

# How to Publicize Rankings Based on the Latest Attorney Advertising Rules Guidance

Legal rankings, honors and awards are significant pieces of an integrated marketing program [that supports a firm's key messages to target audiences](#).

An earned recognition is news worth sharing. Typically, a marketing department will notify clients, prospects and referral sources about firm news through the firm's website, attorney biographies, social media posts and press releases, among others.

But promoting rankings is not as straightforward as announcing other firm news. The legal community has been discussing Rules of Professional Conduct (which vary by state) with a heightened awareness about how consumers perceive [law firm and attorney rankings](#). Firms must consider how to promote rankings in compliance with attorney advertising limitations and ethics rules.

New Jersey recently updated its guidance about advertising rankings news, and many states will likely adopt similar rules, making them worth a firm's attention.

Here are thoughts about how to assess the credibility of a legal ranking, and the various categories or types of rankings, to help you frame your priorities, along with a look at the advertising component of rankings and awards, recent guidelines to be aware of, and our recommendations for promoting rankings in accordance with new guidelines.

## "Is This Credible?" and Other Questions About Rankings

Have you been asked any of these questions about attorney or law firm rankings and awards?

- Have you heard of this ranking? It sounds great, but is it legitimate?
- Is it worthwhile for us to purchase the badges/plaques/bumper stickers/profiles/expanded content?
- Did someone nominate me for this ranking? Seems I've been named to this list, which is great; how did that come about?
- I used to be on this list. Why is my name no longer on this list? What happened? Can you find out?
- Can someone nominate me for this ranking? I should be on this list, right?
- How did [name of another lawyer] get on this list?

Jaffe's [RankingsForLawyers](#)<sup>®</sup> service tracks hundreds of rankings. They vary not only in criteria, submission requirements and costs (both time and money), but also in levels of



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credibility. No doubt, attorneys have asked you about solicitations they receive, perhaps inviting them to purchase an add-on to a ranking, or congratulating them for being named the top in their field. The evaluation of merit and credibility should be in alignment with the firm's various strategies and initiatives for advancing growth, client retention, culture, diversity and lateral recruiting. The more information you have about a ranking, the better you can decide if and how it will support the firm's objectives.

## Which Types of Rankings Align with Your Law Firm's Broader Objectives?

There are several types of credible legal rankings. A blend of rankings from these categories will often make for a robust program touching multiple firm initiatives.

1. Those that require many weeks of preparing a lengthy submission with in-depth case descriptions, both public and confidential; detailed firm and attorney information; and references that will be contacted by the judges/researchers, i.e., *Chambers USA*, *The Legal 500* and *Benchmark Litigation*.
2. Those that require shorter narrative submissions in line with a stated methodology that compares nominees, often assessing achievements completed in a particular timeframe; within a specific practice area; judged by a panel; and announced in a national, regional or trade media outlet; sometimes accompanied with an event, i.e., 40 Under 40, New Leaders, Trailblazers, Pro Bono, Regional Powerhouse, Diversity and Inclusion, and Law Firm of the Year.
3. Those that use peer ballots as the foundation of their methodology, but do not evaluate matters or other qualifiers, i.e., Best Lawyers/Best Law Firms, Super Lawyers and Martindale.
4. Those that may seem flattering to an attorney, but lack credibility and instead make their way onto spam lists.

We recommend building a rankings program at your law firm that includes targeted opportunities that will meet your resource availability, staffing and time. Moving up a practice area ranking, getting named in a regional MVP list or being recognized as a rising star – these are impressive results. Once you've obtained successful outcomes, you can move onto the next stage: promoting the recognition.

## We've Won! Now What?

Award notification may come to the law firm's marketing group or the winning nominee directly; sometimes it gets lost in an overflowing inbox or blocked by spam filters. It's critical to know when an organization or media outlet plans to announce winners, and how that information will be relayed. Step one, then, is to find that email congratulating the winner, because it will usually contain a lot of important information, such as a brief interview to schedule, a photo to provide, a few questions to answer by email and directions for announcing the news.

Many rankings, such as Best Lawyers,<sup>®</sup> are first announced directly to the recipients but come with an embargo period that prohibits any external announcements until a given date. That creates some time to develop your plan and write posts, releases and other

content. Others can be announced right away. Some organizations provide a template for writing an announcement.

How the announcement will be made (via press release or social media posts) and where the new ranking will be visible (website bio, LinkedIn profile, email signature) are typical considerations. In jurisdictions where attorney advertising rules are changing or being clarified, as in New Jersey, the way you announce a ranking may be defined by a Committee on Attorney Advertising opinion or the Rules of Professional Conduct which provide the specifics on language that is allowed or prohibited.

## How to Promote a Ranking: A Look at New Jersey's for Guidance

Even if you don't have an office in New Jersey, keep reading, because we believe other states may impose similar rules or recommendations.

To help us understand why New Jersey issued guidance on rankings, we contacted [Bonnie C. Frost, Esq.](#), partner at Einhorn, Barbarito, Frost & Botwinick, PC, who was appointed earlier this year to a three-year term on the Committee on Attorney Advertising. Bonnie has been involved in the ethics system in New Jersey since 1991, including serving as chair of the Disciplinary Review Board, the intermediate appellate body for New Jersey's statewide attorney disciplinary system.

According to Bonnie, the purpose of the Supreme Court Committee on Attorney Advertising is to assist lawyers in complying with the Rules of Professional Conduct and maintaining the high ethical standards required of attorneys throughout the state. In May 2021, the Supreme Court Committee on Attorney Advertising published a [Notice to the Bar](#) entitled

Reminder: Advertising Awards, Honors, and Accolades That Compare a Lawyer's Services to Other Lawyers' Services, Including But Not Limited to "Preeminent," "Distinguished," "Notable," "Super Lawyer," "Rising Star," "Best Lawyer," "Top Lawyer," "Top Law Firm," and "Top-Rated Counsel"

The notice was issued to remind lawyers that they "may refer to such awards, honors, and accolades only when the basis for the comparison can be verified and the organization has made adequate inquiry into the fitness of the individual lawyer. Further, whenever permissible references to comparative awards, honors, and accolades are made, Rule of Professional Conduct 7.1 requires that additional language be displayed to provide explanation and context."

Asked what brought about the notice, Bonnie replied, "As more firms are using various modes to gain the attention of litigants – websites, blogs, print advertisement in magazines, billboards, it became apparent to the Committee on Attorney Advertising that more guidance was needed to place attorneys on notice about how to appropriately conform their advertising to the Rules of Professional Conduct."

She added that the need for guidance was also driven by the increasing number of local magazines or organizations giving "awards" to law firms and other businesses, with some

soliciting paid advertisements in their publications or requiring attorneys to purchase credentials for themselves. “The recent advisory opinion is a direct result of the concern for truthfulness in advertising due to the proliferation of ‘awards,’” Bonnie said, noting that rankings must not be the result of a popularity poll but rather a review of attorneys’ actual qualifications.

As stated in the notice, the preliminary test is to ascertain whether the organization conferring the award has made an “inquiry into the attorney’s fitness.” This inquiry must be more rigorous than a survey or a simple tally of the lawyer’s years of practice and lack of disciplinary history, and the basis for the comparison must be substantiated, bona fide and *verifiable*. If the award meets the preliminary test, the lawyer must “include additional information when referring to it in attorney advertising, whether that advertising be a website, law firm letterhead, lawyer email signature block, or other form of communication.”

Bonnie explained, “The Supreme Court Committee on Attorney Advertising does not want the public to be misled and therefore the advisory opinion requires that the methodology of a ranking must be displayed near the ranking or award, i.e., on websites, brochures, social media profiles and the like.”

The notice states that every reference to an award must include:

1. A description of the standard or methodology on which the award, honor or accolade is based, either in the advertising itself or by reference to a “convenient, publicly available source” (i.e., a link).
2. The name of the comparing organization that issued the award.
3. This disclaimer: “No aspect of this advertisement has been approved by the Supreme Court of New Jersey.”

All of this additional, accompanying language must be presented in proximity to the reference to the award, honor or accolade, even when it is in an abbreviated form such as the badge or logo.

## How is Compliance Enforced?

Enforcement of the advertising guidelines depends on referrals to the Committee on Attorney Advertising and how the attorney acts after being given guidance by the committee about how to conform its advertising with the Rules. Bonnie said that once the committee is made aware of lawyers or law firms posting rankings or other advertisements that do not comport with the Rules of Professional Conduct, the committee will contact that law firm or attorney, advise them of the issues raised and provide guidance as to how to comply with the Rules. It will give them time – and maybe multiple opportunities – to correct their advertising errors. “The goal is to correct the advertising, not to punish the attorney or the law firm,” she said.

Of course, if the error is deliberately left uncorrected, the committee could file an ethics grievance against the attorney, but Bonnie said this is rare; most attorneys take the committee’s guidance to heart.

## Should Firms Correct Ads Done Before the New Directive?

Bonnie recommends that all recent and current rankings advertisements comport with the Rules, but said it is unlikely that prior advertisements will be affected, as it may be difficult to retract prior advertising.

## Could New Jersey's Directive Apply to Other States?

"As to other states following our guidelines," Bonnie said, "when similar committees in other states are grappling with an ethics question, they do look, just as New Jersey does, to other states to see if there is any published guidance." Therefore, it is important for law firm marketing professionals to be aware of their states' policies and notices, and to speak with the firm's ethics panel about their firms' rankings strategy to ensure compliance.

## Best Practices for Advertising Rankings

To advertise a new ranking, a firm will usually update its website in "Firm News" sections, attorney biographies, practice descriptions and social media platforms, as well as issue press releases to generate coverage. Some law firms add, and update as needed, a "disclaimers" website page to provide standard language required to notify readers about attorney advertising, with a link to and/or short description of each ranking's methodology. We have also seen language in the footer of the home page, such as: "To the extent this is considered an advertisement, 'No aspect of this advertisement has been approved by the Supreme Court of New Jersey.' Click here to view recognition methodology."

Based on New Jersey's guidance, here are examples that comply with the Rules of Professional Conduct. (You'll note the disappearance of commonly used phrasing, such as "was named as a Best Lawyer," "is a Top Lawyer" and "was recognized as a Super Lawyer.") The advisory directs law firms to use language such as "was included in the list of ..." and to always include information about the methodology, along with the standard attorney advertising statement.

## Examples

### **Martindale Hubbard (AV, BV Preeminent)**

Jane Doe has been selected to the 2021 list of AV Preeminent lawyers. This award is conferred by Martindale-Hubbell. A description of the selection methodology can be found at [www.martindale.com/ratings-and-reviews](http://www.martindale.com/ratings-and-reviews). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

### **Best Lawyers**

Doe & Doe is pleased to announce that 15 of its attorneys have been included in the 2022 Best Lawyers® lists. Ten of the firm's attorneys have been included in the 2022 edition of *The Best Lawyers in America*® and five have been included in the 2022 Best Lawyers "Ones to Watch" list. In addition, Jane Doe has been included in the publication's 2022 Labor & Employment "Lawyer of the Year."

The full methodology for *The Best Lawyers in America* and the Best Lawyers "Ones to Watch" is available here. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

### **Super Lawyers**

Doe & Doe is pleased to announce that Jane Doe has been included as an honoree in the Top 100: 2021 New Jersey Super Lawyers list. She has been included in the Super Lawyers list every year since 2015 and was on the Rising Stars list from 2010–2014.

Super Lawyers, part of Thomson Reuters, is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. The annual selections are made using a patented multiphase process that includes a statewide survey of lawyers, an independent research evaluation of candidates and peer reviews by practice area. The result is a credible, comprehensive and diverse listing of exceptional attorneys. Selection methodology can be found at <https://lnkd.in/d34cJuy>.

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## **Remember: Rankings Are Part of an Integrated Marketing Program**

We believe that a program of integrated marketing tactics, including speaking engagements, networking, social media efforts, media relations, website content and rankings, is the way to "do marketing" now. We see firsthand that an integrated approach suits the varying preferences for publicity among groups and attorneys; provides more-meaningful touchpoints for raising visibility; and steadily promotes the firm's experience and culture to clients, laterals, referral sources and prospects.

## **We Welcome Your Questions**

Please reach out to Liz Lindley at [llindley@jaffepr.com](mailto:llindley@jaffepr.com) or Eryan O'Keefe at [eokeefe@jaffepr.com](mailto:eokeefe@jaffepr.com) if you have any questions about compliance related to rankings and awards or are interested in creating a rankings and awards strategy for the year ahead, or for shorter periods of time to assess nominations on a quarterly basis.

