

JUSTICE FOR ALL

ATTORNEY ADVERTISING – FACT vs. FICTION

Suppose you just learned that you need to undergo surgery for a serious medical condition. How would you go about finding a surgeon who is qualified to perform the operation? It is unlikely that you would base your decision on what you saw or heard on a television commercial, an advertisement in the yellow pages, or a billboard on the side of the road. Yet, many people select an attorney in just that way.

This issue of *Justice for All* addresses attorney advertising – something that seemingly is becoming more common with each passing day. If you need legal assistance, thought should be put into how you go about selecting an attorney and why that particular attorney is qualified to assist you in your time of need.

MOTHER KNOWS BEST.

I still remember my mother's response when I first told my parents that I had decided to go to law school. She said, "I want you to be an attorney, *not* a lawyer." When I asked what she meant, her response was "lawyers advertise" and "lawyers don't return phone calls." I believe that there is wisdom in those words.

Although I seldom watch television, to this day my mother watches the news on a daily basis, in part to keep me apprised of what's going on in the world of attorney advertising. The growing number of attorney ads and the lengths to which they will go to catch your attention never ceases to amaze her (or me).

WOULD YOU REALLY WANT SUPERMAN OR TARZAN AS YOUR ATTORNEY?

As my mother watches the news, she keeps a running list of the various ads for attorneys. Among her "favorites" (by this I mean most offensive) are:

- **An attorney wearing a cape and flying through the air, as though he is some type of a superhero, promising that he can get you cash for your injuries (Superman?).**
- **"One call, that's all," implying that, by simply picking up the phone, this attorney will resolve all of your legal problems.**
- **Claiming that an insurance company will be so scared at the mere mention of the attorney's name that they will immediately settle the case for more than it is worth.**
- **A paramedic or emergency room nurse giving a family member of a patient a local attorney's business card and telling her to contact the attorney.**
- **A "former client" who claims that his attorney was able to recover some large amount of money, even though there was very little damage to his car.**
- **William Shatner (Captain Kirk of *Star Trek* fame) urging you to contact a certain attorney, who will get you the money you deserve for your injuries.**

- **A now-deceased attorney saying that he has recovered millions of dollars for his clients and telling the viewer to call one of his many offices.**

Still other attorneys, whether on television, in the phonebook, or through some other form of advertising, resort to the following tactics to try to get you to contact them:

- **Comparing himself to a wild animal, like he is the king of the jungle (Tarzan?).**
- **Pictures of ferocious, possibly rabid, looking bulldogs, which appear as though they are about to attack or bite someone.**
- **Catchy jingles so that you will remember their name and telephone number (1-800-CATCHYPHRASE) as it appears repeatedly across the screen.**
- **Photographs of horrific car wrecks or people who have been seriously injured, accompanied by "\$" or pictures of checks with large numbers on them.**

Although I must admit that I have never actually seen one of these ads myself, I have heard tales of billboards in another state that read:

- **"Instant cash" or "free money"-- kind of like you have just won the lottery.**

What do all of these ads have in common? Consider the following:

- They tell you absolutely nothing about how or why this particular attorney or law firm is qualified to handle your case.
- For the most part, they provide no meaningful guidance as to what you should (and should not) do to protect your rights.

THE TRUTH ABOUT ATTORNEY ADVERTISING.

There are almost 16,500 attorneys licensed to

practice law in Alabama. Of those, about 700 have an office in the Huntsville / Madison County area. Each year hundreds more students graduate from law school and take the bar exam. Safe to say, it is a competitive market.

The primary problem with advertising is that it makes it difficult for you to determine why this attorney, as opposed to any of the other 700 or so local attorneys, is qualified to handle your case.

I have been told by more than one source that some attorneys and law firms in Madison County are spending upwards of **\$25,000.00 per month solely on television advertising**, while others spend close to that amount in yellow pages advertising. Obviously, television commercials and yellow pages ads cause people to contact these attorneys, or I assume they would not continue to spend so much on advertising.

HOW ATTORNEY ADVERTISING CAN ADVERSELY AFFECT YOUR CASE.

There is a saying that an attorney is only as good as the result of his or her last trial. To some degree, this is a true statement.

To maximize the likelihood of obtaining a good result, an attorney must work extremely hard and be fully prepared to go to trial. Then, and only then, are you (the client) likely to receive the compensation that you deserve.

Unfortunately, some of the attorneys who spend the most on advertising have never tried a single case! In fact, they have no desire or intention of ever filing a lawsuit or preparing a case for trial. Instead, they are interested in handling a large volume of files and settling all of their cases quickly. In my opinion, this truly is a disservice to their clients.

Having practiced law for over 18 years, I can assure you that insurance companies seldom write checks for the value of a case, without an attorney investing a substantial amount of time and money

on your file. Attorneys who have little, or no, experience actually preparing cases for trial, and then trying them before a jury, will not have earned the respect of insurance companies and it is highly unlikely that they will be able to obtain maximum compensation for you.

Another way in which attorney advertising hurts your case is that it is becoming much more difficult for attorneys who actually do try cases to select a jury that is not of the opinion that everybody is suing everyone else for every conceivable reason. Just try to imagine how difficult it would be for an attorney who advertises by wearing a cape and flying through the air to stand in front of a jury without being laughed out of the courtroom. And it is not just the superhero attorney who they will hold accountable, but, in all likelihood, their client (possibly you?) as well. Of course, this assumes that the attorney would ever actually try a case.

Advertising also can create a situation where the attorney is forced to settle cases in order to be able to pay for the cost of running all of these ads (\$25,000.00 per month is a lot of money). Thus, even if they wanted to try cases, it is unlikely these attorneys would be able to because of the need to continuously settle cases as quickly as possible, just to pay the overhead.

SO HOW DO YOU GO ABOUT SELECTING AN ATTORNEY?

The quick and simple answer is *NOT* by watching ads on television or by flipping through the yellow pages. Instead, consider these options:

Other attorneys: One of the best sources for locating a qualified attorney to represent you is from another attorney who has assisted you in the past. An example might be the attorney who handled the closing on your home or who drafted your will.

Friends: Ask family members and friends if they know an attorney who they trust and possibly handles the type of case that you have.

Alabama State Bar Lawyer Referral Service: All attorneys licensed to practice law in Alabama must be members of the Alabama State Bar. The State Bar will provide, free of charge, the name(s) of one or more attorneys in your area who handle cases or legal matters such as yours. *They can be contacted at 1-800-392-5660.*

Internet: This can be a good resource, if it is used correctly. As a preliminary source of information, you may want to consider looking at the websites of various attorneys. However, you must be willing to invest time and follow it up by asking some tough questions.

THE KEY QUESTIONS THAT *MUST* BE ASKED AND ANSWERED *BEFORE* HIRING AN ATTORNEY.

a) How long have you been licensed to practice law in Alabama?

b) What different types of cases do you handle (an attorney who lists 20 different practice areas likely is, at best, a jack of all trades and a master of none). This is particularly true for an attorney who has not been practicing law for very long. Remember -- would you want a veterinarian performing open heart surgery on you?

c) What is your educational background (to include the law school you went to and your academic achievements)? What was your class rank? Did you graduate with honors? Were you on *Law Review* (normally by invitation only to the top 15% of their law school class)?

d) What do your clients, other attorneys, and even judges have to say about you? You may want to look at www.lawyers.com or www.linkedin.com to see how they are rated by clients, attorneys, and judges.

e) Are you a Board Certified Civil Trial Specialist? (To attain such a certification, an attorney must provide proof of his trial experience, take a comprehensive written examination, and be evaluated by other attorneys and judges before whom he has tried cases).

f) Are you a member of any state or national organizations? If so, which ones and are you actively involved in them? (If you are seeking an attorney to handle an injury-related claim, you want to know if he is a member of the American Association for Justice and/or the Alabama Association for Justice).

g) Have you ever been disciplined by the Alabama State Bar? If so, what for?

h) Approximately how many cases have you tried and, of those, how many were before a jury? How many of those involved a case similar to mine? What were the results?

i) Will you personally handle my case? If not, why and who will?

j) Explain the process by which my case will be handled, to include keeping me informed of the status of my case.

k) How much will you charge me for handling my case? How are expenses handled?

l) What is my case worth? What do you see as the biggest potential concerns?

CONCLUSION

Time and effort should be invested in selecting the right attorney to handle your case. Do not rely on self-promotion or advertisements that seem too good to be true. As always, if you would like the name of an attorney who is qualified to handle your case, do not hesitate to contact our office. Even if it is not a type of case we handle, I will be glad to recommend someone. After all, we are here to help you.

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