



Lawyers and Advertising by Jodi L. Wyman

It may surprise the public to learn that there are specific rules for lawyers and the way they advertise. Above all, lawyers have to maintain the dignity of the profession in their television, radio or print ads. Some of the television advertising by lawyers in the United States certainly gets your attention and is memorable, but may not truly count as dignified. It seems Canadian lawyers take the matter more seriously.

The Code of Professional Conduct for Manitoba lawyers states that advertising is a benefit for members of the community who may be looking for a lawyer. Advertising at one time was not allowed, but it is now encouraged. It must however be done in a manner that inspires respect and confidence, and reflects the integrity of the profession. Lawyers have a difficult enough time without inappropriate and distasteful advertising to give people the wrong impression.

As with any profession, the advertising by law firms cannot be misleading or create unattainable hopes. All statements made in the course of advertising must be true and

accurate. The ad cannot be undignified or in bad taste. This is of course a very subjective test, as people will not always agree on what is in bad taste.

The rules also say that the ad cannot claim or imply any superiority over anyone else. A lawyer cannot promote themselves as “The Best” criminal defence lawyer in town, for example. That too is a subjective test, and one not everyone may agree.

There has been a recent controversy as to whether some lawyers can call themselves “specialists”. Some lawyers do in fact practice in only one area and get very good at it. They study law journals and make presentations to other lawyers. The problem is that there is no way for the public to know which lawyer may in fact be a qualified “specialist”, and who is just calling themselves one. It is important the public not be misled. There could soon be a criteria to use the term. The public will then know if they are hiring a specialist.

One popular way for lawyers to advertise is to befriend real estate agents, given that they can be an

excellent source of referrals. The Code of Conduct however has rules relating to lawyers and real estate agents working together. Lawyers are not allowed to enter into arrangements where they will pay the realtor a fee or reward for referrals. Lawyers are not to pay the real estate commission to the realtor before they are allowed to distribute all the sale proceeds. Lawyers are not allowed to lend money to the agent by providing an advance on the commission. Again, the public should not be misled into using a lawyer just because they have a side deal with the agent.

Lawyers even have to be careful with their letterhead. Not surprisingly, if a lawyer is not in fact a member of the Bar of the province, they cannot claim to be. If they are a corporation or limited liability partnership, they have to say so. Also, a law firm cannot call itself “John Smith and Associates” unless there really are associates, and it is not just John Smith working there.