

LAWYER ADVERTISING

Background

The organized bar's interest in regulating lawyer advertising stems from its desire to protect the public and maintain the dignity of the legal profession.

State ethics rules prohibited lawyer advertising from 1908 until 1977. The U.S. Supreme Court ruled in a 1977 case, *Bates v. State Bar of Arizona*, that states could not ban lawyers from advertising, yet the states had the obligation to regulate that activity. The next year, the U.S. Supreme Court ruled that states could ban direct in-person solicitation that was done for the lawyer's financial gain.

Although advertising began slowly and was primarily the domain of those providing personal legal services, such as personal injury, bankruptcy and divorce, it has become one facet of broad scale marketing that now extends to major law firms. Since the mid-1990s, lawyers have marketed their services on the Internet, first through their own websites and more recently through legal portals, on-line directories and bidding services.

The American Bar Association Model Rules of Professional Conduct include Rules 7.1 – 7.5 relating to lawyer advertising. However, state ethics provisions vary considerably on advertising issues. Some states impose disclaimers for advertisements and strict labeling requirements for direct mail solicitations. A few states require lawyer ads to be screened for compliance with the rules.

Missouri Bar Activities

The Missouri Bar, through its public information brochures and announcements, advises the general public that lawyer advertisements should be viewed only as a starting point in collecting information about hiring a lawyer. The public is advised that lawyer advertising should be just one component of their search for a qualified trusted advocate.

Since the *Bates v. State Bar of Arizona* decision, The Missouri Bar has had numerous committees that have held hearings and considered various ways that the public's interest in receiving information about available legal services can be protected, while at the same time not undermining the dignity of the legal profession.

Recently, a Missouri Bar Special Committee on Lawyer Advertising studied Rules 4-7.1 – 4-7.5 of the Missouri Rules of Professional Conduct, which govern advertising by Missouri lawyers. After receiving and reviewing extensive comments from members of the bar, the committee proposed amendments to Rules 4-7.1, 4-7.2 and 4-7.3. The Board of Governors reviewed the committee's recommendations and, after amending the committee's proposal, submitted it to the Supreme Court of Missouri for consideration.