

BONDURANT MIXSON & ELMORE ^{LLP}



Digital Media Matters: Attorney Advertising and Professional Guidelines

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Professional Development

March 21, 2011

What is the History of Attorney Advertising?

- In 1908 the ABA banned lawyer advertising, believing it shined a negative light on the profession
- Lawyers were allowed to be listed in directories, print business cards and letterhead, but all other forms of advertising were not permitted
- In 1977 the U.S Supreme Court ruled in *Bates v. The State Bar of Arizona* that the ban was unconstitutional
- Rule 7.2 [1] – “Advertising involves an active request for clients, contrary to the tradition that lawyers should not seek clientele”

What Happened?



Why Do These Attorneys Advertise?

- Attorneys in a practice with low margin/high volume work **have** to advertise like this and most B2C work is low margin
- A large amount of B2B work is developed through relationships or reputation and may take years to yield results
 - Note: if you are in a large B2B firm, but have a practice that is high volume/low margin, you should be advertising
- Many law firms may think they are not advertising, but in fact, almost all firms are and are subject to the rules

Georgia Rules of Professional Conduct:

Part 7 – Information About Legal Services

- 7.1 – Communications concerning a lawyer's services
 - Unjustified expectations
 - Basically, do not lie
 - “Fails to include the name of at least one lawyer”
- These rules apply to all lawyers and law firms
- Applies to every communication

Georgia Rules of Professional Conduct:

Part 7 – Information About Legal Services

- 7.2 – Advertising
 - Lawyers can essentially advertise in any medium
 - Television
 - Radio
 - Magazines
 - Billboards
 - Buses
 - Etc.

Georgia Rules of Professional Conduct:

Part 7 – Information About Legal Services

- 7.3 – Direct contact with prospective clients
 - Written communications need to be clearly marked with the word “advertisement” no smaller than the largest type used in the body of the letter – exemptions are:
 - Close friend
 - Relative
 - Former client
 - Someone reasonably believed to be a former client

Georgia Rules of Professional Conduct:

Part 7 – Information About Legal Services

- 7.4 – Communication of fields of practice
 - The “specialist” rule for having a niche – a lawyer must actually be certified as a specialist to use that term
 - Use other terms, such as “focuses on” or “has extensive experience in”

Georgia Rules of Professional Conduct:

Part 7 – Information About Legal Services

- 7.5 – Firm names and letterheads
 - Cannot use tradenames unless it includes the name of at least one active member of the firm
 - “The Technology Firm” – not OK
 - “Combs Technology Law” - OK
 - Firm names using only deceased or retired members of a firm are OK.

Ethical Questions From a Legal Marketing Professional

- Should everyone be able to say they do “complex litigation”? What does that even mean? Isn't that misleading?
- When is a law firm going too far with making certain claims and what disclaimers are needed?
- What are the rules about naming specific clients and listing specific cases?
- Should law firms who had only a minor role in a case be able to claim it as a representative case? Should they have to disclose their actual role?
- Can a firm give examples of work product? Would clients like that?
- Should the rules be different for advertising to sophisticated consumers?

Digital Media Matters

- What are some of the digital marketing tools currently being used by lawyers and law firms?
 - Websites
 - Blogs
 - Social media
 - Third party websites
 - Mobile device apps
 - E-Newsletters
 - Client alerts

Don't Use Digital Media, Unless...



...You Have a Plan

- Answer these questions before starting any digital media project:
 - What are you trying to accomplish?
 - Who is the target audience?
 - What are they most likely looking for or interested in?
 - What do you want them to know about you and your firm?

Websites

- Everyone should have one
- Most important digital marketing tool
- It is the public “face” of the firm
- You can track how viewers get to your site and at times where they are

Websites



**GENERAL COUNSEL:
USING LAW FIRM
WEB SITES**

IN-DEPTH RESEARCH



HUBBARD ONE
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“Candidly, a bad law firm Web site would be like showing up to a meeting with me in a crumpled suit.”

“A prospective firm’s Web site is my introduction to the firm. Of the firms I am considering, I look at each of their Web sites first and then narrow down the firms before calling them.”

“If I can’t find the firm’s site and easily navigate it, that’s a problem.”

“The information from a firm’s Web site is usually a key factor in the selection process.”

“A firm’s site is always a starting point before the interview. They won’t get the interview if the Web site doesn’t have a bio that we’re interested in.”

BONDURANT MIXSON & ELMORE LLP

Websites



**GENERAL COUNSEL:
USING LAW FIRM
WEB SITES**

IN-DEPTH RESEARCH

“Small and mid-sized firms need to have a quality site even more than large firms because the smaller firms have even less brand value on which they can sell me.”

“For a mid-size firm to have a good Web site is an indication of sophistication – it shows me they can play with the big boys.”

“For any size firm, large or small, the quality of their site can tell you how well-managed they are and whether they are on top of things.”

“We don’t have a different standard – we’d expect the same kind of things. I would want it to be robust like a large firm site.”

“If they want to be competitive, they should make sure they have a great site.”



Websites

- Biggest mistakes law firms make:
 - Too busy
 - Cookie cutter – no differentiation or direction
 - Written for the lawyers and not for the target audience

TRIAL & APPELLATE LITIGATION SERVICES



B | M | E

BONDURANT MIXSON & ELMORE LLP

(404) 881-4100

FIRM OVERVIEW
PRACTICE AREAS
ATTORNEY PROFILES

IN THE NEWS
PUBLICATIONS
SEMINARS
PRO BONO
RECRUITING

CONTACT US
SEND SITE TO A FRIEND

1201 West Peachtree Street NW
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Atlanta, GA 30309

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Fax (404) 881-4111

EXCEPTIONAL RESULTS

\$454 million verdict against a fortune 100 company,
the largest verdict in Georgia history

Successfully represented Weyerhaeuser Co. in overturning
a \$458 million judgment on appeal

\$281 million jury verdict against TBS, one of the largest
compensatory damage awards in Georgia

\$192 million settlement of race discrimination lawsuit
against Coca-Cola, the largest settlement of a private
discrimination suit in United States history

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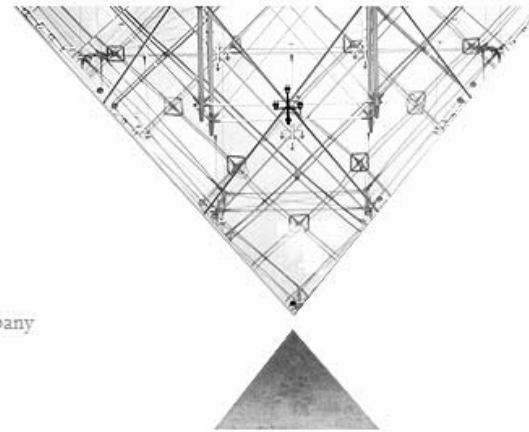
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“I hope I **never see this firm**
on the other side of a case.”

– Former Chief Litigation Officer at Fortune 200 Company



Randi Engel Schnell to be honored by the
National Association of Women Lawyers

Ronan Doherty and Nicole Iannarone to
speak at ACC Value Challenge Event on
March 24, 2011

Four Bondurant Mixson partners listed as
2011 Georgia's Best Lawyers for Bet-the-
Company Litigation ...

PRACTICE AREAS

(404) 881-4100



PRACTICE AREAS

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Bondurant, Mixson & Elmore, LLP, a trial litigation law firm in Atlanta, Georgia, specializes in many areas of law. Serving as both prosecution and defense attorneys, our lawyers have handled many high-profile cases that have settled for some of the largest dollar amounts in the history of Georgia. BME has achieved exceptional results for its clients, both as plaintiffs and defendants, while focusing on the following types of law:

» **Antitrust**

Our outstanding litigation techniques in Antitrust litigation has ranked our firm as the number one Antitrust practice in the southeast. We specialize in civil and criminal Antitrust proceedings and Antitrust class actions, including federal and state grand jury investigations and trials. Find out more about why our firm is the top Antitrust litigation firm in Georgia...

» **Appellate**

Our Appellate practice is in part an extension of our trial practice, devoted to representing clients that the firm also represented at the trial level. Learn more about our Appellate cases...

» **Business Torts**

The firm has had extraordinary success in litigating Business Torts on the defense and prosecution sides, with the success and quality of its attorneys. Find out why our firm is one of the top Business Litigation firms in Georgia...

» **Class Actions**

We have successfully litigated class actions on both the plaintiffs' and the defense side, resulting in the firm being recognized as having one of the premier class action practices in the United States...

» **Commercial Litigation**

Because of our outstanding reputation in Commercial Litigation, eight of our firm's partners have been named among the top 5% of attorneys in the state. This reputation stems directly from our many successes in commercial and contract disputes. Learn more about why our firm is the best to handle all of your Commercial Litigation needs...

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“Undoubted **masters**
of the courtroom” – Chambers

Bondurant Mixson & Elmore is an elite group of highly-qualified litigators dedicated to winning high-stakes business disputes. Our clients look to us when they face complex legal issues that require skilled and experienced advocates. We take pride in handling our clients' most important cases. Our success in these matters is based on our deep talent, experience trying cases to judges and juries, and the lessons we have learned in more than three decades representing both plaintiffs and defendants.

Below is a list of specific areas in which Bondurant Mixson lawyers have significant experience and have achieved notable results:

▸ Antitrust	▸ Intellectual Property Litigation
▸ Appellate Litigation	▸ Internal Investigations
▸ Business Disputes	▸ Professional Liability Litigation
▸ Class Actions	▸ RICO (Racketeer Influenced and Corrupt Organizations)
▸ Corporate Governance and Shareholder Litigation	▸ Sports Litigation
▸ False Claims Act / Whistleblower Litigation	▸ Trusts and Estates / Fiduciary Duty Litigation
▸ Financial Institutions Litigation	

Blogs

- Only have one if:
 - It is going to be updated regularly
 - It fills a unique niche
 - The content is relevant to your target audience and easy to read
 - You are going to be proactive about sending the link out to all of your contacts, asking other bloggers to trade links and whatever else it takes to develop readers

“that’s what she said”

a ford & harrison blog about the popular television series “the office”

Saying Goodbye

March 11, 2011 - by: Matt Rita

0 COMMENTS



It’s “déjà vu all over again” for this blogger, who already saw and wrote about tonight’s episode of *The Office* — both [when it was being filmed](#) and [as it later aired](#). What then to post? Well, for good or ill, recent events in the broadcasting world have shed light on an important and recurring topic in our area of practice: ending an employment relationship. Or, in more colloquial terms, we might describe it as “saying goodbye.”

“Beware the Ides of March,” the soothsayer warned Caesar, not long before Brutus *et alia* facilitated the Roman dictator’s permanent “goodbye” (or “*valé*”) in 44 B.C.

And now, with the ides still a few days away in 2011 A.D., the month of March has already offered up three high-profile examples of other “goodbyes” in the public arena. While lacking complete information about the separations in question, we can look to their published accounts as representing a broad spectrum of employee departures. In order of ascending preference:

[read more...](#)

CATEGORIES: [MICHAEL SCOTT](#)

Employee Performance Evaluation: Holly Flax

March 04, 2011 - by: Jaclyn West

2 COMMENTS



Last night, my television was playing a marathon of “Office” repeats, leaving us without *new* catastrophes to dissect. So in an attempt to find something to share with you folks, I contacted my mole in Sabre’s corporate human resources department to see what’s new down in Tallahassee. As it turns out, I have a special treat for you: Holly Flax’s performance evaluation. Want to see if Sabre shares Ford & Harrison’s concerns about Holly’s effectiveness as an HR manager?

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- > Ethics
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- >> Handbooks and Policies
- >> Harassment

Social Media and Third-Party Sites

- LinkedIn
 - Probably the best one to start with
 - People are still not comfortable with it
- Facebook
 - Some firms have pages, but most have very few connections and it is mostly employees
 - Why would anyone be interested in a law firm Facebook page?
- Twitter
 - More firms on Twitter than Facebook
 - Follow clients and ask them to follow you
 - Media

Social Media and Third-Party Sites

- Martindale Connected
 - Specifically set up for lawyers
 - Not sure how many people are using this
 - TBD if it will ever catch on
- Legal OnRamp
 - Social networking site designed for in-house lawyers
 - Quite a few members, but little activity or quality content
 - Blog links might be the best feature

Social Media and Third-Party Sites

- Wikipedia
 - Very high search results
 - Completely editable (not just by you)
 - Higher credibility level
- AVVO
 - Automatically creates bios and firm profiles (Should that be allowed?)
 - A major hassle to update multiple lawyer bios
- Chambers/Super Lawyers/Best Lawyers/Etc.
 - Usually paid listings
 - Not extremely credible
 - Marginal value

Other Digital Options to Consider

- Smart Phone Apps
- E-Newsletters
- Client Alerts
- Posting or Linking to News Items About Your Firm
- Mobile Device Optimization
- Text Sizing Features
- SEO

Questions?