



March 2, 2016

Members of the Senate Judiciary Committee
Senator Jeff King

RE: Attorney Advertising
Senate Bill 467 (Opposition)

DeVaughn James Injury Lawyers represents individuals who have been hurt in automobile collisions throughout the State of Kansas. We are present to testify in opposition to this unconstitutional bill.

Regulation of the practice of law belongs solely to the jurisdiction of the Supreme Court of the State of Kansas. Our Supreme Court already has detailed laws on attorney advertising and an office dedicated to enforcing those laws. It is the role of the Supreme Court and the disciplinary administrator's office to regulate the conduct of attorneys. Therefore, this bill is unnecessary and this topic should be left to the Judiciary.

Further, the Attorney Advertising bill is unconstitutional as written and in violation of holdings of the United States Supreme Court. See *Bates v. State of Arizona*, 97 S.Ct. 2691 (1977). The United States Supreme Court held that Attorney Advertising is commercial speech and serves individual interests and the interests of society by allowing public access to legal services. *Id.* at 2698-99. Further, the right to attorney advertising is protected by the First Amendment. *Id.*

The Supreme Court also addressed the role of attorney advertising in our free-market society stating "Advertising is the traditional mechanism in a FREE-MARKET economy for a supplier to inform a potential purchaser of the availability [of services and] may well benefit the administration of justice." Syl. ¶ 2(d). (emphasis added). Further, this bill would likely be construed as a restraint on trade by the Federal Trade Commission.

Legal precedent is clear that this bill is unconstitutional. However, the main consideration should be the reasons why this bill should not become law or the public policy arguments against this bill. Advertising informs all members of society of their legal rights. Our Court system and the rule of law make our country great and ensure opportunity for all people.

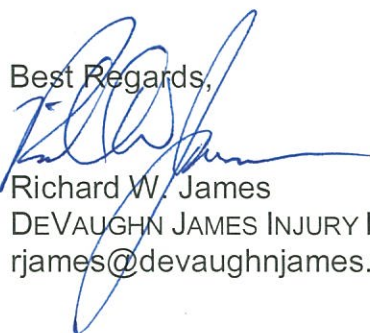
Restraints on advertising adversely affect the poorest members of society. Upper and Middle Class Kansans know attorneys and have access to the justice system. They know attorneys from college or regularly interact with them in their social circles. The poorer members of society have no interaction with attorneys and

have no idea what legal rights they have. This leaves them unprotected by our civil justice system.

This is reinforced by the *Bates* opinion which noted that 70% of all Americans were under served or not being reached by the legal profession prior to attorney advertising. The main reasons cited for these individuals not being represented or knowing their legal rights was "fear of cost and inability to locate a suitable lawyer." *Id.* at 2705. Attorney advertising gives them knowledge and access to the justice system.

Thank you for service to our State and for considering my testimony here today.

Best Regards,

A handwritten signature in blue ink, appearing to read 'Richard W. James', with a long, sweeping horizontal line extending to the right.

Richard W. James
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