

HUTTON & HUTTON

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Missouri, Texas, New York
and the District of Columbia
Certified Nat'l Bd. Trial Advocacy
Also Admitted in Illinois,
Florida and New Jersey

Office Tax I.D. # 48-0966751

TO: Sen. Jeff King, Chair, Senate Standing Committee on Judiciary
Sen. Greg Smith, Vice-Chair, Senate Standing Committee on Judiciary

FROM: Mark B. Hutton and Blake A. Shuart, Hutton & Hutton Law Firm, LLC, Wichita
Individually and on behalf of the firm

DATE: March 3, 2016

RE: SB 467 which places restrictions on advertising by out-of-state attorneys

Our firm represents Kansans in claims arising out of injury or death due to defective and dangerous products, including medical devices and prescription drugs. Our firm has prosecuted literally thousands of these cases over the years.

In recent years, attorney advertising has become commonplace, especially in the context of personal injury and products liability cases. Flipping through the channels on TV, consumers are frequently asked if they or a loved one have been injured by some medical device or prescription drug. These ads often give only the name of an out-of-state law firm or group of advertising attorneys, and a 1-800 number for consumers to call for legal advice. If any other information about the firm or advertising group is provided, it is generally small boilerplate, flashed on the screen for 3-4 seconds at the end of the ad. Usually, the lawyers are not licensed to practice in Kansas, even though that firm or advertising group is soliciting Kansas clients, and entering into fee agreements to pursue claims on behalf of Kansas consumers for injuries that occurred in Kansas. In many cases, the out-of-state law firm or advertising group that paid for the advertisement does not actually litigate the case; instead referring it to another out-of-state law firm with which it will share fees.

While the Kansas Disciplinary Rules have proven generally effective in protecting the public from false and misleading advertising by Kansas lawyers, these rules apply only to members of the Kansas bar, and not to out-of-state lawyers or advertising groups. The inapplicability of these rules to out-of-state lawyers and advertising groups means that these unlicensed lawyers can say whatever they want in advertisements directed toward Kansas consumers with virtual impunity. At the very least, these ads mislead consumers into believing that they are contacting a lawyer who is qualified to represent them in matters that presumably arise in Kansas.

Nothing in current Kansas law prohibits out-of-state lawyers and advertising groups from soliciting Kansas clients by advertising on TV as available to assist in litigation arising in this state. These advertisements necessarily lead to an out-of-state lawyer, who is not licensed in Kansas, providing legal advice to a Kansas consumer about a potential claim arising in Kansas, and are aimed at securing a contact with the consumer to provide legal services. This is, at its core, the practice of law in Kansas and should be regulated by the state of Kansas.

We strongly believe that attorneys should be licensed by the state of Kansas before engaging in any solicitation of clients in this state. Such licensing of lawyers protects the people of Kansas in that the Kansas Supreme Court has direct jurisdiction over attorneys licensed by it. It can act against such licensed attorneys in the event that such licensed lawyers commit violations of Kansas law, court rules or rules of ethics for lawyers. Senate Bill 467 addresses this issue and is necessary for the protection of the people of Kansas.

We appreciate the Committee's attention to these important issues and thank you for your time.

Very truly yours,

Hutton & Hutton Law Firm, LLC

By: _____
Mark B. Hutton

By: _____
Blake A. Stuart

STACEY LEE CHAMPION

February 22, 2015

TO WHOM IT MAY CONCERN:

My name is Stacey Lee Champion. My current address is 205 E. 125th Terrace, Kansas City, MO 64145. I am 40 years-old. My educational background includes a Ph.D. in the Biomedical Sciences from the University of Texas at Houston.

In October 2013, I was a resident of the state of Kansas, residing at 1533 N. Rocky Creek Road, Wichita, KS 67230. During that time I received an unsolicited phone call at home from a man who had an international accent. He said that he had received information that I had taken the birth control pills Yaz and Yasmin. I told him that I had, in fact, taken the drugs. He then went through a list of possible side effects of the drugs. When he got to "pulmonary embolism," I told him that I had a pulmonary embolism in May 2011. He then told me that he was going to transfer me to his "manager." His manager soon got on the phone. He did not identify himself but he also had an international accent. He verified with me that I did take Yaz and Yasmin, and that I subsequently experienced a pulmonary embolism. I could hear many other voices in the background. It sounded to me like this was a "boiler room" operation. He told me that he thought that I had a good case and he wanted to get me in touch with a law firm. He asked if he could have a law firm contact me and I said "yes."

I got a call back the same day, or the following day, from a person who identified himself as a lawyer and a "screener" for the out-of-state law firm of Burg, Simpson, Eldredge, Hursh & Jardine. No lawyer in that firm appears to be licensed in the state of Kansas, and the firm does not have an office in the state of Kansas. He told me that Yaz and Yasmin cases were being settled and that I should receive a significant amount of money. He asked me some additional questions about my medical history and treatment. He said that he would have a nurse from the Burg Simpson law firm call me and get more information to make sure that I had a case.

The following day, a nurse from the Burg Simpson law firm called me and verified the information that I had given to its lawyer and screener. She said that she thought I had a case and that the Burg Simpson law firm would send me an information "packet" so they could represent me.

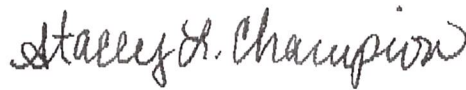
I subsequently received a 20 plus page packet from the Burg Simpson law firm containing an Attorney-Client Contingent Fee Contract, medical information sheet, medical release form, and literature on the Burg Simpson law firm. Along with the packet came a letter from the Burg Simpson law firm dated October 14, 2013, a copy of which I have attached to this letter.

After I received the packet, about a week later, a lawyer from the Burg Simpson law firm called me and asked me to fill out the paperwork I had received in the packet that their firm had sent me. He told me that they could not begin working on my case until they received the paperwork back. At that time, I told him that I was not going to go with their firm as I had retained a Kansas law firm to represent me. I did not fill out or return the paperwork. Several weeks later, I received another letter from the Burg Simpson law firm saying that I needed to fill out the paperwork and send it back to them. I never responded to that letter.

I fully support passage of Senate Bill 229 in order to protect Kansas consumers from out-of-state lawyers who are not licensed to practice law in the state of Kansas; are not knowledgeable about Kansas law; and are not subject to discipline by the Kansas courts.

Thank you very much for your consideration of this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Stacey Lee Champion". The signature is written in dark ink and is positioned above the printed name.

Stacey Lee Champion

BURGSIMPSON

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F: 307.527.7897

OHIO

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Cincinnati, OH 45202
P: 513.862.5800
F: 513.862.5811

STEAMBOAT SPRINGS

465 Anglers Drive, Suite 1A
P.O. Box 880340
Steamboat Springs, CO 80487-8054
P: 970-870-4114
F: 970-879-8854

ARIZONA

2415 E. Camelback Road
Suite 700
Phoenix, AZ 85016
P: 602.508.6110

October 14, 2013

www.burgsimpson.com

VIA EXPRESS MAIL

Stacey Champion
1533 N Rocky Creek Rd
Wichita, KS 67230

Re: Your Potential Yasmin/Yaz/Ocella/Gianvi/Beyaz/Safyral Claim
Time Sensitive Materials Enclosed

Dear Ms. Champion:

Thank you for speaking with us. It has been our great passion and responsibility over the past five years to battle for the thousands of women injured by Yaz. Back when few people were aware of the dangers of Yaz, our firm was working tirelessly. We never gave up. We knew of its dangers. We had to get the message out. Not only to help our clients, but to help prevent other women from suffering unnecessary injuries. No other firm has helped so many women recover as much.

Our mission is not done. We want to help you. Please read the following five points, and then we can get started.

1. Bayer is settling cases with our firm now, and we can help you now. There is no guarantee how long Bayer will continue to settle cases, and there may be a limited opportunity to get your case settled. Now is the time to act.
2. Our firm is in the forefront of these settlement negotiations and has settled more cases than any other firm in the country. We have already resolved over 900 cases, and we are in ongoing settlement negotiations with Bayer right now. If your case qualifies, we have an excellent chance of settling your case within just a few months.
3. The average settlement value has been approximately \$200,000. Your settlement could settle for more, or it could be less, but since each case will be determined on its own merit, it is imperative that we review your case as soon as possible.

Michael S. Burg
Peter W. Burg
Hon. Alan K. Simpson*
Scott J. Eldredge
David P. Hersh
Kerry N. Jardine
Thomas W. Henderson
Holly Beer Kammerer

William L. Simpson*
Colin M. Simpson*
Chris Edwards*
Diana Vaksdal Smith
David K. TeSella
Beth A. Katz
Janet G. Abernethy†
Brian K. Matson

Larry Jones*
Steven G. Greenlee
Melanie S. Bailey*
Calvin S. Tregre, Jr.†
Jennifer L. Keel
Meghan Quinlivan
Stephen J. Burg
Nick D. Fogel

Kevin M. Bemis
Roores D. Whalen
Erica L. Adams†
Thomas R. Leemon
Jennifer S. Jansen*
John M. Connolly
Steven R. Earl
David C. Harman†

D. Dean Batchelder
Stephanie L. Foote
Stephan J. Marsh
Jessica Prochaska*
Nelson P. Boyle
Karolina Kulesza

Millward L. Simpson
1997-1998
Joseph J. Brannan
1998-2001
Irwin L. Sandler
1945-2008
SENIOR COUNSEL
Michael J. Heydt

OF COUNSEL
Dale J. Coplan, P.C.
Perry L. Goorman
Jerry R. Dunn
SPECIAL COUNSEL
James G. Heckbert
Marshall Fogel
Rick D. Bailey

October 14, 2013

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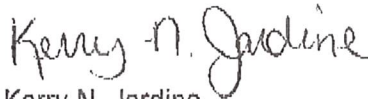
4. Time is of the essence. There are time limits, known as statutes of limitation, that require lawsuits to be timely filed or forever barred. It is important that you act quickly so that we can move to protect your rights now. Based on the information you provided us during your telephone interview, we believe that we can still move forward with your case. If we learn different information as we move forward, we will be sure to inform you immediately. Please act quickly so you do not lose your right to bring a claim.
5. Our attorney fees and costs will be paid solely from any recovery. If there is no recovery, you owe us nothing.

In order for our firm to move forward with your case, please complete the enclosed 20 Minute Packet. Once we sign the fee agreement, we can move forward as your attorney. Until then, we do not represent you. Remember, time is of the essence, so please return these documents as soon as you can.

We appreciate you contacting Burg Simpson. Our firm is committed to this litigation, and we strive to excel in our representation of all of our clients. To learn more about our firm, please review the enclosed pamphlet and DVD. You can also visit our website at www.burgsimpson.com or www.burgsimpsonohio.com.

Very truly yours,

BURG SIMPSON
ELDREDGE HERSH & JARDINE, P.C.



Kerry N. Jardine
David C. Harman
Karolina S. Kulesza

KNJ:bcd
Encl.