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Advertising invades the legal profession

By Rita Ciolli

It was just 20 years ago that the partners in a prominent Manhattan law firm were censured for offending the traditions of the legal profession. They had allowed themselves to be profiled in a Life magazine article.

Now billboards and television ads by lawyers are becoming commonplace. In the old days a lawyer who wanted to build his reputation and attract clients campaigned for the town council and the school board and attended Kiwanis luncheons. Membership in a high-class country club was another ticket to developing a good practice. But now the methods are less subtle; in fact, they are very direct. More often than not, direct mail.

Some firms have clerks culling from court records the names of people who might need a lawyer's services. Then the firm dispatches a computerized custom letter highlighting its skills in such areas as bankruptcy. Or a lawyer who handled a home purchase for a family 10 years ago now sends that family a folksy newsletter or glossy brochure reminding it of the other services he can provide.

"Advertising has led to broader considerations of marketing and legal services," said Daniel Goldstein, public relations director for the New York State Bar Association. But as with everything involving the law, change has been slow. "People are expecting better marketing communications but the profession has really dragged its feet."

This new wave began in 1977 when the U.S. Supreme Court permitted professionals to advertise. Not much had happened in the 14 years between the landmark decision and the 1963 disciplining of the 25-member law firm of Olwine, Connelly, Chase, O'Donnell and Weyher for their participation in the Life magazine article.

But now some traditionalists predict that no end is in sight. "Five years from now, lawyers will be selling their products like toothpaste," said Neil T. Shayne, ethics committee chairman of the Nassau Bar Association.

Shayne, like many other lawyers in the competitive New York area, finds himself besieged by public relations consultants and other agencies offering advertising services. And this development will drastically affect the way lawyers attract and communicate with their clients in the future.

Some solicitations to lawyers offer services "consonant with the dignity of the profession." This includes offering to have them prepared for and then featured in media interviews so they can be "positioned as authorities." Persons familiar with the services said that law firms spend a minimum of \$3,000 a month for such help. The consulting firms also recommend publishing articles in prestigious publications. A Great Neck firm that specializes in collections has sent a glossy brochure to all Long Island hospitals. The brochure has pictures of the lawyers and an offer to handle the dunning for the hospitals' unpaid medical bills.

A public relations agent for several Long Island



Public relations agent Hank Boerner addresses a joint meeting of the Nassau Bar Association and the Nassau CPA Society.

lawyers is Hank Boerner, who recently conducted a seminar for attorneys and certified public accountants at the Nassau Bar Association. Boerner pitches his programs as "practice development." Marketing, he predicts, "will change the way professionals are doing business."

But he doesn't think direct advertising is the most sophisticated approach. "Professionals are more concerned about the respect of their peers and their esteem," noted Boerner. "Price Waterhouse did more for their image by handling the Academy Award voting than any billboard ad would have done."

The marketing phenomenon has not made traditionalists in the profession happy. "In the past six months, not a week has gone by where I haven't gotten a few telephone calls and letters asking for advisory opinions," said Shayne. The ethics committee chairman said the complaints were not from clients and consumers objecting to the direct mail or telephone solicitations, but rather from other law-

yers caught between the tough economic times and the surplus of lawyers. The state court system can discipline lawyers who place ads that are false, deceptive, misleading or "reflect negatively on the legal profession."

Shayne, who writes an ethics column for the New York Law Journal, said he was upset by a mailing from Lexington, Mass., offering a "custom column with photo byline." The brochure boasts, "We write the whole thing." Shayne said a lawyer who pays for such work and then places it under his own name is violating the canon of ethics.

A problem arose recently with a Long Island lawyer who was writing what appeared to be a consumer advice column for a group of North Shore Pennysavers. But when an investigation showed the lawyer was paying for the space as an advertisement, although unmarked, and not as a legitimate advice column, the lawyer discontinued the practice.

"A year and half ago we would have called much that is going on now ambulance chasing," said Shayne. "But what is being done is legitimate. There is nothing wrong with it."

Roger Scott is a Syracuse lawyer whose approach differs little from the marketing of toothpaste and he is proud of it. His firm's slogan, colorfully painted on the side of a downtown Syracuse building, advises: **IGNORANCE IS BLISS BUT IT WON'T STAND UP IN COURT.** But the sign is one of the firm's least-aggressive marketing approaches. "We do direct mail and TV and radio," Scott said. "We even do telephone marketing surveys of our approach. It is paying off tremendously." Scott said his national television ad for his relatively small, 14-attorney firm in Syracuse snared 52 lucrative cases from the 1981 MGM Grand Hotel fire in Las Vegas.

"There is hardly a business in the world that can operate without advertising or marketing," said Scott, who concedes that some of his efforts have turned off clients. But he is not worried, he says, because others will take their places. For every \$1 he spent on advertising, he said he earned \$13.

There are entrepreneurs closer to home. Garden City lawyer John Mahon is offering a quarterly newsletter called "Law Bridge" to his associates. A recent issue told clients of environmental hazards and the pitfalls of joint bank accounts. Lawyers who subscribe receive 200 copies of the newsletter specially imprinted with the name of their firm.

"Lawyers will have to learn to build up their client base; they must keep their name in front of the people," Mahon said. "Keep saying, 'Remember me, I'm your lawyer.'" Mahon, who has been practicing for 35 years, describes his service as an alternative to advertising. "It's a very good professional way of doing it," he said.

But the state bar association's Goldstein doesn't believe many of the current marketing techniques really will take hold. "It will bring in trade, but not the kind of big cases lawyers want," he said. "That will always happen the same way, through contacts and the country club. Some lawyers just do it by having a good reputation." /ii