

>> PLEASE RISE.

LADIES AND GENTLEMEN, BEFORE THE SUPREME COURT, PLEASE BE SEATED.

>> GOOD MORNING.

THE NEXT CASE, FLORIDA LAWYER ADVERTISING REGULATION AND THE FLORIDA BAR.

PARTIES READY TO PROCEED?

[INAUDIBLE]

>> HERE'S MY PROBLEM.

>> PLEASE SPEAK INTO THE MICROPHONE.

>> MY PROBLEM IS WE WERE HERE THREE YEARS AGO AND I DIDN'T WATCH OR A ARGUMENT THAT THERE IS SOME JUSTICE, IS CONCERNED ENOUGH THAT WE PLUMMET FURTHER INFORMATION AND WE WANTED RESEARCH AND EVIDENCE.

WHAT WE HAVE NOW IS SOME UNDERSTANDING.

IT IS A SURVEY THAT WAS DONE ON A LAWYER.

OKAY, AND YOU THINK THE BUYER BELIEVES THAT THAT RESPONDS TO THE COURT'S CONCERNS.

THAT ADDRESSES WHAT THE COURT WAS CONCERNED ABOUT THREE YEARS AGO.

[INAUDIBLE]

[INAUDIBLE]

>> DO YOU THINK THAT 10% ACTUALLY THOUGHT THEY FELT MISLED?

DO YOU THINK THAT'S AN INSIGNIFICANT NUMBER OF LAWYERS THAT COULD FEEL MISLED?

[INAUDIBLE]

>> IF YOU DO ASK IN THAT SURVEY WHETHER OR NOT THE PEOPLE WHO WERE RECEIVING INFORMATION FROM

OTHER LAWYERS, LAWYERS RECEIVING INFORMATION FROM OTHER LAWYERS, WHETHER OR NOT THEY PASSED THAT INFORMATION ON FROM THEIR CLIENTS?

[INAUDIBLE]

>> BECAUSE THAT SEEMS TO BE -- AGAIN, WE DON'T WANT TO STIFLE COMMUNICATIONS.

IT LOOKS LIKE MOST OF THE STATES DON'T WORRY ABOUT THIS AS PART OF LAWYER ADVERTISING.

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BUT MR. WAGNER WHO'S BEEN HERE THROUGHOUT THIS WHOLE SERIES OF ARGUMENTS POINTS OUT THIS ISSUE OF MASSMARKETING, GOING AND GOING FROM A LAWYER TO ANOTHER LAW FIRM AND THEN TO ALL FORMER CLIENTS OF ALL THESE LAW FIRMS. SO IT IS ESSENTIALLY A LAW FIRM THAT HAS THE MEANS IS INVADING THE ADVERTISING RULES BY USING OTHER FIRMS AS PAST RULES FOR THIS TYPE OF MARKETING.

IS THE BUYER CONCERNED THAT THAT'S HAPPENING?

THERE SHOULD BE SOME CAVEATS IN THE RULES THAT SHOULD NOT ALLOW THAT OVERLY SAYS THAT'S REGULATED?

>> JUSTICE PARIENTE, I HAVE THAT CONCERN.

I HAVE TO TELL YOU I DON'T SHARE IT BECAUSE EVERY LAWYER OF THE FIDUCIARY CLAIM TO EVERY LAWYER AND THAT LAW FIRM.

THE LAWYER SHOULD NOT BE PASSING ALONG TO THEIR CLIENT AND SAID IT'S NOT IN MY CLIENT'S BEST INTEREST.

ALL OF US LAWYERS HAVE THE RESOURCES AND THE TRAINING TO DETERMINE THE QUALIFICATIONS OF A LAWYER OR LAW FIRM FOR

THEMSELVES.  
IN THE WAY THE LAY PUBLIC DOES  
NOT.  
IF THE LAWYER HAS A FIDUCIARY  
OBLIGATION.  
THEY SHOULD NOT BE DOING  
SOMETHING THAT'S NOT IN THEIR  
OWN CLIENT'S BEST INTERESTS AND SO  
I WOULD EXPECT EVERY SINGLE  
LAWYER TO BE LOOKING AND MAKING  
THOSE DETERMINATIONS, IN  
DOING FURTHER RESEARCH BEFORE  
THEY WOULD EVER PASS ALONG --  
>> WE DON'T REALLY KNOW BECAUSE  
WE NEVER ASKED HIM IF THE THESE  
LAWYERS ARE REALLY DOING THIS.  
>> YES, AND THAT'S WHAT WE'RE  
SUPPOSED TO DO, BUT WE REALLY  
DON'T HAVE ANY INFORMATION ABOUT  
HOW OFTEN THIS IS REALLY BEING  
DONE.  
>> THAT'S TRUE.  
BUT IF IN FACT THE LAWYER DOES  
BREACH OF FIDUCIARY OBLIGATION  
TO A CLIENT, AND WE'RE AGREEABLE  
IF THEY DID CONVINCED THEIR  
CLIENT TO HIRE A LAWYER IN THE  
INTEREST OF CLIENT'S BEST  
INTERESTS I THINK THE CARD MAY  
VERY WELL HAVE --  
>> SPENDING IN ADVERTISING AS A  
CAUSE OF ACTION, ARE YOU  
SERIOUS?  
>> NO, I'M NOT  
ACTUALLY SAYING THAT.  
IF THEY DIDN'T BOTHER TO CHECK  
IN AND BUY THEIR CLIENT, GO  
FORTH AND READ THIS LAWYER ON  
THE BASIS.  
THEY HAVE A FIDUCIARY OBLIGATION  
TO ACT IN THEIR OWN INTEREST.  
>> SO IS THE ACTION AGAINST THE

RECEIVING LAWYER?

>> CORRECT.

>> YOU KNOW, I GUESS THE BOTTOM LINE ON THIS IS THAT WE HAVE TO GO ON SOME FACE THAT THE BUYER THINKS THAT THE SOLE AREA SHOULD NOT BE REGULATED AND WE SHOULD TAKE THAT PLUNGE LIKE MOST OTHER STATES DO.

I'M NOT CONVINCED THERE'S ANY MORE INFORMATION THAT I HAVE ABOUT THE USE OF THIS MASSMARKETING, WHICH IS REALLY WHAT WE'RE TALKING ABOUT, THAT EITHER SHOULD OR SHOULDN'T BE REGULATED.

AND I THINK THAT'S ONE THING THAT STRIKES ME IS THAT THE BAR REALLY FOR, I GUESS, FOREVER HASN'T BEEN ENFORCING THIS ADVERTISING, SO IT'S BEEN AT THE FACT WILL ANYWAY, CORRECT?

>> THAT'S CORRECT.

>> THAT'S NOT A GOOD THING.

IN FACT, AS THE COURT SAID WE DIDN'T PERMIT IT, BUT THE BOARD OF GOVERNORS DECIDED NO, IT'S NOT GOING TO BE ENFORCED ANYWAY.

>> WELL, FOR YEARS PRIOR TO THE COURT'S MORE RECENT AMENDMENT TO THE RULE 2006, THERE IS A PORTION OF THE COMMENTARY TO SET COMMUNICATIONS BETWEEN LAWYERS ARE EXEMPT FROM APPLICATION OF THESE RULES.

WE RELIED ON A PORTION OF THE COMMENTARY.

>> HOW DOES THIS COME BACK BEFORE US THAT IT WAS NEVER SUBJECT TO THE ADVERTISING ROLE? IS THIS A NONISSUE?

>> JUSTICE PARIENTE, WE'RE MOVING

IT INTO THE RULES ALSO BE VERY CLEAR TO EVERYONE.

THE BAR DID NOT THINK IT WAS DOING ANYTHING EARTH SHATTERING.

>> IN YOUR VIEW, IT'S ALWAYS BEEN EXEMPT FROM THE RULE. IT'S SOMETHING THE COURT SHOULD NOT BE A CONTROVERSIAL ISSUE.

>> WELL, WE CERTAINLY DIDN'T THINK OF IT AS A CONTROVERSIAL ISSUE AND PRESENTED IT TO THE QUARTER REPUTATION IN 2004.

>> HAVE YOU LOOKED AT THOSE MASSMARKETING BROCHURES THAT I KNOW JUSTICE WELLS, AT THE LAST ARGUMENT, HAD ONE PARTICULAR LAW FIRM THAT HELD IT UP BECAUSE HE HAD JUST RECEIVED A PER-SHARE INCOME YOU KNOW, IT WAS SEVERAL PAGES.

SO THE FIRMS THAT ARE DOING THIS MASSMARKETING CAN SEE WHETHER THERE'S ANY CONCERNS AT ALL ABOUT THOSE PARTICULAR TYPES OF DISTRIBUTIONS?

>> I RECEIVED THAT TOO, JUST LIKE ALL OF YOU DO.

IT APPEARS THAT THE MOST LIKELY TO NOT COMPLY WITH THE RULES THAT LAWYERS WILL PUT IN A BROCHURE IS THEIR PAST DEFAULTS. THE RATIONALE BEHIND THE WRONG PAST RESULT IS A LAWYER WITHOUT LEGAL TRAINING AND KNOWLEDGE PRODUCING THOSE RESULTS ARE WHAT DECLARATION EXPECT.

A LAWYER REALLY DOES HAVE THE EXPERIENCE AND TRAINING ANYTHING TO THE YOUNG MEN TO KNOW THAT IT DEPENDS ON THE PERSON'S OWN FACTS AND CIRCUMSTANCES, RATHER THAN JUST BEING IN SOMEBODY'S

BROCHURE.

>> ONE OTHER QUESTION.

I SEE YOU'RE OUT OF YOUR TIME.  
ON THE FORM JUSTICE PARIENTE,  
IF I SENT IT TO A LAWYER 20  
YEARS AGO WHO NEVER HAD  
ANY OTHER CONTACT WITH THAT  
LAWYER, THEN UNDER THIS RULE  
THAT LAWYER IS FREE TO SEND ME  
ANY KIND OF BROCHURE, WHETHER IT  
HAS ANYTHING TO DO WITH WHAT HE  
HAS REPRESENTED ME ON.

NO TIME LIMITATION OR ANYTHING.

>> THAT'S RIGHT, JUSTICE.

OF COURSE, THESE ARE YOUR RULES.  
YOU HAVE THE FREEDOMS OF  
WHATEVER POLICY YOU CHOOSE.  
FORMER CLIENTS ARE GOING TO RELY  
ON THEIR OWN EXPERIENCE WITH  
THAT LAWYER OVER ANYTHING ELSE.  
IF THEY'RE NOT GOING TO BE AS  
PERSUADED BY SOMEBODY ELSE'S  
RESULTS AS THEY ARE WHAT THEIR  
EXPERIENCE OF THEIR OWN LAWYER.  
FOR WHATEVER REASON CHOSE THAT  
LAWYER TO BEGIN WITH WAS  
ORIGINALLY HIRE THAT LAWYER TO  
REPRESENT THEM.

SOME HAVE DONE SOME RESEARCH ON  
THAT LAWYER AND DECIDED THAT WAS  
THE LAWYER THEY WERE GOING TO  
CHOOSE.

SO, EVEN 20 YEARS LATER, THAT  
PERSON REALLY IN ALL LIKELIHOOD  
IS GOING TO RELY ON THEIR OWN  
EXPERIENCE WITH THAT LAWYER  
OVERSEEING FOR SOMEBODY ELSE HAD  
TO SAY OR WHAT RESULTS THAT  
LAWYER MIGHT'VE GOTTEN SOMEONE  
ELSE.

>> NOW IN SUBSECTION G,  
LIMITED TO ANY ADVERTISING BY

THAT PARTICULAR FIRM AND ITS CLIENTS AND FORMER CLIENTS OR CAN IT ACT AS A PASSER AS JUSTICE PARIENTE WAS DESCRIBING EARLIER?

MATERIALS THAT YOU GET LAWYER TO LAWYER AND NOW THE LAWYER WHO HAS CURRENT OR FORMER CLIENTS AS INFORMATION IN ITS POSSESSION FROM A DIFFERENT LAW FIRM.

CAN THEY THEN PASS THAT ON TO THEIR FORMER CLIENTS?

>> I THINK THEY WOULD DO THAT AT THEIR OWN PERIL IF THEY DIDN'T INVESTIGATE --

>> BUT IT'S NOT PROHIBITED?

>> NO, I DON'T THINK IT IS PROHIBITED TO PROVIDE INFORMATION TO YOUR OWN CLIENTS.

>> IT WOULD BE PERMISSIBLE UNDER SUBSECTION G IS WHAT YOU'RE SAYING?

>> NO, IT WOULD NOT BE PERMISSIBLE UNDER SUBSECTION G. THEY ARE PROVIDING INFORMATION THAT SEEMS TO ME WOULD POSSIBLY BE UNUSUAL, BUT TO PROVIDE INFORMATION TO A CLIENT ABOUT ANOTHER LAW FIRM.

>> CAN STATE LAW FIRMS THAT HAVE NO PRESENCE IN FLORIDA USE LAW FIRMS IN FLORIDA AND PASS WHATEVER THEY WANT ABOUT ANY TYPE OF CASE?

IN OTHER WORDS, I UNDERSTAND TV ADS AND EVEN WEBSITES, THAT THEY'RE SEEING A LOT OF FEELING AMONG THE LAWYERS THAT THERE'S BEEN COMPETITION FROM OUT-OF-STATE FIRMS THAT WERE SUBJECT TO THE REGULATION OF THE FLORIDA BAR THEY COULDN'T DO

WHAT THEY'RE DOING.

IS THAT ANYTHING THAT THE BAR  
HAS LOOKED AT?

>> I CAN'T SAY WE'VE LOOKED AT  
THAT PARTICULARLY, BUT I WOULD  
TELL YOU, IF THE OUT-OF-STATE  
LAWYER DOESN'T HAVE A MEMBER OF  
THE FLORIDA BAR, THEY'RE NOT  
AUTHORIZED TO BE HERE.

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THEY'RE NOT AUTHORIZED TO OFFER  
SERVICES HERE.

>> SO THEY CANNOT SEND BROCHURES  
INTO FLORIDA?

>> UNLESS THEY'RE IN ONE OF  
THOSE FEDERALLY PREEMPTED AREAS,  
SUCH AS IMMIGRATION PATENT LAW,  
SOCIAL SECURITY DISABILITY  
ARBITRATION, I THINK THERE ARE  
FOUR, BUT I NEVER REMEMBER THEM  
ALL.

THEN, WE ACTUALLY PROJECTED TO  
THEIR RULE -- OUR RULE, OUR  
ADVERTISING RULE WILL BECOME IN  
THE STATES.

IF YOU'RE HERE OFFERING  
SERVICES IN FLORIDA, THE FLORIDA  
RESIDENTS?

>> NOT WHEN THEY ARE HERE,  
WHETHER SENDING INFORMATION INTO  
THE STATE IN ADVERTISING THROUGH  
TV ADS ABOUT ALL SORTS OF, YOU  
KNOW, INJURIES THAT THEY'VE HAD,  
CANCER, ALL THOSE TOLL-FREE  
NUMBERS AND THEY'RE NOT IN THE  
STATE.

>> IT IS SOMETHING THAT'S NOT  
AUTHORIZED TO DO HERE.  
USUALLY THE DEPARTMENTAL WILL  
CONTACT THEM AND TELL THEM TO  
HOLD THEIR ADVERTISING.

>> ALL RIGHT.

THANK YOU VERY MUCH FOR YOUR

PRESENTATION.

>> MY NAME IS TIM CHINARIS AND  
I'M RESIDING IN MONTGOMERY,  
ALABAMA.

I'VE BEEN INVOLVED WITH  
ADVERTISING, INCLUDING SERVING AS  
THE BARS ETHICS COUNSELOR AND  
RESPONSIBLE FOR THE REVIEW OF  
THAT.

>> IT FEELS LIKE NOTHING WE DO  
REALLY IS GOING TO EVER CHANGE  
THE OVERWHELMING FACT THAT WITH  
COMMERCIAL TV AD, AND BUS -- YOU  
KNOW, INFORMATION ON BUSES AND  
TAXIS AND ALL OF THAT, THAT THE  
IMAGE OF THE PROFESSION HAS BEEN  
TAINTED.

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SO I'D LIKE JUST YOUR PERSPECTIVE  
AS TO WHETHER THIS ACTUALLY IS A  
SERVICE BY EMPLOYERS SENDING OUT  
THESE BROCHURES TO OTHER LAWYERS  
AND CLIENTS, THAT WE SHOULD NOT  
BE WORRIED ABOUT IN THE BIG  
SCHEME OF THINGS.

IN OTHER WORDS, AND I'M JUST  
TRYING TO THINK WHERE THIS ALL  
FITS IN AND WHERE WE'VE GONE  
BECAUSE I DON'T KNOW THAT WE'VE  
BEEN ON DESPITE EVERYONE'S GOOD  
EFFORTS, WE REALLY HAVE BEEN  
VERY SUCCESSFUL AT GETTING OUR  
ARMS AROUND THE WHOLE  
ADVERTISING.

>> YES, YOUR HONOR, IT IS A  
COMPLICATED AREA AND I CAN SAY  
AS SOMEONE WHO WAS BEEN A MEMBER  
OF THE BAR IN OTHER STATES THAT  
FLORIDA'S ADVERTISING IS MUCH  
MORE TASTEFUL AND MUCH MORE  
PROFESSIONAL THAN MANY STATES.

>> THAT IS --

>> TRUST ME, IN ALABAMA THE

RULES ARE NOT MERELY AS STRICT AND IT'S A MUCH DIFFERENT WORLD. IN TERMS OF THIS RULE LIMITS AS IT RELATES TO THAT, I THINK WHAT MOST PEOPLE WOULD SAY ARE THE PROFESSIONAL IMAGE ISSUES, RELATE TO MASS ADVERTISING TO THE PUBLIC, INCLUDING DIRECT MAIL.

WHEN YOU'RE TALKING ABOUT COMMUNICATION FROM THE LAWYER TO A LAWYER, OUR COUNSEL HAS SAID RECIPIENTS KNOW ENOUGH TO EVALUATE THAT.

THEY'RE NOT GOING TO BE MISLED BY SOMEONE WHO IS NOT TRAINED IN LAW.

I DON'T THINK LAWYER TO LAWYER COMMUNICATION TOUCHES ON THE IMAGE ISSUE.

THE LAWYER TO CURRENT OR FORMER CLIENTS IS DEALING WITH MEMBERS OF THE PUBLIC, BUT I THINK IT'S A VERY IMPORTANT DISTINCTION FROM ADVERTISING THAT'S DIRECTED AT STRANGERS TO LAWYERS.

CURRENT CLIENTS HAVE FIDUCIARY OBLIGATION.

THERE'S A CURRENT RELATIONSHIP. THESE PEOPLE HIRE THAT LAWYER AND THEY KNOW THAT LAWYER AND THEY ARE IN A RELATIONSHIP WITH THAT LAWYER.

SO I THINK ANYONE THAT WOULD GET FROM THAT LAWYER, AND REQUIRING THE TECHNICAL ADVERTISING WORLD AND LETTERS AND THINGS LIKE THAT, I THINK WHAT INTERFERES WITH THAT RELATIONSHIP WOULD MAKE HIM WONDER, WHY DO I HAVE TO WORRY ABOUT MY EMPLOYER SENDING ME SOMETHING --

>> I THINK THE BIG ISSUE TO THE RESULTS OBTAINED IS REALLY WHEN YOU READ THESE BROCHURES AND THE STORIES AND ALL THE HELPFUL INFORMATION.

IT'S REALLY THE RESULTS OBTAINED THAT IS IN THESE BROCHURES THAT WOULD NOT BE ALLOWED IN AN ADVERTISEMENT.

>> WELL, THAT'S CERTAINLY A LARGE PART OF IT I THINK.

>> AND HAS ANY STATE IN TERMS OF LOOKING AT RESULTS OBTAINED TRY TO PUT SOME PARAMETERS ON WHAT IS APPROPRIATE IN TERMS OF DISCUSSING A RESULTS OBTAINED? IN OTHER WORDS, SOMEONE GETS A \$100 MILLION VERDICT, BUT IT'S NOT ENFORCEABLE AND THERE WAS NO ONE DEFENDING IT.

AND THEN IT WAS REVERSED ON APPEAL.

THERE SEEMS TO BE NO PARAMETERS TO WHAT SOMEONE CAN SAY ABOUT THE RESULTS OBTAINED.

>> WELL, I THINK THERE ARE.

I THINK IT'S A MATTER OF ENFORCEMENT RATHER THAN BOTH. IN STATES THAT EVEN A LAB RESULTS OBTAINED, WHICH A LARGE NUMBER OF STATES DO, THEY REQUIRE DISCLAIMERS SAYING THE RESULTS MAY NOT BE TYPICAL, EVERY CASE TURNS OUT FACTS.

WHEN I FIRST STARTED WITH THE BAR, THAT'S THE WAY IT WAS HERE.

AND SO YOU HAD TO HAVE DISCLAIMERS THAT WOULD EXPLAIN YOU CAN RELY ON THIS.

IN OTHER STATES THAT ALLOW THAT, AS IN YOUR EXAMPLE THERE, SOMETHING THAT WAS LEFT OUT OR

MISLEADING, WE ALREADY HAVE RULES THAT DO WITHOUT EVEN UNDER THE BAR'S PROPOSAL, EVEN IF YOU ADOPT THESE RULES, THERE IS STILL THE GENERAL RULES OF TRUTHFULNESS AND STATEMENTS TO OTHERS, DISHONESTY, DECEIT, MISREPRESENTATION IS PROHIBITED. SO IF SOMEBODY DID GIVE THEM A BROCHURE OF ANOTHER LAWYER THAT HAS FALSE INFORMATION IN IT, THAT'S ALREADY COVERED.

>> INCOMPLETE INFORMATION IS NOT NECESSARILY FALSE INFORMATION. IN CONNECTION WITH THE WEBSITE AND YOU CAN TELL THAT THERE ARE THINGS THAT ARE PROBABLY NOT -- I MEAN, THEY'RE NOT ACCURATE BECAUSE THEY DON'T HAVE THE WHOLE PICTURE.

>> WELL, THOSE WE CONSIDER NOT PROVIDING THE FALL -- IF YOU HAVE THEM ADVERTISING WORLD THAT HAS THE TOTAL PROHIBITION IS EASIER TO ENFORCE, BUT I DON'T THINK THAT'S --

>> YOU ARE TELLING US THE BAR HAS NEVER REGULATED THIS AREA ANYWAY.

THAT'S WHAT WE'RE HEARING. YOU HAVE BEEN AT THE BAR FOR MANY YEARS, THAT WE'RE LOOKING AT ADOPTING SOMETHING THAT WAS NEVER PROHIBITED.

>> YES, THAT WOULD BE CORRECT.

I STARTED IN 86.

>> DO YOU SEE A PROBLEM WITH THE AREA OF THIS TASK THROUGH MASS MARKETING?

>> WELL, I THINK LAWYERS HAVE AN OBLIGATION TO LOOK AT THAT AND

DECIDE WHETHER THIS IS SOMETHING THAT IS THE BEST INTEREST OF THEIR CLIENTS.

I'M NOT AWARE AND I'VE REPRESENTED LAWYERS TO DO ADVERTISING A NEW SAY ADVERTISING.

I'M NOT AWARE OF ANY SITUATION WHERE THIS IS A COMMON OCCURRENCE.

IF YOU GET A BROCHURE FROM SOMEONE AND YOUR CLIENTS THINK SOMEONE IN THAT AREA, YOU'RE GOING TO CONSIDER THAT SOMEONE JUST LIKE SOMEONE YOU MET AT THE BAR LAST WEEK.

I HAVEN'T SEEN IT AS AN ORCHESTRATED CAMPAIGN IN MY EXPERIENCE.

I WOULD SAY SOMETHING REGARDING THE QUESTIONS THAT WERE RAISED ABOUT FORMER CLIENTS.

I UNDERSTAND THERE COULD BE AN ISSUE THERE ABOUT A LONGTIME RELATIONSHIP THAT'S OVER.

MIND YOU, IT WOULD BE, I STILL THINK YOU TREAT THOSE EXEMPT FROM THE ADVERTISING WORLD, PRIMARILY FOR A COUPLE OF REASONS.

ONE, THERE WAS A RELATIONSHIP THERE AND THE LAWYER OR THE CLIENT CAN EVALUATE WHETHER THIS IS SOMETHING THEY WANT TO CONSIDER FROM THEIR FORMER LAWYER.

>> I'VE GOT A CLIENT WHO BECAME DISCONTENTED WITH THEIR LAWYER AND MOVED ON TO SOMEONE WHO EITHER HIRED AND MOVED ON OR SOME CONFLICT DEVELOPED OR EVEN SUED THEM FOR MALPRACTICE.

>> I THINK THAT LETTER IS GOING

TO GO RIGHT IN THE WASTE BASKET  
IN THE SUPREME COURT, IT'S THAT  
SHORT WALK TO THE WASTE BASKET.  
I DON'T THINK LAWYERS SHOULD BE  
PUT IN A POSITION OF HAVING TO  
DECIDE WORLDWIDE MARKET OF THAT  
ADVERTISING, FLAT WITH THE BAR,  
JUST TRYING TO UPDATE MY FILE,  
FORGET IT, I'M JUST NOT GOING TO  
TELL THEM.

I DON'T THINK WE NEED TO HAVE  
BARRIERS THERE THAT WILL CREATE  
DISCOURAGEMENTS TO LAWYERS OR  
RISK TO LAWYERS, REALLY THERE'S  
NO EVIDENCE NEEDED HERE.  
FINALLY, I WOULD SAY WHAT HAPPENS  
IS AN ARTICLE MIGHT HURT OTHERS,  
CURRENT CLIENT OR A FORMER  
CLIENT.

WHETHER IT'S MARKET ADVERTISING  
ARE NOT COMPANY OF QUESTIONS,  
THEY'RE LIKELY TO JUST PICK UP  
AND CALL THE PERSON IN THAT  
CONTACT IS TOTALLY UNREGULATED,  
ALWAYS HAS BEEN.

I WOULD RATHER SEE IT IN WRITING  
THAN LEAVE THAT UP TO AN  
UNREGULATED IN-PERSON CONTACT  
THAT'S GOING TO HAVE A SAY.

THAT'S ALL I HAVE FOR I AM OUT  
OF TIME.

IF YOU HAVE ANY QUESTIONS.  
THANK YOU.

>> GOOD MORNING, MAY I PLEASE  
THE COURT.

MY NAME IS JACK SCAROLA.

I AM A MEMBER OF THE LAW FIRM OF  
SEARCY, DENNEY, SCAROLA,  
BARNHART & SHIPLEY, P.A. AND I'M  
WITH MR. RON MEYER AND  
JEFF WHO ARE RESPONSIBLE FOR THE  
SUBMISSIONS TO THIS COURT.

AND I'D LIKE TO SPEND THE TIME I  
HAVE TRYING TO ADDRESS THE  
QUESTIONS THAT HAVE ALREADY BEEN  
RAISED THE COURT.

MOST OBVIOUSLY THE AREAS IN  
WHICH YOU ARE MOST INTERESTED  
IN.

I WANT TO START IF I COULD WITH  
JUSTICE PARIENTE, A CASE OF CONCERN  
ABOUT CONCERN ABOUT OUT-OF-STATE  
LAW FIRMS.

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AS THE FATHER OF FIVE AND  
GRANDPARENT OF 13, I LOST COUNT  
A LONG TIME AGO OF THE NUMBER OF  
TIMES THAT I HAVE REJECTED A  
CHILD'S PLEA TO BE ABLE TO DO  
SOMETHING BECAUSE EVERYBODY ELSE  
WAS DOING IT.

AND I DON'T WANT ANY PORTION OF  
MY COMMENTS TO BE INTERPRETED AS  
A SUGGESTION, THAT FLORIDA  
LAWYER SHOULD BE PERMITTED TO DO  
SOMETHING THAT VIOLATES THE  
SAFEGUARDS AGAINST FALSE,  
MISLEADING, DECEPTIVE OR  
UNDIGNIFIED ADVERTISING BECAUSE  
OTHER LAWYERS ARE DOING IT.

BUT THE REALITY OF THE FACT,  
THAT THE MARKETPLACE FOR LEGAL  
SERVICES IS NO LONGER A LOCAL OR  
REGIONAL OR A STATEWIDE  
MARKETPLACE, BUT A NATIONAL  
MARKETPLACE.

I RESPECTFULLY SUGGEST AS A  
FACTOR THAT THIS COURT MUST TAKE  
INTO CONSIDERATION IN RESOLVING  
THE ISSUES THAT YOU ARE  
CONFRONTING THIS MORNING.

WHY IS THAT?

WELL, BECAUSE THE BEST SAFEGUARD  
THAT THE PROVIDERS OF LEGAL  
SERVICES IN THE STATE OF

FLORIDA, LICENSED FLORIDA  
LAWYERS AND THE CONSUMERS OF  
LEGAL SERVICES IN THE STATE OF  
FLORIDA HAVE AGAINST FALSE,  
MISLEADING, DECEPTIVE OR  
UNDIGNIFIED ADVERTISING THAT  
ORIGINATES OUTSIDE THE STATE OF  
FLORIDA IS LICENSED FLORIDA  
LAWYERS, REGULATED BY THE  
FLORIDA BAR, SUBJECT TO  
DISCIPLINE.

HE'S VERY CONCERNED ABOUT  
PASSING INFORMATION THAT  
ORIGINATES FROM OUTSIDE OTHER  
STATES' LAWYERS ARE SURE THERE IS  
A CONCERN ABOUT THAT, BUT THE  
BEST SAFEGUARD IS THAT THERE IS  
A LICENSED FLORIDA LAWYER  
RESPONSIBLE FOR ANYTHING AND  
EVERYTHING THAT HE PASSES  
THROUGH.

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JUSTICE LEWIS, YOU ASKED THAT  
SOMEBODY OF LIABILITY FOR  
PASSING THROUGH INFORMATION,  
SENDING ONTO HIS CURRENT  
INFORMATION THAT ORIGINATED  
OUTSIDE THE STATE OF FLORIDA,  
RESPECTFULLY I DISAGREE WITH THE  
ANSWER THAT WAS GIVEN TO YOU  
EARLIER.

I THINK THE ANSWER TO THAT  
QUESTION IS YES IN THIS CASE.

THE BODY OF COMMON LAW WITH  
NEGLIGENT MISREPRESENTATION, I  
THINK WE NEED TO LOOK AT.

>> THAT'S NOT REPRESENTING THEIR  
MATERIAL.

>> YOU'RE PASSING ON A LAW FIRM  
IS NOTHING BUT PASSING ON A  
NEWSPAPER OR PIECE OF OTHER  
ADVERTISING.

I RESPECTFULLY DISAGREE.

>> IN AN AREA THAT MR. WAGNER PRESENTED, WHICH I THOUGHT GAVE RISE TO THIS COURT'S CONCERN WAS THE SCENARIO WHERE OUT-OF-STATE LAWYERS PREPARE THE BROCHURE, ASKED MR. WAGNER TO PUT HIS NAME AND HIS FIRM AND ON THAT BROCHURE, TO SEND IT OUT TO HIS CLIENTS AND HIS FORMER CLIENTS TO ACCEPT THE CASES AND REFER THEM ONTO THE OUT-OF-STATE ATTORNEYS. UNDER THOSE CIRCUMSTANCES, IF THE INFORMATION CONTAINED WITHIN THAT BROCHURE IS FALSE OR MISLEADING AND THAT FALSE OR MISLEADING INFORMATION CAUSES INJURY TO THE CLIENT --

>> WANT TO CHANGE THE FACTS, OF COURSE IT'S A DIFFERENT SCENARIO.

>> THOSE ARE THE FACTS I THOUGHT WE WERE ADDRESSING, SIR. I GUESS IF ALL I DO IS TAKE THE ENVELOPE TO THE OTHER LAW FIRM WITH THE OTHER LAW FIRM'S STATEMENT, FORWARD IT ON, IT BECOMES A MORE DIFFICULT QUESTION.

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BUT I ALSO SUGGEST THAT IF I AM DOING THAT AND HAVE AN ECONOMIC MOTIVE TO DO THAT BECAUSE I'M GOING TO RECEIVE A REFERRAL AS A CONSEQUENCE OF IT, I DON'T KNOW THAT THE LIABILITY PICTURE CHANGES VERY MUCH.

>> WE HAVEN'T EVEN LOOKED AT THIS ISSUE.

THIS VERY PRACTICE, BECAUSE IT'S NOT IN THE RECORD, OF OUT-OF-STATE LAW FIRMS THAT COULD NOT DIRECTLY SOLICIT CLIENTS IN FLORIDA, USING LAW

FIRMS IN FLORIDA TO BASICALLY  
PASS THROUGH THEIR MARKETING  
INFORMATION?

>> YOUR HONOR, IT IS NOT A  
CIRCUMSTANCE THAT I HAVE HAD.

>> SO THAT COULD BE ABUSED, THE  
IDEA OF THIS COURT LOOKING AT  
THAT AND SEEING IF THAT IS BEING  
ABUSED.

THAT IS, THE OUT-OF-STATE USING A  
LAW FIRM AS A CONDUIT TO BE  
PURSUING ITS MARKETING, YOU  
WOULD AGREE THAT IS SEPARATE  
FROM YOUR FIRM SENDING  
INFORMATION OUT TO OTHER LAWYERS  
OR YOUR FORMER CLIENTS.

AND THAT'S AT THE VERY LEAST  
WHAT YOU THINK SHOULD BE SUBJECT  
TO THE NORMAL RULES OF THE  
FLORIDA BAR, NOT SUBJECT TO  
ADVERTISING.

>> I WOULD SUGGEST EVERY  
COMMUNICATION I HAVE WITH  
ANOTHER LAWYER, EVERY  
COMMUNICATION I HAVE WITH THE  
CLIENT OR FORMER CLIENT IS A  
COMMUNICATION OF THE INTEGRITY  
OF WHICH I AM RESPONSIBLE FOR.

IT'S AN UNUSUAL CIRCUMSTANCE  
WHERE I AM THE ORIGINATING  
SOURCE OF INFORMATION THAT I  
PASS ON TO MY CLIENTS.

MOST OF THE TIME I'VE GOTTEN IT  
FROM SOMEPLACE ELSE.

I'VE READ SOME OTHER CASE.

I'VE WRITTEN OPINION.

I'VE BEEN INFORMED BY SOME OTHER  
LAWYER OF CIRCUMSTANCES THAT I  
FEEL AN OBLIGATION TO  
COMMUNICATE TO MY CLIENT.

>> YOUR FIRM SENDS OUT ATTORNEY  
TO ATTORNEY COMMUNICATIONS.

>> YES, WE DO ON A REGULAR BASIS.

>> TO FORMER CLIENTS AND PRESENT CLIENTS.

YOU ALSO ASK LAW FIRMS THAT HAVE BEEN REFERRAL FIRMS TO SEND OUT YOUR BROCHURES OR MARKETING INFORMATION TO THEIR CLIENTS?

>> WE HAVE NOT ASKED OTHERS TO SEND OUT OUR BROCHURES.

OUR NAME IS ON OUR BROCHURES.

>> THAT WOULD BE A DIFFERENT SITUATION.

>> IT WOULD BE.

ALTHOUGH, I SUGGEST, YOUR HONOR, THAT IF I AM ASKING SOME OTHER LAWYER TO COMMUNICATE INFORMATION TO THAT LAWYER'S CLIENT, I'M RESPONSIBLE FOR THE REQUEST BEING MADE AND THE LAWYER IS RESPONSIBLE AS TO HOW HE OR SHE RESPONDS TO THAT REQUEST.

THE EXISTING RULES REGULATING THE FLORIDA BAR, MORE THAN ADEQUATELY ADDRESS THAT CONCERN.

IN THE CASE OF LAWYERS, THE PROTECTION THAT IT'S BEEN SUGGESTED THAT EXTENDING ADVERTISING RULES TO LAWYER TO LAWYER COMMUNICATIONS, I WOULD HOPE IS UNNECESSARY.

I WOULD HOPE THAT EVERY MEMBER OF THE FLORIDA BAR IS SUFFICIENTLY SOPHISTICATED, SUFFICIENTLY WELL-EDUCATED TO BE ABLE TO APPRECIATE THAT INFORMATION.

>> THE PROBLEM IS BECAUSE THE BAR IN MY VIEW DID NOT RELATE TO WHAT I ENVISIONED BACK IN 2007,

WE HAVE NO BETTER IDEA OF WHAT THE STATUS OF MARKETING AND FLORIDA FROM A POINT OF VIEW OF LAWYER TO LAWYER.

YOU KNOW, WE HAVE TO RELY ON ANECDOTAL INFORMATION.

AND SO, THAT'S WHERE THE FRUSTRATION IS.

THOSE OUT THERE IN THE FIELD HAVE A MUCH BETTER IDEA, YOU KNOW, IT'S BEEN 15 YEARS SINCE I'VE BEEN OUT THERE.

I UNDERSTAND IT'S A WHOLE OTHER WORLD ABOUT HOW MARKETING TAKES PLACE.

AND THAT'S WHAT WE'RE STILL LACKING IS TO KNOW THERE ARE AREAS OF ABUSE THAT WE SHOULD BE CONCERNED ABOUT, NOT THE THIRSTY DANNY'S SENDING BROCHURES THAT THEY PUT THEIR NAME ONTO OTHER LAWYERS OR TO THEIR FORMER CLIENTS.

BUT SOME OF THESE OTHER PRACTICES THAT MAY NOT -- MAY UNDERMINE WHAT WE'RE TRYING TO DO IN PROTECTING THE PUBLIC.

>> AND HAVING LIVED IN THAT WORLD FOR MORE THAN 30 YEARS, I WOULD WELCOME THE OPPORTUNITY TO SPEND MORE TIME TALKING TO YOUR HONORS ABOUT THOSE PRACTICAL CONSIDERATIONS.

BUT I KNOW THAT I'M OUT OF TIME. I WISH I COULD SPEND MORE TIME WITH YOU.

BUT IF THERE ARE OTHER QUESTIONS I'D BE HAPPY TO ADDRESS THEM.

AND IF NOT, I THANK YOU VERY MUCH FOR THE PRIVILEGE TO BE ABLE TO SPEAK WITH YOU.

>> THANK YOU VERY MUCH.

>> MY NAME IS BILL WAGNER.  
I REPRESENT ONE QUARTER OF THE  
ARGUMENT HERE.  
>> YOU'RE ACTUALLY THE ONLY  
PERSON THAT HAS EITHER SEEN FIT  
TO ACTUALLY FILE A COMMENT  
AGAINST THIS WHAT IS BEING  
PROPOSED.  
I DON'T SAY THAT AS THAT MAKES  
YOU VERY LONELY, BUT IT DOES  
MAKE IT IN QUESTION WHETHER WE  
ARE WORRYING ABOUT SOMETHING  
THAT SHOULD NOT BE A CONCERN TO  
THE COURT.  
AND SO, I HOPE YOU CAN ENLIGHTEN  
US ON THAT.  
>> I INTEND TO ADDRESS THAT  
BRIEFLY.  
I CAME HERE THIS MORNING AND I  
REALIZED AT 76 THE CONSTITUTIONS  
THAT I WOULD BE UNQUALIFIED --  
>> BY SIX YEARS.  
>> I REMEMBER JUSTICE WELLS  
WOULD NOT QUALIFY ONE WHO BRINGS  
A QUESTION.  
I'D LIKE TO COMMENT.  
THE LAW FIRM AS MY FIRM TO USE  
MY FORMER CLIENTS WAS A TAMPA  
LAW FIRM, A VERY WELL-QUALIFIED  
TAMPA LAW FIRM.  
>> WHAT WERE THEY GOING TO DO?  
THEY WANTED YOU TO PUT THEIR  
NAME ON YOUR BROCHURE.  
>> THEY WERE PARTNERS BASICALLY  
A NATIONAL CLASS-ACTION ON  
PHARMACEUTICALS, SOMETHING I  
KNOW ABSOLUTELY NOTHING ABOUT.  
AND THEY WANTED MEMBERS OF THE  
PUBLIC TO LEARN ABOUT THIS BASIC  
CLASS-ACTION OF MASS TORT AND  
THEY SAID BILL, WE'D LIKE FOR  
YOU TO HELP US CONTACT THOSE

PEOPLE.

I INTERRUPT, THEY DIDN'T DO THIS.

BUT THIS IS AN E-MAIL AND I GOT THREE COPIES OF IT CAUSE I HAVE THREE E-MAIL ADDRESSES.

IN REGARD TO THE SHIP CRUISES.

THEY SAID SEND YOUR SHIP CRUISES CASES TO ME.

THEY SAID WE PAY THE HIGHEST REFERRAL FEE ALLOWABLE BY THE FLORIDA BAR.

THAT WAS THIS SOLICITATION OF ME TO SEND MY MARITIME CASES TO THEM BECAUSE I DON'T KNOW WHAT'S GOING ON.

I WOULD SUGGEST -- I'M NOT SUGGESTING THIS IS IMPROPER OR PROPER, BUT IT IS MARKETING.

>> IN THIS SITUATION, THEY WERE ASKING, THE ONE YOU SUGGEST WHAT THE MASS TORT, WERE THEY SUGGESTING -- WHAT WOULD YOU DO? PUT YOUR NAME ON IT IN THEIR BROCHURE OUT?

>> THEIR NAME WOULD BE ON IT.

IN FACT, I WAS GOING TO SAY IN THERE THAT I HAVE A FIRM OR A PROPOSAL THAT THEY WERE GOING TO PUT IN THEIR BROCHURE WAS MR. WAGNER HAS A FIRM THAT WORKS ON THIS AND HE WILL BE REPRESENTING YOU ALSO, WHICH IS TRUE BECAUSE I WAS GOING TO GET A REFERRAL FEE.

EVEN THOUGH I KNOW NOTHING ABOUT THIS I WAS GOING TO GET A REFERRAL FEE.

THAT WAS THE CONCEPT.

I WAS NERVOUS ABOUT IT.

I DON'T LIKE MASS TORTS

ANYWAY, SO WE DIDN'T DO IT.  
THE POINT I'M TRYING TO MAKE TO  
YOU IS THAT AS MARKING ME  
TODAY.

IN FACT, FIVE YEARS AGO I  
SUBMITTED A DISSENT TO THE  
REPORT, AND IT'S NOT EVEN PART  
OF YOUR THING.

I ASKED THAT THERE IS A SPECIAL  
MOTION TO BE INCLUDED, THE  
INITIAL DISSENT I THOUGHT THAT  
THE WORLD IS CHANGING WITH  
REGARD TO LAWYER MARKETING.  
IF THEY HAD DONE THIS AT THE  
BACK THEN, I WOULD SUGGEST HE DO  
THEY HAVE TO DO STUDY AGAIN  
BECAUSE IT'S CHANGING NOW, AND  
NOT IN THE TERMS OF FIVE YEARS,  
CHANGES IN TWO YEARS.

>> WHAT WOULD YOU ENVISION?  
YOU CRITICIZE WHAT THEY'VE DONE.  
BECAUSE WE SAID TO THE BAR, DO  
WHAT BILL WAGNER SAYS HE SHOULD  
DO.

YOU DON'T THINK THEY DID IT.  
WHAT IS THAT YOU ENVISION THAT  
WOULD HELP THIS COURT AND  
GETTING A HANDLE ON --

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>> IF I MAY BRIEFLY DIGRESS, I  
WOULD SUGGEST YOU DO WHAT YOU  
DID WITH THE CIVIL PROCEDURE  
RULES COMMITTEE ABOUT 15 YEARS  
AGO.

I WAS A CHAIRMAN OF THAT  
COMMITTEE FOR AWHILE.  
WHAT WE HAD TO DO IS COME OUT  
AND WORK AND STRUGGLE WITH THEIR  
SPECIALTY, THAT IS RULES.

THEY WOULD PERMIT THEM TO THE  
FLORIDA BAR AND AFTER FOUR OR  
FIVE COMMITTEES HAVE MADE A  
COMPROMISE, IT WAS SUBMITTED TO

THE SUPREME COURT.  
AND SOONER OR LATER THE SUPREME COURT THEN NONE OF VIEW THAT THE TIMES SAID, WAIT A MINUTE, THIS IS GETTING MIXED UP IN OUR POLITICS, POLITICS, COMPROMISE. WE WANT THE CIVIL SEIZURE RULES TO COME UP WITH WHAT'S BEST FOR THEM.  
THEY'RE THE EXPERTS AND SUBMIT THEM TO THIS COURT AND HAVE THIS COURT, THEN DO IT.  
AND I SUGGEST TO YOU THAT'S WHAT SHOULD BE DONE RIGHT NOW.  
YOU SHOULD ESTABLISH SOMETHING THAT DOES DO THE STUDIES, THAT DOES MAKE ON THE NARROW ISSUE OF MARKETING, I DON'T SAY ADVERTISING, YOU SEE THE RULES DON'T DEFINE WHAT ADVERTISING IS.  
AND BY THE WAY, I NOTICED THERE IS NOTHING ABOUT THE DOCUMENTS YOU SENT FROM AN EXPERT MARKETER.  
THE FLORIDA BAR OF CONDUCT TEAM A WELLNESS PROGRAM IN WHICH THEY SAY MARKETING IS PROPER.  
SHOULD THE FLORIDA BAR BE TELLING YOU WHAT MARKETERS SAY ABOUT HOW THIS AFFECTS THE PUBLIC?  
AND NOT HOW IT AFFECTS OTHER LAWYERS.  
SHOULDN'T THE BAR -- SHOULDN'T THEY BE TELLING YOU HOW MARKETING IS SOMETIMES A WONDERFUL, SOMETIMES HELPFUL TO THE PUBLIC, SOMETIMES HELPFUL TO EVERYBODY.  
BUT SOME MARKETING IS NOT GOOD FOR THE PUBLIC AND IT IS

DESTROYING THE PUBLIC'S RESPECT  
FOR THE LAW.

NOW, I CAN SEE A LOT OF OUR  
REGULATIONS ADVERTISING GOING  
AWAY.

IT WAS DESIGNED FOR ADVERTISING  
THE WAY IT WAS 15 YEARS AGO.

I MEAN, IT'S FOOLISH BUT IT  
CONTINUES.

I OBJECTED AND IF YOU READ THE  
DISSENT YOU'LL SEE I OBJECT TO  
JUST TINKERING WITH THE RULES.

YOU NOW HAVE ANOTHER TWO YEARS  
GONE BY AND THEY SAY WE'RE  
TINKERING WITH THE RULES AGAIN  
BECAUSE ALL OF THESE WERE  
ALLOWED TO TALK TO THEIR  
CLIENTS.

>> ISN'T THAT TO SOME EXTENT  
TRUE?

I MEAN, WE'VE SEEN THESE  
BROCHURES THAT WE'VE TALKED  
ABOUT THAT WE ALL GET FROM  
VARIOUS LAW FIRMS ABOUT THE  
STATE, ESPECIALLY WHEN THEY WON  
SOME BIG CASE OR SOMETHING AND  
WE GET THESE BIG BROCHURES AND  
WE'VE BEEN GETTING THEM FOR  
YEARS.

>> DEMONSTRATION THAT  
WE'VE NEVER REGULATED THE KIND  
OF COMMUNICATIONS YOU'VE TALKED  
ABOUT?

BECAUSE ANYONE COMPLAINS ABOUT  
WHAT'S IN THAT BROCHURE.

YOU SAY YOU SETTLE THE CASE FOR  
\$5 MILLION.

YOU'VE GOT A CASE WORTH  
\$5 MILLION.

MAYBE A CASE WORTH 10 MILLION  
BUT HIS BROCHURE SAYS I SETTLED  
IT FOR \$5 MILLION THAT IS

SUPPOSED TO STIMULATE THE  
INEXPERIENCE TRIAL LAWYER OR THE  
INEXPERIENCED LAWYER WHO GIVES A  
CASE IN TUCSON FOR THAT FIRM.

>> YOU KNOW AGAIN, NOW WERE  
TALKING ABOUT MISSING THE WORLD  
OF REFERRALS.

AND WHAT ELSE IS A REFERRAL  
LAWYER, IF THEY'RE GOING TO  
REFER A CASE TO A LAW FIRM, THEY  
WANT TO KNOW WHAT IT BE DONE?  
AND THAT DOES NOT CONCERN ME  
THAT A LAWYER IS GOING TO BE  
SWEPT AWAY BECAUSE WITHOUT  
ASKING QUESTIONS.

SO I'M NOT SURE THAT'S THE  
LAWYER TO LAWYER SITUATION INTO  
SOMETHING WE SHOULD BE CONCERNED  
ABOUT.

>> JUSTICE, I WOULD SUGGEST TO THE  
CONTRARY BECAUSE I PUT THE WORLD UP  
THERE AND I KNOW WHY LAWYERS REFER  
CASES, I KNOW TO WHAT EXTENT THEY  
DO WORK AND I KNOW EXTENT OF  
WHAT IS IN THE MAIL.

WHAT I'M SAYING IS I'M NOT AN  
EXPERT AND RESPECTFULLY YOU  
AREN'T EXPERTS EITHER AND WHAT  
YOU SHOULD BE DOING IS HAVE  
THEM STUDY IN DEPTH, WHAT IS  
MARKETING DOING TO WHAT NARROW  
EXTENT OR BROAD EXTENT IS THE  
MARKETING THAT'S GOING ON NOW  
AFFECTING TWO THINGS?

AFFECTING THE PUBLIC AND AFFECTING  
THE RESPECT FOR THE  
PRACTICE OF LAW.

WITH REGARD TO FORMER CLIENTS AT  
THAT LAST ORAL ARGUMENT, IF YOU  
REMEMBER SOMEONE REPRESENTING  
THE FLORIDA BAR, RESPONDED TO  
JUSTICE WELLS CONCERNED THAT

BILL WAGNER WHO HAD 5000 FORMER CLIENTS WOULD HAVE 5000 PEOPLE TO SEND THINGS DIRECT TO, WHERE AS SOMEONE WHO'S BEEN PRACTICING ONLY TWO YEARS WOULD HAVE 500 FORMER PEOPLE.

HE SAID THAT DOESN'T SOUND FAIR. AT THE BAR'S REPRESENTATIVE AT THAT TIME GOT UP AND SAYS WELL THAT'S NOT REALLY ACCURATE BECAUSE I WAS A PUBLIC DEFENDER. AND LITERALLY THOUSANDS OF FORMER CLIENTS.

HOW DOES THIS ARGUMENT ABOUT THIS AS A LAWYER THAT HE HIRED, THIS IS A PUBLIC DEFENDER, WAS GOING TO SEND IT TO ALL HIS FORMER CLIENTS.

NOW MAYBE THAT'S OKAY.

MAYBE IF HE'S SENDING IT TO THE FORMER CLIENTS SEEM TO EVER GET IN TROUBLE WITH THE LAW AGAIN, COME SEE ME.

BUT IF HE IS SENDING ITS SAME IF YOU EVER NOT MOBILE ACCIDENT, COME SEE ME.

THAT DOESN'T SOUND RIGHT.

I'M TERRIBLY CONCERNED WHAT I HEAR HERE IS ARGUING NARROW POINTS AS DESCRIBED IS WRONG.

THAT'S WHAT HAPPENED HISTORICALLY IN THIS.

WE TAKE OUR RULES AND YOU SAY LET'S SEE IF WE CAN CURE THIS PROBLEM.

MY SUGGESTION TO YOU IS TWOFOLD.

YOU REALLY NEED AN IN-DEPTH STUDY OF TODAY'S MARKET AND IS IT AFFECTING CLIENTS?

IS IT AFFECTING THE PUBLIC?

AND IS IT AFFECTING THE BAR?

AND I THINK IT IS WITH ALL OF

US.

>> WHAT DO YOU THINK THAT STUDY WOULD SHOW?

>> I DON'T KNOW AND THE BAR DOESN'T KNOW EITHER.

THAT'S THE REASON WHY IN THEIR RESPONSE TO ME THEY SAID STAFF HAS UNDERTAKEN AN INTERNAL REVIEW THAT ADVERTISING HAS BEEN INFORMED WHAT THE STAFF IS DOING.

THE STAFF CONTINUES AN INTERNAL REVIEW.

THE BAR EXPECTS THE STUDY TO BE A IN LINK THE PROCESS.

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IF THEY WENT A YEAR AND A HALF THE WHOLE IDEA OF MARKETING IS GOING TO CHANGE.

IT CHANGES RIGHT NOW.

BELIEVE ME, I HAVE MARKETERS CALLING TO ME TELL YOU HOW WE CAN GET YOU MORE CLIENTS.

I HAVE TO HIDE YOUR NEXT PAIR.

THE BAR IS ACTUALLY GIVEN A COURSE TO SOME PEOPLE ON HOW TO MARKET YOUR FIRM AND YET THEY HAVEN'T PROVIDED THIS COURT WITH ONE IOTA OF EXPERT REVIEW.

THEY HAVEN'T PROVIDED ONE IMPORTANT -- THEY WERE KIND ENOUGH LAST JUNE TO US AND COME UP AND SAY, LOOK AT ONE OF THE STUDIES THAT WE'RE GOING TO RUN IN THE FUTURE.

I KEEP WAITING.

WITNESSES SAID THE COURT TO BE PERFORMED.

MAYBE SHE CAN TELL YOU ONCE SHE GETS REBUTTAL.

THEY SHOULD'VE DONE IT THREE YEARS AGO.

>> MR. WAGNER, YOU'RE WELL

BEYOND YOUR TIME.  
IF YOU WOULD GIVE US THE  
CONCLUDING SENTENCE OR TWO.  
>> I HOPE THIS COURT WILL  
RECOGNIZE THE PARTICULAR RULES  
HERE IS THE TIP OF THE ICEBERG.  
IF IN FACT ALL OF THESE  
DIFFERENT CIRCUMSTANCES HAPPEN,  
WE PERHAPS WOULD HAVE RULES OF  
DIFFERENT KINDS WITH FORMER  
CLIENTS.  
BUT I'M NOT SUGGESTING THAT YOU  
SHOULD MAKE THAT DECISION  
WITHOUT HAVING A LOT OF  
INFORMATION.  
AND I FRANKLY DON'T BELIEVE THAT  
YOU WOULD EVER ACCOMPLISH IT.  
BUT KEEP RUNNING IT THROUGH THE  
BAR PROCESSES AND I HOPE YOU  
WILL AT LEAST CONSIDER  
ESTABLISHING SOME KIND OF A FAIR  
AND BALANCED GROUP WHO WILL  
INDEPENDENTLY SOLVE THIS PROBLEM  
OR AT LEAST ATTEMPT TO SOLVE IT  
IN THE COURT.  
THANK YOU VERY MUCH.  
>> I DON'T KNOW WHETHER ANY OF  
MY COLLEAGUES AGREE OR DISAGREE  
WITH ANYTHING YOU SAID, BUT I  
FOR ONE DON'T FIND THE NUMBERS  
NECESSARILY RESULT IN WITH THEM.  
MANY TIMES A SINGLE VOICE CAN  
BRING REASON IN AN OTHERWISE  
DISHEVELED SITUATION.  
SO I THANK YOU FOR ATTESTING TO  
THAT.  
>> WITH THAT, I WANT TO THANK  
YOU ALL FOR YOUR INTEREST  
IN PROTECTING THE INTEGRITY OF  
THE FLORIDA BAR.  
THANK YOU.