

# VOGEL, CHAIT, COLLINS AND SCHNEIDER

A PROFESSIONAL CORPORATION

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December 18, 2006

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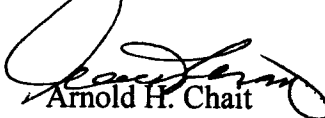
**Re: Opinion 39--New Jersey Monthly, LLC  
Our File No. 12504.030**

Dear Messrs. McNulty and Wasserman:

Enclosed is a copy of New Jersey Monthly's Reply Brief to Brief of Respondent Committee on Attorney Advertising.

Very truly yours,

VOGEL, CHAIT, COLLINS AND SCHNEIDER  
A Professional Corporation



Arnold H. Chait

AHC:sm  
Enclosure

In re OPINION 39 OF THE  
COMMITTEE ON ATTORNEY  
ADVERTISING

JON-HENRY BARR, Esq., GLENN A.  
BERGENFIELD, Esq., CAREY B.  
CHEIFETZ, Esq., MARIA DELGAIZO  
NOTO, Esq., ANDREW J. RENDA,  
JR., Esq., and JOHN S.  
VOYNICK, Esq.

Petitioners,

-and-

KEY PROFESSIONAL MEDIA, INC.  
(d/b/a "Super Lawyers" and  
"Law & Politics") and NEW  
JERSEY MONTHLY, L.L.C.

Intervenor-  
Petitioners.

SUPREME COURT OF NEW JERSEY  
September Term 2006  
60,003

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**REPLY BRIEF OF INTERVENOR NEW JERSEY MONTHLY, LLC  
TO BRIEF OF RESPONDENT  
COMMITTEE ON ATTORNEY ADVERTISING**

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Attorneys for New Jersey Monthly, LLC.

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## ARGUMENT

### **I. THE COMMITTEE INCORRECTLY INTERPRETED R.P.C. 7.1 TO BE A PER SE BAN ON USE OF SUPERLATIVES IN ATTORNEY ADVERTISING.**

The argument under Point I of the Committee's brief and in footnote 21 on page 24 of that brief confirm that the Committee construed R.P.C. 7.1 to be a *per se* ban on the use of superlatives in attorney advertising. The Court has not previously so held. The Committee's *per se* ban was based upon the Committee's view that the use of superlatives "inferentially speaks to the quality of the services and representation provided by the advertising attorney."

The use in attorney advertising of laudatory labels or honors bestowed by an independent third party (distinguished, outstanding, top, super, or best) is not *per se* misleading where there is a disclosed basis for the label. Footnote 22 of the Committee's brief at page 24 concedes that R.P.C. 7.1 can be interpreted not to be a *per se* ban on the advertisements at issue here. NJM readers are interested in receiving information on professional peer ratings. NJM believes that its readers understand that a label based upon a peer opinion survey does not give rise to an expectation about the results a lawyer can achieve. PNJMa2.

Consistent with its policy of not publishing misleading advertising, NJM conducted its own examination of the methodology for selecting attorneys to be listed as a "Super Lawyer." When

the publisher of *New Jersey Monthly* was afforded an opportunity to examine the KPM polling, screening, and selection process, she found that the methodology was assiduous and thorough and that the results of the polling data were closely scrutinized and crosschecked. PNJMa3. Accordingly, the publisher of *New Jersey Monthly* was satisfied that the content and the presentation of New Jersey Super Lawyers and New Jersey Super Lawyers, Rising Stars edition advertising sections as they appeared in *New Jersey Monthly*, are not misleading and meet the magazine's journalistic and advertising standards. PNJMa3. .

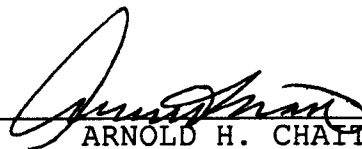
**JOINDER IN KPM REPLY**

In an effort to avoid duplication of other reply arguments, Intervenor New Jersey Monthly, LLC has reviewed and joins in the arguments set forth in the reply brief of Intervenor Key Professional Media.

Respectfully submitted,

VOGEL, CHAIT, COLLINS AND SCHNEIDER  
Attorneys for New Jersey Monthly, LLC

By: \_\_\_\_\_

  
ARNOLD H. CHAIT

DATED: December 18, 2006

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**SUPREME COURT OF NEW JERSEY**

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Intervenor-  
Petitioners.

SUPREME COURT OF NEW JERSEY  
September Term 2006  
60,003

CIVIL ACTION

**CERTIFICATION OF SERVICE**

I hereby certify that on the date set forth below, I caused an original and eight (8) copies of New Jersey Monthly, LLC's Reply Brief to Brief of Respondent Committee on Attorney Advertising to be served by hand delivery to:

Hon. Stephen W. Townsend  
Clerk of the Supreme Court of New Jersey  
Attention: Sandy Sanford  
Hughes Justice Complex  
25 West Market Street  
P.O. Box 970  
Trenton, New Jersey 08625

I also caused two copies of the above-referenced brief to be sent by hand delivery to:

Steven N. Flanzman, S.D.A.G.  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street, 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

I certify that the foregoing statements made by me are true. I am aware that if the foregoing statements made by me are willfully false, I am subject to punishment.

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By:   
Arnold H. Chait

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