

## **Florida Bar Gets Sued Over New Legal Marketing Ethics Rules....And It's About Time!**

**By: Stephen Fairley**

<http://www.TheRainmakerInstitute.com>

Last month I talked about Florida Bar's proposed new and "improved" [legal ethics in advertising rules](#). Well, time for an update.

The [Daily Business Review](#) just reported **the new proposed advertising rules for attorneys has caused quite a stir and has resulted in a lawsuit** by the "Florida 8"—a group of 8 courageous law firms that decided they finally had enough (no, I'm not going to try and fake objectivity about this).

Basically, the new rules would require all law firms to go back and either remove all testimonials, case summaries and "deceptive, misleading, manipulative or confusing audio or visual content."

The alternative would be to hide them behind an onerous pop-up box filled with legal disclaimers. Seriously? This is getting to the point of being ludicrous and is just one more sign of how out of touch the Florida Bar rule makers are.

The article interviews several of the plaintiffs. One firm estimated it would take around 3,000 man-hours to make these changes. Another estimated the cost to all law firms, based on which have offices in Florida, to be in the millions of dollars. Apart from the obvious reasons of: it will take too much time and cost too much money, there are other major problems with these rules:

**1. The rules the Florida Supreme Court and Bar proposed are unreasonable and unfairly hurt small and solo firms that are much more dependent on their websites and blogs to generate leads and business.**

Even during great economic times, small firms and solo practitioners simply do not have the million-dollar advertising budgets of the Am200 law firms to compete on mass media like TV, radio, newspaper and billboards.

They have to rely on guerrilla marketing strategies, which often means low-cost marketing budgets like blogs, social media, and websites.

Many of these small law firms have been using blogs and websites for years to generate new leads and new clients (I know our clients have) and frankly do not have an extra staff member or two around who can spend the next 3,000 hours or so to go through all of their past website pages and blog posts to ensure every page is in compliance.

**2. What the Florida Bar hides under the guise of a "public service" is quickly becoming a public nuisance.** Here's your sign: When the consumer advocacy group Public Citizen sues you because they believe your rules will be a detriment to the general public, that may be a good

indication that your proposed rules are too Neanderthal. And here's another sign: When you have to give a special dispensation that specifically exempts the ACLU and other nonprofit legal groups from these onerous regulations, it may be a sign your rules are too broad.

**3. We're America; we believe in free enterprise.** Personally, I'm glad someone is finally taking a public stand against this level of unnecessary intrusion into the way law firms market. Yes, I know there are bad apples in the legal industry. Yes, I recognize there are [some law firms using offensive advertisements](#), but I also believe in the strength of the marketplace to “police” what works and what does not.

The ads or marketing efforts that don't work because they are offensive or for whatever reason, will not consistently attract high quality clients and the law firms will stop using them.

The ads that do work will continue to be used.

While this may sound overly simplistic, I see a lot of value in letting the marketplace police law firm advertising and marketing.

**4. Where is the proof of harm?** Everyone who is involved with law firm marketing knows Florida already has the MOST restrictive laws in the country. Do they really need to turn it up a notch? Where is the proof that testimonials and case summaries on legal websites have caused harm to prospective clients?

Most Internet marketers can clearly show you plenty of evidence that putting pop-up boxes will drive website visitors away, not to mention consumers hate them. Why else would you have so many “pop-up blockers”?

Also, most pop-ups will not even work on smart phones. Where's the proof that pop-up disclaimers will prevent naïve consumers from falling prey to the bad apples in the industry?

If Florida succeeds in enforcing these backwards rules, will other state bars follow?

Where is the voice of the solo practitioner who is just scraping by and barely has time to focus on doing any marketing, must less redo all their past efforts because of the whim of some out-of-touch rule setter?

**I strongly recommend every single law firm in Florida either (a) join the lawsuit, (b) file their own or (c) at least send an amicus brief in support of these courageous “Florida 8” law firms!**

- Bilzin Sumberg Baena Price & Axelrod
- Carlton Fields
- Foley & Lardner
- Jorden Burt
- Holland & Knight
- Hunton & Williams
- Weil Gotshal & Manges
- White & Case

There is a great deal of competition in the legal industry, but this is one issue where I think most attorneys in Florida can agree on and unite under. And while no one is talking about hanging anyone, I'll close with this quote from Benjamin Franklin, "If we do not hang together, surely we will all hang separately."

Ok, I'll get off my soapbox now. Who's next?

\*\*\*\*\*

## **Stop Wasting Precious Time and Money**

Feel like you don't have time for marketing? Let us show you how to make a plan that runs on "autopilot" – one that attracts new and lucrative clients while you focus on your practice.

Learn how easy it can be to create an effective law firm marketing plan that performs by getting our **Free Guide: 5 Easy Steps to Create Your Law Firm Marketing Plan.**

After working with many ultra-successful lawyers we found five common threads in their marketing plans. This guide outlines these shared elements to provide insight into strategies that work and how to make them work for you.

There are two versions: one for Attorneys in Solo Practice and one for Attorneys in a Small Firm. You can [download them now free!](#) Go [here to download](#), and start using these proven strategies today!

\*\*\*\*\*

Stephen Fairley, M.A., RCC, CEO

Law Firm Marketing Expert • Master Business Coach • Best-Selling Author  
[Stephen@TheRainmakerInstitute.com](mailto:Stephen@TheRainmakerInstitute.com)

Phoenix Main Office

Stephen Fairley is a nationally recognized law firm marketing expert and has helped more than 6,000 attorneys from hundreds of law firms across the country to discover the secrets of generating more referrals and filling their practice.

He is the international best-selling author of 10 books and 5 audio programs.

He has appeared in the American Bar Association Journal, Entrepreneur, Inc., Fortune Small Business, Harvard Management Update, Business Advisor, the Chicago Tribune, Crain's Chicago Business, and on the front covers of AdvantEdge and Choice magazines.

Stephen is a member of the prestigious National Speaker's Association and his Rainmaker seminars have been sponsored by more than 20 of the largest state and local bar associations in the country.

Visit us at:

<http://www.TheRainmakerInstitute.com>

<http://www.therainmakerinstitute.com/products.htm>

<http://www.therainmakerblog.com/>

<http://www.therainmakerretreat.com/>