

SUPREME COURT OF LOUISIANA

In re Loughlin

148 So. 3d 176 (La. 2014) · Decided September 26, 2014

SUMMARY

The Louisiana Supreme Court reviewed a disciplinary board decision publicly reprimanding an attorney for advertising that his firm specialized in maritime personal injury and death cases. The court concluded that the respondent’s conduct was not shown to involve a culpable mental state or harm to the public and dismissed the formal charges, without reaching the constitutional arguments.

CASE DETAILS

COURT	Supreme Court of Louisiana
WRITING FOR THE COURT	Per Curiam
JURISDICTION	Louisiana
DECIDED	September 26, 2014
DISPOSITION	dismissed
PROCEDURAL POSTURE	Respondent lawyer appealed a disciplinary board decision imposing a public reprimand and requiring continuing legal education on lawyer advertising.
STANDARD OF REVIEW	Because attorney-discipline matters fall within the court's original jurisdiction, the Supreme Court of Louisiana acts as the trier of fact and independently reviews the record to determine whether the alleged misconduct was proven by clear and convincing evidence.
PRECEDENTIAL VALUE	published precedential opinion
PARTIES	Kearney Soniat du Fossat Loughlin v. Office of Disciplinary Counsel

TOPICS

- appellate procedure
- standard of review
- constitutional law
- first amendment
- admiralty

PRACTICE AREAS

- legal ethics
- attorney discipline
- legal advertising
- maritime law

QUESTIONS PRESENTED

1. Whether respondent's website statement that his firm was specializing in maritime personal injury and death cases constituted sanctionable misconduct under the applicable Louisiana lawyer-advertising and specialization rules.
2. Whether the record established by clear and convincing evidence that respondent's conduct warranted professional discipline.
3. Whether respondent's constitutional challenges to the advertising rules needed to be decided.

HOLDINGS

1. The respondent's conduct did not rise to the level of sanctionable misconduct because the record established no culpable mental state and no harm to the public.
2. In attorney-discipline matters within the Louisiana Supreme Court's original jurisdiction, the court acts as the trier of fact and independently reviews the record to determine whether misconduct was proven by clear and convincing evidence.

KEY QUOTATIONS

“Considering these factors, we do not find respondent’s actions rise to the level of sanctionable misconduct. Therefore, we will dismiss the formal charges against respondent.” (148 So. 3d at 178)

“it is ordered that the formal charges against respondent be and hereby are dismissed.” (148 So. 3d at 178)

FACTUAL BACKGROUND

In 2007, respondent created a law-firm website stating that his firm was a plaintiff-oriented litigation firm specializing in maritime personal injury and death cases. The website remained accessible through a Google search after respondent requested that it be taken down in 2009. The Office of Disciplinary Counsel charged respondent with violating Louisiana advertising and specialization rules, but the disciplinary record showed no actual public harm and no culpable mental state sufficient to support discipline.

PROCEDURAL HISTORY

The Office of Disciplinary Counsel filed formal charges alleging that respondent violated Louisiana lawyer-advertising rules by stating on his former website that his firm specialized in maritime personal injury and death cases. The hearing committee found a violation and recommended a public reprimand and continuing legal education; the disciplinary board affirmed and ordered those sanctions. Respondent appealed to the Supreme Court of Louisiana, which independently reviewed the record and dismissed the formal charges.

DISPOSITION

dismissed

CASES CITED

- In re Banks, 09-1212 (La. 10/2/09), 18 So. 3d 57

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