

6 Marketing Rules Your Law Firm Can't Afford to Break

Article By:

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Marketing and securing new business are essential to any law firm's success. However, although reaching potential new clients is critical, lawyers need to follow certain rules when advertising their services. Complying with these rules isn't just a best practice –avoiding the possible consequences of unethical attorney advertising is crucial.

American lawyers advertised as early as the 1800s by taking out ads in local newspapers – Abraham Lincoln's law firm advertised this way in the 1850s. However, by the turn of the century, the American Bar Association (ABA) began to frown on the practice in its [Canons of Professional Ethics](#). In 1908, the ABA issued a general prohibition against legal advertising for fear it would “undermine the professionalism” of the legal profession. Many states followed by enacted rules banning or strictly limiting lawyer advertising, although business cards were still allowed.

A series of U.S. Supreme Court cases beginning in 1975 eventually led to the recognition that 1) law was a business and 2) commercial advertising was free speech and thus protected by the First Amendment. On June 27, 1977, SCOTUS struck down prohibitions against advertising by attorneys. In [Bates v. State Bar of Arizona](#), the Arizona State Bar argued that law firm advertising would be too effective, dramatically increase litigation, and put too much burden on the legal system. The Justices disagreed and removed the ban, ruling that Arizona's bar on advertising “inhibit[ed] the free flow of information and kept the public in ignorance.”

While the Supreme Court's decision in Bates eliminated the blanket prohibitions on lawyer advertising, it still permitted state regulation. However, law firm marketing began to increase dramatically, and the modern era of lawyer advertising was born.

In 1989, British computer scientist Tim Berners-Lee [invented the World Wide Web](#), and lawyers began the modern practice of marketing their practices online instead of exclusively advertising in local newspapers, television stations, bus benches, and the yellow pages. While print advertising is still popular among lawyers, marketing online to connect with clients has become extremely common. Now, an increasing amount of business is being conducted remotely, making the ability to attract clients using digital marketing strategies more critical than ever.

However, no matter what medium lawyers use to advertise their services, the first thing they need to do before implementing any marketing or advertising strategy is to familiarize themselves with the lawyer advertising rules and responsibilities that apply – and follow them.

Marketing Restrictions for Lawyers

Law firms are allowed to advertise, and most do. However, they are required to follow the legal advertising rules and ethical obligations outlined in the ABA's [Rule 7.2: Communications Concerning a Lawyer's Services: Specific Rules](#), which specifies that: "A lawyer may communicate information regarding the lawyer's services through any media." In addition, ABA Rule 7.2 (c) states:

- (c) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:
 - (1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate authority of the state or the District of Columbia or a U.S. Territory or that has been accredited by the American Bar Association; and
 - (2) the name of the certifying organization is clearly identified in the communication.
- (d) Any communication made under this Rule must include the name and contact information of at least one lawyer or law firm responsible for its content.

Although the ABA's advertising rules are sometimes vague, ambiguous, and leave much up for interpretation, they establish a standard for regulating lawyer advertising. They do not have the force of law and are not necessarily enforced by state bar associations; however, many states follow the ABA guidelines and restrict and regulate how lawyers can advertise. Here are some noteworthy examples:

1. Don't Say You're an Expert Unless You're Certified

In the legal industry, words matter. The same is true in legal marketing – lawyers must be careful of what they hold themselves out to be in their advertising. For example, under ABA Rule 7.2, lawyers must not imply that they are a specialist in a legal practice area unless they have been certified as such by an organization accredited by the ABA and approved by their state, district, or U.S. Territory.

While it is generally permissible to say that they are focused in a particular area of law, attorneys cannot claim to be a specialist or expert. For example, for a lawyer to be considered a [legal specialist in California](#), they must pass a written examination, have been practicing law continuously for at least five years (25 percent dedicated to practicing in the specialty area), and have had their work in this area favorably evaluated by other attorneys and judges.

To maintain their certification, legal specialists in California must pay an annual fee, complete 36 hours of LSCLE every three years, and recertify every five years. [California's State Bar Legal Specialization program](#), established in 1973, was the first program in the U.S. to provide a legal specialty certification program at the state level.

2. Don't Say (or Imply) Things That You Can't Quantify

Another misstep lawyers need to avoid is making false, confusing, misleading, or deceptive statements about the services their firm offers and the results they've obtained. Even advertising the

fees they charge could be called into question. Attorneys should avoid using phrases like “the best” or “the most” in their advertising, even if their firm is widely recognized by their peers and clients as one of the best in the area.

Law firms should also be cautious about making statements that are technically factual but leave out information that could make them misleading. For example, it could be misleading to say your firm offers free consultations if you only offer free consultations to potential personal injury clients but charge a fee for everyone else.

3. Ensure that Client Testimonials Don't Violate the Rules

While rules may vary according to jurisdiction, ABA Rule 7.2 (b) states that lawyers cannot compensate anyone in any way for recommending their services. This means that attorneys cannot pay or compensate clients in exchange for recommendations or favorable testimonials. Anyone who suggests a lawyer or law firm must do so of their own volition.

Legal client testimonials are subject to the federal truth in advertising rules. According to the Federal Trade Commission's [Guides Concerning the Use of Endorsements and Testimonials in Advertising](#), all testimonials must be truthful and not misleading. The FTC demands transparency when including reviews and endorsements in advertisements, and some jurisdictions also have specific rules about using testimonials on a law firm's website. In California, for example, lawyer advertisements cannot contain [testimonials that urge legal clients to expect the same results](#) as the person giving the testimonial.

Familiarize Yourself with the Rules Regarding Trade Names

Many jurisdictions have rules for defining information that must be included in attorney ads to avoid misleading the public, and lawyers need to know if they can use a trade name in their marketing – before they do.

According to an [ABA Journal report](#), nine states – Georgia, Indiana, Mississippi, Nebraska, New Jersey, New York, Ohio, Rhode Island, and Texas – require law firm names to include the name of a lawyer practicing at the firm. In New York, [practicing law under a trade name is forbidden](#), although it is permissible for N.Y. law firms to use the law firm partners' first initials of their last names.

4. Find Out Whether You Need a Physical Address to Advertise

Cloud-based practice management software makes it easier to work effectively remotely. However, some jurisdictions require a physical address to advertise via a traditional ad, a website, or other digital marketing techniques. To be sure, you'll need to check the advertising rules for attorneys in your area to avoid breaking the rules.

Some examples: In [Florida](#), all lawyer advertisements must include an actual office location in the same city, town, or county where the lawyer is performing the advertised services. The [New York Bar Association](#) requires that all attorney advertisements include the name, principal law office address, and telephone number of the lawyer or law firm whose services are being offered. However, according to [New York City Bar Formal Opinion 2019-2](#), a N.Y. lawyer may designate the street address of a Virtual Law Office (VLO) as the principal law office address on business cards, letterhead, and a law firm website.

5. Don't Solicit Your Services Directly

In the legal world, there's a distinct difference between advertising, which is allowed if you follow the rules, and soliciting, which is generally forbidden. What's the difference?

Cornell Law School's [Legal Information Institute](#) defines legal advertising this way:

The advertisement of legal services provided by a lawyer or a law firm to attract potential clients. Legal advertising can take various forms of media, including printing, mailing, television, and online advertising. Legal advertising is regulated by state bar associations, which often have different rules for defining advertising and restricting the content of the legal advertisement. Most state bar associations fashion their rules of legal advertising after the American Bar Association's Model Rules of Professional Conduct, which is not binding for lawyers but highly persuasive to state bar associations.

Compare this to solicitation, as defined by [ABA Rule 7.3 \(a\)](#):

"Solicitation" or "solicit" denotes a communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

According to the ABA, a lawyer cannot "solicit professional employment by live person-to-person contact when a significant motive for the lawyer's doing so is the lawyer's or the law firm's pecuniary gain," with limited exceptions.

However, some states do not make such a clear distinction between lawyer advertising and solicitation. For example, [New York](#) allows solicitations (defined as "in-person and other types of communication targeted at a specific recipient or group of recipients for pecuniary gain") if they comply with all the state's rules for lawyer advertising, including more stringent record-keeping obligations.

6. Know What You Can – and Cannot – Say

Many states have minimum requirements regarding information that must be included in lawyer advertisements, as well as what cannot appear. Here are some examples:

- [Arizona Rules of Professional Conduct](#) require lawyers to disclose whether contingency fees will be calculated before or after expenses and what responsibility clients will bear for those costs.
- Lawyer advertisements in [Florida must specify](#) the name of at least one lawyer or the law firm's name.
- Some states, like [New York](#), require that lawyer advertisements be labeled explicitly as

“Attorney Advertising.”

- [Rule 7.1](#) of the New York Rules of Professional Conduct prohibits attorneys from using false or fabricated law firms or lawyers in their ads.
- In [Michigan](#), “[The] services of a lawyer or law firm that are advertised under the heading of a phone number, web address, icon, or trade name shall identify the name and contact information of at least one lawyer responsible for the content of the advertisement.”
- [Connecticut lawyers](#) cannot use different font sizes or types when disclosing client responsibility for costs or expenses.

The takeaway: Attorneys and law firms should check the rules for their area before embarking on any lawyer marketing advertising campaign.

What Happens to Lawyers Who Don’t Follow Advertising Rules?

Most lawyer marketing issues are resolved in one of two ways: either a state bar association disapproves a lawyer’s advertising in advance, or asks a lawyer to change their advertising to comply with the local rules. However, sometimes lawyers who engage in inappropriate marketing may face stiff penalties. According to the ABA’s [Lawyer Marketing: An Ethics Guide](#), unethical lawyer advertising may result in:

- Greater likelihood of malpractice liability
- Sanctions for violating ethics marketing rules
- Potential disqualification or suspension of the lawyer conducting the marketing
- Severe discipline for lawyers who violate anti-solicitation rules
- Liability under state consumer protection laws
- Discipline for violating state and federal laws governing spam faxes
- Possible criminal charges – in extreme situations
- Lawsuits alleging intentional interference with another lawyer’s attorney-client relationship

According to the ABA, it is not usually the clients who complain about potentially inappropriate lawyer marketing. Instead, the complaints frequently come from other lawyers or regulators who demand that the courts determine whether those challenging the advertising must establish confusion or harm done to actual or prospective clients. Unfortunately, this can be easier said than done.

How to Successfully Market Your Firm

Now that you’re aware of at least some of the restrictions regarding lawyer advertising and what happens if you don’t comply with them, here are some ways to successfully (and ethically) market

your practice:

Build a Website

One of the best ways to advertise a law firm is to create a professional website. An effective lawyer website does a variety of things to attract business, including:

- Establish credibility. If a potential client searches for your firm online and finds out that you don't have a website, they're likely to become suspicious. However, a solid website that showcases your skills and offers actual testimonials [serves as social proof](#) that your law firm is legitimate.
- Increase visibility. Without a website, you're virtually invisible online. However, the more visible you can make your website, the more potential clients (leads) you will attract.
- Generate leads. Suppose your website is [optimized](#) (using tools, strategies, and experiments to improve its ability to drive business goals). In that case, it will likely begin to come up first in Google search results, generate traffic, and produce more leads.
- Provide valuable information. Your website should clearly explain what type of law you practice, where your firm is located, and offer information that will prove helpful to those who are looking for an attorney that provides the type of legal services they need.
- Save time. A functional website can give clients the ability to automatically schedule an appointment with you and fill out an intake form that is sent directly into your firm's customer relationship management (CRM) system. This saves time by eliminating the need to input information manually.

Set up a Google Business Page

Online reviews that abide by lawyer advertising rules should be a critical part of how you market your firm. Setting up a Google business profile where potential clients can read the reviews of former clients is an excellent way to showcase your testimonials. Also, don't be afraid to ask your former clients to leave your firm a review on Google – the more reviews you generate, the more your Google search ranking will improve.

Create a Social Media Profile

Creating a social media profile on a platform your clients frequent – [Facebook is the most popular](#) social media platform in the world, with 2.936 billion monthly active users in 2022 – is an excellent way to form connections and increase awareness of your law firm's brand. For small and medium-sized law firms or any firm with tight resources: social media profiles are a free way to post useful content that can be shared to create a following.

Start a Blog (and Keep it Updated)

Blogging is one way for a lawyer to establish themselves as an expert in an area of practice without directly calling themselves out as an expert. Starting a blog on your law firm website will add more content to your site and subsequently increase your Google search rankings. To build a steady

readership, you should [add fresh content](#) to your blog at least twice a month, but once a week is even better.

Measure Your Results

To achieve the maximum return on investment (ROI) for your marketing efforts, you need to track your results with legal reporting software to determine which of your marketing efforts are effective and which aren't. Data and analytics will allow you to closely monitor your marketing efforts, tell you how well it is performing, and help you decide whether you should continue down the same path or change direction.

Engage Your Leads

It isn't enough to produce leads – you must engage them to turn them into clients. Successful law firms often rely on marketing automation for law firms to streamline their marketing efforts, target specific audiences based on customizations, and keep their leads engaged. For example, when a lead signs up for your firm's newsletter or downloads a white paper from your website, marketing software will automatically generate a personalized follow-up that keeps them engaged and, most importantly, on the way to becoming a client of your firm.

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