a potential Zagroda claimant."

Although Bar association rules regarding attorney advertising vary state by state, it can be argued that under most state guidelines, the ad does not violate bar rules. After all, many personal injury ads use actors or models to depict accident victims. In this particular case, a small disclaimer does exist, and no individual is falsely portraying one of the attorneys at the firm. Similarly, the ad does not claim past or future results that it cannot substantiate.

Through its visual depiction as well as its copy, it seems rather apparent that the general intent of the ad is to convey the fireman's actual presence at the WTC scene, and by association, the firm's support of those who were heroes that day. As stated, this is not an uncommon practice. Hence, the

concern stems not from how the firm and its advertising agency depicted this particular firefighter, but that it elected to do so in an ad about such a still sensitive topic. The problem is further exacerbated by the very small size of the disclaimer which only serves to encourage a perception that the firm is somehow being misleading. That the approach taken ran the risk of potentially turning off the very group of people for which it was intended suggests not so much that this is a case of unethical advertising, as it does that this is simply bad advertising.

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