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LEGAL MARKETING & CONSULTING

## *Is lawyer advertising a good thing?*

BY [MARCEL STRIGBERGER](https://www.abajournal.com/authors/64798/) ([HTTPS://WWW.ABAJOURNAL.COM/AUTHORS/64798/](https://www.abajournal.com/authors/64798/))

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*Marcel Strigberger.*

While snowbirding in Florida, I find I cannot escape the tsunami of lawyers' billboard ads inundating the state's roads and highways, trying to attract motorist related business.

Given how aggressive so many drivers are, I feel spooked by these ads. The drivers generally tailgate, cut you off and don't allow you to change into their lanes when you signal your intention to make the switch, naively expecting them to respond with some magnanimity. This is all in addition to them speeding like the Road Runner cartoon bird. The lawyers' billboards may as well read, "Welcome to the

Sunshine State. Safe driving optional. We're waiting for your call."

My greatest concern is driving on the major highways and turnpikes, having to compete with those gigantic tractor trailer trucks. They're virtually bullies on wheels. I saw one the other day zooming along in a highway lane clearly marked, "No trucks in far left lane." Interestingly, there was a marking on the back of the van reading, "How's my driving? Call 1-888-xxx-xxxx." I have no clue what calling would achieve. These guys scare me. I did not catch the company's name, but it would not surprise me if it was something like Don Corleone Transport.

The lawyers' ads along the road are generally quite enticing, in the nature of, "Accident? No fees until we win." Or "Call for free case review." Or "We have collected millions of dollars for our injured clients." The last kind sound like those signs at McDonald's giving us a heads-up about the billions of hamburgers they have sold to date.

A number of billboards deal with defense of criminal charges such as DUI.

Don't some law firms offer other services? Like preparation of wills? I for one have not seen an ad reading anything like, "See us for your will—No fees until you die."

But advertising for lawyers is actually a new kid on the block. I am talking about the 1977 U.S. Supreme Court decision of *Bates v. State Bar of Arizona*, which held that advertising legal services was free speech protected by the First Amendment.

I don't know too much about Mr. Bates, but when I hear the name, the first thing that comes to my mind is the Bates Motel in Alfred Hitchcock's *Psycho*. If I was a potential client visiting Bates' office, I might just get a little anxious. I certainly would think twice about retaining this guy should he suggest before the consultation that I first go to the washroom and take a shower.

It looks like the *Bates* decision cracked the citadel of the lawyer ads prohibition not only in the U.S. but also in Canada, where advertising was allowed not long after *Bates*.

And so, is lawyer advertising a good thing?

It seems that jurisdictions both in the U.S. and Canada allow advertising

subject to guidelines along the lines of not being misleading, not containing material misrepresentations or not being vulgar or profane, etc. I suppose the last guideline means your billboard can't elaborate on what you think of that 18-wheel trucker doing 80 miles per hour in a prohibited lane along I-95, almost forcing you to veer into an adjacent canyon.

As for the misleading part, my research noted a common thread such as not being allowed to say you're the "best." In my four decades of practice, I did have a few very satisfied clients who proclaimed that I was the best. I will say that I was not successful in my efforts to try to restrain them from spreading this proclamation. In fact, during moments of weakness, I discreetly suggested they post an endorsement on my website announcing my superlative proficiency. Fortunately, the Law Society of Ontario, our governing body, never sent a hue and cry out to get me. I really dodged a bullet there.

And in the province of Ontario where I practiced, in addition to the ads being accurate and not misleading, they must also be in the best interests of the public. I can readily understand the integrity requirements but have no clue why the ads must also be in the best interests of the public. Why are lawyers held to a higher standard than other callings. Take beer commercials: I am not aware of any rule or guidelines requiring the brew ad to read, "It's Miller time—that's in your best interest."

But not every jurisdiction permits lawyer advertising. India still bans it. In India, lawyers are not allowed to advertise because the Bar Council of India considers the legal profession a "noble service" and not a commercial business, meaning advertising could potentially compromise the profession's integrity by prioritizing self-promotion over ethical legal practice. As in other jurisdictions, the concern is preventing misleading claims and protecting the public from potentially deceptive marketing tactics. I get that.

Interestingly, lawyers in India may share basic information on their websites, such as their name, contact details, qualifications and areas of practice. I wonder then whether lawyers can put their information on highway billboards and refer to them as websites. Just a thought.

I have mixed feelings about lawyer ads. And while in Florida I continue to drive with trepidation on the highways, trying to avoid glancing at those

billboards for fear of creating a self-fulfilling prophecy. One thing I will not do is call that 888 number on those trucks.

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*Marcel Strigberger, after 40-plus years of practicing civil litigation in the Toronto area, closed his law office and decided to continue his humor writing and speaking passions. His latest book is First, Let's Kill the Lawyer Jokes: An Attorney's Irreverent Serious Look at the Legal Universe ([https://www.amazon.com/dp/B0DFHJGX1R?](https://www.amazon.com/dp/B0DFHJGX1R?ref=cm_sw_r_cp_ud_dp_JNBV4X3RA8XVQ845YECR&ref_=cm_sw_r_cp_ud_dp_JNBV4X3RA8XVQ845YECR&social_share=cm_sw_r_cp_ud_dp_JNBV4X3RA8XVQ845YECR&starsLeft=1)*

*[B0DFHJGX1R?](https://www.amazon.com/dp/B0DFHJGX1R?ref=cm_sw_r_cp_ud_dp_JNBV4X3RA8XVQ845YECR&ref_=cm_sw_r_cp_ud_dp_JNBV4X3RA8XVQ845YECR&social_share=cm_sw_r_cp_ud_dp_JNBV4X3RA8XVQ845YECR&starsLeft=1)*

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*Marcel'sHumour.com, and follow him at @Marcel'sHumour on X, formerly known as Twitter.*

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